

Thistle Housing Association Ltd

Regulatory Status: Statutory Action

Thistle Housing Association Ltd (Thistle) does not meet the Standards of Governance & Financial Management and regulatory requirements, and we are using statutory powers to address the non-compliance.

Why we are engaging with Thistle

We are engaging with Thistle about **tenant and resident safety**, its **governance** and its **financial health**.

In August 2018 Thistle was unable to assure us that it had the governance and leadership capacity necessary to address serious and widespread failures to comply with the Regulatory Standards of Governance and Financial Management (the Standards) and to meet outcome two of the Scottish Social Housing Charter (the Charter).

So we used our powers under sections 57, 58 and 65 of the Housing (Scotland) Act 2010 to appoint a manager and five members to Thistle's governing body.

On 5 November 2018 Thistle appealed against our decision to use our statutory intervention powers. The Appeal Panel upheld the decision on 3 December 2018.

Since our intervention we have established further instances of Thistle's failure to comply with Regulatory Standards and requirements.

These are serious and historic failures or potential failures and they arise in the following areas:

- Health & Safety
- Financial Health
- Governance & Board Skills
- Asset Management
- Failure to Provide Accurate Information to the Regulator

We set out below our concerns in each of these areas and what we require Thistle to do now.

Health & Safety

Major Investment Contract

We have been engaging with Thistle about its failure to manage a major investment contract.

In April 2019, after tiles had fallen from the roofs of two different properties, we required Thistle, as an immediate priority, to establish whether work carried out

under the contract had been completed to an acceptable standard. An independent survey subsequently identified incorrect fitting of roof tiles in 34 of 35 instances examined.

Thistle has carried out remedial work to the immediately dangerous areas and we are seeking assurance that the remedial work has been completed to an appropriate standard. Thistle is considering how it will complete the remaining work identified. A further phase of the survey is due to report at the end of August on the render work in the investment contract.

With support from the statutory manager, Thistle has commissioned an independent investigation into its management of the contract. This is expected to report in October 2019.

Management of Asbestos and Legionella

In June 2019 we established that Thistle had provided inaccurate information about its management of asbestos to tenants and residents and to ourselves. We required Thistle to immediately independently review the quality of its asbestos management systems. The governing body extended the scope of the review to include Thistle's management of Legionella.

Our assessment is that there are potentially serious weaknesses in and failures in Thistle's approach.

The statutory manager has instructed surveys and air tests of the properties affected and Thistle will report the results of these to us and to tenants and residents as soon as possible.

In view of the seriousness of these matters, with support from the statutory manager, Thistle immediately commissioned expert independent reviews into its compliance arrangements for asbestos, electrical, fire, gas, lift and water safety. Thistle will report the results of these to us as soon as possible.

Employer Health & Safety Audits

The statutory manager identified Thistle had not carried out employer health and safety audits for six years and it is now completing an independent audit.

Financial Health

Thistle has now told us the remedial work required to the roof installations completed under the major works investment contract will incur significant costs additional to its planned investment.

Thistle had previously provided incorrect information to tenants, residents and ourselves that there would be no additional cost as a result of remedial work on the contract.

So this additional cost is not currently provided for in Thistle's business plan.

We have asked Thistle to:

- consider the impact of any costs not currently provided for in its business plan on Thistle's future financial viability; and
- consider the impact of these additional costs on future rent levels and affordability for tenants and service users.

Governance & Board Skills

Regulatory Standard 6 requires the governing body of a Registered Social Landlord to have the skills and knowledge they need to be effective.

In June 2019 Thistle provided us with a report from an independent skills assessment and appraisal of the governing body. This showed that, in the absence of the statutory appointees, the governing body would lack the skills and knowledge that it needs to be effective. Therefore the continued support of the statutory appointees is required in order to meet Regulatory Standard 6.

Three governing body members have since resigned and two have taken a leave of absence. The governing body now comprises of seven members, two elected members and the five appointees.

Failure to Provide Accurate Information to the Regulator

We have identified instances where inaccurate and poor quality information was provided to ourselves. Similarly inaccurate and poor quality information was provided to the governing body.

Asset Management

We have identified areas where we require additional information from Thistle about its recent stock condition survey (October 2018) and the accuracy of its reported compliance with the Scottish Quality Housing Standard. To date Thistle has been unable to provide us with all of the information we required.

Other Information

Thistle commissioned an independent survey of tenants and service users in March 2019. This showed a significant deterioration in satisfaction with the repairs and maintenance service, the quality of homes, whether rent represents value for money, the management of the neighbourhood and the factoring service.

Thistle has appointed an interim director.

Conclusion

Thistle has not yet demonstrated sufficient evidence of change and progress in addressing the underlying issues behind its failure to comply with Regulatory Standards. It is dependent on the support from the statutory appointees to maintain effective governance. Further potentially serious compliance failures have been identified by the work of the statutory manager and the governing body appointees.

Thistle requires strong governance and leadership to deal with the range of complex and serious issues it is facing. As the reduction in governing body member numbers present a risk to the governing body's capacity we have decided to increase the number of appointees on the governing body to nine to support Thistle to deal with the range of complex and serious issues it is facing:

- addressing the weaknesses and failings in its management of health and safety issues and ensure it is complying with its legal obligations;
- addressing the governance failings identified in Thistle's Governance Review (March 2018) and any other governance issues identified;
- overseeing delivery of its Governance Improvement Programme and embed sustainable change in the organisation;
- supporting the governing body to ensure that Thistle complies with the Standards and outcome two of the Charter;
- carrying out an audit of its Annual Return on the Charter;
- ensuring that Thistle's stakeholders including its tenants and funders are kept up to date with progress on addressing the issues that have led to intervention; and
- carrying out a review to identify the best strategic solutions for Thistle's tenants and service users.

The manager and nine appointees to the governing body will report to us on progress in addressing their remits.

What Thistle must do

We require Thistle as an immediate priority to:

- obtain independent assurance that it is meeting its legal obligations associated with tenant and resident safety and provide us with the reports on this;
- obtain independent assurance about the improvement works, and provide us with reports on this;
- provide us with the information we require about its management of asbestos and Legionella;
- provide us with a report on the independent audit of its employer health and safety compliance;
- provide us with the report into the independent investigation into its management of the major works contract; and
- identify all of the potential costs and liabilities which are not incorporated in its current business plan and provide us with a revised business plan and future forecasts.

We require Thistle by 31 October 2019 to:

- complete an independent review of the best strategic solutions for Thistle's tenants and service users and provide us with a report on the findings;
- provide us with a copy of its updated Governance Improvement Programme;
- provide us with the information we require about its stock condition survey and its Annual Return on the Charter (ARC);
- complete an independent audit of its ARC for 2018/19 and provide us with the report on the findings;

- develop and implement an action plan to address the findings of its tenant and service user satisfaction survey;
- develop and implement a risk management strategy;
- develop and implement a performance management structure;
- consider the impact upon its financial viability and future rents of the costs not currently provided for in its business plan;
- provide us with monthly reports on its progress towards achieving the actions we have asked Thistle to complete; and
- provide us with its monthly Management Committee and sub-committee papers and minutes.

We will agree with Thistle the timescales for completing these actions.

What we will do

We will:

- discuss with Thistle its capacity to complete the actions we require it to take;
- regularly monitor Thistle's progress on completing the actions we require it to take and meet with Thistle as required;
- review the findings of the independent reviews and other information Thistle is required to provide; and
- consider our future regulatory strategy and how best to achieve an outcome whereby Thistle's tenants and service users get the benefits of being served by a landlord which complies with the regulatory requirements and Regulatory Standards.

Regulatory returns

Thistle must provide us with the following annual regulatory returns and alert us to notifiable events as appropriate:

- Annual Assurance Statement;
- audited financial statements and external auditor's management letter;
- loan portfolio return;
- five year financial projections;
- Annual Return on the Charter; and
- the return on the Energy Efficiency Standard for Social Housing.



[Read more about Thistle>](#)

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