

# *Kilkenny County Council*

Internal Audit Report [REDACTED] Review of Rental Accommodation Scheme.

Date: 26<sup>th</sup> March 2019

## **Report Distribution**

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Audit Committee Members

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## **Objectives**

The Rental Accommodation Scheme (RAS) provides accommodation from the private rented sector for persons who have a long term housing need. RAS provides a more structured, accommodation-based approach to the use of the private rented sector to meet long-term housing need.

The objective of the audit is to examine the effectiveness of the controls operating the scheme and to review the record keeping systems and procedures.

**Internal Audit understands and accepts that the Housing Dept. are facing huge challenges in the current climate and there are urgent demands to source accommodation for people who cannot provide accommodation from their own resources. However, as the RAS scheme is funded through public finances, it is important that robust controls are in place to ensure that the accommodation sourced through RAS is suitable and value for money is being achieved.**

## **Approach**

Internal Audit spoke with staff involved in the RAS scheme. 40 RAS files were examined to ensure procedures were being adhered to. Payments to private landlords in 2018 were reviewed as well as the recoupment process for the same period.

## **Scope & Limitations of scope**

Internal Audit checked a sample of 30 RAS files from the total of 542 RAS tenancies. Payments and recoupment's relating to private landlords only were examined. The scope of this audit did not include payments to AHB's. Also excluded from the scope of this audit is the collection of the tenants contributions.

**Audit Risk**

- Potential loss of income from incorrect recoupments.
- Over/under payments to private landlords.
- Not achieving value for money.
- Properties not suitable for tenants housing needs.
- Insufficient backup documentation. No audit trail.

**Co-operation of Management and staff**

Internal Audit received full co-operation from Council Management and staff throughout the course of this review and would like to thank them for their assistance.

## *Summary of Findings \**

### **Findings**

1. Missing backup documentation on files such as RTB registration, insurance cert, LPT receipt, technical approval, BER cert etc.
2. No consistency in documentation on files.
3. Contracts/tenancy agreements not signed by all parties.
4. Accommodation included in RAS scheme without appropriate approval being received from technical staff.
5. The physical location of the RAS section does not help communication as the three staff members responsible for RAS are located on different floors. This may be a reason for missing documentation on files.
6. Rent increases given to landlords without appropriate approval or backup documentation on file.
7. Lack of an IT system with robust controls. Processes dependent on excel spreadsheets.
8. Spreadsheets not being updated with accurate information. Inconsistencies between RAS master spreadsheet and payments on a gresso.
9. Lack of controls relating to payments and recoupments process. This has resulted in incorrect payments to landlords and incorrect recoupment claims.
10. Time delays in recouping monies from Dept. which have a negative effect on cashflow position.

# Findings & Recommendations

<i><b>Finding</b></i>	<i><b>Implication</b></i>	<i><b>Recommendation</b></i>	<i><b>Management Action Plan</b></i>
<p>Internal Audit examined a random sample of 30 RAS files.</p> <ul style="list-style-type: none"> <li>One application exceeded the income thresholds for the RAS scheme.</li> <li>One property entered the RAS scheme but no tenant was assigned. Monthly rent of €800 was paid for three months until the council purchased the property.</li> <li>20 contained no documentary evidence of the landlord registering the tenant with the RTB.</li> </ul> <p><u><b>Contracts</b></u></p> <ul style="list-style-type: none"> <li>9 contracts contained no evidentiary signature, omission of the Landlords/Housing Authorities signature and have not been sealed by the Common Seal of the Council. <ul style="list-style-type: none"> <li>3 contracts have not been signed by the Housing Authority, witness, elected member and the Council Seal is not evident.</li> <li>1 contract has not been signed by the housing Authority, witness and the Council Seal is not evident.</li> <li>1 contract has not been signed by a nominated member and the Common Seal of the Council is not evident on the contract.</li> <li>2 contracts have not been signed or witnessed by the Landlord at the guarantee section of the contract.</li> <li>1 contract is not witnessed throughout and the guarantee is not signed by the Housing Authority.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Not adhering to RAS guidelines. Applicants had means to provide for own accommodation.</li> <li>Should ensure that Value for Money is being achieved.</li> <li>Entering contracts with landlords who are non compliant with RTB requirements.</li> <li>Contracts possibly not legally binding.</li> </ul>	<ul style="list-style-type: none"> <li>RAS filing system needs to be improved. All relevant documentation needs to be included and kept in order. A checklist should be kept on front of file and this should be checked by RAS supervisor.</li> <li>As a state body, it is important that the council support the RTB. A contract should not be entered into with any landlord who is not registered with the RTB.</li> <li>All contracts should be signed and witnessed by the Housing Authority and elected member. The council seal should be applied to all contracts.</li> </ul>	<p>Income limits - In the one case mentioned the work was seasonal and approved by line manager ( file note)</p> <p>██████████ – 4 RAS units secured until acquired by KCC – Delay due to conveyance</p> <p>Agree with recommendation on Required signatures and Procedures now in place</p>

<i><b>Finding</b></i>	<i><b>Implication</b></i>	<i><b>Recommendation</b></i>	<i><b>Management Action Plan</b></i>	
<p><b><u>Tenancy Rent Agreements</u></b></p> <ul style="list-style-type: none"> <li>• 11 Tenancy Rent Agreements were found to be incomplete: <ul style="list-style-type: none"> <li>○ 7 Residential Tenancy Rent Contribution Agreements were signed by the tenants and witnessed by housing staff, however the agreements were not signed on the provided line by the Housing Authority (this signature also requires a witness signature)</li> <li>○ 1 file held no Tenancy Rent Contribution Agreement for the housed tenant.</li> <li>○ 2 Tenancy Rent Contribution Agreements were signed by the tenant but not witnessed or signed by the Housing Authority.</li> </ul> </li> <li>• A rent review date was omitted from 2 contracts; the section of the contract was left blank (unfilled).</li> <li>• 6 contract rent review dates have expired between 9 to 22 months, no review was evident on the files and no correspondence issued to the Landlord regarding the same.</li> </ul>	<ul style="list-style-type: none"> <li>• Tenancy agreements not legally binding.</li> <li>• Council failing to fulfill obligations under agreement.</li> </ul>	<ul style="list-style-type: none"> <li>• Tenancy agreement should be signed by the tenant and also housing authority and witness.</li> <li>• System should be put in place to ensure rent reviews are agreed with landlord by the rent review date included in tenancy agreement.</li> </ul>	<p>Agree with recommendation on Required signatures and Procedures now in place</p> <p>Review of All files required</p>	

<i><b>Finding</b></i>	<i><b>Implication</b></i>	<i><b>Recommendation</b></i>	<i><b>Management Action Plan</b></i>
<p><u><b>Housing Standards</b></u></p> <ul style="list-style-type: none"> <li>No record of an inspection being carried out on one property accepted to the scheme on the 1/02/2018.</li> <li>On the 12/11/2010 an inspection took place on a property. The technician reported that the smell of kerosene persists in the kitchen and requested a copy of certification for the boiler (OFTEC report). The OFTEC report is not on the file nor was the property re-inspected. The property was accepted to the scheme without certification.</li> <li>A property accepted to the scheme on the 02/02/ 2012 had no second inspection carried out. The initial inspection outlined that the property required ventilation, re-decoration, bathroom mechanical ventilation, proof of an oil boiler service (OFTEC certification), ECTI certification and a heat detector for the kitchen.</li> <li>On the 01/12/2017 an initial inspection reported that an Oil - Periodic inspection (OFTEC) was required for an oil tank, boiler and heating system. A second inspection took place on the 26/01/2018, the technician reported the property was suitable for inclusion but noted that the Landlord had been granted extra time to move the oil tank away from the property. No OFTEC cert was referred to on the report and subsequently no certification is on the file nor did a follow up inspection take place. The property was taken onto the scheme on the 01/02/2018 without OFTEC certification. (Due to a complaint from the tenants the house was re-inspected 12/12/18 the technician advised that the oil tank had not been moved and the property required further numerous defects repaired).</li> </ul>	<ul style="list-style-type: none"> <li>Councils responsibility to ensure tenants have a safe and secure accommodation</li> <li>Possible liability for the council in the event of an accident or injury.</li> </ul>	<ul style="list-style-type: none"> <li>A property should not be accepted into the scheme before it is approved by a council technical staff member as being suitable.</li> <li>Internal Audit accepts that due to the current demand for housing, there will be occasions when properties that have <b>minor</b> defects would be included onto the scheme. However, there needs to be a procedure in place to ensure defects are corrected within a reasonable time frame.</li> </ul>	<p>This is an on-going matter between KCC/Landlord.</p> <p>Revised procedure put in place in 2019 and backed up with resources</p>

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<ul style="list-style-type: none"> <li>• No second inspection took place on a property. The initial inspection on the 18/01/2018 required that an ECTI periodic inspection report and a Gas IS8133 annex E inspection be submitted. The property was taken onto the scheme 01/02/2018.</li> <li>• On the 22/03/2018 a technician inspected an ETCI cert, the cert recommended that the Immersion Heater should not be inside Hot press (Rule 555.6.2); housing conveyed the requirement to the Landlord by email the same day. A further inspection was not carried out to validate if the works were carried out. The property was accepted to the scheme (contract commenced 01/03/2018).</li> <li>• A contract for a property was renewed on the 01/07/2018, the initial inspection took place on the 13/06/2018 and recommended both an ECTI and OFTEC report be submitted. No second inspection took place on the property. The contract was renewed without a second inspection taking place. Both the ECTI and OFTEC certification remain due.</li> </ul>			Revised procedure put in place in 2019 and backed up with resources	

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<p><b><u>BER Ratings</u></b></p> <ul style="list-style-type: none"> <li>• According to Kilkenny County Councils Rental accommodation Property Standards the minimum BER criteria for is D2</li> <li>• 1 RAS property was accepted to the scheme with a G rating - the lowest certified rating.</li> <li>• 4 RAS properties had no BER rating on file</li> <li>• 3 RAS properties were accepted to the scheme with an E1 BER rating.</li> </ul> <p><b><u>Proof of ownership</u></b></p> <ul style="list-style-type: none"> <li>• 16 Solicitors certificates were received for landlord's properties confirming title, Folio and legal ownership.</li> <li>• 9 property owners were not requested to confirm title or ownership of the rented property.</li> <li>• 2 landlords provided land registry certificates proving ownership of the property.</li> <li>• 2 landlords provided evidence of ownership by submitting a copy of their lenders mortgage interest paid certificates.</li> <li>• 1 landlord was wrote to on 18/03/16 and requested to provide proof of ownership. No documents received.</li> </ul>	<ul style="list-style-type: none"> <li>• Failing to comply with councils policy on RAS properties.</li> <li>• Providing accommodation for tenants that is not of good standard.</li> <li>• Possible legal implication if contract entered into with person who is not legal owner of property.</li> </ul>	<ul style="list-style-type: none"> <li>• A property should not be allowed enter into the scheme if it fails to comply with the councils criteria for adequate standard of accommodation which states that property must have a BER rating of at least D2.</li> <li>• A BER rating should be received for properties before entering into a contract.</li> <li>• Proof of ownership should be proved before a contract is entered into with a landlord.</li> </ul>	<p>Agree with recommendations</p> <p>Agree with recommendations to Have proof of ownership on each file. This can take many forms including LPT.</p>



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<p><b><u>Evidence of payment of property tax;</u></b></p> <ul style="list-style-type: none"> <li>• 24 landlords provided a non principal private residence and/or a local property tax certificate/statement relating to their RAS dwelling.</li> <li>• 5 RAS property files contain no evidence of the landlord's requirement to comply with NPPR/LPT.</li> <li>• 1 landlord was requested to provide proof of payment on the 09/10/2012 but no documents were submitted and the matter was not pursued.</li> </ul> <p><b><u>Delegated Orders</u></b></p> <ul style="list-style-type: none"> <li>• 4 CE orders not signed by the delegated officer (2 orders relate to 2018 orders &amp; 2 related to 2016 orders)</li> <li>• 13 instances of the absence of a delegated officer order relating to the contracted landlord rent increase.</li> <li>• 4 of the above mentioned files had no delegated order of any description on file relating to the RAS property</li> <li>• 11 agreements were found to have a commencement date prior to the delegated officer's approval date.</li> </ul>	<ul style="list-style-type: none"> <li>• Entering into contract with landlords who are not tax compliant.</li> <li>• Possible loss of revenue to the state and the council.</li> <li>• Lack of appropriate approval mechanisms.</li> </ul>	<ul style="list-style-type: none"> <li>• Proof of payment of NPPR and LPT should be supplied to the council before a contract is entered into with a landlord.</li> <li>• A delegated officers order must be signed prior to entering into a contract with a landlord.</li> <li>• A delegated officers order should be signed prior to any rent increase being agreed with a landlord.</li> </ul>	<p>Not a requirement of RAS Scheme</p> <p>Recommendations noted and agreed. Procedures are now in place</p>

<i><b>Finding</b></i>	<i><b>Implication</b></i>	<i><b>Recommendation</b></i>	<i><b>Management Action Plan</b></i>
<p><b><u>Private Landlords Monthly Payments</u></b></p> <p>Internal Audit examined private landlord payments in 2018.</p> <ul style="list-style-type: none"> <li>Over €5million was paid to private landlords in 2018. Landlords are paid monthly by EFT to their bank accounts.</li> <li>There were 532 RAS tenancies 31<sup>st</sup> Dec 2018. This is reduction of 16 from the 548 properties in the scheme at 31<sup>st</sup> Dec 2017.</li> <li>35 properties received 2 rent increases in 2018 despite contracts stating rent reviews occur every two years.</li> <li>9 properties received rent increases of over 50% in 2018.</li> <li>There is no documentation on file to show council are paying market rent.</li> <li>Record of all RAS properties and agreed monthly rent amounts are kept on a master excel spreadsheet.</li> <li>Adjustments are made monthly to landlord payments due to: <ul style="list-style-type: none"> <li>New property entering RAS scheme</li> <li>Existing property leaving scheme</li> <li>Rent being increased/decreased.</li> </ul> </li> <li>On average there are 35 rent adjustments per month. These rent adjustments are recorded on an excel spreadsheet by the RAS supervisor. On examination of these sheets, a number of manual adjustments were included on sheet also further complicating the process.</li> <li>Adjustments on spreadsheet are input into agrapho system by CO in Housing Dept.</li> <li>There is no IT system managing or reconciling the payments process. Process is totally dependent on excel spreadsheets which by their nature have major control weaknesses.</li> </ul>	<ul style="list-style-type: none"> <li>Insufficient audit trail.</li> <li>Potential payment incorrect amounts of landlords.</li> </ul>	<ul style="list-style-type: none"> <li>Internal Audit accepts that the current private rented market is difficult due to high demand and low supply of suitable houses. However, it is important that the council are getting value for money and are not paying above the current market rent.</li> <li>Rent increases should not be given to landlords twice in any one year unless in exceptional circumstances.</li> <li>Evidence of current market rent, such as printout of similar property on DAFT.ie, should be included on file when a rent has been reviewed. This shows that the rent was reviewed in a fair and transparent manner and that the council are achieving VFM.</li> <li>Current system of managing/recording of payments is inefficient. Process is totally dependent on the use of spreadsheets which have numerous control weaknesses.</li> <li>An access based IT system should be used to record all RAS landlords and properties. This would be provide a more secure audit trail.</li> <li>A RAS access based IT system</li> </ul>	<p>Rents are reviewed in line with current market rents. These Increases are reported monthly To the Dept Housing and no Queries raised by the Dept to date. KCC pay 92% current market rent.</p> <p>Recoupments - agree with recommendation to source new system in lieu of spreadsheets</p>

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<ul style="list-style-type: none"> <li>Internal Audit compared the RAS master excel spreadsheet with payments on aghorro in Feb 2019. <ul style="list-style-type: none"> <li>14 properties that showed differences between the rent agreed and the rent being paid.</li> <li>13 of these properties the amount being paid was correct and the RAS master sheet was not updated.</li> <li>1 property, a rent increase of €100 was agreed in May 2018 but never applied. Landlord is due back payment of 8 months rent increase.</li> </ul> </li> <li>In August 2018, rent of €600 for a property in receivership was paid in error to the landlord in addition to the appointed receivers. This €600 has not been recovered to date.</li> <li>In 9 out of the 12 months in 2018, a second payment run was made to landlords i.e. mini-run. A mini-run was originally used when landlords were omitted in error from the normal monthly payment run. This has now turned into a de facto second payment run each month.</li> <li>Monthly payment runs are prepared by the CO in Housing Dept. These are checked and authorised by the RAS supervisor. In March 2018, there was no authorisation by the RAS supervisor for a payment run of approx €500k.</li> </ul>		<p>was previously used but was found to be cumbersome and not fit for purpose. Improvements should have been made to the system instead of replacing with spreadsheets.</p> <ul style="list-style-type: none"> <li>Due to the high volume of adjustments each month, the payments process is complex. In order to simplify the process, internal audit would recommend that rent reviews are carried out in two months of the year only, e.g. Jan and June. All new contracts would need to be adjusted to reflect this. This would limit the workload to just two months of the year and would eliminate the backdating of rent increases.</li> <li>In the absence of an IT system, it is vital that the RAS master excel spreadsheet be kept up to date and is accurate. The number of users with access to this spreadsheet should be limited.</li> <li>Reconciliation should be carried out between the master RAS spreadsheet and the payments spreadsheet each month by the RAS supervisor.</li> <li>Due to high value of the landlord payments, all monthly payments</li> </ul>	<p>As above</p> <p>Individual cases dealt with by [REDACTED] as directed. Mistakes have been remedied.</p> <p>Agree with recommendation but may cause undue delays for landlords rent payments. Will examine protocol with Other LA's</p> <p>Agree with recommendation</p>

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<p><b><u>Recoupments</u></b></p> <p>Internal Audit examined private landlord recoupments in 2018.</p> <ul style="list-style-type: none"> <li>Recoupments are carried out monthly by the RAS supervisor.</li> <li>Recoupment's for the first five months of 2018 were returned by the Dept. due to inaccurate information being provided. This resulted in significant delays in the monies being received. As the average monthly payment is approx €500k, this has a significant affect on the councils cashflow position. <ul style="list-style-type: none"> <li>Jan recoupment received on 25<sup>th</sup> April</li> <li>Feb recoupment received on 9<sup>th</sup> May</li> <li>March recoupment received on 14<sup>th</sup> Aug</li> <li>April recoupment received on 14<sup>th</sup> Aug</li> <li>June recoupment received on 3<sup>rd</sup> Sept.</li> </ul> </li> <li>In Jan 2018, the RAS section discovered that four properties had not been recouped for a number of months. One property had not been recouped for 21 months. The total underclaim was over €37k. This was recouped from dept. in Jan 2018.</li> <li>Adjustments totalling €14,980 were made to March and April recoupments. No adjustment was made to the invoice on the debtors ledger.</li> </ul>	<ul style="list-style-type: none"> <li>Insufficient audit trail.</li> <li>Potential for incorrect recoupments being issued.</li> <li>Possible loss of revenue to the council.</li> <li>Negative implication on councils cashflow position.</li> </ul>	<p>should be signed off by RAS supervisor. In the absence of a RAS supervisor, an alternative manager in the housing dept. at an appropriate grade should sign off on payment run.</p> <ul style="list-style-type: none"> <li>Processing two landlord payment runs is inefficient and is duplicating processes each month. A second payment run should be used in emergency case only and should not be used as a fall back when documentation with a landlord has not been finalised.</li> <li>As stated previously, an access based IT system should be used to manage the RAS properties and landlords. This would simplify the recoupment process.</li> <li>Based on the findings, the current system is slow and inaccurate. The importance of the RAS master excel spreadsheet being kept up to date is vital. A monthly reconciliation should be carried out between payments sheet and RAS master spread sheet.</li> </ul>	<p>National Issue. Procedure for recoupment changed in 2018 from quarterly in advance to monthly in arrears.</p> <p>At this time, the RAS supervisor staff member also changed.</p> <p>National training provided and Procedures now in place</p> <p>Noted and Adjustments will be reviewed.</p>