

COUNCIL BUSINESS COMMITTEE

A revised regulatory framework for social housing in England from April 2012 Consultation Response 12 January 2012

Report of the Principal Housing Manager

PURPOSE OF REPORT

To inform the Committee of the Social Housing Regulator proposals to revise the regulatory framework for social housing in response to the provisions made within the Localism Act 2011, and to seek approval for the form of the council's response.

This report is public

RECOMMENDATIONS

- (1) **That the committee considers the response, considers the three options for responding to the consultation as set out in the report, and authorises the Principal Housing Manager to submit the committee's preferred response to the Social Housing Regulator on behalf of the council.**

1.0 Introduction

- 1.1 The council is a registered social housing provider, and is regulated by the Social Housing Regulator. Section 197 of the Housing and Regeneration Act 2008 ('the 2008 Act') gives the Secretary of State for Communities and Local Government certain powers to direct the Social Housing Regulator ('the Regulator') to set standards and about the content of standards. Through the Localism Act 2011 the Secretary of State has issued a direction order to the Regulator that will require amendments to the current standard we operate under.
- 1.2 The Localism Act, when commenced, will change the regulator's role. A number of the existing standards need revising to reflect these changes. The Social Housing Regulator is seeking views from across the social housing sector on significant changes to its regulatory framework.
- 1.3 The consultation paper (**Appendix A**) from the Social Housing Regulator sets out proposals for revised regulatory standards.
- 1.4 The key points are:

- the regulator will have a backstop role for consumer standards and may only consider intervention where it judges that there is serious harm, or a risk of serious harm to tenants.
- for breaches of regulatory standards that do not give rise to serious detriment (or harm), tenants will have to look to others – local tenant panels, councillors and MPs – to intervene if necessary
- the regulator’s main role will now be on economic regulation of private registered providers (housing associations)
- the regulator will retain its focus on governance and viability of private registered providers (housing associations)
- the regulator will have a new role on value for money in private registered providers (housing associations)

1.5 The table below shows how the standards apply across the whole of the social housing sector.

Standard	Apply to local authorities?	Apply to not-for-profit registered providers (RPs)?	Apply to for-profit RPs?	Apply to low-cost rental?	Apply to low-cost home ownership?
Economic standards					
Governance and Financial Viability	No	Yes	Yes	Yes	Yes
Value for Money	No	Yes	Yes	Yes	Yes
Rent	No	Yes	Yes	Yes	No
Consumer standards					
Tenant Involvement and Empowerment	Yes	Yes	Yes	Yes	Yes
Home	Yes	Yes	Yes	Yes	Yes
Tenancy	Yes	Yes	Yes	Yes	No
Neighbourhood and Community	Yes	Yes	Yes	Yes	Yes

1.6 The principal changes to the standards relate to consumer regulation. Registered providers will still be required to meet the relevant standards. As was highlighted earlier, from April 2012, the regulator will have a ‘backstop’ role in consumer matters limited to setting the service delivery standards and acting only where it considers there is risk of serious detriment (or harm) to tenants. The principal role in scrutinising landlord services

and intervening where consumer standards are not met will fall to others – tenants' panels, MPs and elected councillors.

- 1.7 Aside from the regulator's backstop role in respect of consumer regulation, some of the consumer standards are changing. There will be more focus on local mechanisms to resolve complaints and disputes. The scope for new tenancy agreements needs to be reflected. There is a need for new requirements in respect of tenant mobility and the increased scope for tenant involvement in the repair and maintenance of their homes.
- 1.8 The regulator's principal role will be the economic regulation of private registered providers (housing associations). In large part there is continuity from the existing economic standards. The regulator will continue its commitment to the co-regulatory approach, emphasising that boards are responsible and accountable for meeting their organisation's objectives and the regulator's standards. And the regulator will retain its focus on the proper governance and financial viability of providers.
- 1.9 The regulator will also have an expanded role on value for money in private registered providers (housing association). In future, the regulator expects boards to have a clear view of their risk appetite and associated risk management strategies, an informed view of their cost base and the factors affecting it, a strategy for making best use of their assets, and a plan for improving VFM that has been developed in a transparent way with input from stakeholders. In due course the regulator's findings on this will be reflected in regulatory judgements.
- 1.10 The full consultation paper is set out at **Appendix A**.

2.0 The consultation questions

- 2.1 The consultation document has been considered by relevant officers of the council and their views are summarised in a draft response set out at **Appendix B**.
- 2.2 The closing date for the consultation is 10 February 2012.

3.0 Options and Options Analysis (including risk assessment)

3.1 Option 1

That the Committee approves the attached as the Council's formal response. This would be on the basis that the Committee accepts all the points put forward and has no further views to be expressed.

Option 2

That the Committee makes amendments to the attached response. Different views may be taken on several of the issues raised, and this option provides for that scenario.

Option 3

That the Committee notes the attached document as an Officer technical response to the consultation, but that the Committee declines to submit a Member response at this time. In view of the subject matter, it is possible that the Council would prefer the response to be deemed purely technical and go forward as an Officer response only.

4.0 Conclusion

- 4.1 The Committee is asked to consider its response to the questions set out in the Consultation Paper, and to authorise the Principal Housing Manager, in conjunction with the Chairman, to finalise the Committee's response to the Government on behalf of the Council.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Impact assessments have already been published by the government for all of the policy changes that the proposed directions would implement.

FINANCIAL IMPLICATIONS

There are no financial implications directly arising from this report, although there may be implications from any future changes made to the framework.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

Legal have been consulted and have no further comments to make other than those already contained within the report.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Social Housing Regulator
Consultation Paper

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Appendix B

Draft consultation response on: A revised regulatory framework for social housing in England from April 2012

For consideration by the Council Business Committee 12 January 2012

General Comments

The council notes the proposals for a revised regulatory framework to take effect from 1 April 2012 and welcomes the continuing commitment to the co-regulation approach. The revised framework builds on those arrangements.

The scale of change recommended by the Government's review and the Localism Act brings significant differences to the regulator's current role, especially on consumer protection. In future, the regulator's responsibilities in relation to the consumer standards will be limited to setting standards and intervening when there is risk of serious harm to tenants (the 'serious detriment' test). The regulator will have no role in monitoring how providers deliver the housing service (or 'consumer') standards. The proposals in this consultation document reflect these fundamental changes.

The proposals for a revised regulatory framework, taken as a whole, represents a comprehensive revision of regulatory arrangements. On balance the council regards the overall effect of the proposals as a welcome reduction of the regulatory burden on the social housing sector, particularly in respect of the Consumer standards.

Consultation questions

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| 1: | <p>Are these the right principles, in the context of changes brought about by the Localism Act?</p> <p>The principles for co-regulation are being maintained and the council welcomes the focus on ensuring that governance arrangements should be fit for purpose, and reflect the risk-profile of the organisation. The council endorses the revised principles as set out in the consultation document.</p> |
| 2: | <p>Does the revised Governance and Financial Viability standard:</p> <ul style="list-style-type: none">• Effectively take into account amendments required by the Localism Act?• Give providers sufficient flexibility to run their businesses?• Enable the regulator to provide adequate protection to taxpayers' interests, and to maintain the confidence of lenders and stakeholders in the regulator's economic role?• Express requirements of providers in a way that is clear, succinct and as outcome focussed as possible? <p><i>The Economic standard which include Governance and Financial Viability standard does not apply to local authority registered providers but the principles outlined appear sound.</i></p> |

3:	<p>Does the revised Value for Money standard:</p> <ul style="list-style-type: none"> • Effectively take into account amendments required by the Localism Act? • Give providers sufficient flexibility to run their businesses? • Enable the regulator to provide adequate protection to taxpayers' interests, and to maintain the confidence of lenders and stakeholders in the regulator's economic role? • Express requirements of providers in a way that is clear, succinct and as outcome focussed as possible? <p><i>The Economic standard which includes the Value for Money standard does not apply to local authority registered providers but the principles outlined appear sound.</i></p>
4:	<p>Does the revised Rent standard (and associated Rent Standard Guidance in Annex E of this consultation document):</p> <ul style="list-style-type: none"> • Effectively take into account the Government's direction to the regulator and amendments required by the Localism Act? • Give providers sufficient flexibility to run their businesses? • Enable the regulator to provide adequate protection to taxpayers' interests, and to maintain the confidence of lenders and stakeholders in the regulator's economic role? • Express requirements of providers in a way that is clear, succinct and as outcome focussed as possible? <p><i>The Economic standard which includes Rent standard does not apply to local authority registered providers but the principles outlined appear sound.</i></p>
5:	<p>Does the revised Tenant Involvement and Empowerment standard:</p> <ul style="list-style-type: none"> • Effectively take into account the Government's direction to the regulator and amendments required by the Localism Act? • Express requirements of providers in a way that is clear, succinct and as outcome focussed as possible? <p>The council welcomes the increased emphasis on local mechanisms to involve tenants, scrutinise landlord performance and resolve problems with housing services, and the proposal that the regulator's role is limited to the setting the consumer standards and intervening only where a failure of the standard could lead to risk of serious harm to tenants (serious detriment). The council welcomes the increased responsibility to ensure that there are effective local arrangements in place to scrutinise performance.</p> <p>The expressed required outcomes are generally clear but "opportunities to influence and be involved in: the management of repairs and maintenance services, such as commissioning and undertaking a range of repair tasks, as agreed with landlords, and the sharing in savings made,....." would benefit from greater clarification. Establishing the administration for establishing any savings and sharing the costs may be more expensive than undertaking the landlord undertaking the repair.</p>
6:	<p>Does the revised Home standard:</p> <ul style="list-style-type: none"> • Effectively take into account the Government's direction to the regulator and amendments required by the Localism Act? • Express requirements of providers in a way that is clear, succinct and as

	<p>outcome focussed as possible?</p> <p>The council welcomes the continuing underpinning of the Home standard with the Government's Decent Homes Guidance.</p>
7:	<p>Does the revised Tenancy standard:</p> <ul style="list-style-type: none"> Effectively take into account the Government's intended direction to the regulator and amendments required by the Localism Act? Express requirements of providers in a way that is clear, succinct and as outcome focussed as possible? <p>Again the council generally welcomes the proposals, and the detail given to support the development of the new requirement for a tenancy policy. Locally we have already established opportunities to exchange tenancies by way of internet based mutual exchange service through our choice based letting offer, however the requirements in the proposed regulation go further than this and require the council as a registered provider to subscribe to a national scheme. The council feels how this is delivered should be a local decision and not prescribed by regulation.</p>
8:	<p>Does the revised Neighbourhood and community standard:</p> <ul style="list-style-type: none"> Express requirements of providers in a way that is clear, succinct and as outcome focussed as possible? <p>More general wording is now proposed to reflect cooperation with local partnerships rather than with Local Strategic Partnerships specifically helps broaden the concept of cooperation. Given there are no new requirements being introduced the council has no further comments to make.</p>
9:	<p>Does the proposed approach to regulating the economic standards seem reasonable, taking into account the regulator's statutory objectives and future duty to minimise interference?</p> <p>These standards do not apply to local authority registered providers. The council has no comment to make.</p>
10:	<p>Does the proposed approach to regulating the consumer standards seem reasonable, taking into account the regulator's future statutory duty to minimise interference and the serious detriment test introduced in the Localism Act?</p> <p>The approach is a welcomed development. It will allow the council, working with its tenants and other stakeholders, to develop its housing management to meet our own circumstances and needs, rather than the requirements of the regulator.</p>
11:	<p>Do the proposed principles underpinning the use of the regulator's intervention and enforcement powers, and the associated guidance notes for each power (in Annex F of this consultation document) seem reasonable?</p> <p>The Localism Act does not substantially amend the regulator's powers of intervention and enforcement. The Social Housing Regulator proposes, therefore, that existing arrangements from the 2010 framework should largely be carried forward. The council welcomes the graduated approach to the use of powers and notes the regulator's continuing obligation to regulate proportionately and minimise interference.</p>

12:	Does the proposed approach to registration and deregistration seem reasonable?
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Given the arrangements for registration and deregistration remain largely unchanged from the 2010 framework, and that the proposed new registration criteria reflect the regulator's revised role regarding consumer protection the council has no comments to make.
