

HOMES & COMMUNITIES COMMITTEE
26 SEPTEMBER 2019

REGULATOR OF SOCIAL HOUSING

1.0 Purpose of Report

- 1.1 To provide the Committee with information on the role of the Regulator of Social Housing and pending changes around consumer regulation.

2.0 Background Information

- 2.1 Set against the 'Housing Management Review' report presented to Policy & Finance Committee on 26 September 2019 and the report to be discussed at this Committee meeting titled 'Newark & Sherwood Homes – Gas Servicing', the information provided in the following sections will provide Members with a remainder on the role of the Regulator of Social Housing (RSH).
- 2.2 The council as the landlord of the housing stock (*Housing Revenue Account*) is responsible for compliance with the standards prescribed by the Regulator, even where the housing function or service has been delegated to an Arms Length Management Organisation (ALMO). This is also the same for all council tenant complaints referred to the Housing Ombudsman.
- 2.3 The Council must ensure full compliance with all regulatory requirements and the following sections provides an overview for Members on this particular matter.

3.0 Regulation of Social Housing

Regulator of Social Housing

- 3.1 The RSH regulates registered providers (RPs) of social housing to promote a viable, efficient and well-governed social housing sector able to deliver homes that meet a range of needs.
- 3.2 Registered providers of social housing include not-for-profit organisations such as housing associations and cooperatives, local authorities and for-profit providers.
- 3.3 The objectives of the Regulator are set out in the Housing and Regeneration Act 2008 (as amended). They undertake economic regulation, focusing on governance, financial viability and value for money that maintains lender confidence and protects the taxpayer. They also set consumer standards and may take action if these standards are breached, where there is a significant risk of serious detriment to tenants or potential tenants.
- 3.4 The Regulators role is to:
- a) Register and de-register providers of social housing subject to them meeting the eligibility requirements and registration criteria.
 - b) Gather intelligence to inform their assessment of a RP by reviewing submitted quarterly survey returns; carrying out annual stability checks of an RPs business plan and annual accounts; and undertaking periodic in depth assessments using a risk-based approach to assess providers' financial strength, risk profile, approach to value for money and their quality of governance.

- c) Assess and grade, through published Regulatory judgements, how well RPs are managing their risks.
- d) Investigate cases where a provider is susceptible to issues crystallising, and carry out enforcement to secure solutions.
- e) Identify and communicate emerging trends and risks at a sector and sub-sector level and maintain confidence of stakeholders, such as lenders.

3.5 The Regulators fundamental objectives, set by Parliament, cover the following:

Economic

- a) To ensure that providers of social housing, who are registered with us, are financially viable and properly managed and perform their functions efficiently, effectively and economically
- b) To support provision of social housing sufficient to meet reasonable demands (including by encouraging and promoting private investment in social housing)
- c) To ensure that value for money is obtained from public investment in housing
- d) To avoid the imposition of an unreasonable burden (directly or indirectly) on public funds.
- e) To guard against the misuse of public funds.

Consumer

- a) To support the provision of social housing that is well-managed and of appropriate quality
- b) To ensure that actual or potential tenants of social housing have an appropriate degree of choice and protection
- c) To ensure that tenants of social housing have the opportunity to be involved in its management and hold their landlords to account
- d) To encourage RPs to contribute to the environmental, social and economic well-being of the areas in which the housing is situated.

3.6 They also have a statutory duty to perform their functions in a way that minimises interference and is proportionate, consistent, transparent and accountable. The Regulator is accountable to Parliament for the discharge of the fundamental objectives. While the Regulator’s Chair of the Board is accountable to the Secretary of State for Housing, Communities and Local Government, the Chief Executive, as accounting officer, has a separate direct line of accountability to Parliament as well.

3.7 The prescribed **Economic Standards** are not applicable to local authorities, but the **Consumer Standards** are applicable to all local authorities who have retained their housing stock (*Housing Revenue Account*), managed directly or through an ALMO/housing management company.

3.8 There are four **Consumer Standards** covering:

1. Tenant Involvement and Empowerment

- Customer service, choice and complaints
- Involvement and empowerment
- Understanding and responding to the diverse needs of tenants

2. Home Standard

- Quality of accommodation
- Repairs and Maintenance

3. Tenancy Standard

- Allocations and mutual exchange
- Tenure

4. Neighbourhood and Community Standard

- Neighbourhood management
- Local area co-operation
- Anti-social behaviour

3.9 Consumer standards have been set so that tenants, landlords and stakeholders know the outcomes that are expected and to enable tenants to hold landlords to account effectively.

3.10 Presently, the Regulator has no role in monitoring a providers' performance or routine compliance with the consumer standards and will only intervene where failure of the standard could lead to risk of serious harm to tenants or potential tenants (known as the serious detriment test). The main sources of intelligence about potential cases of serious detriment will be information referred to the Regulator by third parties or directly by the Provider itself.

Consumer Standards compliance

3.11 On 17 May 2019, the RHS wrote to the Chief Executives of all stock owning local authorities highlighting issues around compliance with the Home Standard in respect of health and safety requirements.

3.12 The RSH letter follows the issuing of two regulatory notices to local authorities regarding failure to comply with regulatory requirements relating to fire safety assessments.

3.13 The letter is an important reminder to the council of the requirements on local authority landlords to comply with all aspects of the consumer standards:

'Boards and councillors must ensure that they have proper oversight of all health and safety issues (including gas safety, fire safety, asbestos and legionella). Contracting out delivery of services does not contract out responsibility to meet the requirements of legislation or standards, so providers need systems to give boards assurance of compliance.'

Consumer Regulation Review

3.14 The Regulator has also recently published its Consumer Regulation Review for 2018-19 and key messages from the report include:

- All registered providers have an obligation to act to ensure the homes where their tenants live are safe, and must meet the full range of statutory health and safety obligations. This requires registered providers to have robust reporting and assurance arrangements in place for effective oversight of compliance by boards and councillors.
- Effective assurance relies on good quality data, and maintaining compliance requires effective systems.

- Registered providers should understand and be able to demonstrate compliance across all aspects of the consumer standards, including how they engage with their tenants, how they deal with neighbourhood issues, and how they allocate their properties.
- Delivering compliance with the consumer standards depends on good governance, and on an organisation's culture.
- The quality of relationship with tenants underpins registered providers' ability to meet their objectives. The effectiveness of registered providers' complaints handling affects the level of trust and confidence tenants have in their landlord.
- Transparency with the Regulator is essential. Co-regulation requires registered providers to be transparent with the Regulator, and a failure to do so can indicate broader governance concerns.

4.0 Social Housing Green Paper

4.1 The Government published its Social Housing Green Paper 'A New Deal for Social Housing' in August 2018. The contents of which draws extensively from a Government listening exercise in which ministers heard the views of social housing tenants across the country, and touches on issues exposed following the Grenfell Tower fire. It also draws on external research and intelligence.

4.2 The Green Paper sets out five core themes:

- Ensuring homes are safe and decent
- Effective resolution of complaints
- Empowering residents and **strengthening the regulator**
- Tackling stigma and celebrating thriving communities
- Expanding supply and supporting home ownership.

4.3 This report will focus only on the Government's intention in the Green Paper to increase consumer regulation and identify that delivering good quality and safe social homes with the right services from landlords relies on a robust regulatory framework. It has been almost eight years since the last review of social housing regulation and the proposals in this green paper present the opportunity for a fresh look at the framework.

4.4 Proposals in the Green Paper around regulation include:

- Enabling the regulator to take a more proactive approach to enforcing the 'consumer standards' (*covering tenant involvement and empowerment, homes, tenancies and neighbourhoods and communities*).
- Giving the regulator more powers to scrutinise the performance of local authority landlords, with one proposal to publish performance in the form of league tables to enable comparison between landlords.
- Considering options to give tenants a voice on policy issues at a national level, including perhaps establishing a representative body.
- Looking at a variety of options to promote more community ownership, or community leadership of social landlords.

4.5 A ***‘Review of social housing regulation: call for evidence’*** was also published at the same time of the Green Paper to focus specifically on the regulatory framework for social housing to ensure that it remains fit for purpose, reflects changes in the sector and drives a focus on delivering a good service for residents.

4.6 The review covered three objectives:

- To rebalance the relationship between social housing landlords and residents, setting out the level of service residents should expect and clarifying how they can hold their landlord to account when they are not delivering;
- To ensure private registered providers of social housing are well governed and financially viable – reflecting the changing business models and levels of risk in the sector; and
- To make sure the Regulator of Social Housing (“the Regulator”) has effective powers to deliver the first two objectives and there are clear lines of accountability between the Regulator and Parliament.

4.7 The Green Paper also raises the matter of **Complaints resolution** and proposes a number of possible options to improve the way that complaints about social landlords are handled, including:

- Looking at ways to speed up landlords’ internal complaints processes, for example by asking the regulator to set out some suggested timings in a code of practice
- Exploring ways to improve the use of mediation in landlord/tenant disputes
- Looking at ways to raise awareness among tenants of their rights and the options available to them to make a complaint about their landlord
- Reforming or removing the requirement that complainants go through a ‘designated person’ (an MP, councillor or tenant panel) or wait eight weeks before they can contact the Ombudsman with a complaint.

4.8 In terms of the next steps of implementing the proposals of the Social Housing Green Paper, the Government in May announced that a timetable of activity would be published in September. To date there have been no further announcements. Once the proposed changes on regulation have been published a further report will then be presented to the Committee to assess the impact of these.

5.0 Housing Ombudsman

5.1 As referenced at paragraph 2.2 the Council, as the landlord of the housing stock, is responsible for all complaints referred to the Housing Ombudsman.

5.2 The Housing Ombudsman consulted on and then published its new [three-year corporate plan](#) in August 2019. Key drivers for the plan included an average 17% year-on-year increasing demand for the Ombudsman’s services since 2013, coupled with the raised national profile of social housing and customer redress since the Grenfell Tower tragedy.

5.3 The Plan reinforces the role of the Ombudsman to:

'Resolve disputes involving members of the scheme, including making awards of compensation or other remedies, where appropriate, as well as to support effective landlord-tenant dispute resolution by others'.

5.4 The Plan aims to reflect the key demands of tenants and landlords, delivering faster and effective redress, hearing residents' voices and ensuring greater transparency. To meet this the Ombudsman is proposing to make changes to its operating model in order to support landlords to help dispute resolution at a local level.

5.5 The overall aim of the plan is *'Making a difference – on individual complaints and across the sector'* with four new objectives to:

1. Deliver a fair and impartial service, resolving complaints at the earliest opportunity
2. Promote positive change in the sector
3. Provide a service that is professional, accessible and simple to use
4. Ensure our service is open and transparent

5.6 At a local level, the last complaint received by the Ombudsman from a Council tenant (*relating to the housing management service provided by Newark and Sherwood Homes*) was in 2011 and the outcome of the investigations found that there were no findings of maladministration.

5.7 Officers will continue to monitor developments from the Ombudsman as it implements the three year Plan, including the review of its operating model and discussions with Ministry of Housing, Communities and Local Government on the complaints scheme, both due by April 2020.

5.8 Newark & Sherwood Homes now intend to review their complaints handling procedure against the objectives and priorities within the Housing Ombudsman plan and then make any changes as necessary in consultation with tenants.

6.0 Proposals

6.1 The Committee should note and consider the council's responsibilities to the Regulator of Social Housing and Housing Ombudsman as set out in the paragraphs above.

6.2 There are further matters for the council to consider, as landlord of the housing stock, around compliance, health & safety (including building safety) and regulation, which will feature in the Committee's Forward Plan.

7.0 Equalities Implications

7.1 There are no equality implications arising directly from this report.

8.0 Community Plan – Alignment to Objectives

8.1 There are no direct links to the objectives of the Community Plan as the matters raised in this report deal with the council's statutory housing responsibilities as landlord of the stock (*Housing Revenue Account*).

9.0 RECOMMENDATIONS that:

- a) the Committee note and consider the Council's responsibilities as landlord of the housing stock to the Regulator of Social Housing and Housing Ombudsman; and
- b) Committee approve that further statutory housing matters relating to compliance, health & safety (including building safety) and regulation are added to the Forward Plan.

Reason for Recommendations

To keep the Committee informed on the council's statutory housing responsibilities as landlord of the stock (*Housing Revenue Account*.)

Background Papers

<https://www.gov.uk/government/organisations/regulator-of-social-housing>

<https://www.housing-ombudsman.org.uk/>

<https://www.gov.uk/government/consultations/a-new-deal-for-social-housing>

<https://www.housing-ombudsman.org.uk/wp-content/uploads/2019/06/Housing-Ombudsman-Corporate-plan-19-22-consultation-report-.pdf>

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