

Dear Councillor,

OVERVIEW AND SCRUTINY PANEL (COMMUNITIES AND ENVIRONMENT) - TUESDAY, 7TH MARCH 2017

I am now able to enclose for consideration at the above meeting the following reports that were unavailable when the agenda was printed.

**Agenda Item
No.**

10. URGENT ITEM - REGULATORY JUDGEMENT: LUMINUS GROUP LIMITED (Pages 115 - 124)

In accordance with Section 100B (3) and (4) of the Local Government Act 1972, the Chairman has agreed that the Panel should consider the urgent item of business of Luminus Group Limited's Regulatory Judgement from the Homes and Communities Agency.

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Homes &
Communities
Agency

The Social Housing Regulator

March 2017

HCA Regulatory Judgement on Luminus Group Limited L4398

Including the following registered entities

Luminus Homes Limited LH4253
Oak Foundation L4399

Publication Details

Reason for publication

Governance downgrade

Regulatory process

In Depth Assessment

Please see the definitions in Annex 1 for more detail

Governance

G3 (Non-compliant)

The provider does not meet our governance requirements. There are issues of serious regulatory concern and in agreement with us the provider is working to improve its position.

Viability

V2 (Compliant)

The provider meets our viability requirements. It has the financial capacity to deal with a reasonable range of adverse scenarios but needs to manage material risks to ensure continued compliance.

Key to grades

G1 / V1	Compliant
G2 / V2	Compliant
G3 / V3	Non-compliant and intensive regulatory engagement.
G4 / V4	Non-compliant, serious failures leading to either intensive regulatory engagement or the use of enforcement powers.

Provider Details

Origins

Luminus Group Limited (Luminus) is a non-charitable company and a registered provider. It owns and manages around 7,300 properties. The majority of its stock is for general needs with over 500 units being specialised housing for older people. Luminus also provides hostel accommodation and related services, as well as training and other benefits within the community.

Registered Entities

Luminus has two registered subsidiaries: Luminus Homes and Oak Foundation.

Unregistered Entities

Luminus has two unregistered subsidiaries. The Ferry Project is a hostel and homelessness services provider. Luminus Finance provides strategic finance for the group. Luminus Finance has two further unregistered subsidiaries: a commercial development company, and a social enterprise company which provides services to the rest of the group.

Geographic Spread and Scale

Luminus operates mainly within the Huntingdonshire area of Cambridgeshire.

Staffing and Turnover

Luminus employed 296 staff (full time equivalent) and had a turnover of £44.7m in the year to 31 March 2016.

Development

Luminus has recently undertaken an outright sale programme (approximately 100 units in total) via its unregistered subsidiary Luminus Developments Limited, covering two development sites, one in London and one in Cambridge.

In addition, there is on-going development of units for rent and for affordable ownership, including some planned redevelopment of garage sites. Luminus's intention is to develop up to 100 properties per year.

Regulatory Judgement

This Regulatory Judgement downgrades our previous assessment of Luminus's governance rating published in March 2016 from G1 to G3.

The regulator has considered evidence gathered during the course of an In-Depth Assessment. Following that, the regulator lacks assurance that the board is maintaining effective control over Luminus and its activities. The systems in place to monitor and manage delivery of its plans and associated risks are not adequate and are not operating effectively. The board is receiving inadequate information, and has not demonstrated it is sufficiently challenging in considering the information it does receive. It has been unable to provide adequate assurance it is compliant with its chosen Code of Governance. There is a lack of effective oversight of performance of investment in external bodies. The board is not exercising its role with appropriate skill or diligence.

Luminus does not have an effective system of risk management. It has not assured the regulator that it understands adequately the risks it faces. Stress testing has been carried out but has not been adequately informed by an understanding of the housing market risks facing Luminus. Mitigations are not properly developed as financial impact is not robustly quantified and they are not effectively linked to risk scenarios or triggers. Material weaknesses in the information and material presented to the board have not been effectively challenged.

Luminus does not have an effective system of internal control. The internal audit programme is not effectively driven by understanding of risk. The board does not systematically follow up progress with known control weaknesses identified through recommendations from internal audit. An internal audit on gas found that the board had been given inadequate information. A very large number of properties had been without the statutorily-required Landlord Gas Safety Requirement certificates. (A separate Regulatory Notice has been issued in this regard.) The board did not inform the regulator and did not seek to understand the root causes of the failure.

The board is unable to explain compellingly how financial and governance arrangements operate effectively within the group's legal and governance structures. Via an intermediary company, Luminus has a £48m commercial investment in an external property development company. The board has not demonstrated it properly understands the risks and benefits of this investment, and whether it is delivering Luminus's objectives. The board does not receive sufficiently detailed information to allow it to effectively monitor and make decisions on the investment and has not effectively challenged that situation. Luminus is also unable to substantiate that it is compliant with its chosen Code of Governance in relation to the adequacy of its delegations framework and board recruitment.

These issues range across the governance elements of the Governance and Financial Viability standard and are linked by lack of challenge by the board of inadequate processes and assurance. The regulator has concluded that board members of Luminus are not discharging their duties with adequate skill.

The regulator's assessment of Luminus's compliance with the financial viability element of the governance and financial viability standard is unchanged. Luminus has the financial capacity to deal with a reasonable range of adverse scenarios but needs to manage material risks to ensure continued compliance. The regulator will continue to engage with Luminus in this respect.

Annex 1: Definitions of Regulatory Processes

In Depth Assessment (IDA)

An IDA is a bespoke assessment of a provider's viability and governance, including its approach to value for money. It involves on-site work and considers in detail a provider's ability to meet its financial obligations and the effectiveness of its governance structures and processes.

Stability Checks

Based primarily on information supplied through regulatory returns, a stability check is an annual review of a provider's financial position and its latest business plan. The review is focused on determining if there is evidence to indicate a provider's current judgements merit reconsideration.

Reactive Engagement

Reactive engagement is work which falls outside our planned programmes of work (i.e. scheduled IDAs or the annual Stability Checks). It involves us responding to new intelligence or a developing situation which may have implications for a provider's current regulatory judgement.

Stability Checks and Reactive Engagement

In some cases, we will publish narrative regulatory judgements which combine intelligence gained from both Stability Checks and Reactive Engagement.

Further Information

For further details about these processes, please see Regulating the Standards on <http://www.gov.uk/hca>.

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March 2017

HCA Regulatory Notice

Registered Provider

Luminus Group Limited (Luminus) (L4398)

Regulatory Finding

The regulator has concluded that:

- a) Luminus has failed to meet the Home standard; and
- b) as a consequence of this breach, there was the potential for serious detriment to Luminus's tenants.

The Case

Luminus owns around 7,500 properties. As a registered provider, Luminus is required to comply with the consumer standards.

As part of planned regulatory engagement with Luminus via an In Depth Assessment, the regulator learned that following an internal audit in June 2016 Luminus had identified that 25% of a small sample of properties did not have valid gas safety certificates. Following a further full assessment, it was identified that more than one thousand properties had not had a valid gas safety certificate for at least some part of the previous two years. Most of the certificates had been overdue for a short period.

Inadequate policies and systems had caused failure to schedule and book inspections in a timely manner, and then problems gaining access to

properties. The failure was not reported to the regulator. Luminus is adopting new gas safety policies and procedures.

The Regulator's Findings

The regulator considered the case as a potential breach of the Home standard and specifically the regulatory requirement to 'meet all applicable statutory requirements that provide for the health and safety of occupants in their homes'.

The regulator has received evidence of failure to adhere to the Gas Safety (Installation and Use) Regulations 1998 which state that gas safety checks should be undertaken annually by a gas safe engineer. Although the gas safety inspections were typically overdue for a relatively short period of time, the number of homes that had been without valid certificates for at least some period was extremely high. This had been caused by failure to have adequate policies and systems in place to ensure gas safety inspections were carried out on time. This is clear evidence of a breach of the statutory obligation to carry out gas servicing and thus of the Home standard.

Notwithstanding the actions Luminus has taken, and is now taking, the regulator is of the view that it has failed to meet the Home standard. Having considered the number of properties affected, and the systemic nature of the problem, the regulator has concluded that the breach of the Home standard exposed tenants to the risk of serious harm.

Section 198A of the Housing and Regeneration Act 2008 (as amended), states that the regulator's regulatory and enforcement powers may be used if a registered provider has failed to meet a consumer standard. In order to use regulatory or enforcement powers, as well as the failure to meet the standard, there should also be reasonable grounds to suspect that the failure has resulted in a serious detriment to the provider's tenants (or potential tenants) or that there is a significant risk that, if no action is taken by the regulator, the failure will result in a serious detriment to the provider's tenants (or potential tenants).

Luminus has provided assurance that it has completed the outstanding gas safety checks and that it is developing and adopting a new gas safety policy. The regulator will work with Luminus as it addresses the issues which have led to this situation and will consider what, if any, further action to take in relation to the breach of the Home standard.

The regulator has also considered the implications of this matter for its published grading of Luminus' compliance with the Governance and Financial Viability standard as part of the regulator's broader consideration of Luminus' compliance arising from the In Depth Assessment. A non-

compliant G3 grading has been published via a separate Regulatory
Judgement.

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