



Berneslai Homes Board - 28 September 2023

Face to Face meeting

4 p.m. Gateway Plaza

PUBLIC AGENDA

		For Decision/ Approval/ Information
1	Apologies	
2	Declarations of Interest	
3	CEO Presentation	Information
4	Annual Governance Statement	Decision
5	BH Ltd Report & Accounts to end of March 2023	Approval
6	Risk Management Annual Report	Decision
7	Quarterly Performance Report Q1	Information
8	Disrepair Annual Report	Information
9.	Building Safety Update	Information
10	Sustainability Strategy/Actions – Annual Update	Information
11	Board Mins/Actions from last meeting	Approval
12	Date of Next Meeting - 7 December 2023	



<https://www.youtube.com/watch?v=HnABql6CRrA>

Regulator to recruit 100 new staff to deal with extra powers

NEWS 25.08.23 7.00 AM BY JAMES WILMORE

The Regulator of Social Housing (RSH) is aiming to boost its workforce by nearly 50% with 100 new staff members as it gears up to take on extra powers.



Labour MP Angela Rayner is now shadow housing secretary (picture: Alamy)

“Creating great homes and communities with the people of Barnsley”

Regional/Local

NORTHERN HOUSING CONSORTIUM
VOICE OF THE NORTH

**REAL HOMES
REAL CHANGE**
MEETING THE NET ZERO CHALLENGE IN THE NORTH

BARNESLEY

**HOUSING STRATEGY
2014-2033**



St Michael's
Project Manager:
John Carrington

35 units:

- 2-bed apartments
- 2-bed bungalows
- 2, 3 & 4-bed houses

Mixed tenure:

- Social Rent
- Market sale

Completion:

- Summer 2023

2030 Barnsley – the place of possibilities.



Goldthorpe
Town Deal Goldthorpe

Goldthorpe Housing Project:

- Project Manager: Julie Tattershall
- Project Officer: Oct 2023
- Acquisition and demolition of up to 30 properties
- Up to 9 new build courtyards
- New areas of greenspace
- Improved alleyways & rear boundaries
- Claycliffe Terrace 'Home Zone'
- Secure cycle storage
- Public realm improvements
- Improved roads

Goldthorpe Housing Retrofit:

- PM started
- EWI on up to 83 properties

Regenerate Renew Revitalise
Goldthorpe | Thurnscoe | Bolton upon Dearne

Feasibility Design - May 2023

Billingley View
Project Manager: Sara Scholes

16 affordable units:

- 10 x 2-bed houses
- 6 x 3-bed houses

Low Carbon Pilot – Leeds Beckett University

Completion:

- October 2023

2030 **LBU** LEEDS BECKETT UNIVERSITY



“Creating great homes and communities with the people of Barnsley”

Berneslai Homes Update



Creating great homes and communities with the people of Barnsley

Berneslai Homes Priorities



Recruitment - Chair, Heads of Finance & HR



Development of Customer Excellence Training



HRA Planning – Efficiencies & Repairs Delivery



Data – Review stock condition & EPC C data to date



Data – STAR survey feedback



Staff Conference – November 2023 21st Birthday!



Preparing for Inspection – Thematic Groups



Creating great homes and communities with the people of Barnsley

Report Title	Annual Governance Statement 2022 to 2023	Confidential	No
Report Author	Chief Executive	Report Status	For Approval
Report To	Board Public	Officer Contact Details	Claire Denson, Risk & Governance Manager clairedenson@berneslaihomes.co.uk Sam Roebuck, Head of Governance and Strategy samantharoebuck@berneslaihomes.co.uk

1. Executive Summary	<p>1.1 To receive the review of the internal controls for Berneslai Homes for the financial year 2022-23 and agree the Chief Executive's assurance statement for inclusion in the Director's Annual Report and Accounts. Audit and Risk Committee approved the Statement in August 2023, in line with the Accounts; they made no changes. The full Audit Committee report is available on Decision Time.</p> <p>1.2 To monitor and maintain the effectiveness of Berneslai Homes governance arrangements and drive continuous improvement, an evidence-based evaluation has been undertaken of the internal control framework, in the form of our Assurance Framework self-assessment. This Framework links into the risk management framework and monitors compliance against the high-level strategic risk areas (governance domains).</p> <p>1.3 Berneslai Homes has achieved in excess of £36m turnover and is therefore legally obliged to publish a slavery and human trafficking statement for the financial year. The statement for 2021-22 is attached at Appendix B of the Audit Committee Report.</p> <p>1.4 The company continue to focus on compliance against the Housing Ombudsman Complaint Handling Code, high quality complaint handling and learning from complaints. Across the sector, average complaints volumes have been rising with the increased awareness of complaints processes being a key driver. A total of 957 informal complaints were resolved during 2022-23 which is an increase of 24% to 2021-22. The company received 407 Stage 1 complaints, which is 190% increase to 2021-21. 70 complaints escalated to Stage 2 which</p>
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is an increase of 133% to 2021-22. However, it is extremely positive that the company had no negative determination issued by the Housing Ombudsman for cases investigated during 2022-23, demonstrating effective complaint resolution at stage 2. With 1,434 complaints registered during 2022-23, this is an increase of 52% compared to the previous year.

- 1.5 Subject Access (SAR) and Freedom of Information (FOI) requests have stabilised in number. For 2022/23, Berneslai Homes have had 88 requests in comparison with 99 requests in 2021/22; 40 in 2020/21 and 47 in 2019/20.
- 1.6 The actual number of reported information security incidents for 2022/23 have remained lower than previous years.

Incident type	2020/21 Quarterly averages	2021/22 Quarterly averages	2022/23 Quarterly averages
Actual breaches	7	9	6

- 1.7 The Senior Information Risk Owner (SIRO) Annual Report has been prepared to provide assurance to the SIRO that Berneslai Homes has sufficient policies and procedures in place to effectively manage its information. The report highlights key activities that have been delivered over 2022-23 and identifies actions for 2023-24 ([Appendix C of the linked Audit Committee Report](#)).
- 1.8 Berneslai Homes have investigated 58 incidents of tenancy fraud during 2022/23. The majority of these alleged frauds had either insufficient evidence to pursue, are ongoing or were resolved without legal proceedings for example the tenants voluntarily terminated their tenancies. The alleged application fraud was passed onto the BMBC Anti-Fraud team, and the case is ongoing.
- 1.9 There were no whistleblowing reports made during 2022 to 2023.
- 1.10 There were no referrals to the BMBC Corporate Anti-Fraud Team regarding staff-related fraud.
- 1.11 The annual Assurance Framework self-assessments for 2022-23 concluded that there were no fundamental issues around Berneslai Homes' internal controls. However, the assessments highlighted areas of development and improvement that are underway, which are being addressed during 2023-2024. Whilst the majority of these actions were already in place and not identified as a result of the self-assessment, they have been included in the Action Plan at 14.2 to highlight our ongoing developments with regards to these areas of internal control.

2 Recommendations

It is recommended that:

- i. Board satisfies itself that the assurance provided in this report, in relation to internal control arrangements, is sound and forms a satisfactory basis for the Statement attached as Appendix A for inclusion in the 2022-23 Accounts.
- ii. Board note the proposed 2023-24 Plan for improving the robustness of the system of internal control.
- iii. That Board approve the Modern Slavery Statement 2022-23 for signature by the Interim Board Chair.
- iv. That Board approve the Senior Information Risk Owner Annual Report 2022-23.

3. Background

- 3.1 The Annual Governance Statement provides an overall assessment of Berneslai Homes' governance arrangements. The Statement includes an appraisal of the key controls in place to manage the principal governance risks and the effectiveness of systems and processes governing decision-making and financial control.
- 3.2 Berneslai Homes is responsible for ensuring that its business is conducted in accordance with the law and proper standards. It is also responsible for ensuring that public money is safeguarded, properly accounted for and used economically, efficiently and effectively.
- 3.3 In discharging these responsibilities, Berneslai Homes has in place proper arrangements for the governance of its undertakings, which includes arrangements for the management of risk.
- 3.4 Corporate governance describes how Berneslai Homes controls what it does. Good governance provides the conditions for Berneslai Homes and its partners to work effectively, economically and ethically. Berneslai Homes should carry out its functions in a way that demonstrates accountability, transparency, effectiveness, integrity, and inclusivity. Good governance will support the company to pursue its vision and secure its agreed objectives.
- 3.5 Berneslai Homes' governance framework encompasses the systems and processes, and culture and values, by which Berneslai Homes is directed and controlled. This also includes accountable activities and engagement with the community. It enables the organisation to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, cost-effective services.
- 3.6 The Annual Governance Statement demonstrates how Berneslai Homes is doing the right things, in the right way in a timely, inclusive, open, effective, honest and accountable manner.
- 3.7 Berneslai Homes has adopted the principles outlined in the CIPFA/SOLACE Framework as part of our internal control framework, 'Delivering Good Governance in Local Government'.
- 3.8 Berneslai Homes undertake an annual self-assessment against the National Housing Federation (NHF) Code of Governance, which is then audited

annually by Internal Audit. The Code is designed to help housing organisations achieve the highest standards of governance and board excellence. Berneslai Homes committed to the new 2020 Code and undertook an in-depth self-assessment of the code in consultation with EMT, SMT and Board. This was audited with positive results by Internal Audit. The self-assessment continues as an annual process with an ongoing development Action Plan monitored by Audit and Risk Committee and audited by Internal Audit.

3.9 This report is for the Audit and Risk Committee and Board to acknowledge that it is responsible for the organisation's systems of internal control and to advise on the effectiveness of the systems in place.

3.10 The Annual Report and Accounts includes a statement (**Appendix A**) that Berneslai Homes has an effective system of internal control.

4. Review of Effectiveness

4.1 To monitor and maintain the effectiveness of Berneslai Homes governance arrangements and drive continuous improvement, an evidence-based evaluation has been undertaken of the internal control framework, in the form of our [Assurance Framework self-assessment](#). This Framework links into the risk management framework and monitors compliance against the high-level strategic risk areas (governance domains).

4.2 In carrying out this evaluation, the following actions have been undertaken:

- a) Heads of Service have completed the Assurance Framework self-assessment in respect of their services' general compliance with the framework.
- b) Heads of Service have reviewed those self-assessments in respect of the areas that they lead on to gain assurance of overall compliance.
- c) The Executive Management Team have reviewed the Assurance self-assessments and signed Assurance Statements – from which any actions are logged in the 2023-24 action plan in Section 13 – which provides assurance of overall compliance with the Assurance Framework.

4.3 These mechanisms of review contribute to the overall assurance for the Annual Governance statement. The key sources of assurance include the 2022-23:

- a) Internal Audit Annual Report.
- b) Risk Management Annual Report.
- c) Performance Management Reports.
- d) External Audit and Inspection findings, including the External Audit Annual Audit Letter.
- e) Health and Safety Annual Report.
- f) Your Comments Count Report, including complaints referred to and investigated by the Ombudsman.
- g) Independent check of the Annual Governance Statement process by the Risk and Governance Manager.
- h) Review of the AGS Action Plan.

5. Governance

5.1 The Senior and Executive Management Teams have responsibility for developing and implementing internal control systems and procedures. Berneslai Homes has embedded written policies and procedures in all areas of operation. These policies and procedures are available online via the intranet and/or SharePoint. Each year the application and implementation of policies and procedures are subject to internal audit, with reports being presented to the Audit and Risk Committee.

5.2 The internal control framework comprises the following principal elements:

- Memorandum & Articles of Association
- Section 27 Agreement
- Scheme of Delegation
- Strategic Plan
- Board Governance Pack in Decision Time Resources
- Council Contract Procedure Rules as adopted by Berneslai Homes
- Financial Regulations
- Employee/Board Code of Conduct
- Housing policies and procedures
- Risk Management Framework Strategy
- Performance Management Framework
- Procurement Strategy
- Contract Management Policy
- Prosecutions Policy
- Budget monitoring and reporting procedures
- SAP/EBP/Financial system procedures
- Human Resources policies
- Equality, Diversity and Inclusion Strategy
- Information Management & Governance policies
- Employee Health & Safety Policy
- Business Continuity & Resilience plans
- Internal Audit
- Terms of Reference for Board and Committees
- Whistleblowing (Confidential Reporting) Policy
- Complaints Procedures
- Corporate Debt Strategy
- Business Planning Financials
- Anti-Fraud & Corruption Policy
- Value for Money Strategy

5.3 The recommendations from the external reviews by DTP of the Governance and Risk Management Frameworks in 2020 were successfully implemented in 2020-2021. In 2022, DTP undertook a light-touch follow-up review of their 2020 Governance review with positive results and Internal Audit undertook a review of the implementation of the Risk Management Framework, with positive results.

5.4 The Board sets the organisation's vision and objectives and identifies the opportunities and threats to achieve those objectives and ensures a framework of risk management is in place to obtain assurance that policies are adopted and operating effectively. The Memorandum & Articles of Association set out the Board's objectives, powers and functions. The Services Agreement sets out the responsibilities delegated from the Council to Berneslai Homes.

- 5.5 The Services Agreement with the Council is until 2031. The governance arrangements for Berneslai Homes contained within the Agreement are:
- Independently appointed Chair.
 - Board membership of a maximum of 10 members – two tenants/leaseholders, two Council Nominees, four independents and the Chair.
 - Remuneration for all Board Members.
 - Memorandum & Articles of Association.
- 5.6 Each member of the Board undertakes a tailored induction programme with access to Decision Time Resources, which includes the Governance Pack and useful policies and procedures. This information is regularly reviewed and updated to reflect any corporate and legislative changes. The Chair undertakes annual appraisals with Board Members. The Senior Independent Director and the Audit and Risk Committee Chair undertake an annual appraisal with the Chair.
- 5.7 **Modern Slavery Statement pursuant to Section 54(1) of the Modern Slavery Act 2015.**
- 5.7.1 The Modern Slavery Act was introduced during 2015. It sets out a range of measures on how modern slavery and human trafficking is dealt with in the UK. Whilst the entire Act is not directly relevant for businesses, Section 54 entitled 'Transparency in supply chains etc.' impacts the corporate sector. Businesses must comply with the Act if it meets two criteria:
- Global Turnover of more than £36m;
 - and carries on a business in any part of the United Kingdom.
- 5.7.2 Berneslai Homes has achieved in excess of £36m turnover and is therefore legally obliged to publish a slavery and human trafficking statement for the financial year. However, in the years that Berneslai Homes do not achieve in excess of £36m turnover, we continue to publish our Annual Statement as we feel it is important that supplier and contractors are aware of our commitment to reducing Modern Slavery in our supply chain. The statement must disclose either the steps the business has taken during the financial year to ensure that slavery and human trafficking is not taking place in our operations and in our supply chain: or that we have taken no such steps. The statement for 2022-23 is attached at **Appendix B**.
- 5.7.3 The Act states that the statement must be approved by the Board of Directors (or equivalent management body) and signed by a Director or equivalent. Audit and Risk Committee recommend to Board that the Modern Slavery Statement is approved and is signed by the Board Chair.
- 5.8 The Head of Governance and Strategy is appointed as the Company Secretary for Berneslai Homes.
6. Financial Controls
- 6.1 Berneslai Homes uses the Council's financial system (SAP) and currently operates financial controls developed by the Council. Berneslai Homes has its own Financial Regulations, which are reviewed in line with BMBC's.

Berneslai Homes adopts the Council's Contract Procedure Rules with minimum amendments.

6.2 A system of budget management and financial monitoring has been implemented with clear procedures. A robust financial monitoring framework is in place with direct reporting to, and consideration by, the Board who meet on a quarterly basis.

7. Control Framework

7.1 Through the demonstration of excellence in the personal development of staff, Berneslai Homes is an accredited Investors in People (IIP) organisation. The Standard provides a framework that helps organisations to improve performance and realise objectives through the effective management and development of their people. In March 2021, the Company achieved the Gold re-accreditation and retained the IIP Health and Wellbeing Good Practice Award. IIP are currently undertaking the full review, with the final results expected in August 2023. Rather than seeking re-accreditation for the Health and Wellbeing Award, Berneslai Homes instead achieved the Be Well @ Work award in April 2023.

7.2 All new staff follow a four-week induction programme which incorporates a one-day corporate induction training course. An annual Performance Development Review (PDR), with a six-monthly review, ensures the identification of training needs and the effective review of achievements against performance objectives and targets linked to the strategic objectives. The PDR review captures performance against the core competencies, where employees use behaviours to demonstrate their achievements. PDRs are completed online via Inspire. Resources are identified to ensure needs are fulfilled via the annual Learning and Development Plan.

7.3 Core competencies are incorporated into the recruitment and selection process. All recruitment is via competitive interview and recruiting managers are encouraged to use some form of assessment to measure essential criteria as this allows candidates to demonstrate their experience and knowledge. All recruiting panels are trained in recruitment and selection methods and policies. An analysis of recruitment and selection by protected characteristics is produced each year and submitted to the EMT and Board. In addition, audits are carried out by the HR team to ensure the processes are followed correctly and documentation stored appropriately.

7.4 The Board approve the creation and review of policies and procedures relating to the company's principal activities. These are embedded through staff information, instruction and training, and placed on the intranet and/or SharePoint.

7.5 The Board receive quarterly performance management reports that focus on key performance indicators, which measure achievement against our strategic objectives.

7.6 We know that budget restrictions have had a knock-on effect with delivery of adaptations and planned repair works. The delays with getting these works completed has contributed to dissatisfaction with the repairs and maintenance service. It has been a challenging year for many, and this has undoubtedly

impacted on levels of satisfaction across our communities. The company maintained positive tenant feedback from the STAR survey recording an overall 84.2% satisfaction rating during 2022-23.

- 7.7 A 96.06% rent collection rate was achieved in 2022-2023, which was a challenging year. Externally, the cost-of-living crisis has impacted on our ability to maximise collection and reduce the arrears further. Internally, we continued another 12-month period of further changes and challenges from the year before, following the external review by ARUM. We continued to see a high staff turnover, implementation of a full team restructure, development of new IT arrears management system, full review of policies and procedures and further development of a robust performance management framework. Considering this, we kept the collection rate fairly stable in comparison to the year before. By April 2023 we launched the new IT system, reviewed all income procedures, streamlined the PIs/KPIs for the service and appointed several new staff to the team including a second Income Team Leader. We have also changed our operating model to a patch-based model.
- 7.8 The average time taken to relet a property has increased from 29.82 days in quarter 3 to 30.19 days this quarter against a target of 25 days. We re-let 856 properties this year of which 62 took an average of 134 days. The remaining void properties let were done so in an average of 23.16 days. Void rent loss remains low and is currently 0.76% against a target of 1.05%. We are looking at an improved void standard pilot which will enhance the quality of product we offer to customers and reduce the number of responsive repairs during the first 12 months of a new tenancy.
- 7.9 The company continue to focus on compliance against the Housing Ombudsman Complaint Handling Code, high quality complaint handling and learning from complaints. Across the sector, average complaints volumes have been rising with the increased awareness of complaints processes being a key driver. A total of 957 informal complaints were resolved during 2022-23 which is an increase of 24% to 2021-22. The company received 407 Stage 1 complaints, which is 190% increase to 2021-21. 70 complaints escalated to Stage 2 which is an increase of 133% to 2021-22. However, it is extremely positive that the company had no negative determination issued by the Housing Ombudsman for cases investigated during 2022-23, demonstrating effective complaint resolution at stage 2. With 1,434 complaints registered during 2022-23, this is an increase of 52% compared to the previous year.
- 7.10 The Tenant Voice Panel continue to provide in-depth challenge, ensuring we remain compliant and explore areas of service that they feel may require further investigation, from a tenant's perspective. The Scrutiny Panel have completed four projects to date, around Website accessibility, compliance against the Housing Ombudsman's Complaints Handling Code, Damp and Mould through the eyes of a customer, and communication around Planned Repairs. They are currently focusing on Adaptations.

8. Data Protection and GDPR Reporting

- 8.1 Subject Access (SAR) and Freedom of Information (FOI) requests have stabilised in number. For 2022/23, Berneslai Homes have had 88 requests in comparison with 99 requests in 2021/22; 40 in 2020/21 and 47 in 2019/20.

Data Incidents

8.2 The actual number of reported information security incidents for 2022/23 have remained lower than previous years.

Incident type	2019/20 Quarterly averages	2020/21 Quarterly averages	2021/22 Quarterly averages	2022/23 Quarterly averages
Actual breaches	10	7	9	6

8.3 Additionally, if comparing this year's total average data incidents (which includes near misses and those of third parties) with previous years, then we can equally observe a decreasing pattern of incidents.

All incidents	2019/20	2020/21	2021/22	2022/23
Total number of average quarterly data incidents	17	19	14	8

8.4 It has been argued that in the past, Berneslai Homes' staff could be under reporting incidents. Whilst this is a possibility, there is in fact evidence of over reporting in 2022/23 for 'no breach' incidents. Indeed, these false positives indicate that teams are aware of data incidents and their potential impact on customers and Berneslai Homes. Therefore, teams have emailed the BH Data Protection team for advice or have completed an Incident Form.

8.5 To ensure that incidents have continued to remain low in number, the Information Governance team have undertaken ongoing prevention steps. Therefore, taking a proactive rather than a reactive approach. For instance, meetings/communications are held with line managers and responsible officers to provide next step advice, such as the changing of procedures and processes to prevent future incidents.

Training and Development

8.6 Data Protection Training and Awareness has continued in many forms to encourage engagement and to ensure that data incidents remain low, and the principles of the UK GDPR are adhered to.

8.7 Training and awareness have been supported with the development of a training strategy and matrix in 2022/23.

8.8. This financial year has seen a delivery of face-to-face phishing training, a mandatory roll out of an automated online training software called, Phishing T@ckle, revised and learner-differentiated induction material for Craft and non-craft staff, as well as on-going refresher training for subject access requests and information security. Additionally, Friday comms and Team briefs have been used as a platform to raise further awareness and to reinforce data protection knowledge across the organisation.

Documentation

8.9 All Information Governance policies, relevant to data protection and information security, have been reviewed and published on the Information Governance intranet page for staff to access.

Monitoring and Review

- 8.10 Over the last 12 months there have been three specific reviews covering aspects of data protection. These reviews have covered the following:

Area Audited	Key Areas	Assurance Opinion
Incident Framework	No recommendations/implications highlighted.	Substantial (positive)
Training Framework	Requirement to review the training matrix and ensure EMT approval.	Reasonable (positive)
Internal Control Framework (i.e., Unannounced visits, including CCTV)	Requirement to amend conflicting retention periods within CCTV policies. Requirement to review current meet and greet procedure and visitor access at Gateway Plaza to prevent tailgating.	Reasonable (positive)

- 8.11 The Information Governance team have provided a positive assurance opinion to the Berneslai Homes' DPO for all three reviews. Plus, the actions arising have been implemented as planned or are on schedule. For instance, CCTV policies have been revised and published in accordance with the recommendations. Staff responsible for Health & Safety at Berneslai Homes are currently reviewing the meet and greet procedure and ensuring visitor badges are locked down to lifts only. Company-wide communications concerning the physical security of Gateway have been carried out.
- 8.12 An Information Governance Strategy Action Plan has been produced for 2022-2023. This plan is to ensure Berneslai Homes remains compliant with data protection legislation and any other applicable laws. Progress is continually reported and monitored by EMT and the Audit and Risk Committee.

Records Management

- 8.13 The holding of records which are out of retention remains the largest risk for the Information Governance Team. Cleansing work continues to be the focus throughout 2022-23. At financial year end, over 330,000 records have been deleted or anonymised from core Berneslai Homes system's which were being held unlawfully. Work in this area continues due to its large and complex nature. Focus is slowly shifting to other key systems and additional tooling to automate processes are planned for the coming year.
- 8.14 Technical capabilities continue to be explored to prevent the issue expanding. Automated retention features within SharePoint will be implemented during 2023-24, which will automatically apply correct retention periods to records and allow for technical deletion, with minimal manual input. This will ensure compliance across the organisation without the need for extensive resources and prevent the issue from reoccurring.

- 8.15 A high level analysis has been undertaken to understand the positioning of Berneslai Home's data standards against the new updated standards proposed by HACT. Positively, Berneslai Homes scored highly, only receiving nine recommendations. Of the nine, 7 are already captured on risk registers and 2023-24 action plans with the potential to be fully implemented by the end of the financial year.
- 8.16 A full policy and procedural review has been undertaken to ensure all documentation is accurate and up to date. In addition, new guidelines and technical glossaries have been produced and are now accessible to all Berneslai Homes staff on the intranet.
- 8.17 The Senior Information Risk Owner (SIRO) Annual Report has been prepared to provide assurance to the SIRO that Berneslai Homes has sufficient policies and procedures in place to effectively manage its information. The report highlights key activities that have been delivered over 2022-23 and identifies actions for 2023-24 (**Appendix C**).

9. Audit

- 9.1 The Board is accountable for the Company's management and internal control system, delegating some of the tasks to Audit and Risk Committee.
- 9.2 The Council's Internal Audit provides audit coverage through a Service Level Agreement. The role of Internal Audit is to operate both independently and objectively. The Audit and Risk Committee agrees an annual audit plan and an Internal Audit activity report is provided at the quarterly Committee meeting.
- 9.3 Internal Audit provide an annual report which gives an assurance opinion in relation to the Company's Governance, Risk and Internal Control Framework. This is based on their advisory and compliance work undertaken during the year, in accordance with the approved plan of activity and for which the Audit & Risk Committee receive updates at each meeting. In terms of the 2022/23 report, which the Berneslai Homes Audit and Risk Committee considered at its meeting on the 15th June 2023, Internal Audit gave a Reasonable (positive) annual assurance opinion. Whilst a reasonable assurance opinion was given, the Audit and Risk Committee were asked to ensure that the agreed management actions included in the audit reports throughout the year to address findings and implications raised are fully and timely implemented to improve the framework. All 2022/23 agreed management actions were being implemented on a timely basis.

10. Health and Safety

- 10.1 Berneslai Homes operates two Health and Safety Management Groups: one for Construction Services and one for the remaining part of the company. Each Group comprises of: staff representation from a cross-section of departments; an EMT member; the Council's Health and Safety Advisor as part of the SLA; Trade Union or Employee representation, if available; and the Risk and Governance Manager and Construction Services Health and Safety Manager, to ensure consistency across the two Groups and provide support.

The Groups meet quarterly (Housing Management) and bi-monthly (Construction Services) to monitor progress on health and safety and discuss and action any new and emerging issues.

- 10.2 The Quarterly employee health and safety performance monitoring is delegated to the Executive Management Team. The Annual Health and Safety Report 2022-23 was reported to Board on the 13th July, utilising the collation of Berneslai Homes' health and safety data and input by the Health and Safety Management Groups. The Health and Safety Policy is reviewed and re-issued annually in-line with the Report. The statistics found a slight decrease from 2021-22 in the number of accidents reported and a very slight increase in the number of days lost due to incidents. The reports of violence and aggression had notably increased in 2022-23 and appear to be returning to pre-covid numbers.
- 10.3 Health and Safety is a standard agenda item on the bi-monthly Union Liaison meeting.
- 10.4 Health and Safety risks are identified within the Strategic and Operational Issues and Concerns Registers.
- 10.5 Risk assessments and safe working guidance are in place for all Occupation Groups and health and safety-related tasks. The Safety Standards provide guidance on how we undertake the requirements of our corporate health and safety policy. All documents are reviewed annually and as required.
- 10.6 Berneslai Homes works in collaboration with Barnsley Council as part of our Emergency planning and Business Continuity arrangements. We also have our own Emergency and Business Continuity Plans, which detail critical services provided to our customers, which are reviewed annually by named officers. These have been successfully tested over the past several years. The plans continue to provide assurance that we have appropriate mitigations in place to minimise any impact to residents in the event of a major incident and ensuring that appropriate support is in place. A business continuity IT exercise was undertaken in May 2023, with an action plan developed. Ongoing training during 2023 includes planned sessions covering roles and responsibilities and adverse weather. A dedicated Emergency Planning site is also being built on SharePoint to ensure we have a full visible and organised system should the plans need to be actioned.
- 10.7 The corporate induction process includes risk management, fire safety and health and safety.

11. Risk Management

- 11.1 Internal Audit undertook a review of the implementation of the new risk system in 2022 to ensure it was being embedded, with positive findings. A follow up review is scheduled for Autumn 2023 to ensure risk and action owners are taking responsibility for their own ongoing updates on the system. Regular communications are sent out to managers to ensure it remains a priority task.
- 11.2 The full analysis of the Risk Management Framework, including risk analysis, is undertaken as part of the quarterly and annual risk reports to Audit and Risk Committee and Board.

- 11.3 The Board and Chief Executive have ownership of risk management. The Risk and Governance Manager coordinates and supports all aspects of the Company's risk management activities and reviews and evaluates the Risk Management Strategy and supporting systems.
- 11.4 The Strategic Issues and Concerns Register is updated at least quarterly by EMT, supported by the Risk and Governance Manager. The two-yearly zero-based review was undertaken in 2022 by EMT and board members.
- 11.5 Each Directorate produces an Operational Issues and Concerns Register, which is also updated at least quarterly by lead officers, with the facilitated zero-based review of each register undertaken in 2022.
- 11.6 The Board Risk Appetite was reviewed by Board in February 2023 to ensure it remains a live document.
- 11.7 All Board reports contain a section on 'Risk Implications'. This is also the case for many other management reports. Where major projects are being implemented, separate Project Risk Registers are created, reviewed and managed for the life of the projects.

12. Annual Fraud Update

- 12.1 The Anti-Fraud and Corruption Policy documents underwent their full two-year review in 2022 and are therefore due for full review and approval by Board in 2024. These are dynamic documents and will be updated in the interim as required. These documents are available in [Decision Time Resources](#).

Proactive Anti-Fraud and Corruption activity during 2022-23:

- 12.2 The Fraud Issues and Concerns register is reviewed at least quarterly by lead officers and is included as part of the quarterly risk update to EMT, Audit and Risk Committee and Board.
- 12.3 Board Members and EMT undertook high level Fraud Awareness training delivered by HQN in January 2022, which was then rolled out to the Leadership Forum in June 2022. Staff and some Board members have also undertaken dedicated Tenancy Fraud Awareness training in May 2022 delivered by Internal Audit.
- 12.4 Fraud Awareness e-learning was rolled out to all staff in March 2023 with mandatory completion required. This e-learning is now a mandatory induction requirement.
- 12.5 Tenancy fraud awareness and checking tenancy records submitted via Internal Audit is an integral part of the team's day-to-day activities.
- 12.6 Staff are pro-active when looking at tenants' accounts for any irregularities in payments or when visiting properties.
- 12.7 Reports of whistleblowing and fraud matters and investigations are annually collated and reported within this report.

12.8 Berneslai Homes have investigated 58 incidents of tenancy fraud during 2022/23. The majority of these alleged frauds had either insufficient evidence to pursue, are ongoing or were resolved without legal proceedings for example the tenants voluntarily terminated their tenancies. The alleged application fraud was passed onto the BMBC Anti-Fraud team, and the case is ongoing.

- Housing Benefit Fraud – 3 (6 previous year).
- Abandoned Property – 34 (20 previous year).
- Non-Occupation/Property Subletting – 8 (6 previous year).
- Not Living at the property – 13 (16 previous year).
- Incidents of external whistleblowing have occurred during 2021-22 - 0 (0 previous year).
- Alleged Application Fraud – 1 (0 previous year).
- Tenancy application fraud – 0 (0 previous year).
- Alleged fraudulent attempt to succeed tenancy – 0 (0 previous year).

12.9 There were no whistleblowing reports made during 2022 to 2023.

12.10 There were no referrals to the BMBC Corporate Anti-Fraud Team regarding staff-related fraud.

13. Action Plan 2022-23

13.1 The 2022-23 Action Plan from the 2021-22 Annual Governance Statement report was reviewed quarterly by lead officers and is included as part of the quarterly risk update to EMT, Audit and Risk Committee and Board. There were no outstanding actions.

13.2 The majority of the actions from the Action Plan have either been completed or are well underway and have therefore not been rolled over to the 2023-24 Action Plan at 14.2.

14. Conclusion and Action Plan 2023-24

14.1 The annual Assurance Framework self-assessments for 2022-23 concluded that there were no fundamental issues around Berneslai Homes' internal controls. However, the assessments highlighted areas of development and improvement that are underway, which are being addressed during 2023-2024. Whilst the majority of these actions were already in place and not identified as a result of the self-assessment, they have been included in the Action Plan at 14.2 to highlight our ongoing developments with regards to these areas of internal control.

14.2 **2023-24 Action Plan:**

Action	Action owner	Timetable
Telematics Policy full review of	CS H&S Manager	August 2023
IG Board to be developed	DP Coordinator	September 2023
Definition documents for every KPI and PI	Performance and Improvement Manager	KPI – September 2023 PI – September 2024

Action	Action owner	Timetable
Finance workshops to be delivered to new and existing budget holders. Business partnering model to be adopted	Finance Manager	September 2023
Self-assessment of compliance against Consumer Standards and regulatory ready assessment	Head of Customer Services	October 2023
SMT review on Customer Data Capture	Head of Customer Services and Head of Governance and Strategy	October 2023
Review Lettings insight and performance reports and audit framework to align to new policy	Lettings Manager	December 2023
Developing role-specific training programme for Lettings	Lettings Manager	December 2023
Information Asset Owner e-Learning package	Records Manager	December 2023
Emergency planning eLearning for all staff once designed by BMBC Resilience Team	Risk and Governance Manager	December 2023
Refresher training re managing staff – Recruitment and Selection	HR Manager and OD Manager	March 2024
Retro-Fit pilot through PRIP – testing of delivery model	Head of Asset Management	March 2024
Stock condition and energy performance data to 100% position	Head of Asset Management	March 2024
Produce Data Strategy	Head of Governance and Strategy	March 2024
Corporate project management framework to be introduced as part of the new Business Improvement Team	Head of Governance and Strategy	March 2024
PAS2030 accreditation to deliver retro-fit and energy efficiency measures – Construction Services	Senior Operations Manager	April 2024
SYSMAX compliance system to be implemented at Construction Services	Senior Operations Manager	April 2024
Reviewing performance framework to ensure performance data and monitoring of is integral to relevant roles.	Performance and Improvement Manager	April 2024
Scheme of Delegation to be integrated into Financial Regs	Head of Finance	June 2024
Professionalism agenda framework	OD Manager	July 2024
Health and Safety refresher training for Board	Risk and Governance Manager and Construction Services Health and Safety Manager	December 2024
Formal project and change management process to be implemented	Head of Governance and Strategy	December 2024

15. Customer Voice/Impact

15.1 The aim of the review of internal controls is to scrutinise the internal risk management system and therefore customer views are not sought for this report. A number of internal controls seek to enhance the customer voice.

16. Risks

16.1 There is a risk that the Board, Audit and Risk Committee and management do not appreciate Berneslai Homes' key vulnerabilities and take appropriate action to manage them. The Internal Control Framework ensures that effective mechanisms are in place for the management of risk.

16.2 Therefore, where required these controls are monitored via such as:

- The Strategic and Operational Risk Register reviews.
- As part of the Annual Governance Statement.
- Specific reporting to Board, such as financial reports, compliance reports, etc.
- Performance monitoring.

16.3 Strategic Risk Appetite – Risk Adverse: We aim to comply with all relevant legislation and have zero tolerance for regulatory compliance issues. We give high priority to Internal Audit recommendations and take immediate action to resolve concerns. We have zero tolerance for failure to meet deadlines from Regulators.

17. Strategic Alignment

17.1 The report aligns to the requirements from BMBC (Barnsley Metropolitan Borough Council) for the effective governance of Berneslai Homes. Good risk management links to the successful achievement of all our ambitions:

- Hearing Customers.
- Keeping Tenants Safe.
- Growth of Homes and Services.
- Technology and Innovation.
- Employment and Training.
- Zero Carbon.

18. Data Privacy

18.1 There are no data privacy implications arising from this report. No personal data has been processed and no DPIA (Data Protection Impact Assessments) is required.

19. Consumer Regulatory Standards

19.1 This report relates to the following elements of the Regulatory Standard:

- Governance and Financial Viability Standard - Good governance ensures the organisation always acts in the best interests of the business. This ensures improvement of performance, unlocks new opportunities and

reduces risk.

20. Other Statutory/Regulatory Compliance

20.1 To provide Board with assurance around our risk management arrangements.

21. Financial

21.1 There are no financial implications arising directly from this report.

22. Human Resources and Equality, Diversity and Inclusion

22.1 Human Resources Policies and Procedures, including Equality, Diversity and Inclusion are key internal controls and seek to mitigate any associated risks.

23. Sustainability Implications

23.1 No specific zero carbon implications from this report.

24. Glossary

24.1 The **CIPFA/SOLACE Framework** focuses on six key principles of corporate governance. The Framework sets out the actions authorities need to follow to achieve 'Good Governance' when applying the six key principles. These actions include a review of existing governance arrangements against the CIPFA/SOLACE Framework.

25. Associated Background Papers on Decision Time

25.1 [Assurance Framework template](#)

25.2 [Anti-Fraud and Corruption Policy](#)

25.3 [Prosecutions Policy](#)

25.4 [Fraud Response Plan](#)

25.5 [Whistleblowing \(Confidential Reporting\) Policy](#)

26. **List of Appendices**

26.1 Appendix A – Draft Statement for inclusion in the 2022-23 Report and Accounts

26.2 Appendix B – Modern Slavery Statement 2022-23 ([Link to Audit Committee Report](#))

26.3 Appendix C – Senior Information Risk Owner Annual Report 2022-23 ([Link to Audit Committee Report](#))

APPENDIX A

DRAFT STATEMENT FOR INCLUSION IN THE 2022-23 REPORT AND ACCOUNTS

The Board is accountable for the Company's management and internal control system. The Chief Executive has responsibility for maintaining a sound system of control which supports the achievement of the organisation's aims and objectives. The systems are designed to manage rather than eliminate the risk of failure to achieve these objectives. It can therefore only provide reasonable and not absolute assurance of effectiveness.

The Chief Executive has reviewed the Internal Control framework developed by the Executive Team and taken account of comments made by Internal and External Audit, External Accreditation.

Signed

Amanda Garrard
Chief Executive
Berneslai Homes



Creating great homes and communities
with the people of Barnsley

Report Title	Berneslai Homes Limited Report and Accounts for the period ended 31 March 2023	Confidential	No
Report Author	Interim Executive Director of Corporate Services	Report Status	For Approval
Report To	Board 28th September 2023	Officer Contact Details	Leanne Armitage Finance Manager Leannearmitage1@berneslaihomes.co.uk

1. Executive Summary	This report presents the Berneslai Homes Ltd Report and Accounts for the period ended 31 st March 2023 and the Audit Completion report from BDO LLP.
2. Recommendation/s	<ol style="list-style-type: none"> 1. That the Berneslai Homes Ltd Annual Report and Accounts for the period ended 31 March 2023 be approved; 2. That the Financial Statements be signed by the Chair plus 1 other Board Member on behalf of the Board; 3. That the report of the External Auditor be noted; 4. That the letter of representation be approved; and 5. That the letter of representation be signed by the Chair on behalf of the Board

3. Background

- 3.1 Berneslai Homes Ltd was incorporated on 30 September 2002 and commenced trading on 1 December 2002. The Company provides both management and maintenance services for Barnsley Metropolitan Borough Council Dwellings and other HRA assets. The Annual Report and Accounts for the period ending 31 March 2023 are attached at Appendix A.

3.2 Income Statement

The Company reports a deficit of £3.146M in 2022/23 (£0.407M deficit in 2021/22) which is adjusted to a **deficit of £7.925M** (£5.418M deficit in 2021/22) after accounting for pension costs in accordance with FRS102.

The reported deficit is partially due to the release of an approved payment of £3.047M to the Council in 2022/23 (£1.184M released in 2021/22), as part of an overall sum earmarked from reserves to support housing growth.

3.3 Statement of Financial Position

The Statement of Financial Position shows net current assets of £8.160M compared to £11.278M in 2021/22. Current assets are stock (£0.704M), debtors and work in progress (£5.575M), short term investments and cash (£7.184M) being partly offset by liabilities in relation to creditors (£5.303M).

The retained **surplus** excluding pension assets under FRS102 is £8.267M. Based upon the financial assumptions used in FRS102, the value of pension scheme assets is £18.925M (£25.716M deficit in 2021/22), as per IFRIC14 this asset has been recognised in the financial statements at the asset ceiling of £15.210M as calculated by the actuary. The overall position is a retained **surplus** of £23.477M (£14.303M deficit in 2021/22).

Following the request of our External Auditors (BDO) the Council now provides an annual letter attached as Appendix B which confirms the ongoing service agreement.

3.4 Statement of Cash Flows

The Statement of Cash Flows shows a decrease in cash of £3.531M compared to the position at 31 March 2022. This is largely due to an increase in debtors (£1.266M) and the £3.047M housing growth payment to BMBC during the year.

3.5 Pension Scheme

The Pension Asset has been recognised at the ceiling calculated by the actuary being £15.210M, due to underlying movements in the economy such as inflation and interest rates, this has led to a large swing in the pension valuation this year resulting in the significant asset (£25.716M Deficit at March 2022).

External Audit have evaluated the assumptions used by the actuary and concluded that they are consistent to those used by similar schemes.

4. Current Position /Issues for Consideration

- 4.1 A key focus of the audit each year is an assessment of the Company's going concern position, that is that we are financially viable for a minimum of 12 months from when the accounts are signed in September. Taking into consideration current and future income forecasts and the current long-term contracts in place with the Council on the Management Services and Construction Services (CS)

the auditors agreed with our assessment that our entity is a going concern. Both contracts are for a period of 10 years and the CS PRIP contract and the Management Service Contract ending in 2030/31.

4.2 The report is attached at Appendix C and was presented to the Audit Committee by BDO LLP on 17 August 2023.

4.3 BDO LLP did not identify any significant weakness in control or other observations and deficiencies as part of the audit this year.

4.4 The External Auditors require a signed letter of representation from the Board. A copy of the letter is included at Appendix D. The letter confirms for the External Auditors that the Board acknowledges its responsibilities, has followed proper accounting practice and provided all relevant information in relation to the following: -

- statutory responsibilities to report a true & fair view;
- related party disclosures
- fraud & error;
- Law & regulations;
- Post balance sheet events
- Going Concern

4.5 The representation should be made on the basis of experience and enquiries of management and staff.

4.6 Audit Committee of 17 August 2023 recommended the Report and Accounts to the Board for approval.

5. Customer Voice/Impact

None arising directly from this report.

6. Risk and Risk Appetite

Set out in the External Auditors report attached.

7. Strategic Alignment

Production of the accounts is a statutory requirement

8. Data Privacy

This involves the processing of personal data and on completion of Part A of the DPIA form no new data privacy risks have been identified

9. Consumer Regulatory Standards

None arising directly from this report.

10. Other Statutory/Regulatory Compliance

None arising directly from this report.

11. Financial

The audit approach adopted by the auditors has been designed to obtain the required level of assurance in accordance with the UK auditing standards.

12. Human Resources and Equality. Diversity and Inclusion

There are no employee implications arising directly from this report.

13. Sustainability Implications

There are no implications arising directly from this report.

14. Associated Background Papers

Berneslai Homes Ltd 2022/23 Final Accounts as at 31st March 2023.

15. Appendices

Appendix A - Berneslai Homes Ltd Report and Accounts for the financial period to 31 March 2023

Appendix B – BMBC letter to Board

Appendix C - External Audit Report to Management

Appendix D – Letter of Representation

16. Glossary

CS - Construction Services.

FRS - Financial Regulation Standard.

Appendix A

Registered company number 4548803

BERNESLAI HOMES LIMITED

(A Company Limited by Guarantee)

Annual Report and Accounts for the year ended 31 March 2023

Berneslai Homes Limited

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Berneslai Homes Limited

Board of Directors

Sinéad Butters
Chair of the Board
(Date of resignation 28.09.23)

Adam Hutchinson
Independent Member
(Date of appointment 29.09.22)

Mark Johnson
Independent Member/Acting Chair
of the Board

Richard Fryer
Independent Member

Jo Sugden
Independent Member

Councillor Kevin Osborne
(Date of appointment 29.09.22)

Adriana Rustemi
Tenant Member
(Date of resignation 28.09.23)

Eric Smith
Tenant Member
(Date of appointment 29.09.22)

Councillor Sarah Tattersall

Liana Khachatryan
Tenant Member
(Date of Resignation 29.09.2022)

Gary Ellis
Independent Member
(Date of resignation 29.09.2022)

Councillor Caroline Makinson
(Date of resignation 31.05.22)

Executive Officers

Amanda Garrard
Chief Executive

Kulvinder Sihota
Interim Executive Director
of Corporate Services

Dave Fullen
Executive Director of Customer
and Estates Services

Arturo Gulla
Executive Director of
Property Services

Lee Winterbottom
Managing Director
Construction Services

Samantha Roebuck
Company Secretary

Auditor

BDO LLP
6th Floor
Central Square
29 Wellington Street
Leeds
LS1 4DL

Bankers

Barclays Bank
PLC
10-18 Queen Street
Barnsley
S70 1SJ

Solicitors

Walker Morris LLP
33 Wellington Street
Leeds
LS1 4DL

Registered Office

10th Floor
Gateway Plaza
Off Sackville Street
Barnsley
S70 2RD

Statement from the Acting Chair

Berneslai Homes, like others in our Sector, has seen continued challenge in delivering services to thousands of customers. Despite these challenges, the Berneslai Team have continued to deliver high quality housing and responsive maintenance services alongside supporting tenants with financial hardship and into work. I am very proud of our Teams on the ground delivering against this challenging backdrop, and grateful for the hard work of all our colleagues in helping to deliver our ambitions for a modern forward looking, technology enabled Berneslai Homes.

We move into year three of a 10-year contract with Barnsley Metropolitan Borough Council, providing housing management and maintenance services across the council housing stock. The council is a crucial partner for Berneslai and by building on this successful relationship we can drive improvements in the delivery of housing services. This partnership will ensure that we keep customers at the heart of everything we do. A key aspect of the Board has been the work to reshape our 10-year strategic plan, to ensure alignment with the Council's 2030 Plan. I am excited by the impact our social housing business can have on jobs, skills, and training and this is something our Board are keen to support going forward. We continue to embed our company values, Customer First, Can Do and Curious. These values are the fundamental principles on which Berneslai is based and which reflect our ethics and culture.

We plan to implement significant improvements to strengthen assurance around building and fire safety and the new Consumer Regulations and Tenant Satisfaction Measures. The Board has greater visibility of delivery of safety actions and will provide a strong level of scrutiny as we look to deliver our ambitions in our Strategic Plan.

Our Tenant Voice Panel and Scrutiny Panel have worked closely with us to make sure that we are in a strong position to meet the Regulator for Social Housing proactive framework for both setting high standards for tenants and measuring how landlords deliver against those standards. We have listened harder than ever to our tenant feedback through their social media posts, opinions at meetings, views in surveys and mapped out their experiences of the service we deliver day in and day out. Most importantly we have developed a service improvement framework which will deliver those on the ground and practical changes that our tenants deserve.

As we move into this new regulatory era, we are strengthening our partnership with tenants, supporting our Tenants and Resident Associations in their communities, involving tenants openly in our governance and assurance arrangements, co-designing services, and supporting tenants as they test and inspect our service.

I would like to thank all of my fellow members of the Board for their hard work and dedication throughout the year. In particular, I would like to say thank you to Sinéad Butters who has stepped down as Chair of the Board, for the considerable and positive impact she has had on developing the Board since joining us in 2020 and Adriana Rrustemi who also retired from the Board in September for her valued contribution over the last 6 years.

And finally, on behalf of the Board, I would also like to thank all members of staff for their continued hard work and commitment to Berneslai Homes. I am looking forward to working with you all as we deliver on our new Berneslai Homes strategy and live our values as we deliver high quality services, keep our tenants safe, support people into work and invest in our neighbourhoods.

Mark Johnson
Acting Chair
28th September 2023

Strategic Report

Activities of the Company

Berneslai Homes Limited is a wholly owned and controlled Company of Barnsley Metropolitan Borough Council (BMBC) and is limited by guarantee. The Company manages and maintains the Housing stock and other Housing Revenue Account assets on behalf of the Council.

Business review

The financial year 2022/2023 was again a challenging year for the housing sector. Inflation reached a 41-year high which placed a strain on budgets and exacerbated recruitment and supply issues. Whilst facing these challenges the Company responded to the cost-of-living impact on Tenants by introducing a Hardship Fund.

The new Property Repairs and Improvement Partnership (PRIP) contract began its third year with Construction Services (CS) responsible for delivering two thirds of the contract. The outturn for the year was turnover of £23.35M, with a surplus of £652K. An allowance was earmarked for disallowed costs of £232K. This is a form of risk pricing for where the pricing caps have been breached. The pricing cap breaches tend to be linked to pricing rates that are unachievable and market conditions relating to inflationary increases on material and from suppliers.

Performance in relation to compliance has been a key focus during the year. A revised reporting framework is now in place and reviewed regularly by the Board, EMT, the Council and verified independently by third party auditors.

The Arm's Length Management Organisation continues to deliver for tenants, the Council and the communities we serve. Despite the challenging year overall tenant satisfaction with the services we deliver remains high at 84.2% (2021/2022: 85%).

Rent collection performance for the year is a 96.06% collection rate which is lower than the stretch target of 97%. Across the sector, the cost-of-living crisis has impacted on collection levels. Approximately two thirds of tenants' rents are met through either housing benefit or an element of Universal Credit. For the remaining third of tenants who do not receive support with their rents, or for any tenant experiencing severe financial hardship a wide range of support is available. Through our tenant support team and the Money Advice Worker we fund at Citizens Advice we have secured £946,363 benefit gain/grants for tenants.

Performance on re-letting void properties saw a slight decrease with void turnaround time being 30.19 days (2021/22: 31.02 days). An improved void standard is being piloted which will enhance the quality of product offered to customers and reduce the number of responsive repairs during the first 12 months.

Our benchmarking club continues to evidence that we are high performing and low cost with high levels of satisfaction.

Principal risks and uncertainties

Risk is a key consideration throughout our business planning process and the Risk Management Framework Strategy is an important component of Berneslai Homes' assurance framework. The Board and the Chief Executive have overall responsibility for risk management. The Head of Governance and Strategy, supported by the Risk & Governance Manager, is responsible for the organisation and promotion of risk management within Berneslai Homes.

The Corporate Risk Appetite was reviewed in February 2023 by EMT and Board, which brought the appetite factors into line with the refreshed Strategic Plan and current external environment.

The strategic risks, issues and concerns register is reviewed quarterly by the Executive Management Team (EMT), by Audit and Risk Committee and the Board. Every two years, a complete zero-based

review of the strategic issues and concerns is also undertaken, during which a brainstorming session is undertaken providing an opportunity for everyone to discuss the significant areas of concern. A zero-based review of the strategic issues and concerns was undertaken in 2022 by EMT and Board Members.

Each Directorate has a separate issues and concerns register, which assesses the concerns at an operational level. Operational concerns, the day-to-day issues arising whilst managing a service, are the responsibility of managers. They are monitored and reviewed at least quarterly by the respective senior manager, and risk and action owners. Each Directorate also undertakes two-yearly zero-based register reviews, which follows the same format as the strategic review. These reviews were also undertaken in 2022.

EMT monitor the red (critical response) concerns from each of the operational registers. The process involves evaluating the critical response assessment and deciding whether it has been assessed correctly. If it remains critical, EMT will decide whether to accept the concern or whether to recommend further controls to mitigate it.

Key current issues and concerns

There are currently 19 active strategic issues and concerns, of which four have been identified as requiring a Critical (Red) Response, which ensures they are given priority.

1. Inability to meet housing need due to loss of stock and ability to influence growth of homes for social rent.
2. Vulnerability of in-house and third-party systems to cyber-attack.
3. Ability to source the right materials and services at the right price.
4. The health and safety of tenants and staff
5. That we do not effectively embed a culture that acknowledges, promotes and celebrates the diverse talents and backgrounds of staff and tenants.
6. Struggling to recruit staff and keep the right people with the right skills.
7. The HRA does not cover service requirements.
8. The zero-carbon agenda is not sufficiently funded or skilled.
9. Increase in staff mental ill health and wellbeing.
10. The cost-of-living crisis is impacting tenants and our communities.
11. Business continuity
12. Failure to meet increasing and changing regulatory requirements.
13. Do we have the right data to make informed decisions (Data Quality)
14. Reduction in customer satisfaction
15. That we don't take the opportunities that are out there to increase funding for services e.g., zero carbon.
16. Reduced opportunities for lobbying as the ALMO sector gets smaller.
17. Mould, damp and condensation
18. Gap and lack of recent reviews in policies and procedures, leaves us at risk with the Housing Ombudsman and the Social Housing Regulator
19. Effective preparation for regulatory inspection

Financial Performance for the year

The Board reports a deficit of £7.9M for the year (2022: deficit £5.4M). The deficit principally arose from expenses in relation to the company's share of the Local Government Pension Scheme and contributions to the BMBC HRA Capital Programme, excluding such expenses the company made a surplus of £1.8M (2022: £2.5M) The Company had net assets of £23.5M (2022: net liabilities £14.3M) after accounting for net pension assets of £15.2M (2022: net liabilities £25.7M). Turnover for the Company was £38.3M (2022: £38.3M).

Berneslai Homes Limited

Emissions and Energy Consumption

The Company's greenhouse gas emissions and energy consumption are as follows:

	2021/22 CO2e (t)	2022/23 CO2e (t)
Scope 1: Direct emissions resulting from activities for which the Company is responsible involving natural gas and vehicle fleet	2,454	2,343
Scope 2: Indirect emissions resulting from activities for which the Company is responsible involving electricity	580	548
Scope 3: Indirect emissions resulting from activities for which the Company is responsible but does not control involving business mileage and new for 2022/23 Home Working	578	662

The intensity ratio for the year was 92.7 CO2e per £m turnover (2021/22 was 94.2).

The main source of CO2 emissions is from gas supplies primarily in relation to the district heating systems. Included in our Sustainability Strategy 2022-2027 our ambition is to monitor and trial new heating technologies offering affordable warmth and carbon reduction. Further detail of initiatives is included in Section 172 Reporting.

The data has been taken from monthly invoices received from suppliers and converted using the UK government GHG Conversion Factors for Company Reporting.

Section 172 Reporting

Directors' duties

Directors of UK companies must act in accordance with a set of general duties. These duties are detailed in section 172(1) of the Companies Act 2006 which is summarised as follows:

'A director of a company must act in the way they consider, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole and, in doing so have regard (amongst other matters) to:

- the likely consequences of any decisions in the long term;
- the interests of the company's employees;
- the need to foster the company's business relationships with suppliers, customers and others;
- the impact of the company's operations on the community and environment;
- the need to maintain a reputation for high standards of business conduct; and
- the need to act fairly between members of the Company.'

Business Conduct

Directors are briefed on their duties and they can access professional advice on these, either from the Company Secretary or, if they judge it necessary, from an independent adviser. It is important to recognise that in a large organisation such as ours, the Directors fulfil their duties partly through a governance framework that delegates day-to-day decision-making to employees of the Company.

People

Berneslai Homes is committed to being a responsible business. We work to build strong partnerships that meet the expectations of our Board, employees, customers and suppliers. Employees are at the heart of our services. For our business to be successful we need to manage the performance of our people whilst developing talent, ensuring that we operate as efficiently as possible. Berneslai Homes

Berneslai Homes Limited

is certified to Gold standard by Investors in People and Gold Be Well @ Work, which assesses the organisation’s health and wellbeing culture.

Partnership

Berneslai Homes work closely with Barnsley 2030 Board, our local communities and different businesses and organisations across all sectors to achieve their vision of Barnsley being a place of possibilities. We are a listening organisation: valuing and encouraging feedback from customers, working together to continuously improve services, and ensuring their views are at the heart of our decision making. We continue to learn, grow and change so we adapt to any given situation.

Community and Environment

Berneslai Homes embrace diversity and inclusion, provide work opportunities, support carers, and contribute to the zero-carbon agenda. We invest and spend wisely in our homes and communities whilst also supporting the local economy and investing in our town.

The right home environment is critical to our tenants physical and mental health and wellbeing. Good quality, energy efficient and safe housing helps people stay healthy and provides the base to help achieve a decent quality of life. Berneslai Homes work with Public Health and other health partners to ensure our tenants can access information and support, to stay fit and well all year round and to provide additional help to keep warm and well during colder weather. We invest over £2 million per annum on equipment and adaptations to assist tenants to remain in their homes.

The Board recognises the need to operate sustainably, which is defined in the Board approved Sustainability Strategy.

Communication with stakeholders

Good governance is essential in ensuring that stakeholders continue to be supportive of Berneslai Homes and its Strategic Plan.

The table below shows three key events and decisions made by the Board, the stakeholders they impact and the associated actions taken by the Directors to engage with the relevant stakeholders. Key events and decisions have been determined by assessing items which are either material or that have a significant impact on one or many categories of stakeholders.

Key event / decision	Stakeholders affected	Action and Impact
Approve the review of the 10-year Strategic plan and annual business action plan (December 2022)	All Stakeholders, inc BMBC, Board, Employees, Customers	1) The Strategic Plan and Annual Business Action Plan were developed following consultations with our stakeholders and customers. A consultation session was held in October 23 with customers. This session included a discussion around the ambitions, an update on progress and a discussion on the priorities for 23/24. The customers felt that hearing our customers and the Board hearing their voice in governance arrangements were particularly important. Their feedback will help in planning how we can improve on these over the 23/24 period. 2) The Strategic Plan and Business Action Plan set out Berneslai Homes Strategic Ambitions and align closely with BMBC Corporate Plan and 2030 vision.

		<p>3) The actions within the Strategic Plan ensure that our activities are aligned to ensure compliance across all regulatory and statutory standards.</p> <p>4) Zero carbon is one of the objectives of the Strategic Plan and includes the actions that we will take to assist in achieving the zero carbon targets as a company.</p>
<p>Approve the installation of Smoke & Carbon Monoxide Alarms through a planned programme at an estimated cost of £2.83m by October 2022. Approve £1.33m funding from the Housing Growth Reserves to contribute to the installation costs. (July 2022)</p>	<p>All Stakeholders, inc BMBC, Board, Employees, Customers</p>	<p>1) As part of the ongoing Communications Strategy, a meeting was held on Thursday 9th June 2022 with members of the Tenants Voice Panel and our Communications Manager to agree how we will communicate the important changes to our customers and promote access. A social media campaign will be run with key messages going out periodically, keeping the focus very much on safety. Also, key people in the Contact Centre have been made aware of the imminent works so they can best advise customers who contact.</p> <p>2) Meets the objectives set out in Berneslai Homes Strategic Plan of Keeping Tenants Safe and BMBC Strategic Plan of a Healthy Barnsley.</p> <p>3) By mobilising a planned coordinated approach to installations this will reduce operative fuel consumption.</p>
<p>Approve the Berneslai Homes Sustainability Strategy 2022-27 (September 2022)</p>	<p>All Stakeholders, inc BMBC, Board, Employees, Customers</p>	<p>1) As part of Berneslai Homes Strategic Plan 2021-31 zero carbon is one of the key priorities as an organisation we have agreed to focus on in the future.</p> <p>2) The Council's ambition is that Berneslai Homes will become net zero by 2045, or earlier if possible, and the government has set a target for social housing providers to attain a minimum rating of Energy Performance Certificate (EPC) C for homes by 2030.</p> <p>3) To support our ambitions on zero carbon and working towards achieving local and national targets a five-year Sustainability Strategy 2022-27 and accompanying position statement has been developed for Board approval.</p> <p>4) Provides Berneslai Homes with an effective approach to reducing carbon emissions and helping to limit the effects of climate change, through our operational activities and the council homes across Barnsley.</p> <p>5) Consultation has been undertaken with customers via our tenant's voice panel (TVP). Customers views and feedback sought from the exercise have been fed into the Strategy. The</p>

Berneslai Homes Limited

		<p>Strategy will provide customers with Berneslai Homes planned approach for future years.</p> <p>6) Home Standard – as a registered provider Berneslai Homes has an obligation to provide quality accommodation to a required standard as set by the Decent Homes guidance. The Sustainability Strategy will only serve to improve the council housing stock, increasing energy efficiency, reducing carbon emissions and alleviating the effects of fuel poverty to our customers through our agreed approach.</p>
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Key performance indicators

Performance management is linked to the aims and objectives of the Company and is central to ensuring the delivery of key business and service priorities.

The following key performance indicators are part of a suite of indicators reported quarterly to the Board and our shareholder Barnsley Metropolitan Borough Council.

Table of key Performance Indicators

Indicator	2021/22 Target	2021/22 Performance	2022/23 Target	2022/23 Performance
The percentage of all tenants satisfied with the overall service provided	89% +/- 3	85%	89% +/- 3	84.2%
The percentage of tenants satisfied with the repairs and maintenance service	89% +/- 3	79%	82% +/- 3	79.5%
The proportion of local authority dwellings which are decent dwellings	100%	99.71%	100%	99.67%
Average time to re-let local authority housing (calendar days)	23	31.02	25	30.19
Rent collected by the local authority as a proportion of rents owed on HRA dwellings	96.00%	96.37%	97%	96.06%

Specific actions to address KPIs behind target are included within our published performance reports.

Samantha Roebuck
 Company Secretary
 28 September 2023

Directors' Report

The directors present their report and accounts for the year ended 31 March 2023.

Activities of the Company

The activities of the Company are shown in the Strategic Report.

Board Members and Executive Directors

The Board members and the Executive Officers of the Company are set out on page 1. The Board comprises an Independent Chair, 2 tenant representatives, 2 BMBC nominees and 4 independents.

The Executive Officers are the Chief Executive and the Functional Directors. All Executive Officers served throughout the year. The Board Members and Executive Officers have no financial interest in the Company.

Employee Involvement and Development

It is recognised that the commitment of every employee is critical for the success of the Company. Employees are kept well informed by a variety of methods including team briefings, key messages, 1-2-1s, toolbox talks and focus groups to examine and consult upon specific issues. Berneslai Homes also has its own intranet site. We constantly seek feedback from our employees, using a variety of methods which include annual employee satisfaction surveys, regular pulse surveys and the Performance and Development Review (PDR) Process.

We recognise a number of trade unions and have a well-established consultation framework. We also utilise the Berneslai Involvement Group (BIG), which provides a forum for employees to generate ideas and oversee the development and implementation of plans to improve employee engagement, wellbeing and satisfaction across the organisation.

As a result of the 2023 assessment, we have retained the Investors in People (IIP) Gold award subject to a further assessment in March 2024. The award recognises the significant work undertaken to support and train staff. In March 2023, we also achieved the Gold Wellbeing Award from Be Well @ Work, a South Yorkshire award scheme which recognises excellent health and wellbeing culture embedded within organisations.

We reviewed our Leadership training in 2021 and developed/launched our new cohesive Leadership model. We also developed a Coaching Culture model that includes Managers mandatory training and opportunities for those that wish to become accredited coaches.

Training needs are identified through the annual Learning and Development Plan and Performance and Development Reviews for all employees. This captures all training and development undertaken in the previous year together with evaluations, business outcomes and costs to ensure value for money.

Development is not limited to attending courses and conferences and we encourage our employees to job shadow, undertake back to the floor days, networking with other internal and external colleagues and organisations to maximise their potential.

Employees with Disabilities

It is our policy that people with disabilities should have full and fair consideration for all vacancies, and those who meet the essential criteria are guaranteed an interview. In employment we ensure that reasonable adjustments are made for disabled employees and we have a Supporting Disabled People at Work Policy. The policy ensures a consistent approach to the implementation of adjustments.

Those employees who become disabled during their employment are provided with support where possible to enable them to remain in their existing roles. The number of employees who have disabilities over the last few years has been stable at around 5-6%.

We have achieved repeated accreditation with Job Centre Plus through their Disability Confident Scheme. We also target young disabled people to apply for our Office Apprenticeships and we successfully recruited young disabled people in our recruitment campaigns, some of whom have gained full time permanent employment with us. In 2020, we were successful in our application for employing 30 kickstart placements, where we have since seen 14 of these individuals gain employment with us following their placement. We are also currently working with Barnsley Council as part of their Inclusive Offer Forum, with a view to increasing the opportunities we provide for people with disabilities through supported internships, placements and work experience.

Equality, Diversity and Inclusion

Berneslai Homes is committed to equality and inclusion. We see equality and inclusion as core business values, which are embedded in our services, policies, and procedures; from recruitment and selection, through to training and development, from service delivery that meets customers' needs to involvement and engagement of diverse customers.

Our three-year EDI Strategy which received Board approval in 2022 contains 15 specific Year 1 actions. Our ambition is become a beacon employer of best practice in EDI.

The Company recognises that equality is an integral part of delivering a first-class service. It is our policy to promote equality of opportunity for all, in an environment free from discrimination, harassment and victimisation. We embrace and promote diversity, recognising the benefits that it will bring in terms of culture, employee retention and recruitment, and business excellence. We have recently launched a new and comprehensive EDI training model which is mandatory for all staff.

Internal Controls Assurance

The Board is accountable for the Company's management and internal control system. The Chief Executive has responsibility for maintaining a sound system of control which supports the achievement of the organisation's aims and objectives. The systems are designed to manage rather than eliminate the risk of failure to achieve these objectives. It can therefore only provide reasonable and not absolute assurance of effectiveness.

The Chief Executive has reviewed the Internal Control framework developed by the Executive Team and taken account of comments made by Internal and External Audit, the IIP External Accreditation Report, and the Audit & Risk Committee and has confirmed that adequate procedures are in place. She is satisfied that there is sufficient evidence to confirm adequate systems of internal control existed and were operated throughout the year to ensure the proper management of significant risks facing the Company. No weaknesses were identified which have resulted in material misstatement or loss, which would have required disclosure in the financial statements.

Berneslai Homes Limited

Financial Instruments

The Company's financial risk management objective is broadly to seek to make neither profit nor loss from exposure to currency or interest rate risks. The Company has no borrowings and the policy is to finance working capital from the retained cash surplus.

The Company does not actively use financial instruments as part of its financial risk management.

Going Concern

The Company's management service and Construction Services PRIP contracts with BMBC are both for a period of 10 years ending 2030/31, thereby securing the Company's income streams for the foreseeable future. BMBC have issued a representation letter in respect of the service agreement.

The Management Fee and Construction Services budgets for 2023/2024 have been approved by the Board.

Directors have considered the operating surplus, cashflow and level of reserves plans which are in-line with expectations and are forecast to continue to be in-line for the duration of the going concern period. A sensitivity stress test has been carried out to assess the ability to continue operating in the event of a downturn in turnover highlighting any mitigating actions which management could take.

Based on the assessment undertaken, the Directors have a reasonable expectation that the Company has adequate resources to continue in operational existence for the foreseeable future, being a period of 12 months after the date on which the Annual Report and Financial Statements are signed. For this reason, it continues to adopt the going concern basis for the Financial Statements.

Directors Qualifying Indemnity Provision

The Directors benefited from qualifying third party indemnity provisions in place during the year and at the date of this report.

Modern Slavery Act – Transparency Statement

Berneslai Homes is committed to eliminate as far as possible the risk of modern slavery and human trafficking in our organisation and in our supply chain. Our turnover for the year ended the 31 March 2023 is in excess of £36m, therefore we are legally obliged to publish a Modern Slavery Statement each financial year which can be obtained by writing to the Company.

Auditor

A resolution to reappoint BDO LLP as auditor of the Company will be agreed at the Annual General Meeting on 28 September 2023.

Information Given to Auditors

So far as each of the Directors are aware at the time the report is approved:

- There is no relevant audit information of which the Company's auditors are unaware, and
- The Directors have taken all steps that they ought to have taken to make themselves aware of any relevant audit information and to establish that the auditors are aware of that information.

Approved by the Board of Directors and signed on behalf of the Board on 28 September 2023.

Samantha, Roebuck, Company Secretary
28 September 2023

Statement of Directors' Responsibilities

The directors are responsible for preparing the strategic report, the directors' report and the financial statements in accordance with applicable law and regulations.

Company law requires the directors to prepare financial statements for each financial year. Under that law the directors have elected to prepare the financial statements in accordance with United Kingdom Generally Accepted Accounting Practice (United Kingdom Accounting Standards and applicable law). Under company law the directors must not approve the financial statements unless they are satisfied that they give a true and fair view of the state of affairs of the company and of the profit or loss of the company for that period.

In preparing these financial statements the directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- state whether applicable UK Accounting Standards have been followed, subject to any material departures disclosed and explained in the financial statements; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the company will continue in business.

The directors are responsible for keeping adequate accounting records that are sufficient to show and explain the company's transactions and disclose with reasonable accuracy at any time the financial position of the company and enable them to ensure that the financial statements comply with the Companies Act 2006. They are also responsible for safeguarding the assets of the company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

Financial statements are published on the company's website in accordance with legislation in the United Kingdom governing the preparation and dissemination of financial statements, which may vary from legislation in other jurisdictions. The maintenance and integrity of the company's website is the responsibility of the directors. The directors' responsibility also extends to the ongoing integrity of the financial statements contained therein.

Independent Auditor's Report to the Members of Berneslai Homes Limited

Opinion on the financial statements

In our opinion the financial statements:

- give a true and fair view of the state of the Company's affairs as at 31 March 2023 and of its deficit for the year then ended;
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice including Financial Reporting Standard 102 "The Financial Reporting Standard applicable in the UK and Republic of Ireland"; and
- have been prepared in accordance with the requirements of the Companies Act 2006.

We have audited the financial statements of Berneslai Homes Limited ("the Company") for the year ended 31 March 2023 which comprise the income statement, the statement of comprehensive income, the statement of financial position, the statement of changes in equity, the statement of cash flows and the notes to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Generally Accepted Accounting Practice including Financial Reporting Standard 102 "The Financial Reporting Standard applicable in the UK and Republic of Ireland".

Basis for opinion

We conducted our audit in accordance with International Standards on Auditing (UK) (ISAs (UK)) and applicable law. Our responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of our report. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Independence

We remain independent of the Company in accordance with the ethical requirements that are relevant to our audit of the financial statements in the UK, including the FRC's Ethical Standard, and we have fulfilled our other ethical responsibilities in accordance with these requirements.

Conclusions relating to going concern

In auditing the financial statements, we have concluded that the Directors' use of the going concern basis of accounting in the preparation of the financial statements is appropriate.

Based on the work we have performed, we have not identified any material uncertainties relating to events or conditions that, individually or collectively, may cast significant doubt on the Company's ability to continue as a going concern for a period of at least twelve months from when the financial statements are authorised for issue.

Our responsibilities and the responsibilities of the Directors with respect to going concern are described in the relevant sections of this report.

Other information

The directors are responsible for the other information. The other information comprises the information included in the Report and Accounts other than the financial statements and our auditor's report thereon. Our opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in our report, we do not express any form of assurance conclusion thereon. Our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements, or our knowledge obtained in the course of the audit, or otherwise appears to be materially misstated. If we

Berneslai Homes Limited

identify such material inconsistencies or apparent material misstatements, we are required to determine whether this gives rise to a material misstatement in the financial statements themselves. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact.

We have nothing to report in this regard.

Other Companies Act 2006 reporting

In our opinion, based on the work undertaken in the course of the audit:

- the information given in the Directors' report for the financial year for which the financial statements are prepared is consistent with the financial statements; and
- the Directors' report have been prepared in accordance with applicable legal requirements.

In the light of the knowledge and understanding of the Company and its environment obtained in the course of the audit, we have not identified material misstatements in the Directors' report.

We have nothing to report in respect of the following matters in relation to which the Companies Act 2006 requires us to report to you if, in our opinion:

- adequate accounting records have not been kept, or returns adequate for our audit have not been received from branches not visited by us; or
- the financial statements are not in agreement with the accounting records and returns; or
- certain disclosures of Directors' remuneration specified by law are not made; or
- we have not received all the information and explanations we require for our audit.

Responsibilities of Directors

As explained more fully in the Statement of Directors' Responsibilities, the Directors are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view, and for such internal control as the Directors determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Directors are responsible for assessing the Company's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Directors either intend to liquidate the Company or to cease operations, or have no realistic alternative but to do so.

Auditor's responsibilities for the audit of the financial statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

Extent to which the audit was capable of detecting irregularities, including fraud

Irregularities, including fraud, are instances of non-compliance with laws and regulations. We design procedures in line with our responsibilities, outlined above, to detect material misstatements in respect of irregularities, including fraud. The extent to which our procedures are capable of detecting irregularities, including fraud is detailed below:

Berneslai Homes Limited

Non-compliance with laws and regulations

Based on:

- Our understanding of the Company and the industry in which it operates;
- Discussion with management and the Audit Committee etc; and
- Obtaining and understanding of the Company's policies and procedures regarding compliance with laws and regulations;

We considered the significant laws and regulations to be UK GAAP, taxation legislation and those that relate to the payment of employees

The Company is also subject to laws and regulations where the consequence of non-compliance could have a material effect on the amount or disclosures in the financial statements, for example through the imposition of fines or litigations. We identified such laws and regulations to be health and safety legislation.

Our procedures in respect of the above included:

- Review of minutes of meeting of those charged with governance for any instances of non-compliance with laws and regulations;
- Review of correspondence with regulatory authorities for any instances of non-compliance with laws and regulations;
- Review of financial statement disclosures and agreeing to supporting documentation; and
- Review of legal expenditure accounts to understand the nature of expenditure incurred;

Fraud

We assessed the susceptibility of the financial statements to material misstatement, including fraud. Our risk assessment procedures included:

- Enquiry with management and the Audit Committee regarding any known or suspected instances of fraud;
- Review of minutes of meeting of those charged with governance for any known or suspected instances of fraud;
- Discussion amongst the engagement team as to how and where fraud might occur in the financial statements;

Based on our risk assessment, we considered the areas most susceptible to fraud to be in relation to the posting inappropriate journal entries and management bias in accounting estimates as well as inappropriate revenue cut-off.

Our procedures in respect of the above included:

- Testing a sample of journal entries throughout the year, which met a defined risk criteria, by agreeing to supporting documentation;
- Assessing significant estimates made by management for bias; and
- In respect of income from contracts and projects, agreement to support providing evidence of delivery and timing of delivery.

We also communicated relevant identified laws and regulations and potential fraud risks to all engagement team members and remained alert to any indications of fraud or non-compliance with laws and regulations throughout the audit.

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Our audit procedures were designed to respond to risks of material misstatement in the financial statements, recognising that the risk of not detecting a material misstatement due to fraud is higher than the risk of not detecting one resulting from error, as fraud may involve deliberate concealment by, for example, forgery, misrepresentations or through collusion. There are inherent limitations in the audit procedures performed and the further removed non-compliance with laws and regulations is from the events and transactions reflected in the financial statements, the less likely we are to become aware of it.

A further description of our responsibilities is available on the Financial Reporting Council's website at: <https://www.frc.org.uk/auditorsresponsibilities>. This description forms part of our auditor's report.

Use of our report

This report is made solely to the Company's members, as a body, in accordance with Chapter 3 of Part 16 of the Companies Act 2006. Our audit work has been undertaken so that we might state to the Company's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Company and the Company's members as a body, for our audit work, for this report, or for the opinions we have formed.

Matthew Whitehouse, (Senior Statutory Auditor)
For and on behalf of BDO LLP, statutory auditor
Manchester

Date:

BDO LLP is a limited liability partnership registered in England and Wales (with registered number OC305127).

Income statement for the year ended 31 March 2023

	Notes	Year Ended 31 March 23 £'000	Year Ended 31 March 22 £'000
Turnover	4	38,343	38,344
Other operating income	7	1,362	933
Operating cost		<u>(47,037)</u>	<u>(43,828)</u>
Operating deficit	6	(7,332)	(4,551)
Other finance cost	12	(748)	(875)
Interest receivable	8	<u>181</u>	<u>8</u>
Deficit on ordinary activities before Taxation		(7,899)	(5,418)
Taxation on deficit ordinary activities	13	(26)	-
Retained deficit for the year		<u>(7,925)</u>	<u>(5,418)</u>

All activities are continuing.

The notes on page 23 to 33 form part of these financial statements.

**Statement of comprehensive income
for the year ended 31 March 2023**

	Notes	Year ended 31 March 23 £'000	Year ended 31 March 22 £'000
Deficit for the financial year		(7,925)	(5,418)
Actuarial gain on defined benefit pension scheme	12	<u>45,705</u>	<u>18,921</u>
Total comprehensive income for the year		<u>37,780</u>	<u>13,503</u>

The notes on page 23 to 33 form part of these financial statements.

Statement of financial position at 31 March 2023

	Notes	As at	
		31 March 23	31 March 22
		£'000	£'000
Fixed Tangible assets	14	107	135
Current assets			
Stock	16	704	614
Debtors	15	5,575	4,309
Short term investments		5,600	9,300
Cash at bank and in hand		1,584	1,415
		<u>13,463</u>	<u>15,638</u>
Creditors: amounts falling due within one year	17	<u>(5,303)</u>	<u>(4,360)</u>
Net current assets		<u>8,160</u>	<u>11,278</u>
Total assets less current liabilities		<u>8,267</u>	<u>11,413</u>
Pension assets / (liabilities)	12	15,210	(25,716)
Net assets / (liabilities)		<u>23,477</u>	<u>(14,303)</u>
Capital and reserves			
Retained surplus (excluding pension asset / (liability))		8,267	11,413
Pensions reserve		15,210	(25,716)
Retained surplus / (deficit)		<u>23,477</u>	<u>(14,303)</u>

The financial statements were approved and authorised for issue by the Board and were signed on its behalf on 28 September 2023.

Mark Johnson

Adam Hutchinson

Acting Chair Berneslai Homes Board

Board Member

Statement of changes in equity for the year ended 31 March 2023

	Notes	Pension Reserve £'000	Retained Surplus £'000	Total Equity £'000
Comprehensive (deficit) / income brought forward at 1 April 2022		(25,716)	11,413	(14,303)
Deficit for the year		-	(7,925)	(7,925)
Current service cost of pension scheme	12	(5,916)	5,916	-
Actuarial Gain on pension scheme	12	45,705	-	45,705
Employer contributions to pension scheme	12	1,851	(1,851)	-
Curtailment	12	34	(34)	-
Net interest from pension scheme	12	(748)	748	-
Other Comprehensive income for the year		40,926	4,779	45,705
Comprehensive income carried forward at 31 March 2023		15,210	8,267	23,477

	Notes	Pension Reserve £'000	Retained Surplus £'000	Total Equity £'000
Comprehensive (deficit) / income brought forward at 1 April 2021		(39,626)	11,819	(27,807)
Deficit for the year		-	(5,418)	(5,418)
Current service cost of pension scheme	12	(5,837)	5,837	-
Actuarial gain on pension scheme	12	18,921	-	18,921
Employer contributions to pension scheme	12	1,701	(1,701)	-
Net interest from pension scheme	12	(875)	875	-
Other comprehensive income for the year		13,910	5,011	18,921
Comprehensive (deficit) / income carried forward at 31 March 2022		(25,716)	11,413	(14,303)

The pension reserve forms part of the Company's Retained Surplus but is disclosed separately to show separately the movements in relation to the Company's Pension Scheme.

The notes on page 23 to 33 form part of these financial statements.

Statement of cash flows for the year ended 31 March 2023

	Notes	Year ended 31 March 23 £'000	Year ended 31 March 22 £'000
Cash flows from operating activities			
Deficit for the financial year		(7,925)	(5,418)
Adjustments for:			
Depreciation of tangible assets		28	38
Increase in stocks		(90)	(49)
(Increase) / Decrease in debtors		(1,266)	2,124
Increase in creditors		943	608
Net interest receivable		(181)	(8)
Net interest from pension scheme		748	875
Difference between net pension expenses and cash contribution		4,031	4,136
		<u>(3,712)</u>	<u>2,306</u>
Cash from operations			
Taxation paid	13	-	-
Net cash (absorbed by) / generated from operating activities		<u>(3,712)</u>	<u>2,306</u>
Cash flows from investing activities			
Interest received	8	181	8
Purchases of tangible assets	14	-	(7)
Net cash generated from investing activities		<u>181</u>	<u>1</u>
Net (decrease) / increase in cash and cash equivalent		(3,531)	2,307
Cash and cash equivalents at beginning of year		10,715	8,408
Cash and cash equivalents at end of year		<u>7,184</u>	<u>10,715</u>
Cash and cash equivalents comprise:			
Cash at bank and in hand		1,584	1,415
Short term investments		5,600	9,300
		<u>7,184</u>	<u>10,715</u>

The notes on page 23 to 33 form part of these financial statements.

Berneslai Homes Limited

Notes to the Accounts

1 Company Status and Parent Undertaking

Berneslai Homes Limited is a company 100% owned by Barnsley Metropolitan Borough Council (BMBC). The Company is limited by guarantee. The guarantors are listed in the Company's Register of Members. The liability in respect of the guarantee as set out in the memorandum, is limited to £1 per member of the Company.

2 Accounting Policies

Basis of accounting

The financial statements have been prepared under the historical cost convention and in accordance with FRS 102, the Financial Reporting Standard applicable in the United Kingdom and the Republic of Ireland and the Companies Act 2006.

The preparation of financial statements in compliance with FRS 102 requires the use of certain critical accounting estimates. It also requires management to exercise judgement in applying the company's accounting policies (see note 3). The following principle accounting policies have been applied:

Going Concern

The Company's management service and Construction Services PRIP contracts with BMBC are both for a period of 10 years ending 2030/31, thereby securing the Company's income streams for the foreseeable future. BMBC have issued a representation letter in respect of the service agreement.

The Management Fee and Construction Services budgets for 2023/2024 have been approved by the Board.

Directors have considered the operating surplus, cashflow and level of reserves plans which are in-line with expectations and are forecast to continue to be in-line for the duration of the going concern period. A sensitivity stress test has been carried out to assess the ability to continue operating in the event of a downturn in turnover highlighting any mitigating actions which management could take.

Based on the assessment undertaken, the Directors have a reasonable expectation that the Company has adequate resources to continue in operational existence for the foreseeable future, being a period of 12 months after the date on which the Annual Report and Financial Statements are signed. For this reason, it continues to adopt the going concern basis for the Financial Statements.

Tangible fixed assets and depreciation

Depreciation is provided on a straight line basis on the cost of tangible fixed assets, to write them down to their estimated residual values over their expected useful lives.

The principal annual rates used are:

Long leasehold improvements	Over the term of the lease
Fixtures and fittings	20-33%

Where there is evidence of impairment, fixed assets are written down to their recoverable amount.

Intangible assets and depreciation

Development costs for computer software are amortised over their estimated useful live of 5 years.

Stocks

Stock comprise costs incurred on Programme Maintenance Jobs, net of amounts transferred to cost of sales after deducting foreseeable losses and related payments on account.

Accounting Policies continued:

Stocks (cont.)

Costs include all direct material and labour costs incurred in bringing a contract to its state of completion at the year end including an appropriate proportion of indirect expenses. Provisions for estimated losses on contract are made in the period in which such losses are foreseen. Programme Maintenance Jobs balances do not include attributable profit.

The excess of payments received over amounts recorded as turnover is classified under creditors due within one year. Amounts recoverable on contracts, being the amount by which recorded turnover is in excess of payments on account is classified under debtors.

Other stocks are stated at the lower of cost and net realisable value, after making due allowance for obsolete and slow moving items.

Deferred Taxation

Deferred tax balances are not recognised in respect of permanent differences except in respect of business combinations, when deferred tax is recognised on the differences between the fair values of assets acquired and the future tax deductions available for them and the differences between the fair values of liabilities acquired and the amount that will be assessed for tax.

Deferred income tax is determined using tax rates and laws that have been enacted or substantively enacted by the reporting date.

Deferred Income

Deferred Income is received for a specific activity which is to be delivered in the following financial year.

Pension Costs

The company participates in a funded defined benefit scheme, the South Yorkshire Local Government Pension Scheme (LGPS). Triennial actuarial valuations of the pension scheme are performed by an independent, professionally qualified actuary, using the projected unit method.

Pension scheme assets are measured using market values. Pension scheme liabilities are measured using a projected unit method and discounted at the current rate of return on a high quality corporate bond of equivalent term and currency to the liability.

The pension scheme surplus is recognised as the asset ceiling and presented on the face of the statement of financial position. The movement in the scheme is split between operating charges, financing items and, in the statement of comprehensive income, actuarial gains and losses in accordance with FRS 102.

Holiday Pay Accrual

A liability is recognised to the extent of any unused holiday pay entitlement which has accrued at the at the Statement of Financial Position date and carried forward to future periods. This is measured at the undiscounted salary cost of the future holiday entitlement so accrued at the Statement of Financial Position date.

Short Term Investment Policy

The company's treasury management strategy for 2022/23 is to use financial institutions with a minimum credit rating of A-. Money Market funds need a rating of "AAA".

Short term investments comprise money market funds and other short term deposit investments.

Accounting Policies continued:

Financial Instruments

The company only enters into basic financial instrument transactions that result in the recognition of financial assets and liabilities like trade and other accounts receivable and payable, loans from other third parties and loans to related parties.

For financial assets measured at cost less impairment, the impairment loss is measured as the difference between an asset's carrying amount and best estimate, which is an approximation of the amount that the company would receive for the asset if it were to be sold at the reporting date.

Financial assets and liabilities are offset and the net amount reported in the Statement of Financial Position when there is an enforceable right to set off the recognised amounts and there is an intention to settle on a net basis or to realise the asset and settle the liability simultaneously.

3 Judgements in applying accounting policies and key sources of estimated uncertainty

In preparing these financial statements, the directors have had to make the following judgements:

Pensions

The critical underlying assumptions in relation to the estimates of the pension defined benefit scheme obligation include standard rates of inflation, mortality, discount rate and anticipated future salary increases. Variations in these assumptions have the ability to significantly influence the value of the liability or asset recorded and annual defined benefit expense.

Stocks

Stock is assessed annually and an impairment charge made where it is considered that the net realisable value is less than the carrying value.

4 Turnover

Turnover represents amounts invoiced to Barnsley Metropolitan Borough Council (BMBC) for the provision of housing management and construction services excluding value added tax during the year.

The management fee is agreed annually and received on a monthly basis. Construction Services invoice monthly for works undertaken under the Property, Repair and Improvement Partnership (PRIP) contract.

5 Government Grants (Other Operating Income)

Government grants are recognised when it is reasonable to expect that the grants will be received and that all related conditions will be met.

Other operating income includes a financial contribution from BMBC for the implementation of a new IT repairs system.

Berneslai Homes Limited

6 Operating Deficit

This is stated after charging:

	Year ended 31 March 23 £'000	Year ended 31 March 22 £'000
Depreciation of tangible assets	28	38
Contribution to BMBC Housing Growth Programme	3,047	1,184
<i>Auditor's remuneration:</i>		
Fees payable to the company's auditor for the audit of the financial statements	29	19
Fees payable to the company's auditor for other services - services relating to tax	11	7
Inventory recognised as an expense	2,123	2,149
	<hr/>	<hr/>

7 Other Operating Income

Other operating income comprises of the following Government Grants received in 2022/23 and BMBC contribution to new IT Repairs System

	Year ended 31 March 23 £'000	Year ended 31 March 22 £'000
Education and Skills Grant	18	9
European Social Fund (ESF) - Tenants First Project	181	2
Kickstart Scheme	54	112
Housing Support Grant	81	-
BMBC Contribution	871	810
Community Renewal Fund	125	-
UK Prosperity Fund	29	-
Grants from Suppliers	3	-
	<hr/>	<hr/>
	1,362	933

8 Interest Receivable

	Year ended 31 March 23 £'000	Year ended 31 March 22 £'000
Cash deposits held with the Bank and Money Market Funds	181	8
	<hr/>	<hr/>
	181	8

Berneslai Homes Limited

9 Staff Costs

	Year ended 31 March 23 £'000	Year ended 31 March 22 £'000
Wages and salaries	16,900	15,458
Social security costs	1,748	1,479
Other pension costs	1,884	1,702
	<u>20,532</u>	<u>18,639</u>

9 Staff Costs continued:

	Year ended 31 March 23 No.	Year ended 31 March 22 No.
Customer & Estate Services	140	140
Assets & Regeneration	54	49
Construction Services	252	248
Senior Management and Corporate Services	64	66
	<u>510</u>	<u>503</u>

10 Directors' Emoluments

	Year ended 31 March 23 £'000	Year ended 31 March 22 £'000
Directors' emoluments	44	40
Total non executive directors' expenses in respect of qualifying services	<u>-</u>	<u>-</u>

There were no executive directors.

Emoluments disclosed above include £12,008 (2022:£11,733) paid to the highest paid director.

The Company did not make any contributions under pension arrangements on behalf of any directors (2022:nil).

11 Executive Officers Emoluments

	Year ended 31 March 23 £'000	Year ended 31 March 22 £'000
Executive Officers' emoluments	<u>577</u>	<u>633</u>

The executive officers are considered to be key management personnel under FRS 102.

12 Pension Obligations

Local Government Pension Scheme

Berneslai Homes Limited is a scheduled employer of the South Yorkshire Local Government Pension Scheme (LGPS) a funded defined benefit pension scheme. The Company entered into the scheme upon TUPE transfer of its staff from the Council. Under the guidance issued by the ODPM, the pension liabilities accrued at the time of the TUPE transfer of staff will remain with the Council.

The LGPS is a funded defined benefit scheme, with the assets held in separate trustee administered funds. The total contribution made for the year ended 31 March 2023 was £2,926,927 (2022:£2,659,926) of which employers contributions totalled £1,847,474 and employees' contributions totalled £1,079,453.

The disclosures required under FRS 102 have been calculated by a qualified independent actuary, Hymans Robertson LLP. The date of the last full actuarial valuation was 31 March 2022.

The actuaries estimate that the net pension asset as at 31 March 2023 is £18,925,000 and the asset ceiling is £15,210,000 (31 March 2022 : £25,716,000). It is Berneslai Homes' intention to continue to contribute towards the scheme at the recommended contribution rate in future years.

The financial assumptions used for the purpose of the FRS 102 calculation as at 31 March 2023 were as follows:

	At 31 March 2023	At 31 March 2022
Pension increase rate (CPI)	2.95%	3.20%
Salary increase rate	3.55%	4.20%
Discount rate	4.75%	2.70%

Mortality assumptions

Life expectancy is based on the Fund's VitaCurves with improvements in line with the CMI 2021 model, with a 10% weighting of 2021 (and 2020) data, standard smoothing (Sk7), initial adjustment of 0.25% and a long term rate of improvement of 1.5% p.a. for both males and females. Based on these assumptions, the average future life expectancies at age 65 are:

	2023 No. of years	2022 No. of years
Current Pensioners:		
Males	20.5	22.6
Females	23.7	25.4
Future Pensioners:		
Males	21.5	24.1
Females	25.2	27.3

*Figures assume members aged 45 as at the last formal valuation date.

Asset Ceiling calculation

The Asset ceiling calculation is based on the net present value of employer future service costs less the net present value of future employer contributions, over the future working lifetime of the active scheme members.

Berneslai Homes Limited

Local Government Pension Scheme continued:

Amounts recognised in the statement of financial position:

	2023 £'000	2022 £'000
Present value of funded obligations	(128,467)	(177,216)
Present value of unfunded obligations	(486)	(594)
Fair value of plan assets	147,878	152,094
	<u>18,925</u>	<u>(25,716)</u>
Asset Ceiling Adjustment	(3,715)	-
Unrecognised past service cost	-	-
Asset / (Deficit)	<u>15,210</u>	<u>(25,716)</u>
Related deferred tax asset	-	-
Net Asset / (liability)	<u>15,210</u>	<u>(25,716)</u>

Analysis of the amount charged to income and expenditure account:

	2023 £'000	2022 £'000
Current service cost	(5,916)	(5,837)
Net Interest cost	(748)	(875)
Total operating charge	<u>(6,664)</u>	<u>(6,712)</u>

£5,916k charged (2022: £5,837k charged) to the operating surplus and £748k credited (2022: £875k credited) to other finance income and costs.

Amounts recognised in the statement of total recognised surpluses and deficits

	2023 £'000	2022 £'000
Actuarial gain relating to pensions	<u>45,705</u>	<u>18,921</u>

The company expects to contribute £1,698k to its defined benefit pension scheme in 2023/2024.

Changes in present value of defined benefit obligation:

	2023 £'000	2022 £'000
Opening defined benefit obligation	(25,716)	(39,626)
Service cost	(5,916)	(5,837)
Interest cost	(748)	(875)
Actuarial gains	45,705	18,921
Employer contributions	1,885	1,701
Closing defined benefit obligation	<u><u>15,210</u></u>	<u><u>(25,716)</u></u>

Berneslai Homes Limited

Local Government Pension Scheme continued:

Major categories of plan assets as a percentage of total plan assets:

	2023	2022
Equities	68%	66%
Bonds	23%	24%
Property	8%	9%
Cash	1%	1%

Amounts for current and previous four periods are as follows:

	2023	2022	2021	2020	2019
	£'000	£'000	£'000	£'000	£'000
Present value of defined benefit obligation	(128,953)	(177,810)	(178,562)	(148,289)	(153,262)
Fair value of scheme assets	147,878	152,094	138,936	116,188	118,931
Asset ceiling adjustment	(3,715)	-	-	-	-
Surplus/(Deficit) on scheme	15,210	(25,716)	(39,626)	(32,101)	(34,331)

13 Tax on ordinary activities

Berneslai Homes Limited has been granted non trading status by HM Revenue & Customs. The directors have prepared the accounts based on this assumption.

13(a) Analysis of charge in period

	Year ended	Year ended
	31 March 23	31 March 22
	£'000	£'000
Current Tax:		
UK corporation tax on deficit for period	33	-
Adjustments in respect of prior periods	(7)	-
Total current tax (note 13b)	<u>26</u>	<u>-</u>
Deferred Tax		
Origination & reversal of timing differences	-	-
Total deferred tax	<u>-</u>	<u>-</u>
Total tax on deficit on ordinary activities	<u>26</u>	<u>-</u>

Berneslai Homes Limited

Tax on ordinary activities continued:

13(b) Factors affecting tax charge for period

The tax assessed is lower than the standard rate of corporation tax in the UK of 19% (2022: 19%).
The differences are explained below:

	2023 £'000	2022 £'000
Deficit on ordinary activities before tax	<u>(7,899)</u>	<u>(5,418)</u>
Deficit on ordinary activities multiplied by the standard rate of corporation tax 19% (2022: 19%)	(1,501)	(1,029)
Effects of:		
Expenses not deductible for tax purposes	9,035	8,443
Deferred tax not recognised	(4)	2
Income not taxable	(7,503)	(7,421)
Adjustments in respect of prior periods	(7)	
Fixed asset differences	5	7
Remeasurement of deferred tax for changes in tax rate	1	(2)
	<u>26</u>	<u>-</u>

Provision for Deferred Tax

There is a potential deferred tax asset of £1K (2022: £5K) which is not provided for in these accounts as the directors do not believe that it is likely to reverse in the foreseeable future.

14 Tangible Assets

	Leasehold Improvements £'000	Fixtures + Fittings £'000	Total £'000
Cost or valuation			
At 1 April 2022	719	193	912
Transfers	-	-	-
Additions	-	-	-
At 31 March 2023	<u>719</u>	<u>193</u>	<u>912</u>
Depreciation			
At 1 April 2022	635	142	777
Transfers	-	-	-
Charged in year	15	13	28
At 31 March 2023	<u>650</u>	<u>155</u>	<u>805</u>
Net book value			
At 31 March 2023	<u>69</u>	<u>38</u>	<u>107</u>
At 31 March 2022	<u>84</u>	<u>51</u>	<u>135</u>

Berneslai Homes Limited

15 Debtors: amounts falling due within one year

	As at 31 March 23 £'000	As at 31 March 22 £'000
Trade debtors	44	45
BMBC debtors	4,863	3,703
Other debtors	660	498
Prepayments & accrued income	15	64
Less provision for bad debts	(7)	(1)
	<u>5,575</u>	<u>4,309</u>

The BMBC debtors are interest free and repayable on demand.

16 Stock

	As at 31 March 23 £'000	As at 31 March 22 £'000
Raw materials	704	614
	<u>704</u>	<u>614</u>

17 Creditors: amounts falling due within one year

	As at 31 March 23 £'000	As at 31 March 22 £'000
Trade creditors	1,635	1,405
BMBC creditors	1,684	709
Corporation Tax	26	-
VAT	839	596
Other tax and social security	383	449
Other creditors	326	369
Accruals & deferred income	410	832
	<u>5,303</u>	<u>4,360</u>

The BMBC creditors are interest free and repayable on demand.

18 Financial instruments

	As at 31 March 23 £'000	As at 31 March 22 £'000
Financial assets		
Financial assets that are debt instruments measured at amortised cost	<u>12,262</u>	<u>14,566</u>
Financial liabilities		
Financial liabilities that are debt instruments measured at amortised cost	<u>4,055</u>	<u>3,315</u>

Financial assets measured at amortised cost comprise cash and debtors (excluding corporation tax and prepayments).

Financial liabilities measured at amortised cost comprise creditors (excluding corporation tax, VAT, social security and deferred income).

19 Financial commitments**Operating lease commitments**

The total payments which the company is committed to make under operating leases are as follows:

	2023 £'000	2022 £'000
Equipment, leases expiring:		
within one year	311	320
one to five years	1,554	1,554
beyond five years	<u>932</u>	<u>1,243</u>
	<u>2,797</u>	<u>3,117</u>

20 Related parties transactions

Board member Adriana Rustemi is resident in a property owned and maintained by the parent undertaking, Barnsley Metropolitan Borough Council. The resident has a standard tenancy agreement and is required to fulfil the same obligations and receive the same benefits as other tenants.

The Company leases its Head Office based at Gateway Plaza from its parent Company and pays a rental charge of £310,796 per annum.

21 Parent undertaking

The company is a wholly owned subsidiary of Barnsley Metropolitan Borough Council, which is the largest and smallest group for which consolidated accounts are prepared. In the opinion of the directors this is the company's ultimate parent company and ultimate controlling party. Consolidated accounts are available from Barnsley Metropolitan Borough Council's website.



Core Services Directorate
Finance Business Unit
Neil Copley – Director & s151 Officer

Chair of the Board
Berneslai Homes Ltd
Gateway Plaza
PO Box 627
Barnsley
S70 9FZ

My Ref:
Your Ref:
Date: 02nd August 2023
Enquiries to: Vanessa Hunter
E-Mail: vanessahunter@barnsley.gov.uk

Dear Sirs,

REPRESENTATION LETTER IN RESPECT OF BERNESLAI HOMES LIMITED

This representation letter is provided in connection with your audit of the financial statements of Berneslai Homes Limited for the year ended 31 March 2023 for the purpose of expressing an opinion as to whether the financial statements give a true and fair view of the state of affairs of the company as of 31 March 2023 and of its profit and cash flow for the period 1 April 2022 to 31 March 2023 in accordance with Companies Act 2006.

I confirm, to the best of my knowledge and belief by having made appropriate enquiries, the following representations:

Management fee

The management fee payable to Berneslai Homes Limited, in respect of services provided to Barnsley Metropolitan Council, amounts to £15,065,946 for the period 1 April 2022 to 31 March 2023.

Intercompany balances

All amounts due to and payable by Barnsley Metropolitan Council as of 31 March 2023 in respect of services exchanged between Berneslai Homes Limited and the Council have been identified and notified to Berneslai Homes Limited so that accounting entries in relation to these can be considered complete. The amounts owing to Berneslai Homes are £4.446 million and amount due are £1.653 million.

Pension liabilities – FRS102

Under FRS102 the company must account for the net surplus or deficit arising from its share of the pension assets and liabilities in respect of its employees who are members of the South Yorkshire Pension Fund. As at the 31 March 2023, there was a net surplus of £15,210,000 in respect of the company's pension asset. The company therefore does not need any financial support to enable the financial statements of Berneslai Homes Limited to be prepared on a going concern basis.

Company Reserves

£8.9M of Berneslai Homes surplus has been approved by the Board to be earmarked to contribute to Housing Growth in the Company and in the Council. As at the end March 2023 the Council have advised of a drawdown of £7.689K to contribute to the Council's Housing Growth expenditure. The earmarked reserves balance is not contractually committed and is billed in arrears.

Going concern and service agreement

The Council agreed a new five plus five-year extension to the Service Agreement with Berneslai Homes Limited with a commence date of 1 April 2021. We confirm based upon the information available at the date of signing this letter we have no reason to believe the Council will terminate this agreement prior to September 2024.

Yours Faithfully,



Neil Copley
Director of Finance and s151 Officer

Berneslai Homes Limited

Audit Completion Report: Year ended 31 March 2023

Report to the Audit Committee



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Welcome

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We have pleasure in presenting our Audit Completion Report to the Audit and Risk Committee. This report is an integral part of our communication strategy with you, a strategy which is designed to ensure effective two-way communication throughout the audit process with those charged with governance.

It summarises the results of completing the planned audit approach for the Year ended 31 March 2023, specific audit findings and areas requiring further discussion and/or the attention of the Audit Committee. At the completion stage of the audit, it is essential that we engage with the Audit Committee on the results of audit work on key risk areas, including significant estimates and judgements made by Management, critical accounting policies, any significant deficiencies in internal controls, and the presentation and disclosure in the financial statements.

This report contains matters which should properly be considered by the Board as a whole. We expect that the Audit Committee will refer such matters to the Board, together with any recommendations, as it considers appropriate.

We would also like to take this opportunity to thank the Management and staff of the Company for the co-operation and assistance provided during the audit.

Matt Whitehouse

Audit Director

20 September 2023



Matt Whitehouse
Director

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Samuel Esene
Audit Manager

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Overview

Executive summary

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This summary provides an overview of the audit matters that we believe are important to the audit of the financial statements for the Company for the Year ended 31 March 2023.

It is also intended to promote effective communication and discussion and to ensure that the results of the audit appropriately incorporate input from those charged with governance.

Overview

Our audit work is substantially complete and subject to the successful resolution of outstanding matters we anticipate issuing an audit opinion on the financial statements for the year ended in line with the agreed timetable.

There were no significant changes to the planned audit approach and no additional significant audit risks have been identified.

No restrictions were placed on our work.

Audit report

We anticipate issuing an unmodified audit opinion on the financial statements.

Independence

We confirm that the firm and its partners and staff involved in the audit remain independent of the Company in accordance with the FRC's Ethical Standard.



The numbers

Executive summary

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Final Materiality

Materiality was determined based on 2% of Gross income which is consistent with the basis used in previous years

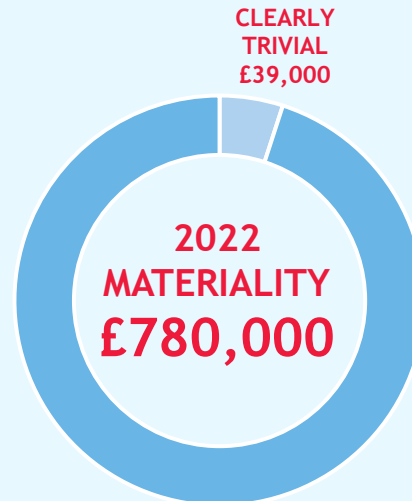
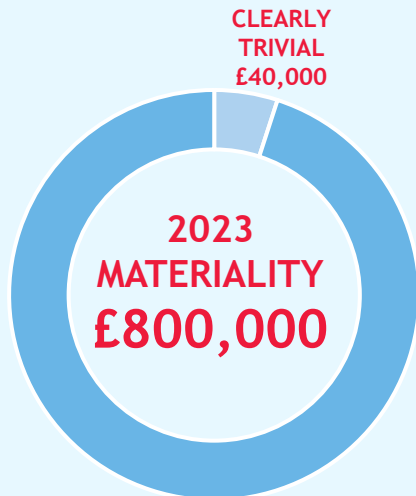
The materiality and triviality levels, as communicated in our planning report, were re-assessed at the preliminary stages of our audit fieldwork based upon year end balances and there were no changes to the basis of calculation of final materiality or clearly trivial levels from that reported in our planning report.

Unadjusted audit differences

We have identified audit adjustments that if posted, would reduce reported profits and net assets by £227k. These are commented on further on page 14

Audit scope

Our approach was designed to ensure we obtained the required level of assurance in accordance with ISA (UK). This objective has been achieved.



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As identified in our audit planning report we assessed the following matters as being the most significant risks of material misstatement in the financial statements. These include those risks which had the greatest effect on: the overall audit strategy; the allocation of resources in the audit and the directing of the efforts of the engagement team. Following the conclusion of our risk identification the risk of misstatement for the pension liability was changed to a moderate risk. We have still included details of testing in this area within this report.

Significant Audit Risk	Significant Management Judgement	Use of Experts Required	Unadjusted error reported	Adjusted error reported	Significant control findings reported	Specific Letter of Representation Point	Work complete at time of drafting
Management override	Yes	No	No	No	No	No	No
Revenue recognition	No	No	No	No	No	No	Yes
Elevated Audit Risk	Significant Management Judgement	Use of Experts Required	Unadjusted error reported	Adjusted error reported	Significant control findings reported	Specific Letter of Representation Point	Work complete at time of drafting
Going Concern	Yes	No	No	No	No	Yes	Yes
Moderate Audit Risk	Significant Management Judgement	Use of Experts Required	Unadjusted error reported	Adjusted error reported	Significant control findings reported	Specific Letter of Representation Point	Work complete at time of drafting
Pension Liability and asset valuation	Yes	Yes	No	No	No	Yes	Yes

Management Override

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Risk description

- ▶ Under International Standards on Auditing (UK) 240, there is a presumed significant risk of management override of the system of internal controls.
- ▶ The primary responsibility for the detection of fraud rests with management. Their role in the detection of fraud is an extension of their role in preventing fraudulent activity. They are responsible for establishing a sound system of internal control designed to support the achievement of departmental policies, aims and objectives and to manage the risks facing the organization; this includes the risk of fraud.
- ▶ Our understanding is that the most likely areas where management override could take place are the posting of journals and in the judgements involved in accounting estimates within the financial statements.

Details

- ▶ We obtained a complete list of journals and, using information gathered during the audit and our understanding of the entity, we target tested those journals and adjustments that we considered may be inappropriate or unusual.
- ▶ We also reviewed material journals and transactions outside what is considered the normal course of business.

- ▶ Key characteristics of the journal entries which we reviewed included journals posted by user, material journals by cycle, journals posted without description, and journals posted to revenue/cash nominal accounts. We also reviewed board minutes and made enquiries of management to establish if there had been any significant transactions that appeared to have been outside the normal course of business.
- ▶ We reviewed accounting estimates, including those used in the assessment of going concern, fixed asset depreciation and judgement on bad debt recoverability.

Results

- ▶ Our work in this area is now complete and we have no issues which we need to bring to your attention

● Significant risk
Normal risk
● Fraud risk
● Related controls identified to mitigate risk
● Significant Management estimates & judgements
Controls testing approach
● Data analytics testing approach
● Substantive testing approach



Revenue Recognition - Cut Off around year end

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Risk description

- ▶ Under International Standard on Auditing 240 it is “The Auditor’s responsibility to consider fraud in an audit of financial statements”. There is a presumption that income recognition presents a fraud risk. We have identified the risk of material misstatement to be around year end cut off. Although there are also risks regarding the completeness, accuracy and existence of income.

Details

- ▶ As part of our audit work, we have gained an understanding of the Company’s significant income streams (construction services and management fee) and observed the operation of relevant financial controls to prevent the loss of income and ensure that income is recorded in the correct period.
- ▶ We also made enquiries of management as to whether they are aware of any cases of fraud (including income related fraud) occurring during the year. We have not been made aware of any significant frauds that occurred during the year.
- ▶ The management fee has been agreed to a signed confirmation letter from BMBC and agreed to sales invoices and cash receipt. In addition, all 12 monthly construction services invoices were obtained and confirmed as being appropriately recognized.
- ▶ We also separately considered revenue recognized around the year end to ensure that this had been correctly included in the appropriate period. No evidence of any misstatement has been identified.

- ▶ The revenue recognition policy for Berneslai Homes was reviewed to ensure it was in line with relevant accounting standards.

Discussion

The revenue recognition risk arises from the use of inappropriate accounting policies, failure to apply the company’s stated accounting policies or from an inappropriate use of estimates in calculating revenue. Our audit work was designed to focus and assess these areas

Conclusion

We are satisfied from our testing that appropriate accounting policies are being adhered to, cut off has been applied appropriately, and revenue is not materially misstated in the financial statements.

● Significant risk
Normal risk
● Fraud risk
● Related controls identified to mitigate risk
Significant Management estimates & judgements
Controls testing approach
Data analytics testing approach
● Substantive testing approach



Going Concern

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Risk description

- ▶ The directors are required to state whether they consider it appropriate to adopt the going concern basis of accounting in preparing the financial statements and identify any material uncertainties to the Company's ability to continue to do so over a period of at least twelve months from the date of approval of the financial statements.
- ▶ In order to provide the above disclosure, management have prepared a FY23 budget forecast covering the period to December 2024, and provided information on the 10-year contract extension with BMBC regarding the continuation of the repairs contract, which funds the company's construction services operations and the management fee.

Discussion

- ▶ The increasing inflation, significant higher cost bases, shortage of materials and labour continues to impact companies' financial statements to varying degrees. For Berneslai Homes, the two main income streams are the management services fee from Barnsley Metropolitan Borough Council (BMBC), and income from Construction Services invoiced to BMBC for works undertaken under the Property, Repairs and Improvement Partnership (PRIP) contract. Both income streams have historically been relatively stable, and whilst we note that 10-year agreements for both services have been agreed in the past year (thereby providing some certainty around future income streams although BMBC have the right to end these after 5 years), the continuing impact of the above-mentioned economic situation on BMBC may result in downward pressure on future revenues for Berneslai Homes.

- ▶ For the previous three financial years, the Company has sustained losses (after pension cost) and this thus increases the risk around going concern.
- ▶ Management believe that the company is a viable going concern and that there is no material uncertainty in this regard. The Company's Construction Services PRIP contract with BMBC covers the period from 2020/21 to 2029/30, and the Company also have a management service agreement with the Council from 1 April 2021. The management service contract is for a 10-year period from 2021/22 to 2030/31, thereby securing the Company's income streams for the foreseeable future. In addition to this, within the Statement of Financial Position, the Company were carrying a sizeable pension liability (£25.7m last year which has now turned to pension assets due to the fair value surplus noted during the year, resulting in overall net assets for the Company of £23.5m as at 31 March 2023.
- ▶ Together with cash and short-term cash equivalents amounting to £7.2m as at 31 March 2023 and overall net asset position as at year end, the directors are therefore satisfied that the Company is a viable going concern for at least the next 12 months from the date of approval of these financial statements, which have thus been prepared on a going concern basis.

Conclusion

- ▶ We concur with management's assessment that the entity is going concern. There are no further significant points for discussion with or reporting to the committee.

Significant risk
● Elevated risk
Fraud risk
● Related controls identified to mitigate risk
Significant Management estimates & judgements
Controls testing approach
Data analytics testing approach
Substantive testing approach



Pension asset

Risk 4

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Risk description

- ▶ Berneslai Homes is a member of the South Yorkshire Local Government Pension Scheme (SYPF), a multi-employer defined benefit scheme.
- ▶ The valuation of the defined benefit pension scheme requires the use of several actuarial assumptions. There is a risk that incorrect actuarial assumptions may be used and that the SYPF scheme may not be appropriately accounted for and disclosed.

Details

As at 31 March 2023 the fair value of the pension asset as per the scheme actuary was £18.92m. It can be seen that due to the underlying movements in the economy such as the movements in inflation and interest rates, this has led to a large swing in the pension valuation this year resulting in a significant pension asset this year.

The accounting rules on the recognition of a pension surplus are complex and require detailed consideration and have become increasingly in focus this year due to a number of large surpluses which have arisen due to the changes in the underlying economic environment in the year.

FRS`102 states that *If the present value of the defined benefit obligation at the reporting date is less than the fair value of plan assets at that date, the plan has a surplus. An entity shall recognise a plan surplus as a defined benefit plan asset only to the extent that it is able to recover the surplus either through reduced contributions in the future or through refunds from the plan.*

As such the company are required to consider to what extent the above pension surplus can be recovered. From discussion with management, we understand that the company have already arranged negative secondary contributions of -10.2% to be payable to the scheme.

FRS102 contains very little detailed guidance so in such circumstances we consult IFRS in particular IFRIC 14. This limits the measurement of a net defined benefit asset to the lower of the surplus in the defined benefit plan and the asset ceiling. The asset ceiling is then defined as “the present value of any economic benefits available in the form of refunds from the plan or reductions in future contributions to the plan.

As such given you have negative secondary contributions, We therefore requested that you consult SYPF to ask them to calculate the asset ceiling for the scheme. This showed an asset ceiling of £15.2m. As such the asset to be recognised within the financial statements was restricted from £18.9m to £15.2m

- ▶ Our review of the year end liability and transactions for the year did not highlight any issues. The assumptions used for the actuarial calculations are consistent to those utilised by similar schemes. These are commented on further on page 11. In forming our conclusions, we engaged our own independent actuaries (Broadstone) to assess the reasonableness of the assumptions applied in calculating the scheme liability.
- ▶ We have worked with SYPF to obtain assurance over the company’s share of the scheme’s assets. This included reviewing the AAF controls reports for key custodian and investment managers and obtaining copies of the valuation statements direct from SYPF to verify the valuation used in the calculation of your pension assets.
- ▶ In line with other pension schemes, it was noted that for some investments the year end valuation was not used within the asset calculation with the latest available valuation being either 31 December 2022 or 30 September 2022. In these cases, the pension scheme have worked with their auditors to identify what the effect would be to update the valuations to the year-end valuation. This has been calculated as a reduction in value of 0.46% of these assets or £179k. As such a journal has been added to our summary of misstatements to reduce pension assets by this amount

Discussion and conclusion

- ▶ We are satisfied that the treatment of the pension asset is in accordance with FRS 102, and that the accounting entries in respect of the movement in the scheme assets and liabilities during the year were made correctly.

Pension scheme financial and demographic assumptions

Risk 4 - Continued

Assumptions as reported at 31 March 2023

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Financial Assumptions	Typical Minimum	Maximum	Most common	Impact on liability
Discount rate	4.5%	5.00%	4.73%	A higher discount rate would decrease the liability
		LGPS: 4.75%		
RPI inflation	2.9%	3.6%	3.30%	A higher RPI inflation rate would increase the liability
		LGPS: 3.31%		
CPI inflation	2.1%	3.1%	2.77%	A higher CPI inflation rate would increase the liability
		LGPS: 2.95%		

Assumptions as reported at 31 March 2022

Financial Assumptions	Typical Minimum	Maximum	Most common	Impact on liability
Discount rate	2.6%	2.9%	2.71%	A higher discount rate would decrease the liability
		LGPS: 2.70%		
RPI inflation	3.3%	4.2%	3.7%	A higher RPI inflation rate would increase the liability
		LGPS: 4.20%		
CPI inflation	2.6%	3.6%	3.1%	A higher CPI inflation rate would increase the liability
		LGPS: 3.20%		

Other audit matters

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Nature of Other Matter

Designation of resources to BMBC

Comment

It has been agreed between Berneslai Homes and its parent BMBC that allocated resources of the former are to be allocated to assist with strategically aligned activities of the council. An amount of £7.6m has been advised to be drawn by the council as expenditure in the year as part of a total of £8.9m being allocated going forward. The £7.6m drawdown is in the years up to 22/23 and was not all paid during the year.

The company have previously obtained relevant legal advice from Trowers and Hamblins, which outlines the relevant criteria required in order for these amounts to be recorded as payments/expenditure through the income statement (rather than as a distribution through equity). This advice ultimately concluded that in order for these amounts to be classified as expenditure, and not as a distribution, they must show how the project is 'strategically aligned' to the objectives of Berneslai Homes, as defined in the Company's Memorandum.

We examined this matter in depth in our prior year audit testing, and as there have been no changes in the circumstances, we are comfortable over the decision made to record the payments as expenditure in the income statement.

We have obtained clarification from BMBC, in their notification of continued support letter provided to the Company, that the allocated amount going forward has not been committed and is at the discretion of the Company's directors.

Based on the information outlined above, we concur with the treatment adopted.



Matters requiring additional consideration

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Fraud

Whilst it is the directors have ultimate responsibility for the prevention and detection of fraud, we are required to obtain reasonable assurance that the financial statements are free from material misstatement, including those arising as a result of fraud. Our audit procedures did not highlight any instances of fraud. We will also seek confirmation from you whether you are aware of any known, suspected or alleged frauds, in the letter of representation.

Laws and regulations

Some of the key regulations are employment and health and safety regulations, as well as the Companies Act and Data Protection Legislation. We have discussed compliance with management and noted that, with the exception of an incident with the death of a tenant which took place in previous years all relevant laws and regulations have been complied with in the year.

During the year, discussion with the authorities continued, and a settlement of £44,120 was reached in June 2023. Given the date of this settlement, no provision has been made for this in the financial statements for the year ended 31 March 2023.

Related parties

Whilst you are responsible for the completeness of the disclosure of related party transactions in the financial statements, we are also required to consider related party transactions in the context of fraud as they may present greater risk for management override or concealment of fraud.

We did not identify any significant matters in connection with related parties.

Directors are requested to complete certificates of confirmation of related party transactions in preparation for the audit. We have completed a review of the Directors and their other interests and have not identified any additional related party transactions that require disclosure. Given the stable nature of the organisation and the high degree of oversight by management, we consider that the likelihood of omitting disclosures is low risk.

We have reviewed the Directors' disclosures and confirmed that the financial statements have been updated where relevant.

Contingencies

We request input from the Audit & Risk Committee on any recent claims against the Company. We are not aware of any such claims which would have a material impact on the financial statements.

Any other matters

We will report to you on any other matters relevant to the overseeing of the financial reporting process. Where applicable this includes why we consider a significant accounting practice that is acceptable under the financial reporting framework not to be the most appropriate.

Unadjusted audit differences: Detail

Details for the current Year

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We are required to bring to your attention audit adjustments that the Committee is required to consider.

We have identified two unadjusted difference. we are content that these error are not adjusted for, on the grounds of immateriality.

Unadjusted audit differences	Income and expenditure			Balance sheet	
	£'000	£'000	£'000	£'000	£'000
Deficit for the year before adjustments	(7,899)				
Stock count variances has been extrapolated at year end balances					
DR Cost of sales		(47.6)			
CR Inventory			-	-	(47.6)
Being reduction in pension assets to reflect year end prices					
Dr Actuarial gains and losses		(179.2)			(179.2)
Cr Pension Assets					
Total unadjusted audit differences		(226.8)	-	-	(226.8)
Deficit for the year if adjustments accounted for	(8,126)				

Control environment: Significant deficiencies

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We are required to report to you, in writing, significant deficiencies in internal control that we have identified during the audit. These matters are limited to those which we have concluded are of sufficient importance to merit being reported to the Audit and Risk Committee.

As the purpose of the audit is for us to express an opinion on the Company’s financial statements, you will appreciate that our audit cannot necessarily be expected to disclose all matters that may be of interest to you and, as a result, the matters reported may not be the only ones which exist.

As part of our work, we considered internal control relevant to the preparation of the financial statements such that we were able to design appropriate audit procedures. This work was not for the purpose of expressing an opinion on the effectiveness of internal control.

No control deficiencies were noted as a result of our work for the year. An update on control observation raised in prior year is included below.

Below we provide an update on control observations communicated as part of our prior year audit. We note this issue remains unresolved.

Area	Observation & implication	Recommendation made in the prior year	Management response
Journal dates	<p>Document dates can be manually entered. The management must take care when entering dates as transposition errors can occur.</p> <p>It also makes it difficult for management to track the actual dates of postings given that individuals can manipulate journals that are posted at the weekend or outside of normal working hours.</p> <p>This is a computer control deficiency.</p>	Manually overtyping of the journal entry creates inaccurate audit trails and can make it difficult to track actual postings in order for management to appropriately review and identify any unusual timings of postings	Risk is limited as SAP roles to input journals are restricted and a period on SAP is automatically closed at the last working day of the month therefore no prior periods can be amended. The exception to this is year-end where period 13 is used to finalise the year-end figures which is monitored by the Finance Manager and closed once all year end journals are entered. We are agile working therefore postings outside “normal” working hours and weekends are not unusual to our working practices.

Independence

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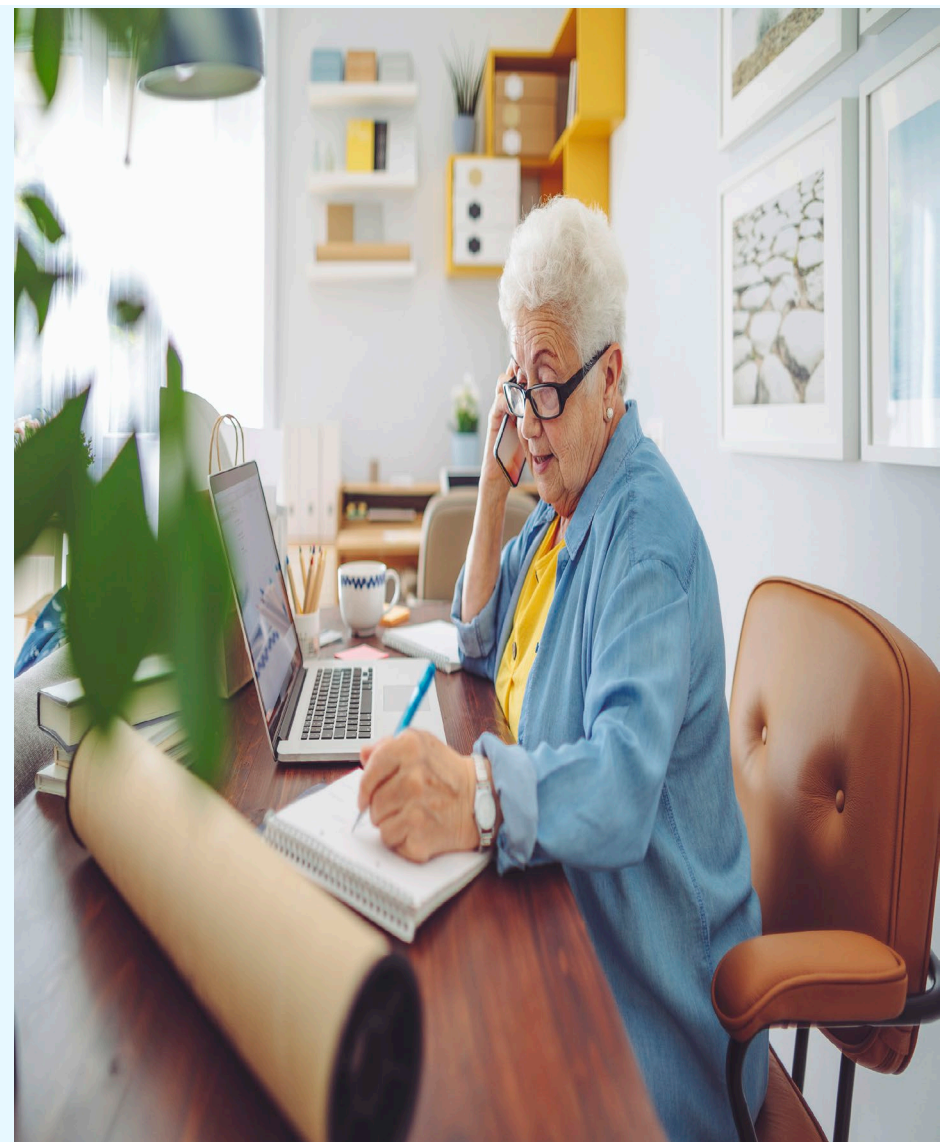
We confirm that the firm, and the engagement team conducting the audit comply with relevant ethical requirements including the FRC's Ethical Standard and are independent of the Company.

We also confirm that we have obtained confirmation of independence from external audit experts involved in the audit comply with relevant ethical requirements including the FRC's Ethical Standard and are independent of the Company

We have not identified any other relationships or threats that may reasonably be thought to bear on our objectivity and independence.

Should you have any comments or queries regarding any independence matters we would welcome their discussion in more detail.

Fees summary for year ended 31 March 2023	£'000
Audit fee for period ending 31 March 2023	28,875
Non-audit services (see summary below)	11,347
Total fees	40,222
Non-audit services	
Corporation tax compliance	2,310
iXBRL tagging services	1,350
MTD VAT Spreadsheet creation	7,687
Total non-audit fees	11,347



Additional matters we are required to report

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	Issue	Comments
1	Significant difficulties encountered during the audit.	No exceptions to note.
2	Written representations which we seek.	We enclose a copy of our draft representation letter.
3	Any fraud or suspected fraud issues.	No exceptions to note.
4	Any suspected non-compliance with laws or regulations.	No exceptions to note.
5	Significant matters in connection with related parties.	No exceptions to note.

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We have substantially completed our audit work in respect of the financial statements for the year ended 31 March 2023

The following matters are outstanding at the date of this report and could impact our audit opinion. We will update you on their current status at the Board meeting at which this report is considered:

1. Completion of final subsequent events review
4. Receipt of signed letter of representation





LETTER OF REPRESENTATION

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BDO LLP
3 Hardman Street
Spinningfields
Manchester
M3 3AT

Dear Sirs,

Financial Statements Berneslai Homes Limited for the year ended 31 March 2023

This representation letter is provided in connection with your audit of the financial statement of Berneslai Homes Limited for the year then ended 31 March 2023.

We confirm that the following representations given to you are made to the best of our knowledge and belief, and after having made appropriate enquiries of other directors and officials of the company.

We have fulfilled our responsibilities as directors for the preparation and presentation of the financial statements as set out in the terms of the audit engagement letter, and in particular that the financial statement gives a true and fair view of the financial position of the company as at 31 March 2023 and of the results of the company’s operations for the year then ended in accordance with United Kingdom Generally Accepted Accounting Practice and for making accurate representations to you.

We have provided you with unrestricted access to persons within the entity from whom you determined it necessary to obtain audit evidence. In addition, all the accounting records of the company have been made available to you for the purpose of your audit and all the transactions undertaken by the company have been properly reflected and recorded in the accounting records. All other records and related information have been made available to you.

Going concern

We have made an assessment of the company’s ability to continue as a going concern for a period of at least twelve months from the date on which the financial statements were approved for release. As a result of our assessment, we consider that the company is able to continue to operate as a going concern and that it is appropriate to prepare the financial statements on a going concern basis.

In making our assessment we did not consider there to be any material uncertainty relating to events or conditions that individually or collectively may cast significant doubt on the company’s ability to continue as a going concern.

Laws and regulations

In relation to those laws and regulations which provide the legal framework within which our business is conducted and which are central to our ability to conduct our business, we have disclosed to you all instances of possible non-compliance of which we are aware and all actual or contingent consequences arising from such instances of non-compliance.



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Post balance sheet events

There have been no events since the balance sheet date which either require changes to be made to the figures included in the financial statements or require additional disclosure other than what we already disclosed. Should any material events of this type occur, we will advise you accordingly.

Fraud and error

We are responsible for adopting sound accounting policies, designing, implementing and maintaining internal control, to, among other things, help assure the preparation of the financial statements in conformity with generally accepted accounting principles and preventing and detecting fraud and error.

We have considered the risk that the financial statements may be materially misstated due to fraud and have identified no significant risks.

To the best of our knowledge, we are not aware of any fraud or suspected fraud involving management or employees. Additionally, we are not aware of any fraud or suspected fraud involving any other party that could materially affect the financial statements.

To the best of our knowledge, we are not aware of any allegations of fraud or suspected fraud affecting the financial statements that have been communicated by employees, former employees, analysts, regulators or any other party.

Misstatements

We attach a schedule showing uncorrected misstatements that you identified, which we acknowledge that you request we correct. Where appropriate we have explained our reasons for not correcting such misstatements below.

In our opinion, the effects of not correcting such identified misstatements are, both individually and in the aggregate, immaterial to the financial statements as a whole.

Related party transactions

We have disclosed to you the identity of all related parties and all the related party relationships and transactions of which we are aware. We have appropriately accounted for and disclosed such relationships and transactions in accordance with the requirements of the applicable accounting framework.

Other than disclosed to you there were no loans, transactions or arrangements between company and the company's directors or their connected persons at any time in the year which were required to be disclosed.

Other

We have no plans or intentions that may materially affect the carrying value or classification of assets or liabilities reflected in the company's financial statements.

There were no loans, transactions or arrangements between any group company and the company's directors or their connected persons at any time in the year which were required to be disclosed.

The disclosure in the financial statements concerning the controlling and ultimate controlling party of the company is accurate.

We confirm that all revenue is recognised in accordance with the applicable framework and arose in the normal course of business.

We confirm that the director's emoluments disclosed are correct.



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Pension liability

We confirm that to us the valuation of the pension liability is calculated with reference to market levels and the most relevant demographic and financial assumptions as at 31 March 2023.

Litigation and claims

We have disclosed to you all known actual or possible litigation and claims whose effects should be considered when preparing the financial statements and these have been accounted for and disclosed in accordance with the requirements of accounting standards.

Confirmation

We confirm that the above representations are made on the basis of enquiries of management and staff with relevant knowledge and experience (and, where appropriate, of inspection of supporting documentation) sufficient to satisfy ourselves that we can properly make each of the above representations to you.

We confirm that the financial statements are free of material misstatements, including omissions.

We acknowledge our legal responsibilities regarding disclosure of information to you as auditors and confirm that so far as we are aware, there is no relevant audit information needed by you in connection with preparing your audit report of which you are unaware. Each director has taken all the steps that they ought to have taken as a director in order to make themselves aware of any relevant audit information and to establish that you are aware of that information.

Yours faithfully

(Signed on behalf of the board of directors)

Date:

The matters raised in our report prepared in connection with the audit are those we believe should be brought to your attention. They do not purport to be a complete record of all matters arising. This report is prepared solely for the use of the company and may not be quoted nor copied without our prior written consent. No responsibility to any third party is accepted.

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Creating great homes
and communities with
the people of Barnsley.

www.berneslaihomes.co.uk

Chief Executive, Amanda Garrard,
Berneslai Homes, P.O.Box 627, Barnsley S70 9FZ.

BDO LLP
3 Hardman Street
Spinningfields
Manchester
M3 3AT

Dear Sir/Madam,

Financial Statements Berneslai Homes Limited for the year ended 31 March 2023

This representation letter is provided in connection with your audit of the financial statement of Berneslai Homes Limited for the year then ended 31 March 2023.

We confirm that the following representations given to you are made to the best of our knowledge and belief, and after having made appropriate enquiries of other directors and officials of the company.

We have fulfilled our responsibilities as directors for the preparation and presentation of the financial statements as set out in the terms of the audit engagement letter, and in particular that the financial statement gives a true and fair view of the financial position of the company as at 31 March 2023 and of the results of the company's operations for the year then ended in accordance with United Kingdom Generally Accepted Accounting Practice and for making accurate representations to you.

We have provided you with unrestricted access to persons within the entity from whom you determined it necessary to obtain audit evidence. In addition, all the accounting records of the company have been made available to you for the purpose of your audit and all the transactions undertaken by the company have been properly reflected and recorded in the accounting records. All other records and related information have been made available to you.

Going concern

We have made an assessment of the company's ability to continue as a going concern for a period of at least twelve months from the date on which the financial statements were approved for release. As a result of our assessment, we consider that the company is able to continue to operate as a going concern and that it is appropriate to prepare the financial statements on a going concern basis.

In making our assessment we did not consider there to be any material uncertainty relating to events or conditions that individually or collectively may cast significant doubt on the company's ability to continue as a going concern.



Laws and regulations

In relation to those laws and regulations which provide the legal framework within which our business is conducted and which are central to our ability to conduct our business, we have disclosed to you all instances of possible non-compliance of which we are aware and all actual or contingent consequences arising from such instances of non-compliance.

Post balance sheet events

There have been no events since the balance sheet date which either require changes to be made to the figures included in the financial statements or require additional disclosure other than what we already disclosed. Should any material events of this type occur, we will advise you accordingly.

Fraud and error

We are responsible for adopting sound accounting policies, designing, implementing and maintaining internal control, to, among other things, help assure the preparation of the financial statements in conformity with generally accepted accounting principles and preventing and detecting fraud and error.

We have considered the risk that the financial statements may be materially misstated due to fraud and have identified no significant risks.

To the best of our knowledge, we are not aware of any fraud or suspected fraud involving management or employees. Additionally, we are not aware of any fraud or suspected fraud involving any other party that could materially affect the financial statements.

To the best of our knowledge, we are not aware of any allegations of fraud or suspected fraud affecting the financial statements that have been communicated by employees, former employees, analysts, regulators or any other party.

Misstatements

We attach a schedule showing uncorrected misstatements that you identified, which we acknowledge that you request we correct. Where appropriate we have explained our reasons for not correcting such misstatements below.

In our opinion, the effects of not correcting such identified misstatements are, both individually and in the aggregate, immaterial to the financial statements as a whole.

Related party transactions

We have disclosed to you the identity of all related parties and all the related party relationships and transactions of which we are aware. We have appropriately accounted for and disclosed such relationships and transactions in accordance with the requirements of the applicable accounting framework.

Other than disclosed to you there were no loans, transactions or arrangements between company and the company's directors or their connected persons at any time in the year which were required to be disclosed.

Other

We have no plans or intentions that may materially affect the carrying value or classification of assets or liabilities reflected in the company's financial statements.

There were no loans, transactions or arrangements between any group company and the company's directors or their connected persons at any time in the year which were required to be disclosed.

The disclosure in the financial statements concerning the controlling and ultimate controlling party of the company is accurate.

We confirm that all revenue is recognised in accordance with the applicable framework and arose in the normal course of business.

We confirm that the director's emoluments disclosed are correct.

Pension liability

We confirm that to us the valuation of the pension liability is calculated with reference to market levels and the most relevant demographic and financial assumptions as at 31 March 2023.

Litigation and claims

We have disclosed to you all known actual or possible litigation and claims whose effects should be considered when preparing the financial statements and these have been accounted for and disclosed in accordance with the requirements of accounting standards.

Confirmation

We confirm that the above representations are made on the basis of enquiries of management and staff with relevant knowledge and experience (and, where appropriate, of inspection of supporting documentation) sufficient to satisfy ourselves that we can properly make each of the above representations to you.

We confirm that the financial statements are free of material misstatements, including omissions.

We acknowledge our legal responsibilities regarding disclosure of information to you as auditors and confirm that so far as we are aware, there is no relevant audit information needed by you in connection with preparing your audit report of which you are unaware. Each director has taken all the steps that they ought to have taken as a director in order to make themselves aware of any relevant audit information and to establish that you are aware of that information.

Yours faithfully

(Signed on behalf of the board of directors)

Date:



**Creating great homes and communities
for the people of Barnsley**

Report Title	Risk Management Annual Report	Confidential	No
Report Author	Risk and Governance Manager	Report Status	For Approval
Report To	Board 28/9/2023	Officer Contact Details	Claire Denson, Risk & Governance Manager clairedenson@berneslaihomes.co.uk

1. Executive Summary	1.1 To provide Board with a reflection on the risk management operations in 2022-23, which was reviewed and recommended for Board approval at Audit and Risk Committee in August 2023.
2. Recommendations	Audit Committee recommended that: <ol style="list-style-type: none"> i. The Risk Management Annual Report for 2022-23 be approved. ii. The proposed 2023-24 Action Plan at Section 11 be approved. iii. Board agree they feel sufficiently informed about risk management.

3. Background

3.1 Effective risk management has the potential to impact on performance improvement, leading to:

- Improvement in service delivery.
- More efficient and effective use of resources.
- Improved Health and Safety.
- More resources focused on proactive rather than reactive measures.
- Assurance of effective internal controls and governance.

3.2 To achieve the ambitions, outcome and priorities set out in our Strategic Plan, it is essential that we understand, manage and communicate the range of risks that could threaten the organisation and our services. This annual report provides information on how Berneslai Homes managed its most significant strategic risks in 2022-23.

- 3.3 The company has a duty to deliver services without causing harm or loss to the organisation and all it represents. It does this by ensuring there is an effective system of governance and risk management. This report sets out the adequate arrangements in place in 2022-23.
- 3.4 The Board and the Chief Executive have overall responsibility for risk management. The Risk and Governance Manager is responsible for the management and promotion of risk management within Berneslai Homes.

Current Position/Issues for Consideration

4. Risk Management Framework Strategy

- 4.1 Berneslai Homes recognises its responsibility to manage risk in order to successfully achieve its objectives through the [Risk Management Framework Strategy](#), which has undergone a mid-review refresh. Whilst the document has been tweaked to ensure it remains dynamic, no procedures have been revised. The Strategy is available to view as a background paper.
- 4.2 The Risk Appetite Statement forms part of the Risk Management Framework Strategy and is therefore attached to the Strategy. The Statement was fully reviewed by EMT and Board in February 2023 and approved at the Board meeting on the 23rd May 2023.
- 4.3 The overall objective of the risk management framework is to ensure that Berneslai Homes has a clear and robust approach to managing risk. It provides a structure to integrate risk management into all aspects of Berneslai Homes activity, with the aim of protecting our assets, complying with all relevant laws and regulation, successfully achieving our Strategic Plan and creating a truly vibrant and resilient organisation.
- 4.4 Internal Audit undertook a review of the risk management framework in 2022 to ensure the new risk monitoring system was being effectively embedded and received positive assurance. After 12 months of embedding the new system, Internal Audit are scheduled to undertake a follow up review in Q4 of 2023 to confirm that lead officers had taken full ownership of their risks, with positive assurance received.

5. Managing Risk

- 5.1 The Strategic risks are reviewed at least quarterly by EMT and action owners, with quarterly updates to Audit and Risk Committee and Board, who also have full access to the risks system. The two-yearly zero-based review of the Strategic risks was undertaken in September 2022, during which a brainstorming session provided an opportunity for everyone to discuss the significant areas of concern, which was attended by EMT and Board members.

- 5.2 There are currently 19 active strategic issues and concerns. The Summary of Issues and Concerns are attached (**Appendix A**).
- 5.3 All issues and concerns have been cross-referenced to the RSH's latest Sector Risk Profile, to ensure all risks in the report, which are relevant to Berneslai Homes, have been captured.
- 5.4 Each Service has a separate operational risk register, covering the day-to-day management of services. They are monitored and reviewed regularly by the respective SMT/EMT member and action owners. Each Service also undertakes the two-yearly zero-based review of their register, which follow the same format as the strategic review. These reviews were undertaken during 2022.
- 5.5 EMT monitor the 'critical response' issues and concerns from each of the operational registers as part of the risk reporting to EMT. The process involves evaluating the critical response assessment and deciding whether it has been assessed correctly. If it remains critical, EMT will decide whether to accept the concern or whether to recommend further controls to mitigate it.
- 5.6 When looking at new initiatives, projects and programmes, it is important that a risk register is in place, such as: the PRIP contract register monitored by Berneslai Homes and Wates managers, the implementation of Repairs system, the ESF project, and Cyber Security.
- 5.7 As part of this report, the Executive Director of Corporate Services will be undertaking a presentation regarding Financial Resilience, where you will have the opportunity to ask questions and challenge any assumptions.

6. Raising Awareness

- 6.1 Risk Champions have received group or 121 training on use of the Risk system, which continues as required. Ongoing communications are also in place with risk and action owners to ensure they continue to monitor and update their risks and actions regularly.
- 6.2 Raising awareness of risk and the various procedures to mitigate risk have continued through advice and guidance, training and company-wide communications, such as board training, surveys, Team Brief and key messages, and health and safety training.
- 6.3 Risk management is included within the Health and Safety staff induction training. It is an interactive session, which also highlights our zero tolerance to fraud.
- 6.4 Risk management is evaluated as part of the Core Competencies process and included on Job Descriptions, where leaders are required to 'proactively manage and monitor risks' ensuring they 'fully risk assess complex decisions and issues and take well considered risks'.

7. Assurance

- 7.1 Directors provide an Annual Assurance Statement on the effectiveness of risk management processes and internal controls within their service areas as part of the Annual Governance Statement report.
- 7.2 Assurance on the effectiveness of risk management processes and controls over key strategic and operational risks is also provided by the work of Internal and External Audit. Internal Audit directly link key risks to each internal audit review.
- 7.3 Internal Audit monitors the implementation of their audit recommendations and reports quarterly to Audit and Risk Committee.

8. Governance

- 8.1 Risk is a key consideration throughout the planning process, when preparing financial forecasts, allocating resources during the budget process and determining the earmarking of any unallocated reserves.
- 8.2 The monitoring of the company's approach to risk is delegated to the Audit and Risk Committee, as stated in their terms of reference, on behalf of the Board. The Board and Committee report format includes a mandatory section on risk implications.

9. Fraud and Corruption

- 9.1 The review of the Anti-Fraud and Corruption Policy documents is undertaken two-yearly in line with the Annual Governance Statement to Audit and Risk Committee. The 2022 to 2024 Policy documents are available in Decision Time Resources, in the [Policies Section](#).
- 9.2 Internal Audit will commence 6-monthly fraud updates to Audit and Risk Committee from October 2023.
- 9.3 To ensure we have an ongoing programme of fraud awareness, Board, EMT, Leaders and staff have undertaken training throughout 2022-23, with mandatory e-learning rolled out to all staff completed by June 2023, which is now an induction requirement.
- 9.4 The Fraud Issues and Concerns register is reviewed regularly by relevant managers, Heads of Service and EMT, and is reported as part of the quarterly risk update to Audit and Risk Committee.

10. Health and Safety

- 10.1 The ongoing two-year reviews of each service by BMBC on the company's health and safety management systems have continued throughout 2022-23 with exceptional results of 98% (Construction Services), 100% (Customer Services), and 100% (Estate Services).

- 10.2 The two-yearly health and safety management questionnaires to managers are scheduled to be completed in 2024. There were no areas of concern raised at the 2022 review, with actions centred around ongoing communications to ensure staff remain aware of policies and processes.
- 10.3 The implementation of a mandatory Health and Safety eLearning module is currently being explored, to ensure Health and Safety remains a priority for all staff.
- 10.4 Berneslai Homes works to the same format as Barnsley Council for its Resilience and Continuity arrangements, whilst also having more detailed Resilience and Continuity Plans in accordance with the services provided to tenants. Ongoing training is provided to key officers.

11. Action Plans

- 11.1 All actions from the 2022-23 risk management report were successfully undertaken.
- 11.2 Development in the following areas is now planned for 2023-24 to build on the work to date:

Actions	Target	Responsible
Internal Audit will commence 6-monthly fraud updates to Audit Committee from October 2023.	October 2023	BMBC IA
Health and Safety eLearning module	March 2024	Risk and Governance Manager
Ongoing embedding of the Risk Management System	March 2024	Risk and Governance Manager
Provide advice and guidance on risk management topics for Board Members, managers and partners as required	Ongoing	Risk and Governance Manager

12. Customer Voice/Impact

- 12.1 The aim of the review of risks is to scrutinise the internal risk management system and therefore customer views are not sought for this report. A number of risks and mitigations arising from reviewing our risks seek to enhance the customer voice.

13. Risk and Risk Appetite

- 13.1 There is a risk that the Board, Audit and Risk Committee and management do not appreciate Berneslai Homes' key vulnerabilities and take appropriate action to manage them. The Risk Management Framework ensures that effective mechanisms are in place for the management of risk.

13.2 Therefore, where required these controls are monitored via such as:

- The Strategic and Operational Risk Register reviews.
- As part of the Annual Governance Statement.
- Specific reporting to Board, such as financial reports, compliance reports, etc.
- Performance monitoring.

13.3 Strategic Risk Appetite – Risk Adverse: We aim to comply with all relevant legislation and have zero tolerance for regulatory compliance issues. We give high priority to Internal Audit recommendations and take immediate action to resolve concerns. We have zero tolerance for failure to meet deadlines from Regulators.

14. Strategic Alignment

14.1 The report aligns to the requirements from BMBC (Barnsley Metropolitan Borough Council) for the effective governance of Berneslai Homes. Good risk management links to the successful achievement of all our ambitions:

- Hearing Customers.
- Keeping Tenants Safe.
- Growth of Homes and Services.
- Technology and Innovation.
- Employment and Training.
- Zero Carbon.

15. Data Privacy

15.1 There are no data privacy implications arising from this report. No personal data has been processed and no DPIA (Data Protection Impact Assessments) is required.

16. Consumer Regulatory Standards

16.1 This report relates to the following elements of the Regulatory Standard:

- Governance and Financial Viability Standard - Good governance ensures the organisation always acts in the best interests of the business. This ensures improvement of performance, unlocks new opportunities and reduces risk.

16.2 The Draft Tenancy Consumer Standards that are out for consultation by the Regulator of Social Housing make specific reference to tackling tenancy fraud and evidence of compliance. This report and the actions within are key to ensuring compliance with the draft standards including governance oversight by the Board.

16.3 The Draft Consumer Standards include a requirement for the publication of the remuneration details of the Chief Executive and the senior employees of the organisation. This requirement will come into force in April 2024, however we are currently producing a draft based on previous year data to ensure that systems are in place to enable the data to be published in time.

- 17. Other Statutory/Regulatory Compliance
- 17.1 To provide Board with assurance around our risk management arrangements.
- 18. Financial
- 18.1 There are no financial implications arising directly from this report.
- 19. Human Resources and Equality, Diversity and Inclusion
- 19.1 Human Resources Policies and Procedures, including Equality, Diversity and Inclusion are key internal controls and seek to mitigate any associated risks.
- 20. Sustainability Implications
- 20.1 No specific zero carbon implications from this report.
- 21. Associated Background Papers on Decision Time
- 21.1 Live Strategic, Operational, Project and Fraud Issues and Concerns registers – [risk system on SharePoint](#).
- 21.2 RSH Sector Risk Profile 2022 – [Decision Time](#).
- 21.3 Risk Management Framework Strategy – [Decision Time](#)
- 22. Appendices
- 22.1 Appendix A – Strategic Risks Summary.

Title of Concern/Issue/Focus	Description	Assessment	Strategic Risk Area (RSH Sector Risk Profile)	Issue/Concern Owner	Status:	Impact:	Response Rating	Level of Concern since previous review	Strategic Objective
The HRA does not cover service requirements	Risk refreshed 05.10.22 (Zero-based risk review) <ul style="list-style-type: none"> Rent caps, inflation, CPI, use of reserves, management fee Tenant financial hardship Insufficient resources to support vulnerable customers Pensions – impact on balance sheet Reduction in funding for repairs and investment in stock – PRIP - impact on CS profit – reputation Impact on Strategic plan - resources to deliver the priorities - reputation with BMBC Relationship with the Council is crucial Reliant on annual reserves to bridge the gap between management fee and resources to deliver services contract with BMBC - gap of approx £500k. Reliant on CS profits. Need the turnover guaranteed at £20m. 14.06.23: Concerned increased. Deficit for 24-25 is nearly £2m with another £2 the year after. Increasing requirements for both the zero carbon and the unknown expectations of stock condition. Irrespective of further changes inc Decent Homes.	<ul style="list-style-type: none"> Insufficient funds in HRA and longer-term financial plan due to economic climate putting increased pressure on budgets and reducing stock numbers reducing income base. There was a financial overspend on Repairs and Maintenance budgets for 21-22. Increasing number of tenants on Universal Credit reducing rental income 	Costs and Inflation	Chief Executive	Actual	Actual	Critical	More Concerned ^	Well Managed
Mould, damp and condensation	Are we keeping tenants safe by ensuring that damp, mould and condensation are not a health risk to tenants? A letter by Michael Gove says that gov expect landlords to be undertaking assessments of: <ul style="list-style-type: none"> damp and mould issues affecting our properties, including the prevalence of category 1 and 2 damp and mould hazards; the action we have identified that may need to be taken in relation to damp and mould issues affecting our properties 	<ul style="list-style-type: none"> Damp, mould and condensation have become a priority risk for all landlords, especially due to tenants being unable to afford to heat their homes due to the cost of living crisis. A letter by Michael Gove warns of the consequences of not taking responsibility and treating damp and mould seriously - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1118876/SoS_letter_to_all_providers_of_social_housing.pdf The issue is prevalent in the news and tenants are fighting back (Risk added as a result of EMT meeting 22/11/22) 	Health and Safety	Executive Director of Property Services	Actual	Actual	Critical	More Concerned ^	Sustainable Communities
Vulnerability of in-house and third party systems to cyber attack	<ul style="list-style-type: none"> Vulnerability may be exploited leading to cyber-attack of in-house and/or third-party systems impacting confidentiality, integrity or availability of data and information. This could lead to, amongst others, financial loss, fines, regulator intervention, inability to deliver services, reputational. As a public sector organisation, we are more at risk from the current situation with Russia and Ukraine and the increased cyber-attacks in general. No evidence of increased attacks currently. 	<ul style="list-style-type: none"> Cyber-attacks are increasing in number, the organisation is becoming more agile, there is an increasing volume of data held on IT systems and the systems are becoming more complex. Regulation in place which means risk management is crucial. 	Data Security	Executive Director of Corporate Services	Potential	Potential	Critical	Same Concerned >	Well Managed
The cost-of-living crisis is impacting tenants and our communities	New risk added 05.10.22 (Zero-based risk review) <ul style="list-style-type: none"> Condition of homes – changing behaviours Vulnerable tenants – changing behaviours Rent arrears, gov policy. Less tenant turnover – reduction in void levels Disrepair cases – legal costs – increasing Communal heating systems - affordability Unpredictability of tenant behaviour - increased violence and aggression towards staff, chaotic lifestyles Sustainability of estates – increased ASB, crime, DV Opportunity: <ul style="list-style-type: none"> Tenants may want to move to smaller accommodation, which will release family-sized properties. 	<ul style="list-style-type: none"> Cost of Living Reduced funding More support needs 	Delivering Services to Tenants	Exec Dir Customer & Estate Services and Exec Dir of Property Services	Actual	Actual	Critical	Same Concerned >	Sustainable Communities
Struggling to recruit staff and keep the right people with the right skills	Risk refreshed 05.10.22 (Zero-based risk review) <ul style="list-style-type: none"> Competing with other organisations with higher salaries for technical roles - therefore hard to source and hard to keep. Commitment to the professionalism agenda – learning organisation, productivity, reputation 	<ul style="list-style-type: none"> Rising national salaries and national workforce shortages. Boom in Construction sector - record high vacancies in the sector - operatives leaving, agency staff paid better elsewhere (minimal CVs coming from agency). Lack of migrant workers. Increasing regulatory environment requires sought-after technical skills 	Delivering Services to Tenants	Executive Director of Corporate Services	Actual	Actual	Important	Same Concerned >	Well Managed
The zero-carbon agenda is not sufficiently funded or skilled	Risk added 05.10.22 (Zero-based risk review) <ul style="list-style-type: none"> Questions around the sustainability of some estates – types of homes / energy efficiency Difficult to maximise funding opportunities – essential partnership working with BMBC Requires upskilling of staff – technical skills are more expensive Change in behaviour required of staff and tenants 	<ul style="list-style-type: none"> Strategic priority in line with local and national government 	Delivering against expectations	Executive Director of Property Services	Actual	Actual	Important	Same Concerned >	Sustainable Communities
Increase in staff mental ill health and wellbeing	New risk added 05.10.22 (Zero-based risk review) <ul style="list-style-type: none"> Service restructures, increased service demands, more difficult and complex cases to manage. Staff wellbeing is increasing sickness absence. Cost of living is bringing staff back into the office and putting strain on the agile working model. Impact of agile working on staff and services – quality assurance (management controls) 21.03.23 - report to EMT re HWB survey undertaken in Feb 23 - stats say 22% of LT sickness is linked to mental ill health - therefore reduced from critical to Important Response	The economic climate is impacting on staff wellbeing as a result of circumstances at home and also increased demands on staff due to the impact on BH services.	Health and Safety	Executive Director of Corporate Services	Actual	Actual	Important	Same Concerned >	Well Managed
Reduction in customer satisfaction	New risk 10.10.22 (zero based risk review) - incorporating 'Ability to meet statutory duties and tenant expectations as a result contact centre performance' and 'Customers unable to access repairs services online effectively'. <ul style="list-style-type: none"> Increasing demands from customers – they require increasing support Increasing regulatory demands Reduction in funding – more with less Contact Centre performance – we could miss significant issues Customers unable to access repairs services online effectively 	<ul style="list-style-type: none"> Cost of living Planned repairs and reduced budgets Regulatory intervention 	Delivering Services to Tenants	Chief Executive	Actual	Actual	Important	Same Concerned >	Excellent Customer Services
Gap and lack of recent reviews in policies and procedures, leaves us at risk with the Housing Ombudsman and the Social Housing Regulator	Review of AM policy and procedures has identified some significant gaps in relation to the service area. Customer Services Team currently carrying out, organisational exercise. 26.06.23 - Risk moved from Operational Asset Management Risk to Corporate Risk responsible officer Head of Customer Services. This is due to the level of Policies and Procedures that have gaps throughout Property Services and Customer & Estate Services.	Review of AM policy and procedures has identified some significant gaps in relation to the service area.	Delivering against expectations	Head of Customer Services	Actual	Potential	Important	Same Concerned >	Well Managed
Effective preparation for regulatory inspection	Risk added 07.06.23: <ul style="list-style-type: none"> Shift towards proactive rather the reactive regulation. Removal of serious detriment test Intro of TSMs and spotlight on landlords underperforming Once the self assessment has been undertaken, it may create additional tasks to align to expectations. 	New RSH regulatory regime	Delivering against expectations	Executive Director of Customer and Estate Services	Actual	Potential	Important	Same Concerned >	Well Managed
Do we have the right data to make informed decisions (Data Quality)	New risk 10.10.22 (zero based risk review) <ul style="list-style-type: none"> Ability to develop our repairs IT systems to meet modern access approaches - online reporting, tracking, self-serve – delayed to April 2023. Includes Dynamic Scheduling system. Not meeting customer expectations - Poor reputation and satisfaction. Data regarding both customers and assets. 	<ul style="list-style-type: none"> We do not currently have fully effective data quality systems in place regarding customers and assets . 	Delivering Services to Tenants	Chief Executive	Actual	Potential	Important	Same Concerned >	Well Managed
The health and safety of tenants and staff	Refreshed risk 10.10.22 (zero based risk review) - amalgamated relevant parts of "personal safety off staff" and "Failure to meet statutory requirements in respect of property/assets including Building Safety" <ul style="list-style-type: none"> Statutory H&S requirements - Safe working practices to keep tenants and staff safe Failure to implement policies and procedures and associated communications / training. Home working / personal safety / violence and aggression 	Failure to comply with H&S legislation could result in injury or death and associated business risks.	Health and Safety	Exec Dir Customer & Estate Services and Exec Dir of Property Services	Potential	Potential	Important	Same Concerned >	Well Managed
Business continuity	New risk 10.10.22 (Zero based risk review) <ul style="list-style-type: none"> Are we prepared for industrial action / civil unrest, power cuts, services going down, another virus outbreak? Are we prepared for a cyber attack Are we prepared for climate change – heat, fires, floods Impact on business, staff and tenants 	Are we prepared for potential impact of disaster situations to operations?	Delivering Services to tenants	Chief Executive	Potential	Potential	Important	Same Concerned >	Well Managed
Failure to meet increasing and changing regulatory requirements	New risk 10.10.22 (zero-based risk review) - amalgamated 'Reputational concerns due to new Regulatory approaches by the Housing Ombudsman and the Regulator for Social Housing' and 'Failure to meet statutory requirements in respect of property/assets including Building Safety' and 'Upcoming regulations to mandate smoke and carbon monoxide alarms in social homes'. <ul style="list-style-type: none"> Statutory requirements in respect of property/assets including Building Safety, decent homes Reputational concerns due to new Regulatory approaches by the Housing Ombudsman and the Regulator for Social Housing - TSMs, neighbourhood agenda / investment in neighbourhoods We do not have the most effective software to do this. The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 come into force on 1 October 2022. New Consumer standards will be reviewed in 2023 inc new professionalism agenda (monitored as a dedicated operational risk in Corporate Services) 	A change and strengthening in regulatory approach is being implemented nationally, including the professionalism agenda (CIH).	Delivering against expectations	Chief Executive	Potential	Potential	Important	Same Concerned >	Well Managed

Title of Concern/Issue/Focus	Description	Assessment	Strategic Risk Area (RSH Sector Risk Profile)	Issue/Concern Owner	Status:	Impact:	Response Rating	Level of Concern since previous review	Strategic Objective
That we don't take the opportunities that are out there to increase funding for services e.g. zero carbon	New risk 10.10.22 (zero based risk review) •We must keep on top of all the opportunities out there to help fund such as the zero-carbon agenda and to upskill staff	•Zero-carbon agenda	Delivering against expectations	Executive Director of Property Services	Potential	Potential	Important	Same Concerned >	Sustainable Communities
Ability to source the right materials and services at the right price	Refreshed risk 03.02.23 (zero based risk review) •Increased cost of materials - and continue to increase •Contractors not being local (Barnsley pound) •Smaller company and expertise shrinking for ALMOs / housing orgs – trouble attracting subcontractors 05.06.23: Less concerned around general costs, pricing protection with PRIP, but still some issues where costs are way beyond CPI.	Brexit / COVID / cost of Living	Construction process risk	Managing Director of Construction Services	Actual	Actual	Important	Less Concerned v	Well Managed
Reduced opportunities for lobbying as the ALMO sector gets smaller	New risk 10.10.22 (zero based risk review) •How do we maximise the wider role of the sector - how do we get the voice of the ALMO and the voice of the tenants heard?	•The ALMO sector is getting smaller	Delivering services to tenants	Chief Executive	Potential	Potential	Requires Attention	Same Concerned >	Sustainable Communities
That we do not effectively embed a culture that acknowledges, promotes and celebrates the diverse talents and backgrounds of staff and tenants	Risk refreshed 10.10.22 (zero based risk review) •We need to ensure that equality, diversity and inclusion is fully embedded and part of the DNA of Berneslai Homes. •We need to ensure it is owned by all and that we recognise differences and take these into account to provide an effective and appropriate service to all our customers (internal and external).	•Due to staffing resources, ED&I development lost it momentum. Following HDN assessment, ED&I was developed, launched and in the process of being fully embedded across the organisation.	Delivering Services to Tenants	Executive Director of Corporate Services	Potential	Potential	Requires Attention	Same Concerned >	Well Managed
Inability to meet housing need due to loss of stock and ability to influence growth of homes for social rent	Refreshed risk 10.10.22 (Zero based risk review) •Concerned that we continue to lose stock as a result of RtB and demolitions. •Resulting in the inability to meet housing need, particularly taking into consideration the number of applications for properties.	We are losing stock because of RtB and demolitions and we are reliant on BMBC building new homes for social rent.	Existing Stock Quality	Executive Director of Property Services	Actual	Potential	Requires Attention	Same Concerned >	Sustainable Communities

Agenda Item 7



Creating great homes and communities
with the people of Barnsley

Report Title	2023/24 Quarter One Performance Summary	Confidential	No
Report Author	Head of Governance and Strategy	Report Status	For Information
Report To	Board 28/09/2023	Officer Contact Details	Sarahdrafz3@berneslaihomes.co.uk

1. Executive Summary

This report presents an assessment of Berneslai Homes performance for quarter one of the 2023/24 financial year. The report also includes the first quarter update against the Annual Business Action Plan.

Our assessment of performance at quarter one shows we are meeting targets across many of our Key Performance Indicators (KPIs).

There are 43 KPIs for 2023/24 up from 28 in 2022/23, the increase is largely due to the introduction of the Tenant Satisfaction Measures (TSMs).

Key performance highlights for the quarter include:

- exceeding the target for the proportion of priority calls answered in target timescales,
- 100% of required properties having necessary gas compliance certification, fire risk assessments and asbestos management surveys.

The following KPIs were rated as red/behind target.

TSM pulse

- Proportion of homes non-decent
- Proportion of non-emergency repairs completed in target timescale
- Percentage of homes that have had all the necessary legionella risk assessments
- Percentage of homes in buildings where the communal passenger lifts have had all the necessary safety checks

	<p>Council pulse</p> <ul style="list-style-type: none"> • Void rent loss • Rent collected as a proportion of rents owed on HRA dwellings • To spend influenceable funds locally supporting the Barnsley economy <p>Company pulse</p> <ul style="list-style-type: none"> • Responsive repairs completed right first time • Average number of sick days per employee • Percentage of staff defining under the Equality Act definition of disability <p>Customer Services Committee were assured that appropriate measures were in place to address areas of underperformance. Comments from Customer Services Committee have been incorporated into this summary. Section four of the report includes full details of performance at quarter one.</p>
<p>2. Recommendation/s</p>	<p>2.1 Board is asked to consider and comment on Berneslai Homes' quarter one performance.</p> <p>2.2 Where performance targets have not been achieved Board should ensure they are satisfied with the explanations provided and that there are adequate controls and actions in place to address underperformance.</p> <p>2.3 Board should identify any areas where they feel more detailed consideration is required by Customer Services Committee.</p>

3. Background

- 3.1 Berneslai Homes performance is measured so that we can monitor the success of our Strategic Plan commitments, see how well different parts of the business are doing and see the difference we are making to our customers. On a quarterly basis a report showing company performance against a suite of KPIs is scrutinised at Customer Services Committee.
- 3.2 Of note is the increase in number of KPIs from 28 last financial year to 43 for 2023/24 largely as a result of the introduction of the Tenant Satisfaction Measure (TSM) pulse. At quarter one of 2023/24 there were 10 KPIs identified as behind target. Where key exceptions were identified, commentary and trend data were included in the performance report scrutinised by Customer Services Committee.
- 3.3 The KPIs measured are segmented according to the organisations mission; great place, great people, great company which supports the organisations vision; creating great homes and communities with the people of Barnsley.

4. Current Position /Issues for Consideration

- 4.1 At quarter one 10 KPIs were reported as red/behind target, five KPIs were rated as amber/narrowly missed target and eight were green/met or exceeded target.
- 4.2 There has been a significant improvement in performance for this measure with 91.57% of priority calls answered in less than three minutes against a target of 80%. Performance is over six percentage points higher than at the same point in the previous year.

Housemark analysis shows the single biggest driver for overall satisfaction is making it easy for residents to deal with their landlord therefore this measure can be seen as a key driver of overall customer satisfaction alongside other key drivers such as high quality, timely repairs. July data shows a decrease in the proportion of calls answered in target to 80.27% which still exceeds target and is rated as green.

- 4.3 Of the five KPIs reported under building safety it is pleasing to note we met the target for gas, asbestos and fire safety. 99.64% of required legionella risk assessments were completed. Despite repeated attempts we were unable to gain access to 65 domestic properties and we are considering alternative options to gain access. 64.92% of required lift safety checks were completed at the end of quarter one, the outstanding checks have since been completed in early July meaning we are now 100% compliant for this KPI.
- 4.4 59 of our homes or 0.33% of stock was classed as non-decent at year end of 2022/23. Actions were in place to address all 59 properties, which in the main, were due to access issues in completing electrical compliance. Whilst performance against this measure is typically reported at the end of the financial year we are looking into the feasibility of reporting on a quarterly basis.
- 4.5 99.95% of emergency repairs were completed within 24 hours against a target of 99.5%. There were 8,460 non-emergency repairs in quarter one of which 96.74% were completed within target. This measure combines performance across our three non-emergency repair priority categories which includes those categorised as to be completed within 3, 7 and 25 days.
- 4.6 Void rent loss has been impacted due to a spike in voids requiring extensive works to enable us to achieve a lettable standard for tenants. Performance to quarter one was 1.31% against a target of 1.05% which equates to £276,687 lost. Whilst we are conscious that void properties impact on potential income and the Council Housing waiting list, we recognise the importance of bringing properties up to standard before they are re-let. We have re-profiled budgets, investing an additional £250k during Q2 alongside holding workshops with key stakeholders to refine operational processes ensuring this figure improves. We have also commenced our improved void standard pilot which will enhance the quality of the end product we offer to tenants with the aim of reducing the number of responsive repairs during the first 12 months of occupation. July

data shows a reduction in void rent loss to 1.22%. It is unlikely we will meet the annual target for void rent loss. Internal quarterly targets for improvement are in the process of being set.

- 4.7 At quarter one our rent collection rate was 94.87% against a target of 97%. Whilst the collection rate was behind target it was 0.44 percentage points higher than quarter one 2022/23. Current rent arrears were 3.74% at quarter one against a target of 3.5% or less and rated as slightly behind target. The cost-of-living crisis continues to impact our customers and their ability to maintain rent payments, which persists across the sector. The Income Team offer advice and support to customers where Hardship Fund and other financial assistance can be applied and are working closely with colleagues in the Tenants First and other services where extra support for tenants is required. July data shows an increase in the proportion of rent collected to 95.07% and an increase in the percentage of current tenant arrears to 4.02%, both measures are now rated as red/behind target.
- 4.8 65% of influenceable funds were spent locally in quarter one against a target of 75%. This year the definition for this measure was updated to include reference to influenceable spend (excluding spend such as utilities where it was not possible to purchase locally). Project and consultancy costs and training have contributed to an increased proportion of non-local spend.
- 4.9 70.70% of tenants surveyed reported satisfaction with responsive repairs completed right first time against target of 82% in quarter one. This measure is calculated based on tenants' responses to a transactional perception survey. Performance is marginally better than the previous quarter. Work is underway to interrogate the data and consider the reasons why performance is behind target.
- 4.10 At the end of quarter one the projected year end number of days of sickness per employee was 14.28 against a target of 9 days or less. Whilst performance has improved since the start of the financial year, performance was 4.28 days worse than at the same point in the previous year. Customer and Estates followed by Construction Services had the highest levels of sickness. The main cause of absence was 'Other - Acute Medical', accounting for 36% of all absence, closely followed by Mental Health (34%). 80% of sickness absence was long term.
- HR continue to proactively monitor sickness absence and meet regularly with managers to ensure sickness is managed effectively and discuss any additional support required. Sickness trend reporting has also been reviewed, and it was agreed that HR will provide a quarterly spotlight report to SMT to show more meaningful trend analysis. July data shows a continuation of the reducing trend in sickness with performance projected to be 13.32 days at year end.
- 4.11 4.77% of the workforce at quarter one defined as disabled under the Equality Act definition against a target of 8%. Performance dropped by one percentage point in comparison with the previous quarter due to a number of individuals defining as disabled leaving within the quarter, including ill health-related dismissal. Specific actions to improve representation are identified in our

Equality of Opportunity report. We are also looking into the feasibility of introducing Supported Internships for individuals with disabilities and learning difficulties within the next quarter, in conjunction with Barnsley Council and Barnsley College.

4.12 The Business Action Plan which illustrates the extent of work undertaken by Berneslai Homes to support our tenants is now included as an appendix to the performance report as a standing item.

5. Customer Voice/Impact

5.1 To ensure that tenant's voices are represented, Tenant Voice Panel members sit on the Customer Services Committee and are involved in scrutiny of quarterly performance. In addition, two tenant Board representatives are members of Customer Services Committee and provide scrutiny of company performance.

6. Risk and Risk Appetite

6.1 There are no risk register items which directly link to this report. Any compliance areas of concern linked to performance are included on the corporate risk register.

7. Strategic Alignment

7.1 Our KPIs are aligned to our mission; Great place, great people, great company, which supports our vision 'Creating great homes and communities with the people of Barnsley.' We work closely with the council to ensure we align our services and Strategic Plan to meet the challenges and opportunities of their new Corporate Plan and the Barnsley 2030 vision.

7.2 The performance report links to all the Barnsley 2030 Strategic Ambitions (listed below) as it is one of the mechanisms by which we monitor our performance against plan.

- Hearing Customers
- Keeping tenants Safe
- Growth of Homes and Services
- Technology and Innovation
- Employment and Training
- Zero Carbon

8. Data Privacy

8.1 No processing of personal data has taken place in the creation of this report.

9. Regulatory Standards

9.1 This report relates to the following elements of the Regulatory Standard:

- Governance and Financial Viability Standard
- Value for Money Standard
- Home Standard
- Tenancy Standard
- Neighbourhood and Community Standard

- Tenant Involvement and Empowerment Standard
- Tenant Satisfaction Measures Standard

By measuring and monitoring performance against our KPIs and involving tenants in this process we can effectively ensure we demonstrate progress towards achievement of our strategic objectives and compliance with multiple regulatory standards.

10. Other Statutory/Regulatory Compliance

10.1 There are no specific statutory or regulatory compliance implications arising directly from this report.

11. Financial

11.1 There are no specific financial implications arising directly from this report.

12. Human Resources and Equality, Diversity and Inclusion

12.1 There are no human resource implications arising directly out of the recommendations in this report.

13. Sustainability Implications

13.1 Various performance measures reported assess progress towards achieving our net zero ambitions which in turn links to our sustainability strategy.

14. Associated Background Papers

None

15. Appendix

Appendix A – Quarter One 2023/24 Performance Report

Quarterly Performance Report Quarter 1 - 2023/2024



Contents

Tenant Satisfaction Measure Pulse	3
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Appendix A- Business Action Plan Update	15

GREAT PLACE

Annual Indicator  Tenant Satisfaction with Repairs	Annual Indicator  Time Taken Recent Repair	Annual Indicator  Satisfaction Home is Safe	 Gas Safety Checks
Annual Indicator  Well Maintained Home	 DHS Compliance	 Fire Safety Checks	 Asbestos Safety Checks
 Emergency Repairs	 Non-Emergency Repairs	 Water Safety Checks	 Lift Safety Checks
Annual Indicator  Positive Contribution to Neighbourhoods	Annual Indicator  Satisfaction with Communal Areas	Annual Indicator  Satisfaction with Handling ASB	 ASB Cases




HEADLINES

We complied with 100% of our fire, asbestos and gas safety checks.



ASB Cases Hate Incidents

GREAT PEOPLE

Annual Indicator  Tenant Satisfaction	Annual Indicator  Listening to Tenants
Annual Indicator  Keeping Tenants Informed	Annual Indicator  Treating Tenants Fairly
Annual Indicator  Handling Complaint	Annual Indicator  Stage One Complaints
Annual Indicator  Stage Two Complaints	Annual Indicator  Stage One Response Time
 Stage Two Response Time	

GREAT PLACE	
Annual Indicator  Tenant Satisfaction with Repairs	Annual Indicator  Time Taken Recent Repair
Annual Indicator  Well Maintained Home	 DHS Compliance
 Emergency Repairs	 Non-Emergency Repairs
Annual Indicator  Positive Contribution to Neighbourhoods	Annual Indicator  Satisfaction with Communal Areas

YEAR END 22/23*	Q1	Q2	Q3	Q4	YEAR END 23/24	TARGET 23/24	BENCH MARK**		
83.10%	Annual				83.10%	83%	TP02: Tenant Satisfaction with Repairs	Tenant Satisfaction with repairs	
New	Annual				80.40%	77%	TP03: Time Taken Recent Repair	Satisfaction with time taken to complete most recent repair	
New	Annual				82%	77%	TP04: Well Maintained Home	Satisfaction that the home is well maintained	
0.33%	0.33%					0%	0%	RP01: DHS Compliance	Homes that do not meet the Decent Homes Standard
100%	99.95%					99.50%		RP02 2: Emergency Repairs	Repairs completed within target timescale
New	96.74%					99.50%		RP02 1: Non-Emergency Repairs	Repairs completed within target timescale
New	Annual				62%	78%	TP11: Positive Contribution	Satisfaction that the landlord makes a positive contribution to neighbourhoods	
New	Annual				66%	74%	TP10: Satisfaction with Communal Areas	Satisfaction that the landlord keeps communal areas clean and well maintained	

*Year end performance was assessed based on whether a target was achieved (denoted by green formatting) or missed (denoted by red formatting)

**Benchmark is based on sector wide upper quartile

GREAT PLACE

Annual Indicator



Satisfaction Home is Safe



Gas Safety Checks



Fire Safety Checks



Asbestos Safety Checks



Water Safety Checks



Lift Safety Checks

Annual Indicator



Satisfaction with Handling ASB



ASB Cases



ASB Cases Hate Incidents

YEAR END 22/23*	Q1	Q2	Q3	Q4	YEAR END 23/24	TARGET 23/24	BENCH MARK**	
83%	Annual					83%	87%	TP05: Home is Safe Satisfaction that the home is safe
100%	100%					100%		BS01: Gas Gas safety checks
100%	100%					100%		BS02: Fire Fire safety checks
100%	100%					100%		BS03: Asbestos Asbestos safety checks
99.29%	99.64%					100%		BS04: Water Water safety checks
100%	64.92%					100%		BS05: Lift Lift safety checks
60%	Annual					60%	66%	TP12: Satisfaction Handling ASB Satisfaction with the landlords approach to handling anti-social behaviour
39.54	10.45					In line with peer group median		NM01 1: ASB Cases Anti-social behaviour cases
0.44	0.22					In line with peer group median		NM01 2: ASB Cases Hate Incidents Anti-social behaviour cases that involve hate incidents

GREAT PEOPLE

YEAR END 22/23*	Q1	Q2	Q3	Q4	YEAR END 23/24	TARGET 23/24	BENCH MARK**
84.20%	Annual					84%	84%
68.10%	Annual					68%	71%
70.6%	Annual					71%	82%
85.3%	Annual					85%	84%
63.7%	Annual					62%	58%
New	16.63					In line with peer group median	
New	3.5					In line with peer group median	
New						90%	
New	100%					90%	

TP01: Tenant Satisfaction
Overall satisfaction

TP06: Listening to Tenants
Landlord listens to tenants views and acts upon them

TP07: Keeping Tenants Informed
Landlord keeps tenants informed about things that matter to them

TP08: Treating Tenants Fairly
Landlord treats tenants fairly and with respect

TP09: Satisfaction Handling Complaints
Satisfaction with the landlords approach to handling complaints

CH01 1: Stage One Complaints
Stage one complaints relative to the size of the landlord

CH01 2: Stage Two Complaints
Stage two complaints relative to the size of the landlord

CH02 1: Stage One Response Time
Stage one complaints response time

CH02 2: Stage Two Response Time
Stage two complaints response time

 Annual Indicator Tenant Satisfaction	 Annual Indicator Listening to Tenants
 Annual Indicator Keeping Tenants Informed	 Annual Indicator Treating Tenants Fairly
 Annual Indicator Handling Complaint	 Annual Indicator Stage One Complaints
 Annual Indicator Stage Two Complaints	 Annual Indicator Stage One Response Time
 Annual Indicator Stage Two Response Time	

GREAT PLACE



EPC C or Above

GREAT PEOPLE



Proportion of Apprentices

GREAT COMPANY



Void Rent Loss



Rent Collection



Barnsley Pound



Annual indicator

Management Fee
Efficiency Target

Annual Indicator



TSM Targets

HEADLINES

94.87% of rent was collected against a target of 97%.

GREAT PLACE



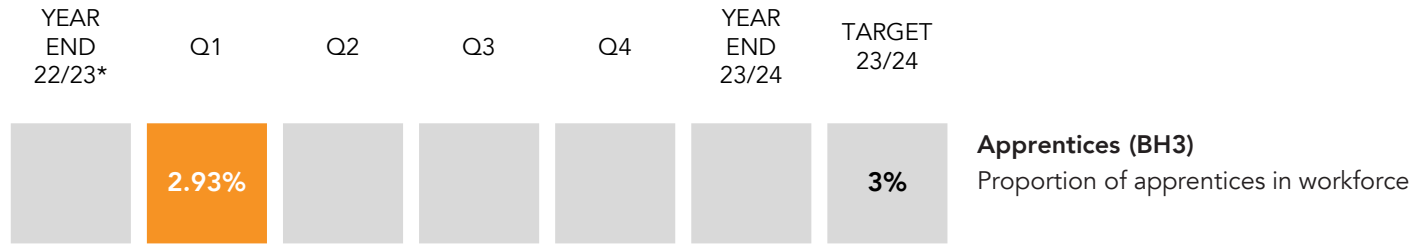
EPC Ratings (BH5)
Percentage of Properties with an EPC C or above.



EPC C or Above

*Year end performance is assessed based on whether a target was achieved (denoted by green formatting) or missed (denoted by red formatting)

GREAT PEOPLE



Proportion of Apprentices

*Year end performance is assessed based on whether a target was achieved (denoted by green formatting) or missed (denoted by red formatting)

GREAT COMPANY		YEAR END 22/23*	Q1	Q2	Q3	Q4	YEAR END 23/24	TARGET 23/24		
 Void Rent Loss	 Rent Collection	0.76%	1.31%					1.05%	Void Rent Loss (BH1) Income lost due to void properties	
		96.06%	94.87%					97%	Rent collection (BH2) Rent collected as a proportion of rents owed on Housing Revenue Account dwellings.	
 Barnsley Pound	Annual Indicator  Management Fee Efficiency Target	66.21%	65.00%					75%	Local Spend (BH4) Spend funds locally supporting the Barnsley economy.	
		Achieved	Annual						1%	Management Fee (BH6) Management Fee Efficiency target as part of annual Value For Money report.
Annual Indicator  TSM Targets		New	Annual						100%	TSM Targets (BH7) Meet all TSM satisfaction targets

*Year end performance is assessed based on whether a target was achieved (denoted by green formatting) or missed (denoted by red formatting)

GREAT PLACE



Right First Time

HEADLINES

70.70% of surveyed tenants were satisfied responsive repairs were completed right first time against a target of 82%

GREAT PEOPLE

Annual Indicator



Staff Satisfaction



Staff Attendance



Equality Act



Minority Ethnic



HF Awarded



HF Supported

HEADLINES

Staff attendance remains behind target and has deteriorated since 2022/23 year end.

GREAT COMPANY

Annual Indicator



Net Promoter



Current Tenant Arrears



Contact Centre

HEADLINES

We have exceeded the target for the proportion of priority calls answered within three minutes.







GREAT PLACE



Keeping properties in good repair (KPI 1)
Responsive repairs right first time.



Right First Time

GREAT PEOPLE	
Annual Indicator  Staff Satisfaction	 Staff Attendance
 Equality Act	 Minority Ethnic
 HF Awarded	 HF Supported

YEAR END 22/23	Q1	Q2	Q3	Q4	YEAR END 23/24	TARGET 23/24	BENCH MARK**
68%	Annual					68%	86%
12.12	14.28					9 days	
5.77%	4.77%					8%	
2.69%	2.56%					2.7%	
New	57,848					£500k	
New	268					666	

Staff Satisfaction (KPI 2)
Employee satisfaction rate. My organisation is a great place to work.

Staff Attendance (KPI 3)
Average number of days absent per full time equivalent employee.

Diversity (KPI 4)
Percentage of staff defining under the Equality Act definition of disability.

Diversity (KPI 5)
Percentage of minority ethnic staff in total workforce.

HF Awarded (KPI 9)
Hardship Fund awarded to tenants.

HF Supported (KPI 10)
Hardship Fund No. of successful applications.

GREAT COMPANY

Annual Indicator



Net Promoter



Current Tenant Arrears



Contact Centre

YEAR END 22/23	Q1	Q2	Q3	Q4	YEAR END 23/24	TARGET 23/24	BENCH MARK**
34.60	Annual					>34	42
3.51%	3.74%					3.5%	
65.03%	91.57%					80%	

Net Promoter (KPI 6)

Likely to recommend Berneslai Homes.

Current Tenant Arrears (KPI 7)

Percentage of Current Tenant Arrears.

Contact Centre (KPI 8)

We will answer priority calls in less than 3 minutes (Contact Centre).

Barnsley 2030 objective	Priority	Strategic Ambition	Key Milestones	Date	BH Lead and additional resources	Q1 Update
Corporate Priorities						
Healthy Barnsley	Ensure we have resources to deliver our strategic plan and provide value for money		1) Implement restructure across organisation. 2) Review of Admin teams, PMO's and IT. 3) Review success of restructure.	1) April 2023 2) July 2023 3) March 2024	Executive Management Team.	30/6 company restructure in place - complete 30/6 Admin and PMO review complete. IT review to be undertaken by end of December 23.
	Cost of living- minimising hardships for staff and tenants	Hearing Tenants	1) Deliver BH Hardship Fund and evaluate impact.	1) Dec-23	Executive Management Team.	30/6 23/24 fund in place (£500k). Cost of Living Champion role out to advert closing 9/6/23. Monitoring and evaluation underway.
Growing Barnsley	Maximising Income.	Growth	1) Working in partnership with BMBC looking at Service Charges 2) De-pooling of rents 3) Maximising income for Construction	Throughout 2023/24	Executive Management Team.	30/6 Service Charge Review led by Council. Scope agreed. HQN appointed and review commenced.
Healthy Barnsley	Customers voices are heard in our Governance arrangements.	Hearing Tenants	1) Develop overall approach for Board to hear the tenants voice – using best practice. 2) Ensure Board have ownership of the trends from complaints and learn from customer journey mapping. 3) Board use opportunities to meet and discuss services with tenants. 4) Board set the culture and develop culture changes for all staff.	1) October 2023 2) April 2023 3) October 2023 4) October 2023	Executive Director Corporate Services. Board Champion	30/6 Work has commenced in this area including Away day arranged to discuss Sept 23 with TPAS, voids and estate tour for Board members, tenants voice included in all Board and Committee reports. 30/6 Complaints deep dive and journey mapping taken place at CS Committee and regular reports and discussions held at every committee– complete . 30/6 New Board member newsletter identifying opportunities for Board to meet with staff and residents. 30/6 Away day September 23.
	Modernization of Services.	Technology and Innovation	1) Deliver Repairs IT project including Dynamic Resource scheduling.	Phase 1 April 2023 Phase 2 July/ August 2023	Executive Director of Corporate Services and One Consulting.	30/6 Delay agreed to early 2024 regular updates provided to BMBC and BH Board, as project progresses.
	Respond to new consumer regulatory standards and framework	Hearing Tenants	1) To be determined following issuing of new standards by the Regulator of Social Housing. 2) Ensure we can report on the new standards to BMBC to enable them to fulfil their landlord responsibilities.	1) Phase 1 April 2023 Phase 2 April 2023 2) April 2023	Executive Director Customer and Estate Services.	17/7 - New standards not released yet. 17/7 - HQN self assessment tool to be used and completed by 30/9/23 17/7 to complete self assessment by 30/9/23
	Embrace and embed the new professionalism standards for all Social Housing providers.	Employment and Training/ Hearing Tenants	1) Assess standards once published (core competencies v new standards). 2) Update employee specifications and PDR form in line with standards. 3) Identify and implement any training requirements including develop a management development program. 4) Undertake pilot Professional Passport in Housing Management	1-3) December 2023 (pending publication of professionalism standards) 4) June 2023	Executive Director of Corporate Services.	30/6 Professional Passport in Neighbourhood Team commencing June 2023 (Kingdom Academy)

Barnsley 2030 objective	Priority	Strategic Ambition	Key Milestones	Date	BH Lead and additional resources	Q1 Update
Learning Barnsley	Increase skills for the future and to ensure we achieve the ambitions in our Strategic Plan.	Employment and Training	1) Develop our graduate and apprentice opportunities. 2) Creative approach to opportunities and use vacancies to reassess options. 3) Obtain funding to support employment and training.	1) Mar 2024 2) Throughout 23/24 3) Dec 2023	Executive Director of Corporate Services.	30/6 ESF – Council programme linked into
Healthy Barnsley	Improve Customer Satisfaction.	Hearing Tenants	1) Learn from new call handling in-time feedback. 2) Implement new Housing Management Service Model and improvement plan with focus on professionalisation agenda.	1) Sept 2023 2) April 2023	Executive Director Customer and Estate Services.	30/6 New 'Neighbourhoods' structure implemented 1st April 2023 30/6 Modernisation plan underway and on track. Professional Passport to be undertaken by all Neighbourhoods Staff 23/24
	Increase and broaden customer engagement and feedback	Hearing Tenants	1) Develop Customer Portal. 2) Establish tenant Estate Champions as 'eyes and ears' in community. 3) Establish targeted local engagement plans.	1) 2023/24 2) June 2023 3) Dec 2023	Executive Director Customer and Estate Services.	17/7 Commenced
Growing Barnsley	Implement and embed new lettings Policy.	Growth	1) Implement New Lettings Policy. 2) Establish 1st Annual Lettings Plan. 3) Undertake VFM review of BH approach to use of hotels as Temporary Accommodation. 4) Front-door market-place approach to new Lettings Policy.	1) April 2023 2) April 2023 3) May 2023 4) August 2023	Executive Director Customer and Estate Services.	17/7 - Agreed go live date of Dec 23. Review underway
Learning Barnsley	200 tenants per annum supported to get ready for work.	Employment & Training	1) Delivery of ESF funded 'Achieve' targets and generating additional profit.	1) April to December 2023	Executive Director Customer and Estate Services.	30/6 Achieve delivery on target and achieving excellent outcomes. Due to end delivery December 2023 upon cessation of ESF funding.
Healthy Barnsley	Meeting Building safety requirement and keeping safety as our number one priority.	Keeping Tenants Safe	1) C365 software to be in place. 2) Comply with the Building Safety Act on the production and compilation of Safety cases. 3) Comply with new Fire Safety Act and ensure actions from this are implemented during 23/24 to ensure compliance.	1) December 2023 2) Throughout 2023/24 3) March 2024	Executive Director Property Services.	30/6 Successful testing ongoing. 30/6 Safety cases and action plan ready August 2023. 30/6 Buildings to be registered September 2023 30/6 Completed
Growing Barnsley	Meeting future requirements of social housing in Barnsley and exploring opportunities externally.	Growth	1) Work with the council on the future of council housing - new build and acquisition during 2023/24.	1) During 2023/24	Executive Director Property Services.	AG liaising with NC to see how we can build new homes.
Healthy Barnsley	Data Quality - ensuring we have up to date and accurate data including our stock conditions, health and safety including damp and mould and tenants vulnerability.	Keeping Tenants Safe	1) Review of current data held. 2) Action Plan to collect data, to ensure accurate and up to date. 3) Collecting appropriate data to increase the accuracy of data held. 4) Arrangements in place to ensure this continues to be accurate and up to date.	1) April 2023 2) May 2023 3) Throughout 2023	Executive Management Team Lead	30/6 Complete 30/6 Knowing our customers project underway

Barnsley 2030 objective	Priority	Strategic Ambition	Key Milestones	Date	BH Lead and additional resources	Q1 Update
Sustainable Barnsley	Installation of renewable technology, carbon reduction initiatives across the stock and business.	Zero carbon	1) Deliver 1000 solar PV working with BMBC and Energise Barnsley. 2) Use SHDF for fabric first improvements 3) Develop plan for EPC C by 2030. 4) Reskill sessions for existing staff for retrofit opportunities.	1) January 2024 2) March 2024 3) March 2024 4) March 2024	Executive Director Property Services.	30/6 Ongoing consultation between BH/BMBC/EB Ltd. Indicative project start date Sept 2023 30/6 SHDF Wave 1 (approx. 90 properties) and 2.1 (approx. 150 properties) to delivering fabric first “retrofit” improvements 30/6 EPC C retrofit kickstart BH/BMBC cabinet report developed to agree approach – project pilot via PRIP in year 1 30/6 Upskilling of team. Retrofit awareness, adviser and assessor training/qualifications currently being undertaken
	Supporting Barnsley and the wider economy and supporting the move to zero carbon.	Zero carbon	1) Develop Fleet vehicle EV Plan. 2) Construction Services successfully accredited to PAS 2030.	1) April 2024 2) July 2023	1) Depot and transport Manager 2) CS Head of Operations	30/6 Reviewing our plans around new BMBC active travel strategy and charging infrastructure, as well as zero emissions vehicles. This will also include suitability of depot charging facilities. 30/6 Update accreditation application submitted Pilot schemes in progress to contribute to learning and development of being accredited to PAS2030
Healthy Barnsley	Modernisation of Construction Services.	Technology and Innovation	1) Embedding of Dynamic Resource Scheduling system to improve efficiencies within Construction Services. 2) New Business Plan for Construction Services to ensure continuous improvement and the development of proposals from this.	1) January 2024 – June 2024 2) Plan by April 2023 – development throughout 2023/24	1) Managing Director Construction Services. 2) Managing Director Construction Services and External specialist input into plan.	30/6 Date changed due to Go live date delayed and reflects 6 month embedding process as per original business case. 30/6 At board for approval Sept 23. Following approval this document will hold all of CS and its corporate strategic priorities
Growing Barnsley	Growth of Construction Services.	Growth	1) Construction Services to provide maintenance of PV systems on behalf of Energise Barnsley. 2) Develop and upskill CS to be able to deliver plans around EPC C	1) March 2024 2) March 2024	1) Head of Operations 2) Head of Operations	30/6 Contract in place and works started, looking at other works through Energise Barnsley 30/6 CS HOS working with all stakeholders to ensure CS are able to deliver works.
Healthy Barnsley	Supporting Barnsley voluntary organisations.	Hearing customers	1) Achieving the Social Value targets in PRIP to spend locally and provide training and employment opportunities	1) Throughout 2023/24	Managing Director Construction Services.	30/6 Monitored throughout the year on a quarterly basis and at year end full report to PRIP core group

Barnsley 2030 objective	Priority	Strategic Ambition	Key Milestones	Date	BH Lead and additional resources	Q1 Update
Healthy Barnsley	Enforcing a proactive approach to damp and mould.	Keeping Tenants Safe	<ul style="list-style-type: none"> 1) Policy Review – Write & Implement a new Policy. 2) Systems (NEC) – Implementation. 3) Comms – New Website Launch / review letters & leaflets / Social Media Campaign. 4) Approach – Move from reactive to proactive. 5) Delivery – Utilise external specialists. 6) Training – Tenants / Front Line Staff / Specialist MSI. 	<ul style="list-style-type: none"> 1) April 2023 2) April 2023 3) March 2023 4) March 2023 5) April 2023 6) April 2023 	Executive Director Property Services.	<ul style="list-style-type: none"> 30/6 Complete 30/6 Revised date of Jan 2024 30/6 Complete 30/6 Action plan being worked through with task group 30/6 Qest contract finalised. External consultants being utilised as required. 30/6 Ongoing via HQN



Creating great homes and communities
with the people of Barnsley

Report Title	Disrepair – Annual Update	Confidential	No
Report Author	Arturo Gulla Executive Director of Property Services	Report Status	For Information
Report To	Board 28/9/2023	Officer Contact Details	ArturoGulla@berneslaihomes.co.uk

<h2>1. Executive Summary</h2>	<p><u>Disrepair</u></p> <p>Berneslai Homes have a duty to comply with the Regulator of Social Housing (RSH) Consumer Standards and follow statutory legislation relating to disrepair including:</p> <ul style="list-style-type: none"> - Landlord and Tenant Act 1985 - Defective Premises Act 1972 - Environmental Protection Act 1990 - Homes (Fitness for Human Habitation) Act 2018 <p>The Disrepair Pre-action protocol allows Berneslai Homes to effectively manage litigation claims.</p> <p><u>Current Position</u></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="3">Disrepair Claims (Calendar Years)</th> </tr> <tr> <th>Year</th> <th>Unit Number</th> <th>Settlement Costs</th> </tr> </thead> <tbody> <tr> <td>2020</td> <td>22</td> <td>£109,670.90</td> </tr> <tr> <td>2021</td> <td>19</td> <td>£152,725.16</td> </tr> <tr> <td>2022</td> <td>58</td> <td>£122,383.03</td> </tr> <tr> <td>2023 (to date)</td> <td>48</td> <td>£18,314.00</td> </tr> <tr> <td>Total</td> <td>147</td> <td>£403,093.09</td> </tr> </tbody> </table> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th colspan="2">Ongoing (Live) Claims</th> </tr> </thead> <tbody> <tr> <td>2020</td> <td>0</td> </tr> <tr> <td>2021</td> <td>2</td> </tr> <tr> <td>2022</td> <td>17</td> </tr> <tr> <td>2023</td> <td>39</td> </tr> <tr> <td>Total</td> <td>58</td> </tr> </tbody> </table> <p><u>Main disrepair reasons</u></p>	Disrepair Claims (Calendar Years)			Year	Unit Number	Settlement Costs	2020	22	£109,670.90	2021	19	£152,725.16	2022	58	£122,383.03	2023 (to date)	48	£18,314.00	Total	147	£403,093.09	Ongoing (Live) Claims		2020	0	2021	2	2022	17	2023	39	Total	58
Disrepair Claims (Calendar Years)																																		
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Total	58																																	

	<ol style="list-style-type: none"> 1. Damp and mould 2. Ill-fitting doors and windows 3. Inadequate / broken heating 4. Cracks / holes / damaged plaster / leaks 5. Lack of extractor fans <p><u>Improvement actions</u></p> <ul style="list-style-type: none"> • Recruit a dedicated Damp, Mould & Disrepair Team • Ongoing workshops with BMBC & Kennedys Legal • Robust awareness Training for Staff • Implementation of a dedicated Disrepair Policy • Effective tracking of agreed repairs through to completion
2. Recommendation/s	Board note the current disrepair position.

3. **Background**

Housing Disrepair Overview

3.1 Housing disrepair is where the Landlord's obligations have failed to keep in repair the structure and exterior of the property, and proper working order of the installations in the dwelling for the supply of water, gas, electricity, sanitation; space heating and heating water during the tenancy in order for it to be safe and suitable for tenants to live in.

3.2 Where repairs or works are needed and the landlord fails to carry out the work within a reasonable amount of time after the issues are reported, this could be considered housing disrepair.

Landlords cannot be liable unless they have been given notice of the defects.

3.3 A high quality repairs service is a key element in the provision of good quality rented housing. It is an essential element in achieving high levels of tenant satisfaction, improving the landlord and tenant relationship and protecting health & safety.

3.4 A poor repairs service increases the scope for legal action being brought by tenants which diverts resources away from housing management, maintenance and improvement works. The provision of a responsive well managed housing service depends on the interrelationship between four main areas:

- The Stock
- Tenants
- Staff
- Resources

3.5 Our vision is: Creating great homes and communities with the people of Barnsley.

Housing disrepair cases are a good indicator of how Berneslai Homes are performing against this vision and it is imperative we continue to focus and improve in this crucial area.

- 3.6 Many solicitors' practices are now targeting council and housing association properties in a similar way to PPI claims.

Methods used are targeted utilising radio adverts, telephone calls and most predominantly using 'door knockers' to identify properties with poor external appearance as this is often symptomatic of further issues internally.

Tenants are advised that they are entitled to compensation for repairs that have not been completed satisfactorily or are outstanding, and with the current cost of living crisis, the sector is seeing an influx in claims as a result of this practice. They are not always advised that they can report repairs themselves and BH will do them, but are often led to believe that they will get compensation if repairs have not been completed and are advised not to allow access to complete the repairs until the claim is settled.

Often these repairs have not been reported to us.

Once tenants sign the solicitors paperwork, they can be responsible for paying solicitors fees if the claim fails.

4. **Current Position**

Disrepair Claims

- 4.1 Barnsley Metropolitan Borough Council to date this year (calendar) have received 48 disrepair claims from 20 different solicitors.

There have been a total of 147 disrepair claims received since January 2020 and the trend shows claims are on the increase every year with over £400k paid out in settlement costs during this period from the HRA, excluding solicitor and staff costs involved in the process.

Disrepair Claims (Calendar Years)		
Year	Unit Number	Settlement Costs
2020	22	£109,670.90
2021	19	£152,725.16
2022	58	£122,383.03
2023 (to date)	48	£18,314.00
	147	£403,093.09

- 4.2 There are currently 58 'live claims', some dating back to 2021 which are ongoing between solicitors, 39 of those being from 2023.

Ongoing (Live) Claims	
2020	0
2021	2
2022	17
2023	39
	58

- 4.3 The top 5 categories of disrepair claims related to the following works:

1. Damp and mould
2. Ill-fitting doors and windows
3. Inadequate / broken heating
4. Cracks / holes / damaged plaster / leaks
5. Lack of extractor fans

We are also seeing an increase in personal injury claims disrepair such as exacerbation of asthma, dermatitis, eczema, skin conditions, anxiety and depression all related to the disrepair.

- 4.4 The top category of disrepair claim relates to Damp & Mould. This is a common claim as causes and remedial work is complex and requires good interaction with tenants. In order to defend and resolve claims, it is very important that accurate and upto date property information and data is available.
- 4.5 A number of recent claims have been settled with reduced offers of compensation and we have some which have been totally withdrawn when tenants have been visited by our teams.
- 4.6 Disrepair claims will increase and are prevalent across the country with London Boroughs currently receiving around 30 per month. Nationally disrepair claims are on the increase. Recent discussions with nearby local authorities show their current 'live claims':
- Rotherham Metropolitan Borough Council – 35 (Since April 2023)
 - Sheffield City Council – 1970 (increased from 117 in 2018)

Disrepair Process

- 4.7 Once the letter of claim is received by BMBC, we are notified and follow the Pre-Action Protocol (**appended**) to visit properties and try to gain access to carry out repairs as quickly as possible once a claim is received.

Key documentation such as the house file, tenancy agreement, repairs history, rent arrears and any other relevant information are collated and sent to Kennedys legal who then respond to the claimants solicitor within 20 working days to agree a joint site visit (Joint expert witness visit).

This visit must take place within 20 working days of a response.

The claimant solicitors surveyor will meet ours on site to investigate the items of disrepair to substantiate / dispute the claims, and will then agree a Scott Schedule (**appended**) which has to be submitted within 10 working days of the inspection.

Kennedys legal then use this information to review the repairs, notice we have received and the quantum of the issues which is reported back to BMBC to allow them to settle or reject the claim.

Decisions are made as to whether the issues are contributed to by the tenants, or whether there are genuine defects within the property that we were aware of but failed to put right.

Common defects include extractor fans either not being present, not working or turned off by tenants. If extractor fans are turned off then tenants are contributing to the disrepair so the claim can be disputed.

We then have 90 working days (unless stipulated otherwise in the agreed settlement) to action and complete the agreed repairs.

- 4.8 Disrepair claims require communication across a number of services within Berneslai Homes and Barnsley Metropolitan Borough Council to coordinate responses with Property Services managing the inspection and actioning remedial repairs in a timely manner, to Neighbourhood Teams ensuring tenants are able to manage their tenancies and supporting them with their responsibilities for looking after the property needs to run alongside defending claims.

Improvement Actions

- 4.9 Recent workshops have taken place with BMBC and Kennedys Legal to review our current position, key areas of risk we have and current and future challenges to improve our approach to disrepair.
- 4.10 The following actions have been agreed with SMT/EMT and are ongoing:
- Recruit a dedicated Damp, Mould & Disrepair Team
 - Ongoing workshops with BMBC & Kennedys Legal
 - Robust awareness Training for Staff
 - Implementation of a dedicated Disrepair Policy
 - Effective tracking of agreed repairs through to completion

5. Customer Voice/Impact

- 5.1 Tenants will be consulted on and will feed into our new Disrepair Policy. This will also cover a review of current communications we publish via social media platforms, on our website and via letter to promote reporting repairs, allowing access to complete repairs and ensure they are fully aware of the process and risks involved in allowing these firms into their homes to initiate a money driven process which could impact them financially.

6. Risk

- 6.1 Following the tragic incident in Rochdale where Awaab Ishaac sadly lost his life due to damp & mould, disrepair and damp and mould is in the news every day. The Government have released new guidance for the housing sector and we anticipate new target timescales to follow through the new Decent Homes 2 Standards next year.

This will put more strain on resources.

Legal costs for tenants Solicitors are not fixed; by way of background a claim for personal injuries under £25k attracts fixed costs whereas a disrepair claim for repairs can attract hourly rate costs. The Government was due to consider fixing costs in disrepair claims, but that has been postponed for review for another 2 years. This makes it attractive for firms doing bulk litigation to look at this area and increases the risk of a continual influx in disrepair claims in the sector.

- 6.2 The influx of disrepair claims brings with it financial implications in the form of settlement fees. This is a risk to the HRA which is already under pressure.
- 6.3 An influx of disrepair claims could have reputational damage and Housing Ombudsman and Regulator of Social Housing involvement if we were to be in breach of regulatory standards and legislation.

7. Strategic Alignment

- 7.1 In line with Barnsley 2030, disrepair claims are a good indicator of how we communicate with and listen to our tenants to ensure we comply with legislation and keep them safe in their homes.

8. Data Privacy

- 8.1 There are data sharing agreements in place with BMBC, BH & Kennedys Legal to allow the effective management of disrepair claims.

9. Consumer Regulatory Standards

- 9.1 Disrepair falls under the current RSH Homes Standard and the following underpinning legislation applies which is appended in detail. Disrepair will be strengthened by the new Consumer Standards (Safety & Quality Standard).

10. Other Statutory/Regulatory Compliance (**appended** in detail)

- 10.1 The following legislation applies:

- s.11 Landlord and Tenant Act 1985 - Repairing obligations
- s.4 Defective Premises Act 1972 - Landlord's duty of care
- Environmental Protection Act 1990
- Homes (Fitness for Human Habitation) Act 2018
- Housing Ombudsman Best Practice Guidance

11. Financial

- 11.1 The influx of disrepair claims brings with it financial implications in the form of settlement fees. This is a risk to the HRA which is already under pressure. Since 2020, £403,093 has been paid out in settlement payments which could have been spent on other essential services.

12. Human Resources and Equality, Diversity and Inclusion

- 12.1 An Equality Impact Assessment will be carried out for the new Disrepair Policy.

13. Sustainability Implications

N/A

14. Associated Background Papers

N/A

15. Appendices

Appendix A - Pre-Action Protocol [Document in D Time Resources](#)

Appendix B – BMBC’s Disrepair Flowchart [Document in D Time Resources](#)

Appendix C - Scott Schedule Example [Document in D Time Resources](#)

Appendix D - Training Presentation (via Kennedys Legal) [Document in D Time Resources](#)

16. Glossary

HRA Housing Revenue Account

BMBC – Barnsley Metropolitan Borough Council

BH – Berneslai Homes

SMT – Senior Management Team

EMT – Executive Management Team

**PRE-ACTION PROTOCOL FOR POSSESSION CLAIMS BY SOCIAL LANDLORDS
AND
PRE-ACTION PROTOCOL FOR HOUSING DISREPAIR CASES**

The Master of the Rolls as Head of Civil Justice approves—

- the substitution for the Pre-Action Protocol for Housing Disrepair Cases of the Pre-Action Protocol for Housing Condition Cases (England); and the Pre-Action Protocol for Housing Disrepair Cases (Wales); and
- the substitution for the Pre-Action Protocol for Possession Claims by Social Landlords of a new Pre-Action Protocol for Possession Claims by Social Landlords, as set out in this Update.

The new Pre-Action Protocols come into force on 13th January 2020.

Signed by:

The Right Honourable Sir Terence Etherton
Master of the Rolls and Head of Civil Justice

Date: 20 December 2019

SUBSTITUTION FOR THE PRE-ACTION PROTOCOL FOR HOUSING DISREPAIR CASES OF THE PRE-ACTION PROTOCOL FOR HOUSING CONDITION CASES (ENGLAND) AND THE PRE-ACTION PROTOCOL FOR HOUSING DISREPAIR CASES (WALES)

- 1) The Pre-Action Protocol for Housing Disrepair Cases ceases to apply in relation to England, and the new Pre-Action Protocol for Housing Disrepair Cases (England) set out in Schedule 1 to this Update applies instead.
- 2) The Pre-Action Protocol for Housing Disrepair Cases ceases to apply in relation to Wales, and the new Pre-Action Protocol for Housing Disrepair Cases (Wales) set out in Schedule 2 to this Update applies instead.

NEW PRE-ACTION PROTOCOL FOR POSSESSION CLAIMS BY SOCIAL LANDLORDS

- 1) For the Pre-Action Protocol for Possession Claims by Social Landlords, substitute the Pre-Action Protocol for Possession Claims by Social Landlords set out in Schedule 3 to this Update.

SCHEDULE 1

PRE-ACTION PROTOCOL FOR HOUSING CONDITION CASES (ENGLAND)*

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****This Protocol was previously the Pre-Action Protocol for Housing Disrepair Cases. It has been revised to embrace claims based on the new section 9A in Landlord and Tenant Act 1985 (implied term as to fitness for human habitation) which applies only in England. Accordingly, the Protocol itself now applies only to claims made in England.***

1 INTRODUCTION

1.1 This Protocol applies to residential property situated in England. It relates to claims by tenants and others in respect of poor housing conditions. Before using the Protocol, tenants should ensure that their landlord is aware of those conditions. The Protocol is intended for those cases where, despite the landlord's knowledge of the poor conditions, matters remain unresolved.

1.2 This Protocol describes the conduct that the court will normally expect prospective parties in a housing conditions claim to engage in, prior to the start of proceedings. It is intended to encourage the exchange of information between parties at an early stage and to provide a clear framework within which parties in a housing conditions claim can attempt to achieve an early and appropriate resolution of the issues.

1.3 If a claim proceeds to litigation, the court will expect all parties to have complied with the Protocol as far as possible. The court has power to order parties who have unreasonably failed to comply with the Protocol to pay costs or to be subject to other sanctions.

2 AIMS

2.1 The aims of this Protocol are to—

- (a) avoid unnecessary litigation;
- (b) promote the speedy and appropriate carrying out of any remedial works which are the landlord's responsibility;
- (c) ensure that tenants receive any compensation to which they are entitled as speedily as possible;
- (d) promote good pre-litigation practice, including the early exchange of information;
- (e) give guidance about the instruction of experts; and
- (f) keep the costs of resolving disputes down.

3 THE SCOPE OF THE PROTOCOL

3.1 A housing conditions claim is a civil claim arising from the condition of residential premises and may include a related personal injury claim (see 3.5 below). Although most claims are brought by a tenant against their landlord, this Protocol is

not limited to such claims. It covers claims by any person with a housing conditions claim including tenants, lessees and members of the tenant's family. The use of the word “tenant” in this Protocol is intended to cover all such people.

3.2 The types of claim which this Protocol is intended to cover include those brought under sections 9A and/or 11 of the Landlord and Tenant Act 1985, section 4 of the Defective Premises Act 1972, common law nuisance and negligence, and those brought under the express or implied terms of a tenancy agreement or lease. It does not cover claims brought under section 82 of the Environmental Protection Act 1990 (which are heard in the Magistrates' Court).

3.3 This Protocol does not cover housing conditions claims which originate as counterclaims or set-offs in other proceedings i.e. where the tenant is seeking to have the compensation due for adverse housing conditions set against money claimed by the landlord (typically in a possession claim for rent arrears). In such cases, the landlord and tenant will still be expected to act reasonably in exchanging information and trying to settle the case at an early stage.

3.4 The Protocol should be followed in all cases, whatever the value of the damages claim.

3.5 Housing conditions claims may contain a personal injury element. If the personal injury claim requires expert evidence other than a General Practitioner's letter, the *Personal Injury Pre-Action Protocol* should be followed for that element of the housing conditions claim. If the personal injury claim is of a minor nature, and will only be evidenced by a General Practitioner's letter, it is not necessary to follow the *Personal Injury Pre-Action Protocol*. If the situation is urgent, it would be reasonable to pursue separate housing conditions and personal injury claims, which could then be case managed together or consolidated at a later date.

THE PROTOCOL

4 Alternative dispute resolution

4.1 The parties should consider whether some form of alternative dispute resolution (ADR) procedure would be more suitable than litigation and if so, try to agree which form of ADR to use. Both the landlord and the tenant may be required by the court to provide evidence that alternative means of resolving their dispute were considered.

The courts take the view that litigation should be a last resort, and that claims should not be issued while a settlement is still actively being explored. Parties should be aware that the court will take into account the extent of the parties' compliance with this Protocol when making orders about who should pay costs.

4.2 Options for resolving a dispute include the following—

(a) mediation: information about mediation can be found at <http://www.civilmediation.org/contact.php>

(b) for council tenants—

- The council's own complaints and/or arbitration procedures.

- The *Right to Repair Scheme*. The scheme is only suitable for small, urgent repairs of less than £250 in value. Information about the scheme in England can be obtained from the Ministry for Housing, Communities and Local Government <https://www.gov.uk/repair-council-property>
- The Housing Ombudsman Service deals with complaints from council tenants in England about housing conditions <http://www.housing-ombudsman.org.uk/>

(c) for housing association tenants and for tenants of other social landlords—

- Any complaints/arbitration procedure operated by the landlord.
- The Housing Ombudsman Service deals with complaints from tenants of social housing in England about housing conditions <http://www.housing-ombudsman.org.uk/>

(d) for private tenants, the landlord, the letting agent or the property manager may be a member of a redress scheme enabling unresolved complaints about housing conditions to be independently resolved.

Information about repair rights generally is available at http://england.shelter.org.uk/get_advice/repairs_and_bad_conditions

and at

<https://www.citizensadvice.org.uk/housing/repairs-in-rented-housing/>

Private sector landlords and tenants in England can find out more about their respective rights and responsibilities for housing conditions from the UK Government's publication *Landlord and tenant rights and responsibilities in the private rented sector* (April 2019)

<https://www.gov.uk/government/publications/landlord-and-tenant-rights-and-responsibilities-in-the-private-rented-sector>

Social housing landlords and tenants may be assisted by the UK Government's guidance in *Good Practice Guidance on Housing Disrepair Legal Obligations* (January 2002).

<http://www.communities.gov.uk/publications/housing/deliveringhousingadaptations2>

5 Tenant's Letter of Claim

5.1 It is recognised that cases about housing conditions can range from straightforward to highly complex, and that it is not always possible to obtain

detailed information at an early stage. In order to avoid unnecessary delay and to ensure that notice of the claim is given to the landlord at the earliest possible opportunity, particularly where the situation is urgent, it may be appropriate for the tenant to send a letter notifying the landlord of the claim before a detailed Letter of Claim is sent.

5.2 The tenant should send to the landlord a Letter of Claim at the earliest reasonable opportunity. A specimen Letter of Claim is at Annex A. The letter may be suitably adapted as appropriate. The Letter of Claim should contain the following details—

- (a) the tenant's name, the address of the property, the tenant's address if different, the tenant's telephone number and when access is available;
- (b) details of the defects, including any defects outstanding, in the form of a schedule, if appropriate (See Annex C for a specimen schedule of conditions which can be used to inform the landlord of the defects);
- (c) history of the defects, including any attempts to rectify them;
- (d) details of any notification previously given to the landlord of the poor housing conditions or information as to why the tenant believes that the landlord has knowledge of those conditions;
- (e) the effect of the defects on the tenant (including any personal injury claim by the tenant);
- (f) the identities of all other persons who plan to make a personal injury claim and brief details of their personal injury claims;
- (g) the details of any special damages (see the form at Annex D);
- (h) the proposed expert (see paragraph 7);
- (i) the proposed letter of instruction to the expert (see Annex B); and
- (j) relevant documents disclosed by the tenant.

5.3 The Letter of Claim should also request disclosure from the landlord of all documents relevant to the poor housing conditions including—

- (a) a copy of the tenancy agreement including the tenancy conditions;
- (b) the tenancy file;
- (c) any documents relating to notice of poor housing conditions given, including copies of any notes of meetings and oral discussions;
- (d) any inspection reports or documents relating to works required to the property; and
- (e) any computerised records.

5.4 Documents relating to rent arrears or other tenancy issues will not normally be relevant. Nothing in the Protocol restricts the right of the tenant to look personally at their file or to request a copy of the whole file. Neither is the landlord prevented from sending to the tenant a copy of the whole file, should the landlord wish.

5.5 A copy of the Protocol should be sent to the landlord if the tenant has reason to believe that the landlord will not have access to the Protocol e.g. because the landlord is an individual or small organisation. If in doubt, a copy should be sent.

6 Landlord's Response

6.1 Where a landlord is not an individual, a person should be designated to act as a point of contact for the tenant (and their solicitor, if one is involved). The designated person's name and contact details should be sent to the tenant and their solicitor as soon as possible after the landlord receives the Letter of Claim from the tenant.

6.2 The landlord should normally reply to the Letter of Claim within 20 working days of receipt. Receipt is deemed to have taken place two days after the date of the letter. The landlord's response should include at least the following—

- (a) copies of all relevant records or documents requested by the tenant; and
- (b) a response to the tenant's proposals for instructing an expert including—
 - i. whether or not the proposed single joint expert is agreed;
 - ii. whether the letter of instruction is agreed;
 - iii. if the single joint expert is agreed but with separate instructions, a copy of the letter of instruction; and
 - iv. if the appointment of a single joint expert is not agreed, whether the landlord agrees to a joint inspection.

6.3 The landlord must also provide a response dealing with the issues set out below, as appropriate. This can be provided either within the response to the Letter of Claim or within 20 working days of receipt of the report of the single joint expert or receipt of the experts' agreed schedule following a joint inspection—

- (a) whether liability is admitted and, if so, in respect of which defects;
- (b) if liability is disputed in respect of some or all of the defects, the reasons for this;
- (c) any point which the landlord wishes to make regarding lack of notice of the defects or any difficulty in gaining access;
- (d) a full schedule of intended works, including anticipated start and completion dates and a timetable for the works;
- (e) any offer of compensation; and
- (f) any offer in respect of costs.

6.4 Failure to respond within 20 working days of receipt of the Letter of Claim or at all, is a breach of the Protocol (see paragraph 1.3) and the tenant is then free to issue proceedings.

6.5 The Letter of Claim and the landlord's response are not intended to have the same status as a statement of case in court proceedings. Matters may come to light

subsequently which mean that the case of one or both parties may be presented differently in court proceedings. Parties should not seek to take advantage of such discrepancies, provided that there was no intention to mislead.

7 Experts

General

7.1 (a) Parties are reminded that the Civil Procedure Rules provide that expert evidence should be restricted to that which is necessary and that the court's permission is required to use an expert's report. The court may limit the amount of experts' fees and expenses recoverable from another party.

(b) When instructing an expert, the parties must have regard to CPR 35, CPR Practice Direction 35 and the *Guidance for the Instruction of Experts in Civil Claims* (2014) <https://www.judiciary.uk/wp-content/uploads/2014/08/experts-guidance-cjc-aug-2014-amended-dec-8.pdf>

(c) In some cases, it might not be necessary to instruct an expert to provide evidence of the housing conditions, for example, if the only issue relates to the level of any damages claimed. It may be advisable for tenants to take photographs or video footage of any defects before and after works.

(d) The expert should be instructed to report on all adverse housing conditions which the landlord ought reasonably to know about, or which the expert ought reasonably to report on. The expert should be asked to provide a schedule of works, an estimate of the costs of those works, and to list any urgent works.

Single Joint Expert

7.2 (a) If the landlord does not raise an objection to the proposed expert or letter of instruction within 20 working days of receipt of the Letter of Claim, the expert should be instructed as a single joint expert, using the tenant's proposed letter of instruction. (See Annex B for a specimen letter of instruction to an expert.)

(b) Alternatively, if the parties cannot agree joint instructions, the landlord and tenant should send their own separate instructions to the single joint expert. If sending separate instructions, the landlord should send the tenant a copy of the landlord's letter of instruction with their response to the Letter of Claim.

Joint Inspection

7.3 (a) If it is not possible to reach agreement to instruct a single joint expert, even with separate instructions, the parties should attempt to arrange a joint inspection, meaning an inspection by different experts instructed by each party to take place at the same time. If the landlord wishes their own expert to attend a joint inspection, they should inform both the tenant's expert and the tenant's solicitor.

(b) Should a case come before the court, it will be for the court to decide whether the parties have acted reasonably in instructing separate experts and whether the costs of more than one expert should be recoverable.

Time Limits

7.4 (a) Whether a single joint expert or a joint inspection is used, the property should be inspected within 20 working days of the date that the landlord responds to the tenant's Letter of Claim.

(b) If a single joint expert is instructed, a copy of the expert's report should be sent to both the landlord and the tenant within 10 working days of the inspection. Either party can ask relevant questions of the expert who should send the answers to both parties.

(c) If there is a joint inspection, the experts should produce an agreed schedule of works detailing–

i. the defects and required works which are agreed and a timetable for the agreed works; and

ii. the areas of disagreement and the reasons for disagreement.

(d) The agreed schedule should be sent to both the landlord and the tenant within 10 working days of the joint inspection.

Urgent Cases

7.5 The Protocol does not prevent a tenant from instructing an expert at an earlier stage if this is considered necessary for reasons of urgency. Appropriate cases may include–

(a) where the tenant reasonably considers that there is a significant risk to health and safety;

(b) where the tenant is seeking an interim injunction; or

(c) where it is necessary to preserve evidence.

Access

7.6 Tenants must allow the landlord reasonable access for inspection and the carrying out of works in accordance with the tenancy agreement. The landlord should give reasonable notice of the need for access, except in the case of an emergency. The landlord must give access to common parts as appropriate, for example, for the inspection of a shared heating system. If the tenant is no longer in occupation of the premises, the landlord should take all reasonable steps to give access to the tenant for the purpose of an inspection.

Expert's fees

7.7 (a) Experts' terms of appointment should be agreed at the outset, including the basis of charging and time for delivery of the report.

(b) If a single joint expert is instructed, each party will pay one half of the cost of their inspection and report.

(c) If separate experts are instructed, each party will pay the full cost of the inspection and report by their own expert.

7.8 Information about independent experts can be obtained from—

(a) The Chartered Institute of Environmental Health, Consultants Directory
<http://www.ehn-online.com/consultantsdirectory/consultants.aspx?cdid=5548>

(b) The Royal Institution of Chartered Surveyors' *Find a Surveyor*
<https://www.ricsfirms.com/>

(c) The Expert Witness Directory (2015)
<https://www.sweetandmaxwell.co.uk/our-businesses/directories.aspx>

Taking stock

8 Where the procedure set out in this Protocol has not resolved the dispute between the landlord and the tenant, they should undertake a review of their respective positions to see if proceedings can be avoided and, at the least, to narrow the issues between them.

Time limits

9 (a) The time scales given in the Protocol are long stops and every attempt should be made to comply with the Protocol as soon as possible. If parties are able to comply earlier than the time scales provided, they should do so.

(b) Time limits in the Protocol may be changed by agreement. However, it should always be borne in mind that the court will expect an explanation as to why the Protocol has not been followed or has been varied and breaches of the Protocol may lead to costs or other orders being made by the court.

Limitation period

10 (a) There are statutory time limits for starting proceedings ('the limitation period'). If a tenant starts a claim after the limitation period applicable to that type of claim has expired, the landlord will be entitled to use that as a defence to the claim. In cases where the limitation period is about to expire, the tenant should ask the landlord to agree not to rely on a limitation defence, so that the parties can comply with the Protocol.

(b) If proceedings have to be started before the parties have complied with the Protocol, they should apply to the court for an order to stay (i.e. suspend) the proceedings until the steps under the Protocol have been completed.

Costs

11 If the tenant's claim is settled without litigation on terms which justify bringing it, the landlord will pay the tenant's reasonable costs. The Statement of Costs Form N260 can be used to inform the landlord of the costs of the claim.

<https://www.gov.uk/government/publications/form-n260-statement-of-costs-summary-assessment>

ANNEXES

12 The following documents are annexed to this pre-action protocol—

Annex A

Letter of Claim

- (a) for use by a solicitor; and
- (b) for use by the tenant.

Annex B

Letter of Instruction to Expert

- (a) for use by a solicitor, and
- (b) for use by the tenant.

Annex C

Schedule of Conditions

Annex D

Special Damages Form

ANNEX A - LETTER OF CLAIM

(a) Letter from tenant's solicitor to landlord

Dear Sirs,

RE: (TENANT'S NAME AND ADDRESS OF PROPERTY)

We are instructed by your above-named tenant. (Where the tenant has legal aid or is a party to a conditional fee agreement entered into before 1 April 2013 insert a sentence stating how their case is being funded.) We are using the *Pre-Action Protocol for Housing Conditions Claims - England*. We enclose a copy of the Protocol for your information.*

Housing Conditions

Your tenant complains of the following defects at the property (set out nature of defects).

We enclose a schedule of conditions which sets out the defects in each room.*

The history is as follows: (set out history of defects)

You received notice of the defects as follows: (list details of notice relied on).

The defects at the property are causing (set out the effects of the defects on the client and their family, including any personal injury element. Specify if there will be any additional claimants).

Please arrange to inspect the property as soon as possible. Access will be available on the following dates and times: (list dates and times as appropriate)

Please confirm whether you intend to carry out remedial works at this stage or whether you wish to wait until the property has been inspected by the expert(s) as set out below.

If you intend to carry out works at this stage, please set out a full schedule of intended works including anticipated start and completion dates and a timetable for the works

Disclosure

Please also provide within 20 working days of this letter the following:

All relevant records or documents including:

- (i) a copy of the tenancy agreement including the tenancy conditions;
- (ii) the tenancy file;
- (iii) documents relating to notice of defects given, including copies of any notes of meetings and oral discussions;

(iv) inspection reports or documents relating to works required to the property; and

(iv) relevant computerised records

We enclose a signed authority from our client for you to release this information to us.

We also enclose copies of the following relevant documents from our client: (set out list)

Expert

If agreement is not reached about the carrying out of works within 20 working days of this letter, we propose that the parties agree to jointly instruct a single joint expert (insert expert's name and address) to carry out an inspection of the property and provide a report. We enclose a copy of their CV, plus a draft letter of instruction.

Please let us know if you agree to his/her appointment. If you object, please let us know your reasons within 20 working days.

If you do not object to the expert being instructed as a single joint expert, but wish to provide your own instructions, you should send those directly to (insert expert's name) within 20 working days of this letter. Please send us a copy of your letter of instruction. If you do not agree to a single joint expert, we will instruct (insert expert's name) to inspect the property in any event. In those circumstances, if you wish to instruct your expert to attend at the same time, please let us and (insert expert's name) know within 20 working days.

Claim

We take the view that you are in breach of your obligations in respect of housing conditions. Please provide us with your proposals for compensation. (Alternatively, set out suggestions for general damages i.e. £x for x years).

Our client also requires compensation for special damages, and we attach a schedule of the special damages claimed.*

Yours faithfully,

* *Delete as appropriate*

(b) Letter from tenant (without a solicitor) to the landlord

Dear Sirs,

RE: (YOUR NAME AND ADDRESS OF PROPERTY)

I write regarding housing conditions at the above address. I am using the *Pre-Action Protocol for Housing Conditions Claims - England*.

I enclose a copy of the Protocol for your information. *

Housing Conditions

The following defects exist at the property (set out nature of defects).

I enclose a schedule of conditions which sets out the defects in each room.*

The history is as follows: (set out history of defects)

You received notice of the defects as follows: (list details of notice relied on).

The defects at the property are causing (set out the effects of the defects on you and your family, including any personal injury element. Specify if there will be any additional claimants).

Please arrange to inspect the property as soon as possible. Access will be available on the following dates and times: (list dates and times as appropriate)

Please confirm whether you intend to carry out remedial works at this stage or whether you wish to wait until the property has been inspected by the expert(s) as set out below.

If you intend to carry out works at this stage, please set out a full schedule of intended works including anticipated start and completion dates and a timetable for the works.

Disclosure

Please also provide within 20 working days of this letter all relevant records or documents including:

- (i) a copy of the tenancy agreement including the tenancy conditions;
- (ii) the tenancy file;
- (iii) documents relating to notice of defects given, including copies of any notes of meetings and oral discussions;
- (iv) inspection reports or documents relating to works required to the property; and
- (iv) relevant computerised records.

I enclose copies of the following relevant documents: (set out list)

Expert

If agreement is not reached about the carrying out of works within 20 working days of this letter, I propose that we jointly instruct a single joint expert (insert expert's name and address) to carry out an inspection of the property and provide a report. I enclose a copy of their CV, plus a draft letter of instruction. Please let me know if you agree to his/her appointment. If you object, please let me know your reasons within 20 working days.

If you do not object to the expert being instructed as a single joint expert, but wish to provide your own instructions, you should send those directly to (insert expert's name) within 20 working days of this letter. Please send me a copy of your letter of instruction. If you do not agree to a single joint expert, I will instruct (insert expert's name) to inspect the property in any event. In those circumstances, if you wish to instruct your expert to attend at the same time, please let me and (insert expert's name) know within 20 working days.

Claim

I take the view that you are in breach of your obligations relating to housing conditions. Please provide me with your proposals for compensation. (Alternatively, set out suggestions for general damages i.e. £x for x years). I also require compensation for special damages, and I attach a schedule of the special damages claimed.*

Yours faithfully,

* *Delete as appropriate*

ANNEX B: LETTER OF INSTRUCTION TO EXPERT

(a) Letter from tenant's solicitor to expert

Dear

RE: (TENANT'S NAME AND ADDRESS OF PROPERTY)

We act for the above named in connection with a housing conditions claim at the above property. We are using the *Pre-Action Protocol for Housing Conditions Claims - England*.

We enclose a copy of the Protocol for your information.*

Please carry out an inspection of the above property by (date)** and provide a report covering the following points:

- (a) whether you agree that the defects are as claimed;
- (b) whether any of the defects is structural;
- (c) the cause of the defect(s);
- (d) the age, character and prospective life of the property;
- (e) a schedule of works; and
- (f) an estimate of the costs of those works.

Access will be available on the following dates and times: (list dates and times as appropriate).

You are instructed as a single joint expert / The landlord is (landlord's name and details) / The landlord will be providing you with their own instructions direct / The landlord will contact you to confirm that their expert will attend at the same time as you to carry out a joint inspection.*

Please provide the report within 10 working days of the inspection. Please contact us immediately if there are any works which require an interim injunction.

If the case proceeds to court, the report may be used in evidence. Please ensure that the report complies with Civil Procedure Rules Practice Direction 35.3 and the *Guidance for the Instruction of Experts in Civil Claims (2014)*
<https://www.judiciary.uk/wp-content/uploads/2014/08/experts-guidance-cjc-aug-2014-amended-dec-8.pdf>

If you do not have a copy please let us know.

Insert details as to cost and payment

Yours sincerely,

* Delete as appropriate

** The date to be inserted should be 20 working days from the date of the letter

(b) Letter from tenant (without a solicitor) to expert

Dear

RE: (YOUR NAME AND ADDRESS OF PROPERTY)

I am currently in dispute with my landlord about housing conditions at the above property. I am using the *Pre-Action Protocol for Housing Conditions Claims - England*.

I enclose a copy of the Protocol for your information.*

Please carry out an inspection of the above property by (date)** and provide a report covering the following points:

- (a) whether you agree that the defects are as claimed;
- (b) whether any of the defects is structural;
- (c) the cause of the defect(s);
- (d) the age, character and prospective life of the property;
- (e) a schedule of works;
- (f) an estimate of the costs of those works.

Access will be available on the following dates and times: (list dates and times as appropriate)

You are instructed as a single joint expert / The landlord is (landlord's name and details) / The landlord will be providing you with their own instructions direct / The landlord will contact you to confirm that their expert will attend at the same time as you to carry out a joint inspection.*

Please provide the report within 10 working days of the inspection. Please contact me immediately if there are any works which require an interim injunction.

If the case proceeds to court, the report may be used in evidence. Please ensure that the report complies with Civil Procedure Rules Practice Direction 35.3 and the Guidance for the Instruction of Experts in Civil Claims (2014)

<https://www.judiciary.uk/wp-content/uploads/2014/08/experts-guidance-cjc-aug-2014-amended-dec-8.pdf> If you do not have a copy please let me know.

Insert details as to cost and payment

Yours sincerely,

* Delete as appropriate

** The date to be inserted should be 20 working days from the date of the letter

ANNEX C: SCHEDULE OF HOUSING CONDITIONS

Schedule of Conditions



housing-condition-
protocol-annex-c-sc

ANNEX D: SPECIAL DAMAGES FORM

Special Damages Form



housing-condition-
protocol-annex-d-sp

SCHEDULE 2

Pre-Action Protocol for Housing Disrepair Cases (Wales)*

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****This Protocol was previously the Pre-Action Protocol for Housing Disrepair Cases. Following its replacement for England with a new Protocoll embracing claims based on the new section 9A in Landlord and Tenant Act 1985 (implied term as to fitness for human habitation) which applies only in England, it has been revised for Wales to update certain references and make it clear that it now applies only to claims made in Wales.***

1 INTRODUCTION

1.1 This Protocol applies to residential property situated in Wales. It relates to claims by tenants and others in respect of housing disrepair. Before using the Protocol tenants should ensure that their landlord is aware of the disrepair. The Protocol is intended for those cases where, despite the landlord's knowledge of the disrepair, the matter remains unresolved.

1.2 This Protocol describes the conduct the court will normally expect prospective parties in a housing disrepair claim to follow prior to the start of proceedings. It is intended to encourage the exchange of information between parties at an early stage and to provide a clear framework within which parties in a housing disrepair claim can attempt to achieve an early and appropriate resolution of the issues.

1.3 If a claim proceeds to litigation, the court will expect all parties to have complied with the Protocol as far as possible. The court has power to order parties who have unreasonably failed to comply with the Protocol to pay costs or to be subject to other sanctions.

2 AIMS

2.1 The aims of this Protocol are to–

- (a) avoid unnecessary litigation;
- (b) promote the speedy and appropriate carrying out of any repairs which are the landlord's responsibility;
- (c) ensure that tenants receive any compensation to which they are entitled as speedily as possible;
- (d) promote good pre-litigation practice, including the early exchange of information and to give guidance about the instruction of experts; and
- (e) keep the costs of resolving disputes down.

3 THE SCOPE OF THE PROTOCOL

3.1 A disrepair claim is a civil claim arising from the condition of residential premises and may include a related personal injury claim (see 3.5 below). Although most claims are brought by a tenant against their landlord, this Protocol is not limited to such claims. It covers claims by any person with a disrepair claim including tenants, lessees and members of the tenant's family. The use of the word “tenant” in this Protocol is intended to cover all such people.

3.2 The types of claim which this Protocol is intended to cover include those brought under Section 11 of the Landlord and Tenant Act 1985, Section 4 of the Defective Premises Act 1972, common law nuisance and negligence, and those brought under the express terms of a tenancy agreement or lease. It does not cover claims brought under Section 82 of the Environmental Protection Act 1990 (which are heard in the Magistrates' Court).

3.3 This Protocol does not cover disrepair claims which originate as counterclaims or set-offs in other proceedings i.e. where the tenant is seeking to have the compensation due for disrepair set against money claimed by the landlord (typically in a possession claim for rent arrears). In such cases the landlord and tenant will still be expected to act reasonably in exchanging information and trying to settle the case at an early stage.

3.4 The Protocol should be followed in all cases, whatever the value of the damages claim.

3.5 Housing disrepair claims may contain a personal injury element. If the personal injury claim requires expert evidence other than a General Practitioner's letter, the Personal Injury Protocol should be followed for that element of the disrepair claim. If the personal injury claim is of a minor nature and will only be evidenced by a General Practitioner's letter, it is not necessary to follow the Personal Injury Protocol. If the disrepair claim is urgent, it would be reasonable to pursue separate disrepair and personal injury claims, which could then be case managed together or consolidated at a later date.

THE PROTOCOL

4 Alternative dispute resolution

4.1 The parties should consider whether some form of alternative dispute resolution procedure would be more suitable than litigation and if so, try to agree which form to use. Both the landlord and the tenant may be required by the court to provide evidence that alternative means of resolving their dispute were considered.

The courts take the view that litigation should be a last resort, and that claims should not be issued while a settlement is still actively being explored. Parties should be aware that the court will take into account the extent of the parties' compliance with this Protocol when making orders about who should pay costs.

4.2 Options for resolving a dispute include the following—

(a) mediation: information about mediation can be found at <http://www.civilmediation.org/contact.php>

(b) for council tenants—

Local authority repairs, complaints and/or arbitration procedures.

The Right to Repair Scheme. The scheme is only suitable for small, urgent repairs of less than £250 in value.

Information about the scheme in Wales can be obtained from the National Assembly for Wales, Cardiff Bay, Cardiff, CF99 1NA. Tel. 0845 010 5500

<http://www.assemblywales.org/index.htm>

The Public Services Ombudsman for Wales. Tel. 0300 790 0203

<http://www.ombudsman-wales.org.uk>

(c) for housing association tenants and for tenants of qualifying private landlords—

Any complaints procedure operated by the landlord.

The National Assembly for Wales, Cardiff Bay, Cardiff, CF99 1NA. Tel. 0845 010 5500 <http://www.assemblywales.org/index.htm>

Information about repair rights generally is available free of charge from:

<https://sheltercymru.org.uk/get-advice/repairs-and-bad-conditions/>

5 Tenant's Letter of Claim

5.1 It is recognised that disrepair cases can range from straightforward to highly complex, and that it is not always possible to obtain detailed information at an early stage. In order to avoid unnecessary delay and to ensure that notice of the claim is given to the landlord at the earliest possible opportunity, particularly where repairs are urgent, it may be appropriate for the tenant to send a letter notifying the landlord of the claim before a detailed Letter of Claim is sent.

5.2 The tenant should send to the landlord a Letter of Claim at the earliest reasonable opportunity. A specimen Letter of Claim is at Annex A. The letter may be suitably adapted as appropriate. The Letter of Claim should contain the following details—

(a) the tenant's name, the address of the property, the tenant's address if different, the tenant's telephone number and when access is available;

(b) details of the defects, including any defects outstanding, in the form of a schedule, if appropriate (See Annex C for a specimen schedule which can be used to inform the landlord of the disrepair);

- (c) history of the defects, including any attempts to rectify them;
- (d) details of any notification previously given to the landlord of the need for repair or information as to why the tenant believes that the landlord has knowledge of the need for repair;
- (e) the effect of the defects on the tenant (including any personal injury claim by the tenant);
- (f) the identities of all other persons who plan to make a personal injury claim and brief details of their personal injury claims;
- (g) the details of any special damages (see the form at Annex D);
- (h) the proposed expert(see paragraph 7);
- (i) the proposed letter of instruction to the expert (See Annex B); and
- (j) relevant documents disclosed by the tenant.

5.3 The Letter of Claim should also request disclosure from the landlord of all documents relevant to the disrepair including—

- (a) a copy of the tenancy agreement including the tenancy conditions;
- (b) the tenancy file;
- (c) any documents relating to notice of disrepair given, including copies of any notes of meetings and oral discussions;
- (d) any inspection reports or documents relating to works required to the property; and
- (e) any computerised records.

5.4 Documents relating to rent arrears or other tenancy issues will not normally be relevant. Nothing in the Protocol restricts the right of the tenant to look personally at their file or to request a copy of the whole file. Neither is the landlord prevented from sending to the tenant a copy of the whole file, should the landlord wish.

5.5 A copy of the Protocol should be sent to the landlord if the tenant has reason to believe that the landlord will not have access to the Protocol e.g. because the landlord is an individual or small organisation. If in doubt, a copy should be sent.

6 Landlord's Response

6.1 Where a landlord is not an individual, a person should be designated to act as a point of contact for the tenant (and their solicitor, if one is involved). The designated person's name and contact details should be sent to the tenant and their solicitor as soon as possible after the landlord receives the Letter of Claim from the tenant.

6.2 The landlord should normally reply to the Letter of Claim within 20 working days of receipt. Receipt is deemed to have taken place two days after the date of the letter. The landlord's response should include at least the following—

- (a) copies of all relevant records or documents requested by the tenant; and

- (b) a response to the tenant's proposals for instructing an expert including—
- i. whether or not the proposed single joint expert is agreed;
 - ii. whether the letter of instruction is agreed;
 - iii. if the single joint expert is agreed but with separate instructions, a copy of the letter of instruction; and
 - iv. if the appointment of a single joint expert is not agreed, whether the landlord agrees to a joint inspection.

6.3 The landlord must also provide a response dealing with the issues set out below, as appropriate. This can be provided either within the response to the Letter of Claim or within 20 working days of receipt of the report of the single joint expert or receipt of the experts' agreed schedule following a joint inspection—

- (a) whether liability is admitted and, if so, in respect of which defects;
- (b) if liability is disputed in respect of some or all of the defects, the reasons for this;
- (c) any point which the landlord wishes to make regarding lack of notice of the disrepair or any difficulty in gaining access;
- (d) a full schedule of intended works, including anticipated start and completion dates and a timetable for the works;
- (e) any offer of compensation; and
- (f) any offer in respect of costs.

6.4 Failure to respond within 20 working days of receipt of the Letter of Claim or at all, is a breach of the Protocol (see paragraph 1.3) and the tenant is then free to issue proceedings.

6.5 The Letter of Claim and the landlord's response are not intended to have the same status as a statement of case in court proceedings. Matters may come to light subsequently which mean that the case of one or both parties may be presented differently in court proceedings. Parties should not seek to take advantage of such discrepancies provided that there was no intention to mislead.

7 Experts

General

7.1

(a) Parties are reminded that the Civil Procedure Rules provide that expert evidence should be restricted to that which is necessary and that the court's permission is required to use an expert's report. The court may limit the amount of experts' fees and expenses recoverable from another party.

(b) When instructing an expert, the parties must have regard to CPR Practice Direction 35 and the Guidance for the Instruction of Experts in Civil Claims 2014 at <http://www.judiciary.gov.uk>.

(c) In some cases it might not be necessary to instruct an expert to provide evidence of disrepair, for example, if the only issue relates to the level of any damages claimed. It may be advisable for tenants to take photographs or video footage of any defects before and after works.

(d) The expert should be instructed to report on all items of disrepair which the landlord ought reasonably to know about, or which the expert ought reasonably to report on. The expert should be asked to provide a schedule of works, an estimate of the costs of repair, and to list any urgent works.

Single Joint Expert

7.2

(a) If the landlord does not raise an objection to the proposed expert or letter of instruction within 20 working days of receipt of the Letter of Claim, the expert should be instructed as a single joint expert, using the tenant's proposed letter of instruction. (See Annex B for a specimen letter of instruction to an expert.)

(b) Alternatively, if the parties cannot agree joint instructions, the landlord and tenant should send their own separate instructions to the single joint expert. If sending separate instructions, the landlord should send the tenant a copy of the landlord's letter of instruction with their response to the Letter of Claim.

Joint Inspection

7.3

(a) If it is not possible to reach agreement to instruct a single joint expert, even with separate instructions, the parties should attempt to arrange a joint inspection, meaning an inspection by different experts instructed by each party to take place at the same time. If the landlord wishes their own expert to attend a joint inspection, they should inform both the tenant's expert and the tenant's solicitor.

(b) Should a case come before the court, it will be for the court to decide whether the parties have acted reasonably in instructing separate experts and whether the costs of more than one expert should be recoverable.

Time Limits

7.4

(a) Whether a single joint expert or a joint inspection is used, the property should be inspected within 20 working days of the date that the landlord responds to the tenant's Letter of Claim.

(b) If a single joint expert is instructed, a copy of the expert's report should be sent to both the landlord and the tenant within 10 working days of the inspection. Either party can ask relevant questions of the expert who should send the answers to both parties.

(c) If there is a joint inspection, the experts should produce an agreed schedule of works detailing—

i. the defects and required works which are agreed and a timetable for the agreed works

ii. the areas of disagreement and the reasons for disagreement.

(d) The agreed schedule should be sent to both the landlord and the tenant within 10 working days of the joint inspection.

Urgent Cases

7.5 The Protocol does not prevent a tenant from instructing an expert at an earlier stage if this is considered necessary for reasons of urgency. Appropriate cases may include—

(a) where the tenant reasonably considers that there is a significant risk to health and safety;

(b) where the tenant is seeking an interim injunction;

(c) where it is necessary to preserve evidence.

Access

7.6 Tenants must allow the landlord reasonable access for inspection and repair in accordance with the tenancy agreement. The landlord should give reasonable notice of the need for access, except in the case of an emergency. The landlord must give access to common parts as appropriate, for example, for the inspection of a shared heating system. If the tenant is no longer in occupation of the premises the landlord should take all reasonable steps to give access to the tenant for the purpose of an inspection.

Expert's fees

7.7

(a) Experts' terms of appointment should be agreed at the outset, including the basis of charging and time for delivery of the report.

(b) If a single joint expert is instructed, each party will pay one half of the cost of the report. If a joint inspection is carried out, each party will pay the full cost of the report from their own expert.

7.8 Information about independent experts can be obtained from—

(a) The Chartered Institute of Environmental Health, Chadwick Court, 15 Hatfields, London. SE1 8DJ Tel: 020 7928 6006 http://www.cieh.org/about_us.html. Ask for a copy of the Consultants and Trainers Directory;

(b) The Expert Witness Directory <http://www.sweetandmaxwell.co.uk/our-businesses/directories.aspx>

(c) The Royal Institution of Chartered Surveyors, 12 Great George Street, Parliament Square, London. SW1P 3AD, Tel: 024 7686 8555 <http://www.ricsfirms.com/> Ask for a copy of the relevant regional directory.

Taking stock

8 Where the procedure set out in this Protocol has not resolved the dispute between the landlord and the tenant, they should undertake a review of their respective

positions to see if proceedings can be avoided and, at the least, to narrow the issues between them.

Time limits

9

(a) The time scales given in the Protocol are long stops and every attempt should be made to comply with the Protocol as soon as possible. If parties are able to comply earlier than the time scales provided, they should do so.

(b) Time limits in the Protocol may be changed by agreement. However, it should always be borne in mind that the court will expect an explanation as to why the Protocol has not been followed or has been varied and breaches of the Protocol may lead to costs or other orders being made by the court.

Limitation period

10

(a) There are statutory time limits for starting proceedings ('the limitation period'). If a tenant starts a claim after the limitation period applicable to that type of claim has expired, the landlord will be entitled to use that as a defence to the claim. In cases where the limitation period is about to expire, the tenant should ask the landlord to agree not to rely on a limitation defence, so that the parties can comply with the Protocol.

(b) If proceedings have to be started before the parties have complied with the Protocol, they should apply to the court for an order to stay (i.e. suspend) the proceedings until the steps under the Protocol have been completed.

Costs

11 If the tenant's claim is settled without litigation on terms which justify bringing it, the landlord will pay the tenant's reasonable costs. The Statement of Costs Form N260 available on the HMCTS website can be used to inform the landlord of the costs of the claim.

ANNEXES

12 The following documents are annexed to this pre-action protocol—

Annex A

Letter of Claim

(a) for use by a solicitor; and

(b) for use by the tenant.

Annex B

Letter of Instruction to Expert

(a) for use by a solicitor, and

(b) for use by the tenant.

Annex C

Schedule of Disrepair

Annex D

Special Damages Form

ANNEX A - LETTER OF CLAIM

(a) Letter from solicitor

To Landlord

Dear Sirs,

RE: TENANT'S NAME AND ADDRESS OF PROPERTY

We are instructed by your above named tenant. (Where the tenant is legally aided or a party to a conditional fee agreement entered into before 1 April 2013 insert a sentence stating how their case is being funded.) We are using the Housing Disrepair Protocol. We enclose a copy of the Protocol for your information.*

Repairs

Your tenant complains of the following defects at the property (set out nature of defects).

We enclose a schedule which sets out the disrepair in each room.*

The history of the disrepair is as follows: (set out history of defects)

You received notice of the defects as follows: (list details of notice relied on).

The defects at the property are causing (set out the effects of the disrepair on the client and their family, including any personal injury element. Specify if there will be any additional claimants).

Please arrange to inspect the property as soon as possible. Access will be available on the following dates and times: (list dates and times as appropriate)

Please confirm whether you intend to carry out repairs at this stage or whether you wish to wait until the property has been inspected by the expert(s) as set out below.

If you intend to carry out repairs at this stage, please set out a full schedule of intended works including anticipated start and completion dates and a timetable for the works

Disclosure

Please also provide within 20 working days of this letter the following:

All relevant records or documents including:

- (i) a copy of the tenancy agreement including the tenancy conditions
- (ii) the tenancy file
- (iii) documents relating to notice of disrepair given, including copies of any notes of meetings and oral discussions
- (iv) inspection reports or documents relating to works required to the property.
- (iv) computerised records

We enclose a signed authority from our client for you to release this information to us.

We also enclose copies of the following relevant documents from our client:

Expert

If agreement is not reached about the carrying out of repairs within 20 working days of this letter, we propose that the parties agree to jointly instruct a single joint expert (insert expert's name and address) to carry out an inspection of the property and provide a report. We enclose a copy of their CV, plus a draft letter of instruction.

Please let us know if you agree to his/her appointment. If you object, please let us know your reasons within 20 working days.

If you do not object to the expert being instructed as a single joint expert, but wish to provide your own instructions, you should send those directly to (insert expert's name) within 20 working days of this letter. Please send us a copy of your letter of instruction. If you do not agree to a single joint expert, we will instruct (insert expert's name) to inspect the property in any event. In those circumstances, if you wish to instruct your expert to attend at the same time, please let us and (insert expert's name) know within 20 working days.

Claim

We take the view that you are in breach of your repairing obligations. Please provide us with your proposals for compensation. (Alternatively, set out suggestions for general damages i.e. £x for x years).

Our client also requires compensation for special damages, and we attach a schedule of the special damages claimed.*

Yours faithfully,

* Delete as appropriate

ANNEX A: LETTER OF CLAIM

(b) Letter from tenant

To Landlord

Dear Sirs,

RE: YOUR NAME AND ADDRESS OF PROPERTY

I write regarding disrepair at the above address. I am using the Housing Disrepair Protocol.

I enclose a copy of the Protocol for your information. *

Repairs

The following defects exist at the property (set out nature of defects).

I enclose a schedule which sets out the disrepair in each room.*

The history of the disrepair is as follows: (set out history of defects)

You received notice of the defects as follows: (list details of notice relied on).

The defects at the property are causing (set out the effects of the disrepair on you and your family, including any personal injury element. Specify if there will be any additional claimants).

Please arrange to inspect the property as soon as possible. Access will be available on the following dates and times: (list dates and times as appropriate)

Please confirm whether you intend to carry out repairs at this stage or whether you wish to wait until the property has been inspected by the expert(s) as set out below.

If you intend to carry out repairs at this stage, please set out a full schedule of intended works including anticipated start and completion dates and a timetable for the works.

Disclosure

Please also provide within 20 working days of this letter the following:

All relevant records or documents including:

- (i) a copy of the tenancy agreement including the tenancy conditions;
- (ii) the tenancy file;
- (iii) documents relating to notice of disrepair given, including copies of any notes of meetings and oral discussions;
- (iv) inspection reports or documents relating to works required to the property;
- (iv) computerised records.

I enclose copies of the following relevant documents:

Expert

If agreement is not reached about the carrying out of repairs within 20 working days of this letter, I propose that we jointly instruct a single joint expert (insert expert's name and address) to carry out an inspection of the property and provide a report. I enclose a copy of their CV, plus a draft letter of instruction. Please let me know if you agree to his/her appointment. If you object, please let me know your reasons within 20 working days.

If you do not object to the expert being instructed as a single joint expert, but wish to provide your own instructions, you should send those directly to (insert expert's name) within 20 working days of this letter. Please send me a copy of your letter of instruction. If you do not agree to a single joint expert, I will instruct (insert expert's name) to inspect the property in any event. In those circumstances, if you wish to instruct your expert to attend at the same time, please let me and (insert expert's name) know within 20 working days.

Claim

I take the view that you are in breach of your repairing obligations. Please provide me with your proposals for compensation. (Alternatively, set out suggestions for general damages i.e. £x for x years). I also require compensation for special damages, and I attach a schedule of the special damages claimed.*

Yours faithfully,

* Delete as appropriate

ANNEX B: LETTER OF INSTRUCTION TO EXPERT

(a) Letter from solicitor

Dear

RE: TENANT'S NAME AND ADDRESS OF PROPERTY

We act for the above named in connection with a housing disrepair claim at the above property. We are using the Housing Disrepair Protocol.

We enclose a copy of the Protocol for your information.*

Please carry out an inspection of the above property by (date)** and provide a report covering the following points:

- (a) whether you agree that the defects are as claimed;
- (b) whether any of the defects is structural;
- (c) the cause of the defect(s);
- (d) the age, character and prospective life of the property;
- (e) a schedule of works;
- (f) an estimate of the costs of repair.

Access will be available on the following dates and times: (list dates and times as appropriate).

You are instructed as a single joint expert / The landlord is (landlord's name and details) / The landlord will be providing you with their own instructions direct / The landlord will contact you to confirm that their expert will attend at the same time as you to carry out a joint inspection.*

Please provide the report within 14 days of the inspection. Please contact us immediately if there are any works which require an interim injunction.

If the case proceeds to court, the report may be used in evidence. Please ensure that the report complies with Civil Procedure Rules Practice Direction 35.3 and the Guidance for the Instruction of Experts in Civil Claims 2014 at

<http://www.judiciary.gov.uk>.

If you do not have a copy please let us know.

Insert details as to cost and payment

Yours sincerely,

* Delete as appropriate

** The date to be inserted should be 20 working days from the date of the letter

ANNEX B: LETTER OF INSTRUCTION TO EXPERT

(b) Letter from tenant

Dear

RE: YOUR NAME AND ADDRESS OF PROPERTY

I am currently in dispute with my landlord about disrepair at the above property. I am using the Housing Disrepair Protocol.

I enclose a copy of the Protocol for your information.*

Please carry out an inspection of the above property by (date)** and provide a report covering the following points:

- (a) whether you agree that the defects are as claimed;
- (b) whether any of the defects is structural;
- (c) the cause of the defect(s);
- (d) the age, character and prospective life of the property;
- (e) a schedule of works;
- (f) an estimate of the costs of repair.

Access will be available on the following dates and times: (list dates and times as appropriate)

You are instructed as a single joint expert / The landlord is (landlord's name and details) / The landlord will be providing you with their own instructions direct / The landlord will contact you to confirm that their expert will attend at the same time as you to carry out a joint inspection.*

Please provide the report within 14 days of the inspection. Please contact me immediately if there are any works which require an interim injunction.

If the case proceeds to court, the report may be used in evidence. Please ensure that the report complies with Civil Procedure Rules Practice Direction 35.3 and the Guidance for the Instruction of Experts in Civil Claims 2014 at <http://www.judiciary.gov.uk>. If you do not have a copy please let me know.

Insert details as to cost and payment

Yours sincerely,

* Delete as appropriate

** The date to be inserted should be 20 working days from the date of the letter

ANNEX C: SCHEDULE OF DISREPAIR

[Schedule of disrepair](#)

ANNEX D: SPECIAL DAMAGES FORM

[Special damages form](#)

SCHEDULE 3

PRE-ACTION PROTOCOL FOR POSSESSION CLAIMS BY SOCIAL LANDLORDS

PART 1

AIMS AND SCOPE OF THE PROTOCOL

1.1 This Protocol applies to residential possession claims in England and Wales brought by social landlords (such as local authorities and housing associations). This Part sets out the aims and scope of the protocol. Part 2 relates to claims which are based solely on rent arrears. Part 3 applies to claims brought by social landlords where the court must, in principle, grant possession and where s89(1) Housing Act 1980 applies. The protocol does not apply to claims in respect of long leases .

1.2 Part 2 reflects the guidance on good practice given to social landlords in the collection of rent arrears. It recognises that it is in the interests of both social landlords and tenants to ensure that rent is paid promptly and that difficulties are resolved, wherever possible, without court proceedings.

1.3 Part 3 seeks to ensure that, in cases where human rights, public law or equality law matters are or may be raised, the necessary information is before the Court at the first hearing so that issues of proportionality may be dealt with summarily, if appropriate, or that appropriate directions for trial may be given.

1.4 The aims of the protocol are:

(a) to encourage more pre-action contact and exchange of information between landlords and tenants;

(b) to enable the parties to avoid litigation by settling the matter, if possible; and

(c) to enable court time to be used more effectively if proceedings are necessary.

1.5 Courts should take into account whether this protocol has been followed when considering what orders to make. Social landlords should also comply with guidance issued from time to time by the Regulator of Social Housing, the Ministry for Housing, Communities and Local Government and, in Wales, the Welsh Ministers.

(a) If the landlord is aware that the tenant has difficulty in reading or understanding information given, the landlord should take reasonable steps to ensure that the tenant understands any information given. The landlord should be able to demonstrate that reasonable steps have been taken to ensure that the information has been appropriately communicated in ways that the tenant can understand.

(b) If the landlord is aware that the tenant is particularly vulnerable, the landlord should consider at an early stage–

i. whether or not the tenant has the mental capacity to defend possession proceedings and the extent to which CPR 21 applies;

ii. whether or not any issues arise under the Equality Act 2010; and

iii. in the case of a local authority landlord, whether or not there is a need for a community care assessment in accordance with the Care Act 2014.

PART 2

POSSESSION CLAIMS BASED UPON RENT ARREARS

Initial contact

2.1 If the tenant falls into arrears, the landlord should contact the tenant, as soon as reasonably possible, to discuss: the cause of the arrears; the tenant's financial circumstances; the tenant's entitlement to benefits; and repayment of the arrears. Where contact is by letter, the landlord should write separately to each named tenant.

2.2 The landlord and tenant should try to agree affordable sums for the tenant to pay towards the arrears, based upon the tenant's income and expenditure (where such information has been supplied in response to the landlord's enquiries). The landlord should clearly set out, in pre-action correspondence, any time limits with which the tenant should comply.

2.3 The landlord should provide, on a quarterly basis, rent statements in a comprehensible format showing rent due and sums received for the past 13 weeks. The landlord should, upon request, provide the tenant with copies of rent statements in a comprehensible format, from the date when arrears first arose, showing all amounts of rent due, the dates and amounts of all payments made (whether through housing benefit, discretionary housing payments or directly by the tenant) and a running total of the arrears.

2.4 If the tenant meets the appropriate criteria, the landlord should apply for arrears to be paid by the Department for Work and Pensions ['DWP'] by deductions from the tenant's benefit.

2.5 The landlord should offer to assist the tenant in any claim that the tenant may have for housing benefit, discretionary housing payments or universal credit (housing element).

2.6 Possession proceedings for rent arrears should not be started against a tenant who can demonstrate that –

(a) the local authority or DWP have been provided with all the evidence required to process a housing benefit or universal credit (housing element) claim;

(b) there is a reasonable expectation of eligibility for housing benefit or universal credit (housing element); and

(c) they have paid other sums due that are not covered by housing benefit or universal credit (housing element).

The landlord should make every effort to establish effective ongoing liaison with housing benefit departments and the DWP and, with the tenant's consent, make direct contact with the relevant housing benefit department or DWP office before taking enforcement action.

The landlord and tenant should work together to resolve any housing benefit or universal credit (housing element) problems.

2.7 Bearing in mind that rent arrears may be part of a general debt problem, the landlord should advise the tenant to seek assistance from citizens advice bureaux, debt advice agencies or other appropriate agencies as soon as possible. Information on debt advice is available on the Money Advice Service website <https://www.moneyadviceservice.org.uk>.

After service of statutory notices

2.8 After service of a statutory notice, but before the issue of proceedings, the landlord should make reasonable attempts to contact the tenant to discuss: the amount of the arrears; the cause of the arrears; repayment of the arrears; and the housing benefit or universal credit (housing element) position. The landlord should send the tenant a copy of this protocol.

2.9 If the tenant complies with an agreement to pay the current rent and a reasonable amount towards arrears, the landlord should agree to postpone issuing court proceedings for so long as the tenant keeps to such agreement. If the tenant ceases to comply with such an agreement, the landlord should warn the tenant of the intention to bring proceedings and give the tenant clear time limits within which to comply again and avoid proceedings.

Alternative dispute resolution

2.10 The parties should consider whether it is possible to resolve the issues between them by discussion and negotiation without recourse to litigation. The parties may be required by the court to provide evidence that alternative means of resolving the dispute were considered. Courts take the view that litigation should be a last resort, and that claims should not be issued prematurely when a settlement is still actively being explored.

2.11 The Civil Justice Council and the Judicial College have endorsed *The Jackson ADR Handbook* by Susan Blake, Julie Browne and Stuart Sime (2013, Oxford University Press). The Citizens Advice Bureaux website also provides information about ADR:

http://www.adviceguide.org.uk/england/law_e/law_legal_system_e/law_taking_legal_action_e/alternatives_to_court.htm.

Information is also available at: <http://www.civilmediation.justice.gov.uk/>

Court proceedings

2.12 Not later than ten days before the date set for the hearing of the possession claim, the landlord should–

(a) provide the tenant with up-to-date rent statements; and

(b) disclose what knowledge it possesses of the tenant's housing benefit or universal credit (housing element) position to the tenant.

2.13 (a) The landlord should inform the tenant of the date and time of any court hearing and provide an up-to-date rent statement and the terms of the order that will be applied for. The landlord should advise the tenant to attend the hearing as the tenant's home is at risk. Records of such advice should be kept.

(b) If the tenant complies with an agreement made, after the issue of proceedings, to pay the current rent and a reasonable amount towards arrears, the landlord should agree to adjourn the court proceedings for so long as the tenant keeps to such agreement.

(c) If the tenant ceases to comply with such agreement, the landlord should warn the tenant of the intention to restore the proceedings and give the tenant clear time limits within which to comply again and avoid restoration of the proceedings.

2.14 If the landlord unreasonably fails to comply with the terms of this protocol, the court may make one or more of the following orders–

(a) an order for costs;

(b) an order adjourning the claim; or

(c) an order striking out or dismissing the claim (other than a claim based on a mandatory ground).

2.15 If the tenant unreasonably fails to comply with the terms of this protocol, the court may take such failure into account when considering whether it is reasonable to make a possession order.

PART 3

MANDATORY GROUNDS FOR POSSESSION

3.1 This Part applies in cases where, if a social landlord proves its case, the court must, in principle, grant possession and where s.89(1) Housing Act 1980 applies

3.2 Before issuing any such possession claim a social landlord—

(a) should write to the occupants explaining why it currently intends to seek possession and requiring the occupants, within a specified time, to notify the landlord in writing of any personal circumstances or other matters which they wish to have taken into account. In appropriate cases, such a letter could accompany any notice to quit or notice seeking possession and so would not necessarily delay the issue of proceedings; and

(b) should consider any representations received and, if they decide to proceed with a claim for possession, give brief written reasons for doing so.

3.3 The social landlord should include with its claim form, or in any witness statement filed under CPR 55.8(3), a schedule stating—

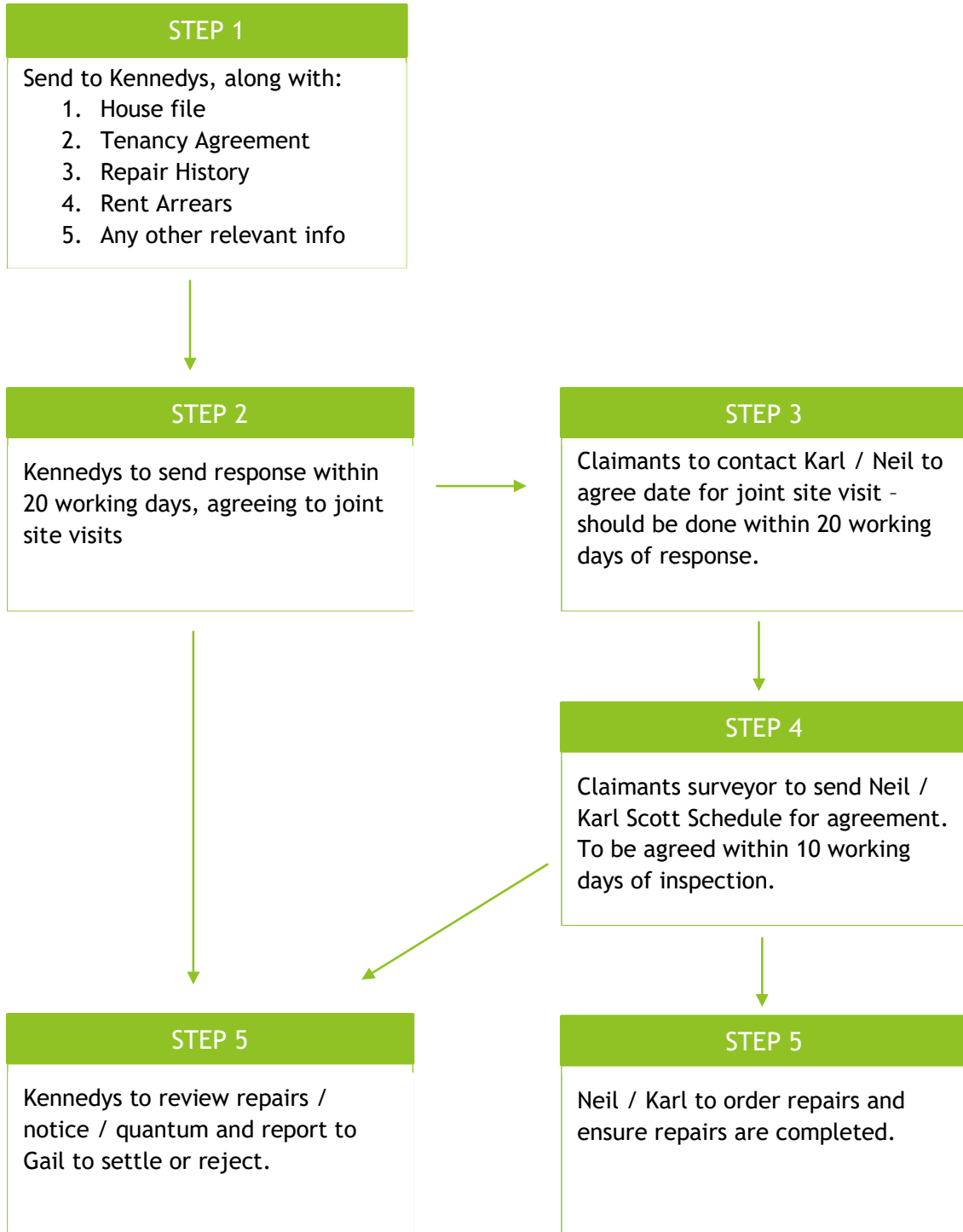
(a) whether it has (by a statutory review procedure or otherwise) invited the defendant to make representations of any personal circumstances or other matters which they wished to be taken into account before the social landlord issued the proceedings;

(b) if representations were made, whether and how they were considered and with what outcome; and

(c) brief reasons for bringing proceedings.

Copies of any relevant documents which the social landlord wishes the court to consider in relation to the proportionality of the landlord's decision to bring the proceedings should be attached to the schedule.

DISREPAIR FLOW CHART LETTER OF CLAIM



Appendix C

Report of Stephen Bamford MRICS
 Specialist Field Housing Condition
 On behalf of Miss Kerry White
 Prepared for: TBC

SCOTT SCHEDULE

Item	Item of Disrepair/Condition	Work Necessary and/or completed	Quantity	Unit	Claimant's estimate of costs	Defendant's comments	Defendant's estimate of costs	For the use of the trial Judge
1.	<p>Livingroom: High levels of moisture detected within the walls and flooring. Window trim frames have failed allowing moisture to ingress within the frame.</p>	<p>I tested the internal walls, ceilings and floors with my Protimeter in surface and pin insertion mode, I tested the internal walls, ceilings and floors and the internal atmospheric conditions with my Bosch PR1, this device is an Hygrometer, a surface temperature reader and indicates internal temperatures together with actual and relative humidity.</p> <p>It was noted that the relative humidity throughout the flat ranged from 61% to 68% at a temperature of 18°C.</p> <p>It was noted that surface temperature particularly at window and ceiling junctions together with the floor and wall junctions was reading 14°C</p> <p>In my opinion It is reasonable to surmise that once the heating system is not operational and the internal surface temperatures dropped below 14°C, particularly at night time the relative humidity will simply condense upon the walls, ceilings and floors.</p> <p>There was no structural dampness or internal atmospheric conditions including water penetration from an external source that would validate a successful disrepair claim.</p>				<p>I was present when the survey was undertaken and agree with the descriptions of internal conditions</p> <p>NA</p>		

Report of
Specialist Field
On behalf of
Prepared for:

Stephen Bamford MRICS
Housing Condition
Miss Kerry White
TBC

SCOTT SCHEDULE

Item	Item of Disrepair/Condition	Work Necessary and/or completed	Quantity	Unit	Claimant's estimate of costs	Defendant's comments	Defendant's estimate of costs	For the use of the trial Judge
2.	Kitchen: Kitchen units have started to decay. Doors are misaligned and missing on a few of the units. Water marks with cracks in ceiling.	<p>During the survey it was noted that the kitchen base units, sink unit and worktops have reached the end of the life-cycle through acceptable wear and tear and now require renewal. This is compliant with section 11.</p> <p>Remove and renew sink unit.</p> <p>Remove and replace worktop.</p> <p>Remove and renew double base unit.</p> <p>Remove and renew single base units.</p> <p>Make good all associated wall tiles and sealant.</p>	<p>1</p> <p>1</p> <p>1</p> <p>2</p> <p>1</p>	<p>Item</p> <p>Item</p> <p>Item</p> <p>Items</p> <p>Item</p>	<p>£164</p> <p>£120</p> <p>£136</p> <p>£272</p> <p>£56</p>	<p>The kitchen required replacement units.</p>	<p>All costs associated with these works are accurate and agreed throughout the scott schedule.</p> <p>NA</p>	
3.	Hall: High levels of moisture detected within the walls and flooring	<p>Walls tested with my Protometer in pin insertion mode.</p> <p>There is risk level dampness readings to the internal walls and the this dampness from finished floor level up to 300 mm, causation is thermal transfer causing a cold bridge tracking from the ground floor.</p> <p>This is further exacerbated by the walls being plastered with gypsum plaster, gypsum plaster absorbs moisture and becomes contaminated with hygroscopic salt therefore it is</p>				<p>Replastering works required as described.</p> <p>NA</p>		

Report of
Specialist Field
On behalf of
Prepared for:

Stephen Bamford MRICS
Housing Condition
Miss Kerry White
TBC

SCOTT SCHEDULE

Item	Item of Disrepair/Condition	Work Necessary and/or completed	Quantity	Unit	Claimant's estimate of costs	Defendant's comments	Defendant's estimate of costs	For the use of the trial Judge
4.	<p>Bathroom: High levels of moisture detected within the flooring and ceiling. Mould is also visible within the ceiling.</p>	<p>recommended in my opinion that the walls re-plastered with lime light plaster in a three stage system. In my opinion this is structural dampness and therefore is compliant with section 11.</p> <p>Allow for the removal of contaminated plaster to a height of 400 mm from the finish floor level.</p> <p>Re-plastered with renovating plaster leaving short of the floor to prevent thermal tracking.</p> <p>Once this is completed allow for the wall to be redecorated to the nearest break point with one coat mist and two coats emulsion.</p> <p>I tested the internal walls, ceilings and floors with my Protimeter in surface and pin insertion mode, I tested the internal walls, ceilings and floors and the internal atmospheric conditions with my Bosch PR1, this device is an Hygrometer, a surface temperature reader and indicates internal temperatures together with actual and relative humidity.</p> <p>It was noted that the relative humidity throughout the flat ranged from 61% to 68% at a temperature of 18°C.</p> <p>It was noted that surface temperature particularly at window and ceiling</p>	1	M2	£76			

Report of
Specialist Field
On behalf of
Prepared for:

Stephen Bamford MRICS
Housing Condition
Miss Kerry White
TBC

SCOTT SCHEDULE

Item	Item of Disrepair/Condition	Work Necessary and/or completed	Quantity	Unit	Claimant's estimate of costs	Defendant's comments	Defendant's estimate of costs	For the use of the trial Judge
5.	<p>Bedroom 1: Visible mould within the ceiling. Moisture detected within the ceiling and around the windows. Rotten floorboards. Failed windows and cracked plaster.</p>	<p>junctions together with the floor and wall junctions was reading 14°C</p> <p>In my opinion It is reasonable to surmise that once the heating system is not operational and the internal surface temperatures dropped below 14°C, particularly at night time the relative humidity will simply condense upon the walls, ceilings and floors.</p> <p>There was no structural dampness or internal atmospheric conditions including water penetration from an external source that would validate a successful disrepair claim.</p> <p>I tested the internal walls, ceilings and floors with my Protimeter in surface and pin insertion mode, I tested the internal walls, ceilings and floors and the internal atmospheric conditions with my Bosch PR1, this device is an Hygrometer, a surface temperature reader and indicates internal temperatures together with actual and relative humidity.</p> <p>It was noted that the relative humidity throughout the flat ranged from 61% to 68% at a temperature of 18°C.</p> <p>It was noted that surface temperature particularly at window and ceiling</p>						

Report of
Specialist Field
On behalf of
Prepared for:

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Miss Kerry White
TBC

SCOTT SCHEDULE

Item	Item of Disrepair/Condition	Work Necessary and/or completed	Quantity	Unit	Claimant's estimate of costs	Defendant's comments	Defendant's estimate of costs	For the use of the trial Judge
6.	Cloakroom: High levels of moisture detected within walls and flooring. Mould visible within the ceiling.	<p>junctions together with the floor and wall junctions was reading 14°C</p> <p>In my opinion It is reasonable to surmise that once the heating system is not operational and the internal surface temperatures dropped below 14°C, particularly at night time the relative humidity will simply condense upon the walls, ceilings and floors.</p> <p>There was no structural dampness or internal atmospheric conditions including water penetration from an external source that would validate a successful disrepair claim.</p> <p>During the survey it was noted that 2 m² of flooring requires to be re-fixed causation is to electrical rewire not replace correctly. Repair is compliant with section 11.</p> <p>During the survey it was noted that the windows are in acceptable condition.</p> <p>Make good of flooring.</p> <p>I tested the internal walls, ceilings and floors with my Protimeter in surface and pin insertion mode, I tested the internal walls, ceilings and floors and the internal atmospheric conditions</p>	2	M2	£76			

Report of
Specialist Field
On behalf of
Prepared for:

Stephen Bamford MRICS
Housing Condition
Miss Kerry White
TBC

SCOTT SCHEDULE

Item	Item of Disrepair/Condition	Work Necessary and/or completed	Quantity	Unit	Claimant's estimate of costs	Defendant's comments	Defendant's estimate of costs	For the use of the trial Judge
7.	External: Guttering overflows when the weather is wet. Gas meter housing is damaged.	<p>with my Bosch PR1, this device is an Hygrometer, a surface temperature reader and indicates internal temperatures together with actual and relative humidity.</p> <p>It was noted that the relative humidity throughout the flat ranged from 61% to 68% at a temperature of 18°C.</p> <p>It was noted that surface temperature particularly at window and ceiling junctions together with the floor and wall junctions was reading 14°C</p> <p>In my opinion It is reasonable to surmise that once the heating system is not operational and the internal surface temperatures dropped below 14°C, particularly at night time the relative humidity will simply condense upon the walls, ceilings and floors.</p> <p>There was no structural dampness or internal atmospheric conditions including water penetration from an external source that would validate a successful disrepair claim.</p> <p>During the survey it was noted that the gutters to the front and rear elevation have reached the end of their life cycle through acceptable long-term wear and tear. To the rear the guttering is asbestos and this should be removed</p>				Renewal required self evident on viewing. NA		

Report of
Specialist Field
On behalf of
Prepared for:

Stephen Bamford MRICS
Housing Condition
Miss Kerry White
TBC

SCOTT SCHEDULE

Item	Item of Disrepair/Condition	Work Necessary and/or completed	Quantity	Unit	Claimant's estimate of costs	Defendant's comments	Defendant's estimate of costs	For the use of the trial Judge
		under controlled measures, allowed for within the Scott schedule all compliant with section 11.						
		Supply safe high level access to front and rear elevation.	1	Item	£364			
		Remove under controlled conditions. Asbestos go to elevation.	6	LM	£112			
		Remove and renew guttering to front and rear elevation, including rainwater pipes.	12	LM	£267			
		Total exc VAT			£1643.00		All costs agreed. NA	



HOUSING DISREPAIR

Mandy Williams


March 2023



Kennedys



BACKGROUND TO CLAIMS LEGISLATION



The legislation with which we are concerned are those which seek to ensure that a Landlord lets or keeps the premises in a particular physical condition.

Claims are subject to a pre-action protocol with an overriding objective to resolve claims without litigation.

s.11 Landlord and Tenant Act 1985

Repairing obligations

- (a) to keep in repair the structure and exterior of the dwelling-house (including drains, gutters and external pipes),
- (b) to keep in repair and proper working order the installations in the dwelling-house for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity), and
- (c) to keep in repair and proper working order the installations in the dwelling-house for space heating and heating water.

s.4 Defective Premises Act 1972

Landlord's duty of care

(1) Where premises are let under a tenancy which puts on the landlord an obligation to the tenant for the maintenance or repair of the premises, the landlord owes to all persons who might reasonably be expected to be affected by defects in the state of the premises a duty to take such care as is reasonable in all the circumstances to see that they are reasonably safe from personal injury or from damage to their property caused by a relevant defect.

(2) The said duty is owed if the landlord knows (whether as the result of being notified by the tenant or otherwise) or if he ought in all the circumstances to have known of the relevant defect.

Environmental Protection Act 1990

- Statutory nuisance claims which are brought in the Magistrates Court for work to be carried out.
- A fine can be imposed on the landlord.
- The premises have to be in such a state as to be prejudicial to health or a nuisance - often used where there is severe damp causing asthma.
- Prejudicial to health i.e. likely to cause injury to health and can extend to cover damp caused by condensation.

Homes (Fitness for Human Habitation) Act 2018

- To ensure rented houses and flats are fit for human habitation.
- They should be safe, healthy environments, free from causing serious harm. If a claim is brought under this Act, a Court will question whether the property is unfit from human habitation. Tenants must report any issues or concerns to the landlord who has a reasonable amount of time to investigate and carry out remedial work.
- It could mean landlords should carry out improvement works which is beyond previous duty.
- Fitness criteria / hazards - e.g. property layout could give rise to falls; food safety if lack of facilities for storage, preparation and cooking of food.
- Expected to become a standard pleading.

Housing Ombudsman

- In October 2021 the Housing Ombudsman produced a report entitled spotlight on damp and mould its not lifestyle : <https://www.housing-ombudsman.org.uk/wp-content/uploads/2021/10/Spotlight-report-Damp-and-mould-final.pdf>
- The Ombudsman's view was that landlords should adopt a zero tolerance approach to damp and mould on a proactive basis rather than reactive basis when a tenant reports the damp
- The inquest into the death of the 2 year old boy has once again highlighted the issue with an estimated 450,000 homes in England having problems with condensation and mould
- Lots of media coverage, raises awareness and expectations



PRE ACTION PROTOCOL

For Housing Condition Claims (England)

Pre-Action Protocol for Housing Disrepair Cases

2.1 The aims of this Protocol

Avoid	unnecessary litigation;
Promote	the speedy and appropriate carrying out of any repairs which are the landlord's responsibility;
Ensure	that tenants receive any compensation to which they are entitled as speedily as possible;
Promote	good pre-litigation practice, including the early exchange of information and to give guidance about the instruction of experts; and
Keep	the costs of resolving disputes down.

Timescales - very tight!

- Letter of Claim sent (deemed served 2 days later).
- Reply within **20 working days** of receipt with documents.
- To respond re liability / with offer / issues with notice or lack of access / agreed works within **20 working days** of receipt of the SJE report.
- Failure to respond within 20 working dates of receipt of letter of claim is a breach of protocol and Claimant can issue.

Experts

- If no objection within 20 working days of receipt of LOC expert is instructed as SJE.
- Property to be inspected within 20 working days of the date the landlord responds to LOC.
- Expert sends report within 10 working days of inspection.

Possible Defence/considerations



Council not on notice as per Tenancy Agreement



Negligible/no disrepair



Refused access/tenant difficulties



Repairs regardless of position on breach



Consider causation



DOCUMENTS

Documents

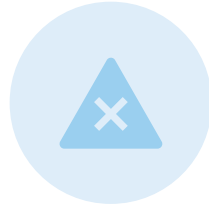
The Defendant's response should normally include at least the following:

1. Tenancy Agreement
2. Tenancy Booklet / tenancy conditions
3. Tenancy / house file - including correspondence to / from the tenant e.g. letters, complaint letters, any notes of oral or written meetings
4. Repair history from date of tenancy (or prior) to date
5. Inspection reports
6. Documents relating to works ordered
7. If relevant void inspection and repair history showing property up to standard at date of tenancy
8. Rent arrears - offset?

Why do we need to disclose documents?



DEFENCE IS BASED ON THE DOCUMENTS SO IT IS VITAL THESE ARE PROVIDED.



WITHOUT THESE YOU WILL NOT BE ABLE TO DISPROVE THE CLAIMANT'S ALLEGATIONS THAT THEY PROVIDED YOU WITH NOTICE.



AS IT HAS ALWAYS BEEN, A PAPER TRAIL IS THE MOST EFFECTIVE WAY TO DEFEND THESE CLAIMS.



THE DOCUMENTS ARE DISCLOSABLE!



WHAT DOCUMENTS DO YOU WANT TO SEE..



QUANTUM

Kennedys

Remedies

Repairs or costs of repairs

Specific performance - an Order to force the landlord to carry out the terms of the tenancy agreement - i.e. to carry out the repairs

General damages for inconvenience, distress, embarrassment

General damages for personal injury such as exacerbation of asthma

Special damages for example; damaged carpets, furniture, clothing, additional heating costs, redecoration costs

Quantum

Claimants tend to calculate on the basis of a loss of rent (English Churches Housing Group v Shine [2004]) The Court of Appeal confirmed rent should be a reference point for the deciding of quantum -

$$\text{£rent} \div \text{rooms affected} \times \text{by period of disrepair} =$$

Damages for inconvenience and discomfort can vary from £300 - £2750 per year.

- *Wallace v Manchester CC [1998]* - the Court of Appeal recognised an unofficial tariff of between £1000 - £2750 per year for each year the property was considered to be in a state of disrepair.
- *Mulligan v Halton Borough Council [1999]* - £1750 per annum for inconvenience / discomfort
- *Earle v Charalambous [2006]* - property inundated with 20 holes causing ceiling to collapse - awarded 50% of rent - £6000 per annum

Quantum - personal injuries

Claims must be substantiated with medical evidence

Common claims include pneumonia, depression, asthma, bronchitis

Mulligan v Halton Borough Council [1999] - aggravation of asthma for 1.5 years - £1000

L (a child) v Empire Estates [2002] - 6 year old's asthma exacerbated - £1750; *C (a child) v Empire Estates [2002]* baby boy developed asthma - £8500

Causation

Proposed Fixed Costs in Housing Disrepair and other cases

- At the Civil Justice Council National Forum event in November 2022 Lord Bellamy announced that the planned extension of fixed recoverable costs (FRC) for most money cases worth up to £100,000 will be delayed by a further six months from April 2023 to October 2023 and is clearly subject to review.
- In making the announcement, Lord Bellamy made it clear that the reasons for the delay included considering the particular implications in housing disrepair cases (HDR).
- The Civil Justice Council approved the setting up of a Costs Working Group in its April 2022 meeting which led to a consultation running from June to October 2022. That Consultation sought responses to, amongst other issues, the wider impact of the extension of FRC.
- Due to recently publicised cases involving the tragic loss of life caused by housing disrepair cases, Lord Bellamy KC gave the potential implications FRC would have on vulnerable HDR Claimants as one of the reasons for deferring the implementation of the FRC reforms.
- Accordingly, the Ministry of Justice (“MOJ”) has confirmed that in October 2023 fixed recoverable costs will no longer include HDR claims. Additionally, the MOJ confirmed that the implementation of fixed costs for HDR claims will be delayed for at least a further two years.
- If fixed costs do apply it will make the claims less attractive and may slow down the rising number of claims, although at present there is no end in sight for the extravagant legal costs being claimed.

FRC in Fast Track cases

Different bands of fast-track and intermediate cases, the criteria for the latter and the actual figures were proposed by the 2017 Jackson report, subject to uprating them for inflation.

All fast-track cases will be placed into four bands of complexity, band 1 being the least complex and band 4 the most, with the level of FRC depending on the stage the case has reached:

- Band 1: RTA non-personal injury, defended debt cases;
- Band 2: RTA personal injury (within protocol), holiday sickness claims;
- Band 3: RTA personal injury (outside protocol), employers' liability accident, public liability, tracked possession claims, other money claims; and
- Band 4: Employers' liability disease claims (other than noise-induced hearing loss, which is set to have its own dedicated FRC scheme), any particularly complex tracked possession claims, property disputes, professional negligence claims and other claims at the top end of the fast-track.



PRACTICAL ISSUES / DISCUSSION

Practical issues

- Involvement of a technical officer/surveyor for the Council early on to inspect the property and feed back to you as to what is a valid repair and whether it had been reported;
- Review house file to consider whether Council on notice/complaints log; review details of all visits/repairs carried out.
- Generic documents to include tenants handbook - what are the tenants obligations - to report defects? What is the system for reporting defects - are all communications noted on a log or just those that generate a repair?
- Repair time scales - has the Council had sufficient time to carry out the repair? If repairs agreed how long will it take to carry out - if there is a delay why? (seasonal issues? Covid?)
- What is the tenant like - rent arrears - anti-social behaviour issues?
- **Documents are key - good record keeping and prompt investigations!**

Covid 19

- Government advised that landlords and tenants should take a pragmatic, common sense approach to resolving issues
- Interim repair policy?
 - Urgent/essential repairs only
 - Risk assessed and considered
- Delay?
 - Depleted workforce
 - Refusal of contractors to attend properties
 - Tenants shielding
- Claimant may be criticised for litigating unnecessarily early.

Recent Trends/Issues

Duplicate letters of claim - same date / different solicitors

Repairs not being done - additional claims being made

Current economic climate - lack of heating and ventilation

Targeted Claims

The Future

Awabb's Law

- Press release 9.2.23
- Crackdown on damp and mould under new legislation in memory of Awabb Ishak (aged 2 - December 2020)
- Landlords must investigate and fix serious problems within strict time limits
- New powers for the Housing Ombudsman to help landlords improve performance, in amendments to Social Housing (Regulation) Bill.
- New rules will form part of tenancy agreement - accountability
- New guidance for the housing sector to be published September 2023



PART 27 CPR

“... the small claims track will be the normal track for - any claim which includes a claim by a tenant of residential premises against his landlord for repairs or other work to the premises where the estimated cost of the repairs or other work is not more than £1,000 and the financial value of any other claim for damages is not more than £1,000...”

Matters relevant to allocation to a track

CPR 26.8

(1) When deciding the track for a claim, the matters to which the court shall have regard include -

- (a) the financial value, if any, of the claim;
- (b) the nature of the remedy sought;
- (c) the likely complexity of the facts, law or evidence; ...

(2) It is for the court to assess the financial value of a claim and in doing so it will disregard -

- (a) **any amount not in dispute;**
- (b) any claim for interest;
- (c) costs; ...

Tactically therefore if repairs are completed before the claim litigates this might reduce the potential value of the claim and repairs to less than £1000 and allow allocation to the small claims track.

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Kennedys



Creating great homes and communities
with the people of Barnsley

Report Title	Building Safety Briefing Note - Reinforced Autoclaved Aerated Concrete (RAAC) update	Confidential	No
Report Author	John Dowle	Report Status	For Information
Report To	Board 28/9/2023	Officer Contact Details	johndowle@berneslaihomes.co.uk

1. Executive Summary	<p>Reinforced Autoclaved Aerated Concrete (RAAC) was widely used in UK construction from the mid-1950s to the 1980s. Filled with air bubbles and containing no coarse aggregate, the material was cheap and lightweight, and was particularly popular for flat roofs and external cladding.</p> <p>In late 2018, the Local Government Association (LGA) and the Department for Education (DfE) contacted all school building owners to draw attention to a recent failure involving a flat roof constructed using RAAC planks.</p> <p>More recently in August 2023 schools were issued new guidance advising that any space or area with confirmed RAAC should no longer be open without mitigations in place.</p> <p>In addition to schools, it was understood that RAAC planks are present in many types of buildings and has led to concerns about its use in other public buildings, such as courts and hospitals. It has been identified RAAC was also used in public housing projects – many of which are likely to still be in use with housing providers unaware of the risks.</p> <p>The government have advised, buildings built in the 60s and 70s and have a flat roof, then it's very possible if not likely to contain RAAC. If it is a tiled roof, then no. Tower blocks are less likely to contain the material. The most likely building to have RAAC are buildings, two to four storey high with a flat roof.</p> <p>In order to comply with regulatory and statutory obligations to keep homes and buildings safe, Berneslai Homes are identifying</p>
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whether any homes and other buildings contain RAAC and if so, assess the risk to safety arising from inspections. We have identified a number of buildings within the stock portfolio that are a match to the government's criteria, which could potentially contain RAAC.

Buildings listed for inspection.

Address	Blocks	Properties (Council owned)	Properties (all – inc. leaseholder, shop, community centre etc.)
Cockerham Lane Blocks 10 - 68 Barnsley South Yorkshire S75 1AZ	5	20	30
Honeywell Street Blocks 64 – 184 Barnsley South Yorkshire S71 1QA	10	58	62
Albion House Block 1 – 56 Union Street Barnsley South Yorkshire S70 1JT	1	46	56
Britannia House Block 1 – 55 Duke Crescent Barnsley South Yorkshire S70 1JW	1	40	55
Buckley House Block 1 – 55 Union Street Barnsley South Yorkshire S70 1JS	1	50	55
King Street Block 08 – 16 Hoyland Barnsley South Yorkshire S74 9JP	1	5	10
Queensway Block 09A – 15A Worsbrough Bridge South Yorkshire S70 5EN	1	4	8
Saville Road Block 2 – 8A Gilroyd Barnsley South Yorkshire S75 3QN	1	4	8
The Parade Block 06 -10 Hoyland Barnsley South Yorkshire S74 0HR	1	5	10
Manor Drive Block 21A – 25A Royston Barnsley South Yorkshire S71 4JU	1	3	6
King Street Block 01 – 33 Barnsley South Yorkshire S70 1JU	1	1	33
Willowcroft Block 01 – 35 Bolton On Dearne Rotherham South Yorkshire S63 8LF	1	36	36

To mitigate the risk associated and provide reassurance to all stakeholders Berneslai Homes have developed an effective approach/plan to address the situation.

The identified buildings have been subject to a stock condition data analysis check already. None of the buildings (individual property stock information) have been reported from a Health & Safety perspective i.e., structural/envelope defect or failing.

The identified buildings are to receive a comprehensive roof and structural assessment by suitably qualified professionals (Curtins Structural Engineers) to establish their construction makeup. These have been commissioned as a priority and we expect them to be completed by October 2023.

If any RAAC material is found, this will be escalated to the BH lead officer (Fire and Compliance Manager) for appropriate action to be taken.

To ensure effective oversight of RAAC, it has been added as an agenda item on the BH / BMBC Building and Fire Safety Project Board. This will provide assurance to all stakeholders that the situation is being managed diligently.

We will be communicating suitably with tenants, and residents of the buildings where the RAAC inspections are due to be undertaken and follow up with outcomes and further action should it be necessary.

The Regulator of Social Housing contacted all providers on the 7TH September 2023 . Based on their current understanding, through engagement with sector advisors and stakeholders, RAAC is not widespread in social housing. However, it may be present in a small number of buildings dating from the identified construction period, particularly roof and panel structures. With Health and Safety of tenants being the highest priority of Landlords are required to establish the buildings that contain RAAC components. They must develop proportionate mitigation and remedial plans where required and also ensure they communicate appropriately where this is an issue. BH will also be required to report any buildings with the identified material present – letter attached from RSH appendix A.

2. Recommendation/s

Board have been brought up to date on the situation and the associated risks of RAAC.

Board acknowledge appropriate action has been taken to develop a suitable plan for the identification of RAAC materials within the Council housing stock.



Regulator of
Social Housing

Regulator of Social Housing

Fry Building
Marsham Street
London SW1P 4DF

T: 0300 124 5225
E: enquiries@rsh.gov.uk
W: www.gov.uk/rsh

7 September 2023

Dear Chief Executive, Housing Director or Lead member

Reinforced Autoclaved Aerated Concrete (RAAC)

As you will be aware, the failure of RAAC components has been identified as a risk in some public buildings constructed between the 1950s and 1980s. Our current understanding, based on engagement with sector advisers and stakeholders, is that RAAC is not widespread in social housing. However, it may be present in a small number of buildings dating from this period, particularly in flat roof and panel structures.

Ensuring the safety of tenants and residents should be the highest priority for every landlord. We expect landlords to ensure that they have a good understanding of their homes, including building safety issues and whether homes contain RAAC components and the risk to tenant safety arising from these; that you develop proportionate mitigation and remediation plans where required; and seek suitably qualified advice where necessary. You should also ensure you communicate appropriately with tenants where this is an issue. Guidance on investigating and assessing RAAC is available from the [Institute of Structural Engineers](#).

You should inform us if you identify issues which suggest material non-compliance with any of the Regulatory Standards by contacting your regulatory contact or enquiries@rsh.gov.uk.

Yours faithfully

Fiona MacGregor
Chief Executive

The address for service of any
legal documents on RSH is:
Level 1A, City Tower, Piccadilly Plaza,
Manchester M1 4BT



OFFICIAL



**Creating great homes and communities
with the people of Barnsley**

Report Title	BH Sustainability Strategy 2022-27 actions progress review	Confidential	No
Report Author	Mandy Smith	Report Status	For information / discussion
Report To	Board 28/9/2023	Officer Contact Details	mandysmith@barneslaihomes.co.uk

<p>1. Executive Summary</p>	<p>Barneslai Homes Sustainability Strategy 2022-27 was approved by BH board in September 2022 – appendix a. It was developed in alignment with the Council’s ambition which is Barneslai Homes will become net zero by 2045, or earlier if possible, and the government has set a target for social housing providers to attain a minimum rating of Energy Performance Certificate (EPC) C for homes by 2035 (2030 for “fuel poor” households). The Sustainability Strategy aligns with Barneslai Homes Strategic Plan and ambitions of “Zero Carbon”</p> <p>To ensure effective governance it was agreed the Executive Management Team (EMT) would receive regular oversight on the progress of the success measures, which are the critical indicators of success. It was agreed by the Property Services Directorate this was an appropriate time to share progress with Board, EMT and other key stakeholders.</p> <p>As a live document the action plan is regularly updated by the Heads of Service and reviewed by the Executive Director to monitor progress.</p> <p>Upon review it clearly demonstrates there has been strong progress towards our sustainability ambitions and the 13 success measures for 22/23 – appendix b.</p> <p>Summary of progress against Sustainability Strategy Annual Plan 2022/23 success measures.</p>
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Completed –

- Work with the Council on SHDF Wave 2 bid submission for funding for further retrofit programmes. Successful bid that will deliver “retrofit” to 148 properties.
- Berneslai Homes sign up to the Councils Affordable Warmth Charter
- Consult with our Tenants Voice Panel to understand the approach to future decarbonisation / retrofit
- Carbon Literacy eLearning completed by 124 staff
- Collaborate with Council in its Tiny Forests Tree planting initiatives. Asset Management team away day tree planting with Council November 2022 planting 11 large trees at Thurnscoe park. 600 saplings have been planted at Goldthorpe and will be a thriving Tiny Forest within just a few years.
- Completed 13,000 EPC's.

Commenced –

- Deliver LAD2 and SHDF Wave 1 “Retrofit” programmes to approx. 250 Council Homes
- Complete Retrofit Pilot with Construction Services and Wates
- Construction Services to be accredited to PAS2030
- Green upskilling of staff
- Partner with the Council and Energise Barnsley to install 1000 Solar PV systems to Council Homes
- Liaise with Wates to plant 500 trees
- Continue to network and share best practice
- Review Voids Standard to increase energy efficiency of homes through suitable measures

It can be noted that new actions have now been included on the plan as part of the progress review.

- EPC C task and finish group established with its own action plan including 20 properties to receive retrofit works alongside Barnsley Homes Standard works
- Investigating possible amendments to secondary heating specification.
- Explore with Council SHDF wave 2.2. expected October 2023

**2.
Recommendation/s**

Board note the Sustainability Strategy annual plan 2022/23 progress.

3. Background

3.1 Berneslai Homes Sustainability Strategy 2022-27 was approved by BH board in September 2022 – appendix a. It was developed in alignment with the Council's ambition which is Berneslai Homes will become net zero by 2045, or earlier if possible, and the government has set a target for social housing providers to attain a minimum rating of Energy Performance Certificate (EPC) C for homes by 2035 (2030 for "fuel poor" households). The Sustainability Strategy aligns with Berneslai Homes Strategic Plan and ambitions of "Zero Carbon".

3.2 The strategy focuses on: -

- Addressing emissions across our organisation, from our operational activities through to the homes we manage.
- A focus on managing better quality, higher performing homes that help our tenants save on fuel costs whilst also reducing their carbon emissions.
- Making sure that our plan feeds into the Council's wider ambition to become net zero carbon by 2045.

3.3 Provides a structured framework to achieve our ambitions and that of the Council, key priorities within strategic plan can be achieved for decarbonisation and sustainability of the housing stock.

4. Current Position / Issues for Consideration

4.1 To ensure effective governance it was agreed the Executive Management Team would receive regular oversight on the progress of the actions within the roadmap, which are the critical indicators of success. It was agreed by the Property Services Directorate this was an appropriate time to share progress with Board, EMT and other key stakeholders.

4.2 As a live document it is regularly updated by the Heads of Service and reviewed by the Executive Director to monitor progress.

4.3 Upon review of the 2022/23 success measures it clearly demonstrates there has been strong progress made against the annual plan 2022/23, the newly added 23/24 success measures and progress made towards 2027 success measures – Appendix B.

5. Customer Voice / Impact

Consultation was undertaken with customers via our tenant's voice panel (TVP). Customers views and feedback sought from the exercise have been fed into the original strategy. Several activities have taken with the TVP to ensure our approach to future decarbonisation is understood. Further sessions will be arranged as progress towards the sustainability road map is made.

6. Risk and Risk Appetite

- 6.1 The strategy and road map that is used to monitor performance, alleviates risk, and provides assurance to stakeholders that we have a framework that allows an effective approach to decarbonising the Council housing stock.

7. Strategic Alignment

- 7.1 The Sustainability Strategy aligns with Berneslai Homes Strategic Plan and ambitions of “Zero Carbon”. It supports the councils 2030 vision and the key theme of a sustainable Barnsley and its aims, to reduce carbon emissions of the council and borough wide.

8. Data Privacy

- 8.1 There are no data privacy implications arising directly from this report.

9. Consumer Regulatory Standards

- 9.1 This report relates to the following elements of the Regulatory Standard:

Home Standard – as a registered provider Berneslai Homes has an obligation to provide quality accommodation to a required standard as set by the Decent Homes guidance. The Sustainability Strategy will only serve to improve the council housing stock, increasing energy efficiency, reducing carbon emissions and alleviating the effects of fuel poverty to our customers through our agreed approach.

10. Other Statutory/Regulatory Compliance

- 10.1 The Councils ambition is Berneslai Homes will become net zero by 2045, or earlier if possible, and the government has set a target for social housing providers to attain a minimum rating of Energy Performance Certificate (EPC) C for homes by 2035 (2030 for “fuel poor” households). The Sustainability Strategy provides a roadmap for improving the energy of the housing stock to achieving local and national targets.

11. Financial

- 11.1 The surplus generated by the Barnsley Council rent increase of 6.5% in April 2023 is being used to service additional borrowing of around c.£30M that would significantly contribute towards the estimated £60M cost of bringing all properties to at least EPC C by 2030.

12. Human Resources and Equality, Diversity and Inclusion

- 12.1 The strategy and road map will endeavour to maintain an approach and upskill our staff accordingly to deliver services effectively to customers as individuals and an organisation to drive ambitions.

13. Sustainability Implications

13.1 The Sustainability Strategy and road map will ultimately drive Berneslai Homes ambitions in reducing its carbon footprint and the emissions of the homes we manage on behalf of the Council.

14. Associated Background Papers

14.1 N/A

15. Appendices

15.1 Appendix A – BH Sustainability Strategy 2022-27

15.2 Appendix B – BH Sustainability Strategy action plan

16. Glossary

16.1 SHDF – Social Housing Decarbonisation Fund

EPC – Energy Performance Certificate

PAS – Publicly Available Specification



**Sustainability
Strategy
2022-27**

SUSTAINABILITY STRATEGY

Here at Berneslai Homes we recognise that we have a responsibility to protect future generations by reducing carbon emissions and helping to limit the effects of climate change.

Working alongside Barnsley Council, we have developed our ambitious new Sustainability Strategy and Zero Carbon plan for Council homes across Barnsley.

Key pillars of our strategy include:

- Addressing emissions across our organisation, from our operational activities through to the homes we manage.
- A focus on managing better quality, higher performing homes that help our tenants save on fuel costs whilst also reducing their carbon emissions.
- Making sure that our plan feeds into the Council's wider ambition to become net zero carbon by 2045.



WHO WE ARE

We are Berneslai Homes, working in partnership with Barnsley Council as their local housing company.

Our values: everyone who works for Berneslai Homes will embrace these values and make them relevant to their role.

Our vision is clear:

Creating great homes and communities with the people of Barnsley.

Our mission supports our vision:

Great place, great people, great company.

Creating and developing vibrant neighbourhoods where diverse communities thrive and develop; attracting and retaining talented people, serviced by a diverse organisation.

Customer first

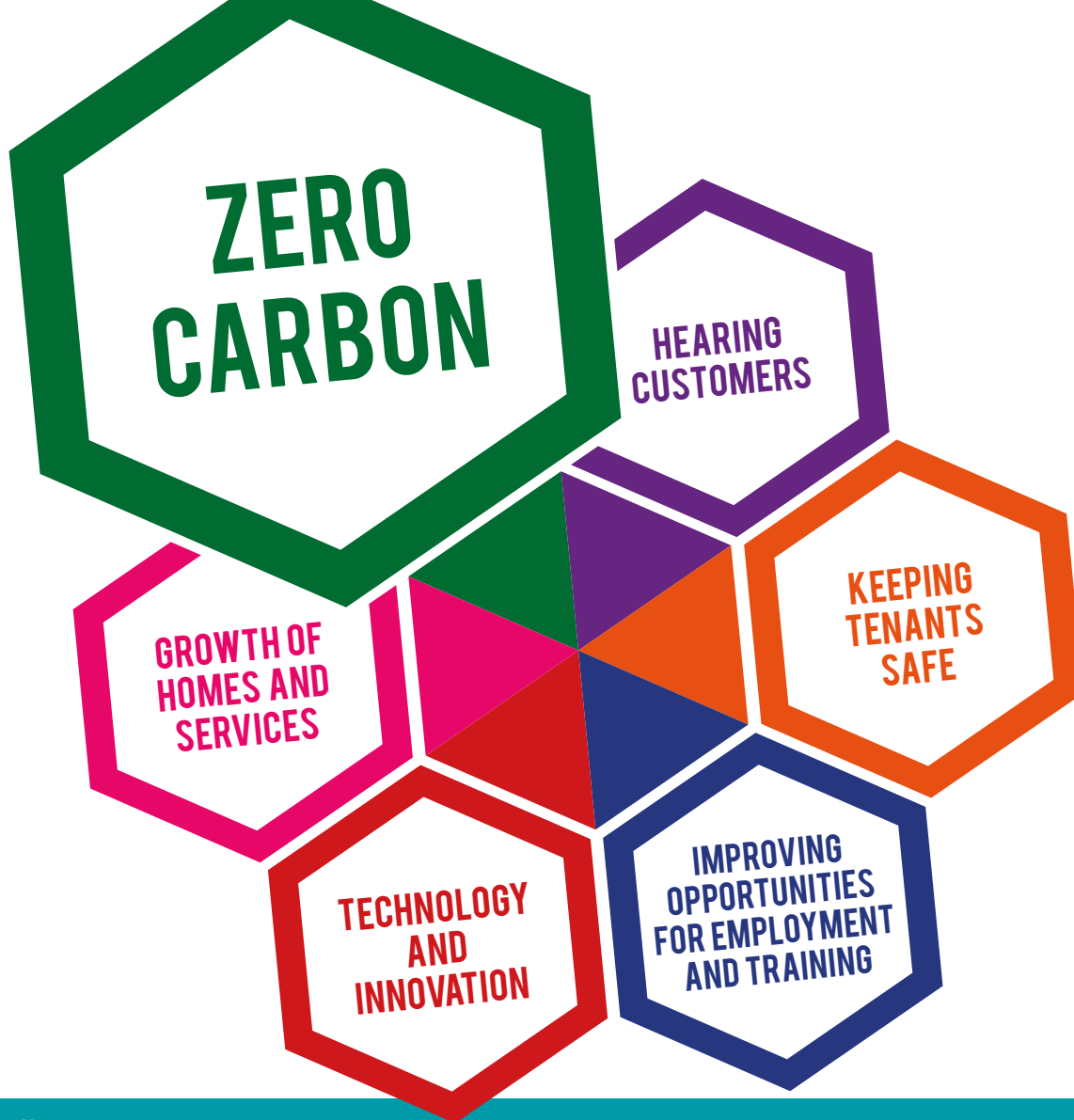
focus on residents being included on the zero-carbon journey.

Can do attitude

work purposefully to achieve zero-carbon objectives.

Curious

explore zero-carbon innovative solutions.



OUR AMBITIONS

Strategic Plan 2021-31

How will we measure our success?



Use of own vehicles to travel to work and mileage claims reduced by **50%**.



Fleet **100%** electric.



100% success rate in obtaining Social Housing Decarbonisation Funding up to 2030.



100% EPC 'C' for all properties.



HRA business plan **100%** funded with additional income for zero carbon work.



25% tenant heating replaced with green alternatives – air/ground sourced or hydrogen.

ZERO CARBON OUR AMBITION



Zero carbon - our ten year ambition

Meeting the targets locally and nationally by changing the way we work and investing in homes.

We will:

- Replace all Construction Services fleet to electronic vehicles (EV) by 2030.
- Increase staff expertise to deliver zero carbon measures throughout the borough.
- Work closely with the council to maximise the success of the decarbonisation and future zero carbon initiatives.
- Align with the councils, active travel, transport and, climate change strategies and the targets within these.
- Procure green energy for our operations.
- Fit solar panels to our properties.
- Have a modern and effective energy performance certificate process in place.
- Introduce new heating systems with green alternatives for our customers.

What we are doing now

- Utilising different funding mechanisms and opportunities available to deliver "retrofit" energy efficiency measures to homes.
- Supporting Construction Services route to PAS2030 accreditation.
- Collaborating with the Council on tree planting initiatives.
- Increasing our stock condition and energy performance data.
- Partnering with the Council and Energise Barnsley to install new renewable technology to homes.
- Networking with sector peers on decarbonisation through various forums.

OUR AMBITION FOR COUNCIL HOMES

Our aim: we will:

- Work with the Council to achieve EPC C by 2030 and net zero carbon by 2045.
- Use information on the stock to develop improvement programmes.
- Evaluate asset performance (financial and social) and undertake options appraisals where necessary.
- Engage with our customers on how to get maximum benefit from the investment we make.
- Reduce energy consumption to homes to minimise energy costs to customers.

Planning: we will...

- Engage and consult with our customers as part of our plans.
- Enhance data we hold to improve energy efficiency and reduce emissions.
- Target homes in fuel poverty and with lowest EPC bandings first where we can .
- Align to existing investment plans to achieve value for money and minimise disruption.

Fabric first: we will...

- Improve the building fabric to reduce heat loss and demand for heat.
- Focus on “quick wins” measures , which when actioned are cost effective and provide relatively large benefits.
- Consider renewable technology solutions when fabric improvements aren’t possible.

Low-carbon heating: we will:

- Monitor and trial new heating technologies as we move towards no new gas boilers from 2035.
- Work with our customers to understand new technologies.
- Select technologies offering affordable warmth, carbon reduction, suitability and affordability.
- Prioritise investment according to energy performance subject to cost benefit analysis.

BERNESLAI HOMES' CARBON FOOTPRINT

What is a carbon footprint?

A carbon footprint is a measure of the total greenhouse gas emissions (GHG) generated both directly and indirectly by an organisation:



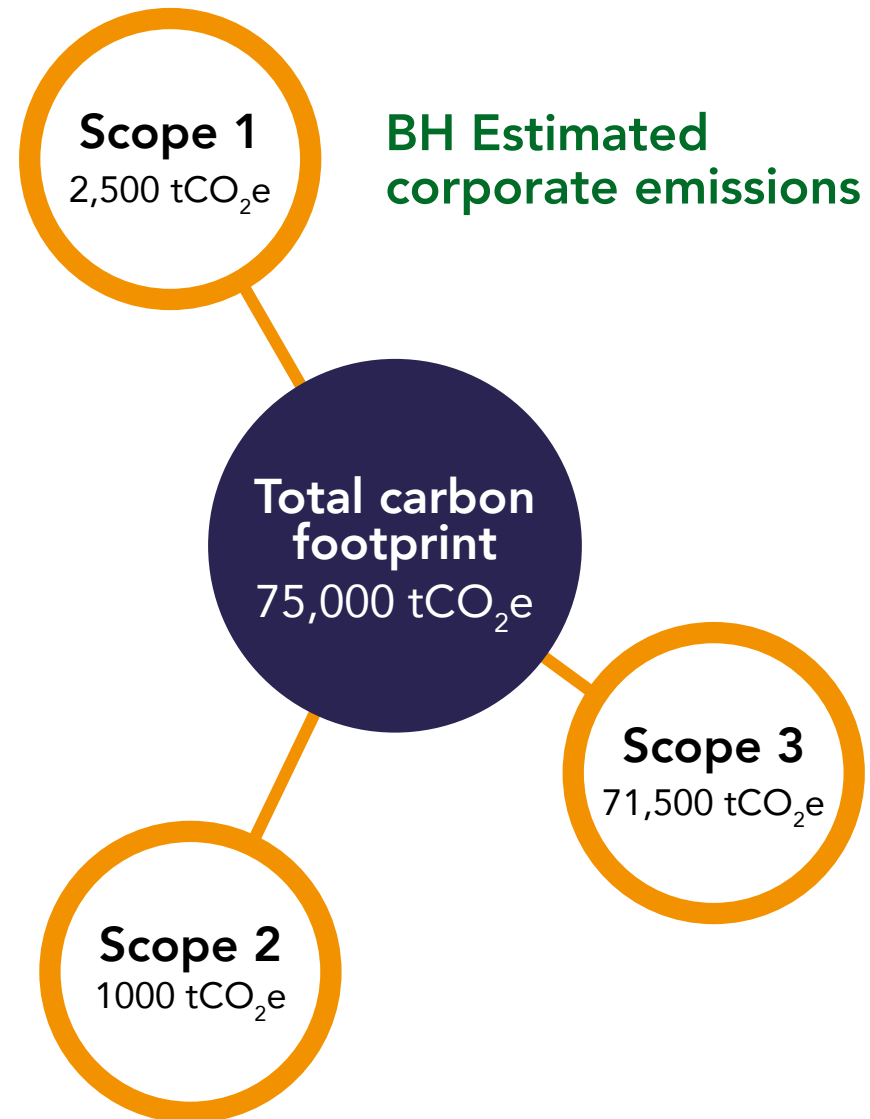
Scope 1: Emissions associated with fuels.



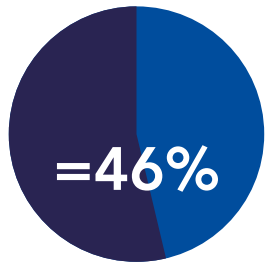
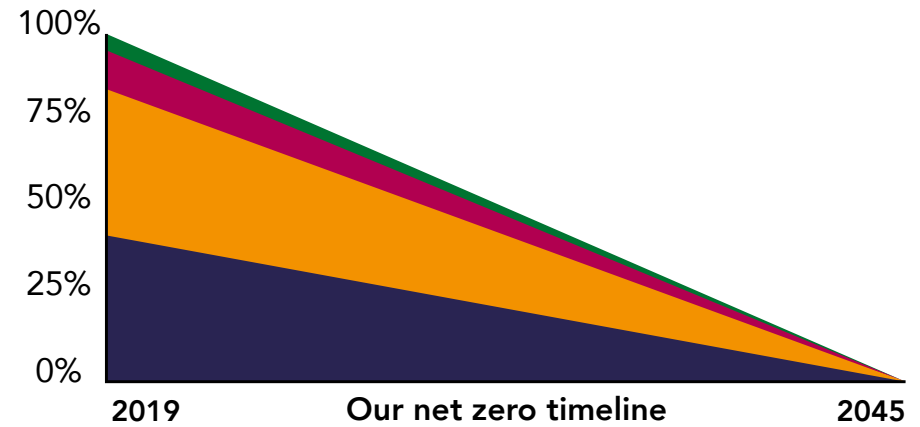
Scope 2: Emissions associated with fuels that are consumed indirectly, such as heating and cooling.



Scope 3: Emissions associated with activity in your value chain.



BERNESLAI HOMES MOVING TO NET ZERO



Procurement and capital expenditure

- Continue engaging with our most significant suppliers.
- Ensure more proactive net zero procurement initiatives.
- Review minimum environmental standards for all our contractors to meet.

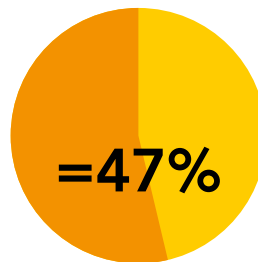


Business travel and commuting

- Introduce a staff sacrifice scheme for electric vehicles.
- Introduction of electric vehicles for fleet use.
- Work with the Council on the installation of EV charging infrastructure to buildings.

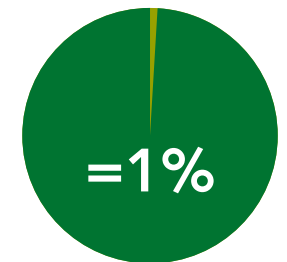
Corporate building energy

- Align with the Council on energy reduction plans for buildings.
- Continue educating all officers, customers and other stakeholders on climate change through carbon literacy training.
- Continue fitting solar panels and green heating to our properties.



Waste and water

- Review waste and water contracts and consolidate them.
- Review zero waste to landfill targets.
- Review waste minimisation strategy.



OUR PLANS FOR MOVING TO NET ZERO

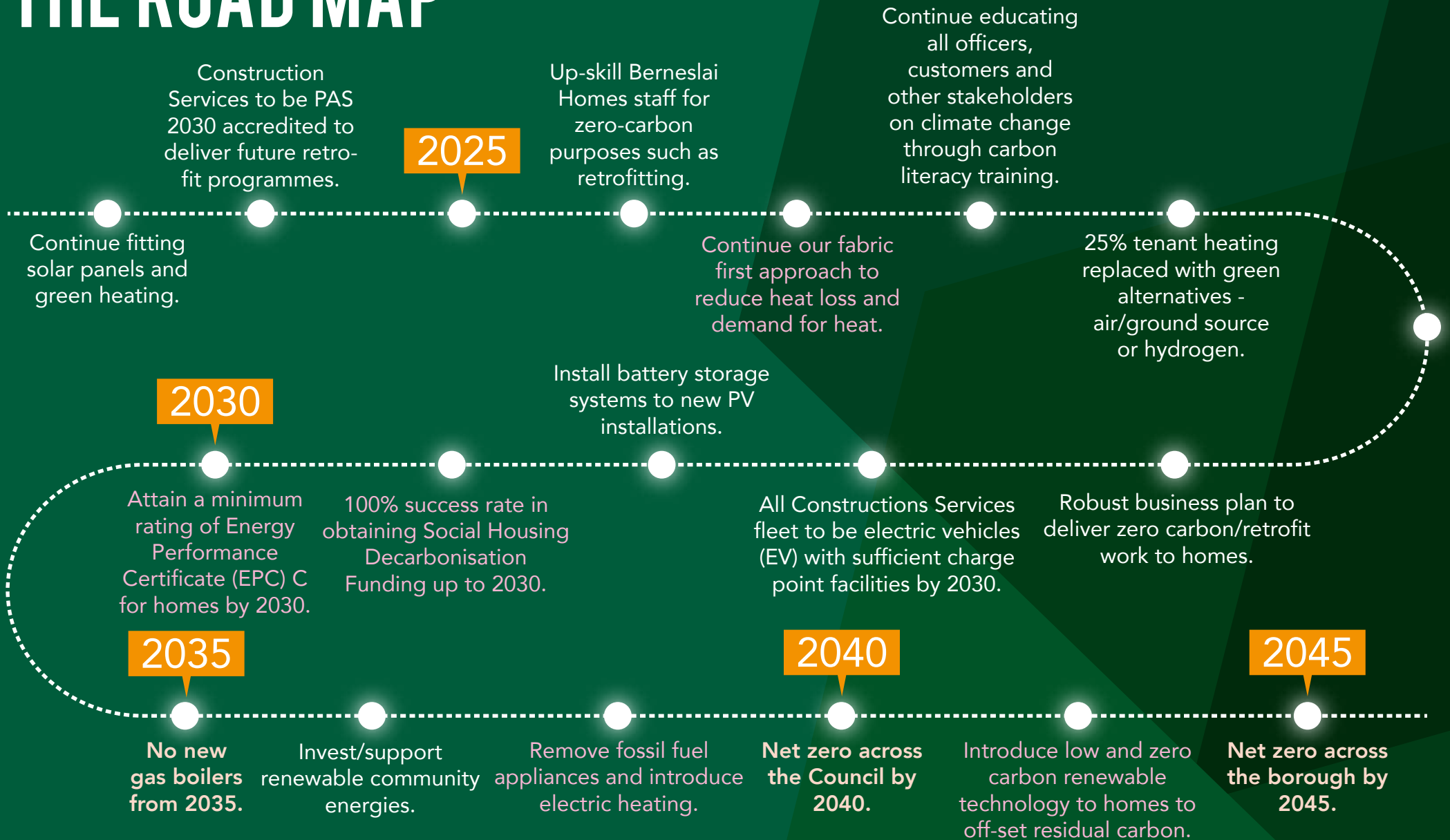
Our other plans

We will:

- review our policies to ensure support for cycling and walking.
- continue working to identify other ways that emissions can be reduced through effective management of the fleet.
- look to widen our search for sustainable suppliers. We will find the correct balance between supporting local business and procuring sustainably for our homes to meet our customers needs.
- reduce waste disposal and water consumption at our buildings to increase efficiency.



THE ROAD MAP



SUCCESS MEASURES 2027

- 100% Energy Performance Certificates (EPC) in place for all Council Homes.
- Successful with 100% funding through SHDF.
- HRA funded programme to retrofit/decarbonise homes.
- No homes with an EPC lower than 'D' rated.
- Customer behavioural change to the use of low carbon heating technologies.
- Measured reduction of BH corporate green house gas emissions.
- Continued partnership working with Council and Energise Barnsley to deliver sustainability initiatives to homes.
- Use of own vehicles to travel to work and mileage claims is reduced by 50%.
- On track for 25% of heating through renewable sources in homes.
- Construction Services fleet 65% electric vehicles (EV).



ANNUAL PLAN 2022/23

- Deliver LAD2 and SHDF Wave 1 “Retrofit” programmes to approx. 250 Council Homes.
- Work with the Council on SHDF Wave 2 bid submission for funding for further retrofit programmes.
- Berneslai Homes sign up to the Councils Affordable Warmth Charter.
- Consult with our Tenants Voice Panel to understand the approach to future decarbonisation.
- Complete Retrofit Pilot with Construction Services and Wates.
- Construction Services to be accredited to PAS2030.
- Carbon Literacy eLearning to be completed by staff.
- Green upskilling of staff.
- Review Voids Standard to increase energy efficiency of homes through suitable measures.
- Collaborate with Council in its Tiny Forests Tree planting initiatives.
- Liaise with Wates to plant 500 trees.
- Partner with the Council and Energise Barnsley to install 1000 Solar PV systems to Council Homes.
- Continue to network and share best practice.



GLOSSARY OF TERMS

Carbon Footprint – the amount of carbon dioxide released into the atmosphere as a result of the activities of a particular individual, organisation, or community.

Carbon Literacy – an awareness of the carbon dioxide costs and impacts of everyday activities, and the ability and motivation to reduce emissions, on an individual, community and organisational basis.

Climate Change – significant changes in global temperature, precipitation, wind patterns and other measures of climate that occur over several decades or longer.

Decarbonisation – the process of stopping or reducing of carbon gases, especially carbon dioxide, being released into the atmosphere.

Energy Performance Certificate (EPC) – are a ratings scheme to measure the energy efficiency of buildings.

Electric Vehicles (EV) – mode of transport which powered by electricity.

Fabric First – an approach to building design that involves maximising the performance of the components and material that make up the building fabric itself, before considering additional systems.

Fuel Poverty – is the condition by which a household is unable to afford to heat or cool their homes to an adequate temperature.

Green House Gas Emissions (GHG) – the emission into the earth's atmosphere of any gases, especially carbon dioxide, that contribute to the greenhouse effect.

Local Authority Delivery Scheme (LAD2) – Government funding for local authorities to improve the energy efficiency of domestic properties in England.

Low Carbon Heating – systems that release little to no carbon into the atmosphere as it works to heat a building.

Net-Zero Carbon – achieving a balance between the carbon emissions emitted into the atmosphere, and the carbon removed from it.

PAS 2030 – is the industry specification for which all energy efficiency installers must be certified to, and compliant with, when carrying out energy efficiency measures under government initiatives.

Retrofit – the process of making changes to existing buildings so that energy consumption and emissions are reduced. Changes should provide the benefit of a more comfortable and healthier home with lower fuel bills.

Social Housing Decarbonisation Fund (SHDF) – Government funding that will support the installation of energy performance measures in social homes in England.

tCO₂e – the amount of greenhouse gas emitted during a given period, measured in metric tons of carbon dioxide equivalent.



www.berneslaihomes.co.uk

Berneslai Homes Limited is a company controlled by Barnsley Metropolitan Borough Council. A company limited by guarantee, registered in England and Wales, number 4548803. Registered office: 10th floor, Gateway Plaza, Off Sackville Street, BARNSELY, South Yorkshire S70 2RD.

July 2022

Appendix B

Sustainability Strategy 2021 – 2031

Success Measures	Update	Status
2022/23		
Deliver LAD2 and SHDF Wave 1 “Retrofit” programmes to approx. 250 Council Homes	LAD2 delivered “retrofit” to 32 Council Homes. SHDF wave 1 is estimated to deliver “retrofit” to a further 69 Council Homes. The delivery window for SHDF wave 1 was extended to 30 th September 2023	Commenced
Work with the Council on SHDF Wave 2 bid submission for funding for further retrofit programmes	Successful as part of Tees Valley Combined Authority Consortium. “Retrofit” to 148 Council Homes delivery window will run to 30 th September 2025	Complete
Berneslai Homes sign up to the Councils Affordable Warmth Charter	Signed December 2022. By signing up to the charter we’ve made a pledge using one or more of the five key priorities: <ul style="list-style-type: none"> • Energy efficient homes • Affordable energy • Employment, education and skills • Partnership working • Low carbon commitments 	Complete
Consult with our Tenants Voice Panel to understand the approach to future decarbonisation	Solar battery project Age UK October 22 EPC C target approach and discussion around Energy Performance rating and stand-alone fires having a detrimental effect February 23 Net Zero Measures Demonstrator Tour – Broadacres retrofitted home attended by 2 Tenants Voice Panel members April 23	Complete
Complete Retrofit Pilot with Construction Services and Wates	Wates will deliver “retrofit” alongside Barnsley Homes Standard works to 20 properties in Wombwell completion date March 2024.	Commenced

Success Measures	Update	Status
Construction Services to be accredited to PAS2030	Construction Services to continue the process to gain PAS2030 accreditation using Roper Lane Swedish timber constructed properties to gain experience and required evidence	Commenced
Carbon Literacy eLearning to be completed by staff	Carbon Literacy eLearning completed by 124 staff	Complete
Green upskilling of staff	Several members of Berneslai Homes Asset Management completed Level 2 Award in Understanding Domestic Retrofit, Level 3 Award in Retrofit Advice and Domestic Energy Assessor (as a pathway to level 4 award in Retrofit Assessment). A member of Tenants Voice Panel also completed Level 2 Award in Understanding Domestic Retrofit. Construction Services are also upskilling staff to meet the necessary qualification standard as required for PAS2030 accreditation	Commenced
Review Voids Standard to increase energy efficiency of homes through suitable measures	Lead Officer Head of RMBS. We have funding agreed of £100k in 2023-24 to trial an enhanced Voids Standard. Properties are to be identified, SOW agreed and completed and repairs in occupation monitored to measure effectiveness of the trial. Energy wish list shared for consideration when creating the revised standard which has commenced.	Commenced
Collaborate with Council in its Tiny Forests Tree planting initiatives	Asset Management team away day tree planting with BMBC November 2022 included 11 large trees planted along with a litter pick of the park at Thurnscoe park. 600 saplings will be a thriving Tiny Forest within just a few years which have been planted at Goldthorpe.	Completed
Liase with Wates to plant 500 trees	At site identification stage	Commenced
Partner with the Council and Energise Barnsley to install 1000 Solar PV systems to Council Homes	Council leading on contract with Berneslai Homes leading on the operational delivery. Installation programme commencement estimated September 2023 for approximately 12 months	Commenced

Success Measures	Update	Status
Continue to network and share best practice	Zero carbon and sustainability task group established and meeting regularly to share technology advances and best practice for exploration	Commenced
Success Measures 23/24		
EPC C task and finish group established with its own action plan including 20 properties to receive retrofit works alongside Barnsley Homes Standard works as part of Wombwell 23/24 scheme	Final drawings expected 08/09/23. Wates working on pricing works for GMP agreement with BPS.	Commenced
Investigating possible amendments to secondary heating specification.	Report been to EMT and ask was to consult with customers on proposed changes. Consultation taken place and results being digested to decide next steps. If changes were approved would provide effective monetary value and improved energy performance	Commenced
Explore with Council SHDF wave 2.2 expected October 2023	Similar to other measures for 22/23 and 2027 but added for specific 2.2 wave	Not started
Success Measures 2027		
100% Energy Performance Certificates (EPC) in place for all Council Homes	Target to have 100% by April 2024. 12,947 as at August 23	Commenced
Successful with 100% funding through SHDF	100% successful bid for SHDF Wave 1 & 2.1 and both successful	Commenced
HRA funded programme to retrofit/decarbonise homes	The surplus generated by the Barnsley Council rent increase of 6.5% in April 2023 is being used to service additional borrowing of around c.£30M that would significantly contribute towards the estimated £60M cost of bringing all properties to at least EPC C by 2030. EPC C task and finish group to deliver this.	Commenced
No homes with an EPC lower than 'D' rated	Currently utilising SHDF to address the worst energy performing stock that are E, F or G rated. Estimated completion 69 properties by end of 2023 and a further 148 properties by April 2025. The	On-going

Success Measures	Update	Status
	accelerated EPC programme will ensure we have accurate data and can build programmes to improve energy performance to at least 'D' rated by 2027. As at Aug 23 882 homes E (832) or F (50) rated. No homes currently G rated. As at August, 5,296 properties are C + rated. This is an increase of 1,667 EPC C since Sep 22	
Customer behavioural change to the use of low carbon heating technologies	The increasing number of extreme weather incidents in England and beyond are highlighting the effects of climate change and highlight the requirement for behaviour changes including embracing low carbon heating technologies. Working closely with tenant's voice panel (TVP). A member of TVP completed Level 2 Award in Understanding Domestic Retrofit.	On-going
Measured reduction of BH corporate green house gas emissions	Baseline position complete by Savills. Further decarbonisation assessment to be commissioned.	Not started
Continued partnership working with Council and Energise Barnsley to deliver sustainability initiatives to homes	Age UK battery project completed May 2023. 1000 solar PV project estimated start date Jan 2024. Other projects in pipeline	On-going
Use of own vehicles to travel to work and mileage claims is reduced by 50%	Currently collating baseline data	Not started
On track for 25% of heating through renewable sources in homes	Number of renewable technologies as a percentage of stock is 14% as at June 23. The 1000 solar PV scheme detailed above will when complete will move this percentage to approximately 20%	On-going
Construction Services fleet 65% electric vehicles (EV)	4 electric vehicles in fleet. Reviewing our plans around charging infrastructure, as well as zero emissions vehicles. This will also include suitability of depot charging facilities	Commenced



Minutes of Berneslai Homes Board held 13th July 2023 at 4.00pm
(virtual)

Present:

Sinead Butters	-	Chair
Adam Hutchinson	-	Board Member
Mark Johnson	-	Board Member
Adriana Rrustemi	-	Board Member
Eric Smith	-	Board Member
Jo Sugden	-	Board Member
Councillor Sarah Tattersall	-	Board Member
Mahara Haque	-	Co-optee of Customer Services Committee (Board observer)

In attendance

Amanda Garrard	-	CEO
Dave Fullen	-	Executive Director, Customer & Estate Services
Arturo Gulla	-	Executive Director, Property Services
Lee Winterbottom	-	Managing Director Construction Services
Kulvinder Sihota	-	Executive Director, Corporate Services
Sam Roebuck	-	Head of Governance and Strategy and Company Secretary

	ACTION
<u>Item 1 – Apologies</u> Richard Fryer (Board Member), Kevin Osborne (Board Member)	
<u>Item 2 – Declarations of Interest</u> Sinead Butters and Mark Johnson declared an interest in Item 12.	
<u>Item 3 – CEO Presentation</u> AGa presented update, covering local, national and Berneslai Homes topics highlighted the key points. <ul style="list-style-type: none">• Amendment is going through with regard to professionalism, ensuring that ALMO's and TMO's are included in the new regulations.• A useful tool kit has been brought out by HQN in preparation for regulation. A Board session will be taking place later on in the year in	

preparation for inspection/regulatory standards, to make sure that if BH are selected for inspection in April 2024 we understand our responsibilities and those of the LA. The toolkit will be utilised at this session.

- AGa attended the CIH Conference – highlighted Andy Burnham’s inspirational speech – stated this was worth looking at. Lisa Nandy, Shadow Housing Minister talked about new build, but no new money identified, interested in social housing but she did not refer to the target. The speech made it clear Labour would not be repealing the RTB and mentioned that green belt sites will be looked at for development.

It was felt it would be useful if Lisa Nandy could visit, potentially including all S Yorks. KMCA to liaise with Oliver Coppard to extend invitation.

AGa feels it is a good time to start to influence the housing agenda and she is arranging to meet with John Healey.

Post meeting note – arranged for 20/10/23

Board were informed of Berneslai Homes offer to DLUCH (staff to visit) 3 other ALMO’s have also put their names forward.

- On a regional level, AG advised of the positive work of SY Pathways to Work Commission, looking at the economically inactive. Some good influencers involved, i.e. Dan Jarvis, Oliver Coppard. Berneslai Homes has been working with some of this cohort as part of the ACHIEVE programme. KMCA advised that a ‘deep dive’ and data collection exercise will be undertaken to understand the motivation and drivers and will involve BH, particularly in the surveys. She advised that numbers were reducing as were unemployment figures.
- Board noted the new Youth Zone opening soon, part of the regeneration of the town centre, for young people. Detailed slides available if required.
- Barnsley has received 2 significant national awards – the LGC Award and MJ Award, brilliant to receive this recognition.
- From a BH perspective, 2 active health and wellbeing days have taken place, which included a free 12 week premier leisure programme offered to staff – 60 have signed up.
- A joint EMT/SMT session has been held on business transformation – this will be covered at a future Away Day and information will be brought to a future Board meeting.
- The IIP draft report has been received – close down meeting arranged with Helen Burke (IIP). The culture aspect is excellent, showing the

KMCA

<p>significant progress made over the last 3 three years, with staff empowered and the 3 C's embedded across the organisation.</p> <ul style="list-style-type: none"> • The priorities were noted. <p>Resolved</p> <p>Board received the update.</p>	
<p><u>Item 4 – Reviewed Decision-Making Framework</u></p> <p>SR presented, outlining the key points.</p> <p>Board's attention was drawn to the changes outlined in the recommendations and Appendix. These will be written into the Financial Regulations next year by the new Head of Finance when in post.</p> <p>Clarification was provided that there have been no changes to the Council delegations and with regard to the SLA's that exist with the Council, the delegation to EMT is for them to have discussions with the Council. Most of the changes relate to changing delegated authority from Board to EMT. When decisions are made, these will come to Board and the larger delegations though the financial reporting.</p> <p>It was agreed for completeness to name the roles of EMT and SMT.</p> <p>Resolved:-</p> <p>Board considered and approved the proposed changes to the existing decision-making framework namely: -</p> <ul style="list-style-type: none"> • The addition of Senior Management Team to the Delegations framework; • The amendment to delegate from Board to EMT use of surplus up to £250k in agreement with BMBC Service Director; • Restructure of less than 10% delegated from the Board to EMT; • Delegated from Board to EMT any changes to Service Level Agreements; • Waivers to BH contracts added and delegated by Board to EMT; • New Service level Agreement added and delegated from Board to EMT • Amendment to proposed changes to an SLA delegated by board to EMT <p>Several other decisions have been added or removed, also highlighted in Appendix A to ensure the document captures all key decisions.</p>	<p>SR</p>

<ul style="list-style-type: none"> • Removal of Annual Service Plans this has been replaced by the Annual Business Action Plan agreed by Board and the Council as part of the review of the Strategic Plan; • Addition of the approval route for BH strategies and Action Plans that underpin our Strategic Plan; • The inclusion of the Annual Governance Statement which is a statutory reporting requirement. 	
<p><u>Item 5 – Financial Regulations Policy Review</u></p> <p>KS presented and highlighted the key points.</p> <p>The policy has been reviewed in conjunction with Internal Audit and BMBC to ensure alignment. There are no significant changes to report. This was considered by BH Audit and Risk Committee at their last meeting, where the report was agreed and that it be submitted to Board for final approval.</p> <p>Board commented on the importance of the document in making financial decisions etc and recommended that this needs to be kept under review to make more user friendly for the future.</p> <p>Resolved:-</p> <ul style="list-style-type: none"> • Board approved the Financial Regulations at Appendix A • Board noted the main changes detailed in the Summary of Changes at Appendix B. 	
<p><u>Item 6 – Company Reserves Policy Review</u></p> <p>KS presented the report.</p> <p>In reviewing the policy CIPFA best practice has been used regarding LA reserves. Advice has also been taken from BMBC Finance colleagues and the internal Audit team. The main change is with regard to clarity for the use of BH reserves in line with HRA guidance. The other changes are mainly in relation to post changes and best practice.</p> <p>Board noted the main risk for Berneslai Homes is Construction Services surplus, as this underpins the Management Fee, feeding into reserves and BH are reliant on this. The other risks are around inflation and the impact of the pay award, which last year was underwritten by BMBC, so was managed and mitigated. Utility costs may also impact, and this is around the district heating schemes funded from the HRA directly. Assessing risk, the contingency has been set at £2.5M, the process for setting this amount was clarified.</p> <p>The report was considered by BH Audit and Risk Committee at their last meeting and they recommended it be submitted to Board for approval.</p>	

<p>KMcA observed that in the Exec Summary, 3rd paragraph, reference was not made to Wates involvement in the PRIP contract and requested in future reports it be clearly stated that BH manage the PRIP contract, delivered by Construction Services (2 thirds) and Wates (one third). Board also suggested a proposed revision to Section 3 to include reference to CIPFA guidance and the HRA.</p> <p>Resolved:-</p> <p>Board approved:-</p> <ul style="list-style-type: none"> • The Reserves Policy at Appendix A • Delegated authority to Berneslai Homes Executive Management Team to approve expenditure below £250K • Board noted all the changes detailed in the Summary of Changes at Appendix B. 	KS
<p><u>Item 7 – Employee Health and Safety Performance 2022 – 2023</u></p> <p>SR presented the report, providing Board with an overview of the year, comparing annual data to identify and question trends.</p> <p>The key points are shown in Section 1.3. The number of accidents has decreased, however violence and aggression has increased. Board expressed their concern but were assured that this is being closely monitored by the health and safety groups and EMT in identifying trends and how incidents are responded to.</p> <p>During 2022/23 lone working fobs have been rolled out to all staff, giving an extra layer of security for lone workers. The Risk and Governance Manager is part of a Risk Housing Group, all members of the group are concerned about the increase in incidents and are planning a webinar on the issue.</p> <p>A slight increase has been seen in over 7 day accidents, from 3 to 5, which in turn has increased the lost time due to accidents. Board’s attention was drawn to Section 1.4 of the report which identifies the ill health indicators. Number one absence is Musculoskeletal ill health, however, the number of days lost due to mental/emotional wellbeing has increased which suggests that although there has been fewer people absent for this reason the absences have been longer. BH continue to provide support to staff as outlined in section 8 of the report.</p> <p>An observation was made by Board that although risk assessments had been carried out prior to works taking place, injuries had still occurred and queried the reason for this. LW advised that dynamic risk assessments are undertaken, however, there are instances where people are not giving due care and attention to a situation, resulting in accidents occurring. It is usually not due to a change in any process or a fail in procedure.</p>	

Clarity was also requested on the difference between amber and purple flags. DF provided an explanation - there are very few purple flags against properties, but where there are it means that a property should not be visited without additional support. These are kept under review with partners. Discussion followed on housing officers dealing with tenants with very complex/challenging issues on a daily basis. DF said this was taken into consideration in the recent restructure, with a fully staffed specialist team in place. This means that further skills are developed and teams can be focussed in particular areas where required, working with the council and the police.

Resolved

- Board noted the performance of the health and safety systems and procedures that are operational within the company.
- Board noted the current 2022-2024 Health and Safety Policy.
- Board approved the areas of further development and monitoring identified at Section 11

Item 8 – 2022/23 Corporate Performance Summary

SR presented the report which presents an assessment of company performance for 2022/23. This follows the presentation given to Board on the 23rd May. The report also provides an update on the Annual Business Plan actions, agreed by Board; 21 are complete, 4 are partially complete and 2 not achieved. Details are outlined in Section 4.13 of the report and in full in the Performance Report. The 2 actions not achieved are the Repairs First and DRS which Board are aware of and have been consulted on. Board discussed KPI's at the last meeting.

DF then provided an update on the headline information available so far for Qtr 1.

The final performance report has been to Customer Services Committee, the Council's DMT and SMT and is due to be at Cabinet on the 16th August.
Headlines:-

Rent Collection - This has fallen since year end – just below 95% by BH measures. Context provided – 0.5% higher than last year, felt to be a seasonal dip.

Following the review by Internal Audit, some of the areas highlighted have been looked at i.e. practices in relation to the focus of the team and the balance between prevention at low level, getting in early is not always the best approach. The team have been reviewing cases and staff training has commenced on this, which also includes the culture. Team building training is being carried out by the Interim Income Manager, in place since the Income Manager left the organisation. Some others team members are also stepping up. This work will be followed up, looking at IT, automation etc to improve efficiencies in the systems in operation.

Discussion followed on the Internal Audit on rents that takes place annually. Board were assured of the random checks undertaken as part of this process. DF also confirmed that the rent increase is correctly applied with the rent standards that are set. In addition, he stressed the importance of looking at how income is maximised to the HRA; in this regard the Council have commissioned HQN to carry out a piece of work fully reviewing the rent and service charge policy and performance, and this has commenced. This will flow through to Audit Committee.

Contact Centre – Improvement was reported at the last meeting and this trend has continued. Rag ratings are all green and this has been sustained for a few months.

Voids – Noted there are more empty properties compared to the usual trend. This is impacting on the void rent loss, a key performance indicator and a business plan assumption. This is the first time BH has not achieved the target. There has been some issues around the operation of the PRIP contract and financial control mechanisms. Internal processes between BH and the Council are required to ensure their speedy release. AGu reported on a recent workshop that had taken place to look at identifying blockages and actions. BMBC Homeless Team were in attendance (due to costs involved to the borough as a whole i.e. bed and breakfasts, hospital discharge delays etc). Following this, robust debate took place at a Berneslai Homes joint EMT/SMT session. It is important that properties are released in a measured way to Wates and CS to mitigate any further problems.

Board were keen to understand the implications Berneslai Homes' foresee for the year end and the financial implications. DF made reference to the business assumption which is 1.05% rental income to voids process, therefore anything above this is not achieving income targets set for the HRA. The impact is more on the local authority in terms of the Management Fee and updated information has been supplied to the Council's Finance Team. 258 voids in relation to the 1.05% is just over target – it is important to get this back under control and BH are confident they will be able to recover.

Complaints – Delays continue on responses. The national trend is also seeing an increase. Although BH rates are lower than the sector average, they are significantly high. BH are seeing many complaints escalating from Stage 1 to Stage 2. Good discussion has taken place at Executive level and some areas of focus have been identified. In addition, BH are currently going through Housemark accreditation for the complaints system, so hopefully more insight will be gained from them independently on areas to improve performance.

Board were advised of the robust systems in place; the main issues relate to managing the size of the programmed repairs and explaining to customers the timeline for their repairs being completed. Hopefully as the schemes start to be released, customers will be given more clarity and Board were assured this was under control.

KMcA on behalf of the Council thanked DF for the update and noted the continuous improvements.

Resolved:

- **Board considered and commented on the performance of the organisation during the 2022/23 financial year and noted the progress made against the Annual Business Action Plan for 2022/23.**
- **In so doing, they confirmed they were satisfied that where performance targets or key milestone dates have not been achieved that the issues causing this are clear and that there are adequate controls and actions in place to address the reasons for this.**
- **Board agreed the areas identified by CSC for more detailed consideration.**
- **That Board are satisfied there is nothing within the report for referral to BMBC.**

Item 9 – Repairs First Update – Presentation

KS presented an update to Board, covering the background issues relating to the software supplier, technical problems, risks, lack of support, specification etc.

With regard to the current position, all but 1 of the showstoppers have been fixed. Testing is currently taking place which should hopefully resolve the 1 outstanding.

Priorities are being re-categorised. Enhancements which will improve functionality will hopefully be brought forward.

Discussions are continuing with Wates regarding their timeline and options are being considered.

Internal staffing issues were outlined, this continues to be a risk.

Board were assured that at this stage there are no risk to tenants, the existing system is still operational and the new system will not go live until it is working as it should.

KS clarified the user accepting testing process commencing September/October and the training plan.

Resolved:

The update was noted

Item 10 – Barnsley Homes Standard Programme – End of Year Report 2022/2023

AGu presented the end of year programme to Board for information and highlighted the key points.

Work to 1249 properties has been completed. The budget was almost £11M. There was a £1M underspend, vired to this financial year. Board noted component replacement amounted 4026. Tenant satisfaction for BHS in 2022/23 was high.

AGu advised of the preplanning that now takes place well in advance. Starting the programme early is also important. The stock condition surveys will help improve the co-ordination of work.

Resolved:

Board noted the end of year BHS 2022/23 report.

Item 11 – Resource Information Papers

11.1 – Health and Well Being Strategy

Board noted the report, commenting that it may be beneficial at some time in the future to carry out a deep dive on this subject.

Item 12 – Chair of Board Briefing Note

AGa presented the report which informs Board of the Chair's decision to step down from 28th September 2023 which was formally accepted.

In the interim it is proposed that MJ, the Senior Independent Director will be appointed to Interim Board Chair until the new Chair is appointed. A consultant will be appointed to undertake the recruitment for a new Chair. This has been discussed by Remuneration Committee.

AGa took the opportunity to thank SB for her positive impact and referred to some of the challenging issues she has been involved in since her appointment three years ago i.e compliance, governance, data breach, Covid etc. SB commenced with BH during Covid and provided significant support, assisting the Executive Team and on their behalf expressed appreciation.

Kathy McA expressed her pleasure in working with SB and referred to the early stages, interviewing for the Chair of Audit Committee. She said that SB has steered BH through the challenges and Chaired meetings with sophisticated composure. She feels BH are in good hands with MJ, highlighting strong succession planning. She added SB will be missed and on behalf of the Council thanked her for her efforts.

Resolved:

- **Board noted the resignation of the current Board Chair.**
- **Board noted the appointment of the Interim Board Chair, whilst a competitive recruitment process is undertaken.**

Board Meeting 13th July 2023 - Actions

PUBLIC AGENDA			
Item	Action	By Whom	Comments
Item 3 – CEO Presentation	Invitation to be extended to Lisa Nandy, Shadow Housing Minister – visit with potential to include all SY. KMCA to liaise with Oliver Coppard	KMcA	Update to be provided at meeting
Item 4 – Reviewed Decision Making Framework	Roles of EMT and SMT to be named for completeness	SR	Actioned
Item 6 – Company Reserves Policy review	Where CS are referred to in the involvement of the PRIP contract, future reports to also ensure Wates are included.	KS	Noted