

Directions to the Tenant Services Authority

Summary of responses and Government response



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November 2009

Product Code: 09 AHD 06149

ISBN: 978 1 4098 2005 5

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Section 1

Introduction

1. In July 2009 the Government published a consultation paper seeking views on draft directions proposed to be given by the Secretary of State for Communities and Local Government to the social housing regulator (the Tenant Services Authority (TSA)).
2. Section 197 of the Housing and Regeneration Act ('the 2008 Act') allows the secretary of state to direct the TSA on the content of the standards it sets on social housing landlords, or on objectives TSA must have regard to when setting standards. Once formally made, the secretary of state's directions on the content of standards are binding on TSA when it consults on and sets standards. The TSA's standards will be binding on landlords. The 2008 Act requires the secretary of state to consult on draft directions.
3. The Government legislated for reform of social housing regulation and the establishment of the TSA through the 2008 Act. This legislation implemented the recommendations in *Every Tenant Matters: A Review of Social Housing Regulation*, a report published by the independent Cave Review in 2007. The Cave Review recommended the creation of a standalone, independent regulator with clear statutory objectives to put tenants at the heart of regulation and wider powers to set and enforce clear performance standards. We intend to bring these new powers into force on 1 April 2010 (subject to Parliamentary approval of the necessary secondary legislation).
4. The Cave Review also recommended that a similar approach to regulation of social housing should be taken across the domain, i.e. to both registered social landlords (RSLs; commonly known as housing associations) and local authorities. The Government intends to implement this 'cross-domain regulation' from 1 April 2010, subject to Parliamentary approval. The Government has been consulting separately on draft secondary legislation that would enable the TSA to regulate local authority providers of social housing. The outcomes of that consultation are being published alongside this document. On the assumption that cross-domain regulation will be implemented, the consultation on directions includes proposals for the secretary of state to direct the TSA to set standards that would apply to local authorities.

The Government's proposals

5. The consultation paper made proposals to direct the TSA on the content of standards on rent levels, quality of accommodation, and tenant involvement.

6. The proposed directions were not designed to change current policy on these issues (with exception of the proposed rent floor to take account of forecast deflation in September 2009 and the impact this could have on rental income). However, given that the system of directions and standards is new, Government sought views on whether the proposed directions would achieve the desired policy goals, and whether the balance was correct in terms of the extent to which Government sets boundaries for TSA's standards.
7. In particular, the Government invited views on the following consultation questions¹:

Q1: Do you support the Government's preferred option (to direct on rents, quality of accommodation and tenant involvement only)?

Q2: Do you agree with the principle and detail of our proposed direction on rent policy?

Q3: Is the draft rent direction technically correct as a means of achieving current policy, and if not, what are the implications?

Q4: Do you agree that the direction should allow a floor (of -2 per cent) on rent rises, so that landlords are not obliged to reduce their rents by more than 2 per cent?

Q6: Do you agree with the principle and detail of our proposed direction on quality of accommodation (decent homes)?

Q7: Do you agree with the principle and detail of our proposed direction on tenant involvement?
8. The consultation did not seek views on the wider issues of regulation reform, the TSA, or on the standards themselves. The scope of the consultation was limited to the use Government should make of direction powers at this time.
9. As required by section 197 of the 2008 Act, the Government consulted a number of bodies on the proposed directions:
 - The TSA
 - The Homes and Communities Agency
 - The Audit Commission for Local Authorities and the National Health Service in England
 - The Charity Commission
 - multiple bodies appearing to represent the interests of local housing authorities

¹ Due to a numbering error in the consultation paper, no 'question 5' was included. In order to minimise any potential confusion, this document adopts the same numbering that was used in the consultation paper (i.e. question 5 is omitted).

- multiple bodies appearing to represent the interest of tenants of social housing
 - one body appearing to represent the interests of registered providers
10. However, we also welcomed responses from individual landlords and tenants as well as from other bodies with an interest in the issues raised by the consultation.

Purpose of this document

11. This document summarises the consultation responses that we received, sets out the Government's response and includes the final directions that we intend to issue. As will be clear from the content of this document and our original consultation paper, in formulating the directions we have had regard to the TSA's fundamental objectives.
12. The Government is formally making the direction for registered providers (i.e. housing associations and any profit-making bodies that register in the future). The direction for local authority landlords cannot be made formally unless and until the necessary powers are granted by Parliament. We will make this direction formally as soon as we are able to do so.
13. In accordance with section 197(8)(b) of the 2008 Act, each response to the consultation has been published in an accompanying document.

Section 2

Summary of comments and Government response

Scope of the directions

14. The consultation paper considered what issues should be subject to direction, looking in particular at the following three options:
 - option 1: issue no directions to TSA
 - option 2: issue a direction only where the secretary of state may direct on the content of standards (on rent policy, quality of accommodation, and tenant involvement)
 - option 3: issue a much wider direction on the issues in option 2 and up to ten issues of general social housing policy
15. The consultation paper proposed that option 2 was the best way forward.

Q1: Do you support the Government's preferred option (to direct on rents, quality of accommodation and tenant involvement only)?

16. A sizeable majority of respondents agreed with this proposal. There was also wide-ranging support for the underlying principle that the use of the direction power should be limited to where TSA standards could have a major impact on public finances, or where there were compelling policy reasons to direct. In light of the consultation responses, we continue to believe that this is the principle that should guide the use of our direction-setting power.
17. Where respondents disagreed with the proposal, their concern generally related to Government's intention to direct on tenant involvement. This was usually based on the feeling that such a direction was unnecessary (given that the TSA already has a fundamental objective to ensure that tenants of social housing have the opportunity to be involved in its management) and that involvement was a matter that was best left up to landlords and tenants to agree. These respondents did not see a compelling financial or policy reason for Government to intervene.

18. Having considered these arguments carefully, we are still minded to direct on tenant involvement, for two principal reasons. Firstly the Government regards tenant involvement as a key policy priority, as part of our wider aim of empowering communities and individual citizens. The Government therefore wishes to provide a clear impetus for TSA to ensure that all tenants have opportunities to influence the services they receive. Secondly, one of our aims in issuing the direction is to ensure that tenants have the *capacity* to engage with their landlords in a way that suits them. This goes wider than the TSA's statutory objective to ensure that tenants have the opportunity to be involved in the management of their homes.
19. Some respondents felt that the Government should direct the TSA on other matters. In particular, some respondents argued that a direction was needed on governance and viability, given the impact that these issues could potentially have on the lives of tenants. We strongly agree that ensuring good governance and financial viability is a vitally important element of the TSA's remit. However, owing to section 197 of the 2008 Act, the secretary of state would only be able to direct the TSA to "*have regard to specified objectives*" when setting standards on governance and viability. Given that the section 88(6) of the 2008 Act already gives the TSA a fundamental statutory objective to "*ensure that registered providers of social housing are financially viable and properly managed*" we consider that there is no compelling reason for the Government to direct the regulator in this way.
20. Other respondents argued that a direction was needed on tenure, in order to ensure that there is no threat to security of tenure. The Government disagrees with the need for a direction, as the TSA has made very clear that it has no intention of compromising security of tenure through its regulation.
21. A number of respondents emphasised the need to avoid excessive use of the direction-setting power. We currently have no plans to make further use this power beyond the decisions presented in this paper.
22. **Based on the considerations outlined above, the Government has decided to implement option 2 – i.e. issuing directions to the TSA on rents, quality of accommodation and tenant involvement.**

Direction on rent levels

23. The consultation paper included a proposed direction on rent levels. The direction would be the basis for TSA standards on rents for 2010-11 and all subsequent years until it was replaced (following a further consultation).
24. The proposed direction would apply to registered providers (housing associations and any other private bodies which register in future) only. The direction would not

apply to local authority landlords; it is the Government's intention to direct on local authority rents at a later time.

25. As with the other proposed directions, the proposed direction on rent levels would only apply to low cost rental accommodation which is subject to the rent restructuring rules. It would not apply to intermediate rented housing or low cost home ownership accommodation.
26. With one exception (noted below), the draft direction was designed to reflect the rent policy for RSLs agreed since 2000 and outlined in detail in Housing Corporation guidance issued in October 2001. The purpose of that policy is to gradually achieve convergence between average rents on RSL and local authority social housing in the same area and of similar quality, while ensuring that rent rises meet the needs of tenants and landlords.
27. The only departure from existing policy was the proposed rent floor of –2 per cent in 2010-11. The rent floor was conceived as a response to forecast RPI inflation of –3 per cent in September 2009 (the RPI figure on which maximum rent increases in 2010-11 would be based). A sharp drop in rental income for a significant number of RSLs would have implications for services to tenants and investment in both new social housing and existing stock. In light of these risks, the purpose of the rent floor was to ensure that RSLs were not obliged by TSA regulation to reduce their rents by more than 2 per cent in 2010-11.

Q2: Do you agree with the principle and detail of our proposed direction on rent policy?

28. Aside from the proposed rent floor (see Q4 below), there was a good level of support for our proposed direction on rent policy.
29. However, a significant minority of respondents argued against the continuation of the current rent policy, generally citing one or more of the following reasons:
 - convergence had become a more distant prospect, particularly in certain parts of the country. Several respondents linked this to recent Government decisions on rents in the local authority sector
 - the policy should be more flexible in order to take account of local factors, the provision of specialist services and tenants' views. Several respondents favoured more scope to allow landlords to agree higher rents with their tenants in order to fund certain additional services (e.g. energy efficiency upgrades)
 - concern that RPI inflation had become too volatile year-on-year and a relatively poor indicator of movements in RSLs' costs

30. **Convergence** was originally expected to take place by 2012, but progress towards this has slowed. We have yet to announce our proposals for the average guideline rent increase for local authority landlords for 2010-11. However, the recent falls in RPI are expected to allow some catching up so that convergence can be achieved within a reasonable timeframe.
31. We understand the arguments for **greater flexibility** within the rent formula (for example, to fund 'common good' investment). However, the Government continues to see a compelling policy case for absolute limits on annual rent increases in order to protect tenants paying rent and to manage the impact on the public finances.
32. The Government has noted the concerns expressed by some landlords and tenants about the use of **RPI inflation**. The main rationale for using RPI to calculate annual rent increases is that it is typically used to calculate annual wage, pension and benefit increases as well. Moreover, it is far from clear that there is a preferable measure of inflation (as one respondent put it, "*there are various issues with all of the published measures ... and no perfect measure to deal with all eventualities will ever exist*").
33. A number of respondents argued that the direction should apply across the social housing domain, either immediately or as soon as was practically possible. These responses generally emphasised the principle that a consistent policy should be applied to all social housing landlords. We agree with this general principle (although, as in other policy areas, there is an extent to which differences within the domain will need to be reflected in regulatory policy). As noted in the consultation paper, the Government intends to direct TSA on local authority rents at a later time.
34. **The Government has decided to proceed with a rent direction that reflects the existing rent restructuring policy.**

Q3: Is the draft rent direction technically correct as a means of achieving current policy, and if not, what are the implications?

35. The majority of responses did not offer substantive comments on the technical accuracy of the direction.
36. However, in response to this question a number of respondents did raise technical issues on the existing rent policy, the precedence of the directions over pre-existing agreements and how the direction would apply to tenancies which refer only to rent increases. These questions relate to the proposed rent floor and are considered in the responses to Q4.

37. TSA submitted some minor technical comments to the Department. TSA suggested:
- amending the definition of ‘Rent Influencing Regime Guidance’ in part 1(3) of the draft direction in order to incorporate guidance previously issued by the Housing Corporation (the TSA’s predecessor body)
 - amending the reference in part 3(3)(a) of the draft direction so that it refers to the ‘Rent Influencing Regime Guidance’ rather than the ‘Social Rent Guidance.’ This technical change is designed to ensure that subsequent circulars and guidance issued by the Housing Corporation and TSA is incorporated into the direction (and consequently the TSA’s own standard on rents)
 - in order to ensure consistency with the terms used in the 2008 Act, specifying that references in the earlier guidance to ‘registered social landlords’ and ‘Housing Corporation’ can be treated as references to ‘private registered providers of social housing’ and ‘TSA’ respectively
38. **The Government is content to make the changes suggested by TSA; these are reflected in the final version of the direction included in this document.**

Q4: Do you agree that the direction should allow a floor (of minus 2 per cent) on rent rises, so that landlords are not obliged to reduce their rents by more than 2 per cent?

39. There was wide support for the proposal to set a rent floor in 2010-11 in order to mitigate the potential impact of the negative RPI that had been forecast for September 2009. Some respondents contrasted the provision of a rent floor with the absence of a rent ‘ceiling’ to protect tenants from peaks in inflation, but a good number of responses from tenants recognised the need for a floor in order to protect RSL investment in services and new supply.
40. However, most respondents opposed the Government’s proposal to set the rent floor at –2 per cent. Almost all of these respondents favoured a 0 per cent floor (i.e. a freeze to target rents) instead. In doing so, they typically cited one or more of the following reasons:
- reducing rents in 2010-11 would result in a permanent loss of RSL rental income. This was unlikely to be offset by reduced costs
 - lost rental income would reduce the amount that RSLs could spend on investment in new supply, existing stock, core services to tenants and – in particular – discretionary services to the wider community (such as delivering Mortgage Rescue and tackling worklessness). Several respondents argued that the rent reduction would come at a time when there was greatest need for these services to be delivered (and at a time when Government was encouraging the sector to do more in these areas)

- once potential job losses in the sector, higher social housing grant rates and other factors were taken into account, the cost to the public purse of a rent cut would exceed the savings to the housing benefit bill
 - a decrease in rents would result in a number of RSLs being automatically placed in default under their current loan agreements. RSLs may need to find additional properties to charge to ensure that loan covenants could continue to be met. Where borrowers had difficulty in securing additional unsecured properties for this purpose, loan default would be unavoidable
 - a rent cut could affect credit ratings which had assumed that rents would never decrease. Again, this could result in RSLs needing to provide additional security
 - there would be a negative impact on future lending to the sector. A rent cut would send a message to private sector investors that RSL cash-flows were less stable than had been assumed. There could also be an impact on the income gained from future bond issues
 - overall, the impact on lending to RSLs would compound the effect of lost income on RSLs' ability to develop new social housing and invest in stock
41. It should be noted that, since the close of the consultation period, the actual level of RPI inflation in September 2009 has been announced. The figure was –1.4 per cent, significantly higher than the original forecast of –3 per cent. Consequently, if the draft direction was issued, the proposed rent floor of –2 per cent would not come into effect and the maximum amount by which RSLs would be required to reduce individual rents would be –0.9 per cent.
42. The Government recognises that rents represent a significant element of RSLs' overall income and that rental income underpins investment in new social housing, existing stock and valuable neighbourhood services. This is why the Government wanted to avoid a sharp drop in rental income. However, in setting the level of the floor, Government needs to balance these considerations with the interests of tenants who meet the costs of their rents and the implications for the public finances (through the housing benefit bill).
43. In particular, we had to take account of the fact that RSLs were able to set relatively high rent increases (of up to 5.5 per cent) in 2009-10 due to the level of RPI inflation in September 2008. As some consultation respondents pointed out, there is a strong argument that tenants should be allowed to benefit from negative inflation if they are also being asked to meet the cost of relatively high inflation. The same argument can be made in respect of the public finances.

44. It should also be emphasised that, for rents that are below 105 per cent of target, there is the option to increase rents by up to £2 per week (over and above the RPI plus 0.5 per cent formula). Analysis of RSR rent data conducted by the TSA shows, on average, around 201,000 homes in excess of 105 per cent of target rent – of 1.7 million homes for which data is provided². This equates to less than 12 per cent. This 12 per cent is reasonably concentrated within the sector, which will provide a focus for TSA engagement. However, this also means that many RSLs should be able to avoid an overall cut in rental income.
45. In that context, the Government believes that a 0.9 per cent decrease in target rent represents a reasonable settlement. We recognise that there may be some impact on the development of new affordable housing and investment in existing stock and discretionary neighbourhood services. However, this needs to be seen alongside the fact that the Government is making significant additional investment available to RSLs through the Housing Pledge, increased flexibility on social housing grant rates and through other measures in response to the economic downturn. The relatively high maximum rent increase in 2009-10 is also relevant.
46. As noted above, some respondents to the consultation argued that *any* decrease in rental income could have serious consequences on RSL borrowing from lenders and investors. The Government believes that the sector is sufficiently financially robust to cope with the potential impact of a 0.9% drop in rents. The use of the full rent restructuring formula, including the use of the £2 per week increase where actual rents are below target, will mitigate the impact for a number of RSLs. We believe that lenders and investors have confidence in the regulation of the sector by the TSA and understand how the regulator will intervene if necessary.
47. The draft direction gives the TSA the ability to allow extensions to rent restructuring where there might be a threat to RSL viability or any breach to a funding covenant. The TSA is aware of specific financial products that have covenants linked to rental income and has been in discussion with the relevant parties. The TSA will continue dialogue with RSLs, lenders and bond trustees, where necessary, and will deal with issues of compliance with loan covenants, including the availability of additional security, in the context of its approach to allowing extensions to compliance.
48. Some respondents were concerned that a reduction in rental income could reduce future private investment because RSLs' cash-flows would be regarded as less stable than before. We acknowledge that this is a risk. However, we would hope that the higher than forecast RPI – together with the flexibility to apply an increase of up to £2 on rents that are below 105 per cent of target – will help to mitigate this. It is also important to see this in the context of the sector's considerable success in securing private finance, backed by the actions of the regulator. Since July 2008, RSLs have raised almost £1.2bn of long-term finance through the capital markets.

² RSR 2009

49. The proposed 'waiver' clause, whereby TSA would be able to allow extensions to the period over which the requirements of the rent standard need to be met, was generally welcomed. However, several respondents were keen to see further detail of how the clause will work in practice. This will be set out in detail in guidance that TSA will shortly issue to the sector on 2010-11 rent increases. The TSA will take into account the following when considering the case for extensions for individual providers:
- a breach of covenant or other loan default before March 2013 or
 - existing facilities to be exceeded by March 2013 or
 - significant tenant promises to be broken where these were part of a stock transfer deal
50. Several respondents indicated that they would like to see a permanent rent floor in place, in order to dampen the effect of any future negative RPI. While we understand the reasons for this, the Government would prefer to review the relevant circumstances in any given year rather than putting a permanent floor in place. We can confirm that, had RPI inflation in September been less than -2.5 per cent, the Government would have implemented its proposed rent floor. The Government does not rule out putting a floor in place in any future years, should this prove necessary.
51. In addition, a number of respondents identified one or more of the following technical issues:
- the existing rent policy (outlined in the previous guidance to which the direction refers) does not require RSLs to reduce rents in nominal-terms in the event of deflation. Therefore in presenting a rationale for introducing a rents floor in the consultation paper, the Government misinterpreted its existing policy and wrongly claimed that it was merely seeking to carry forward that policy in the direction. Several respondents suggested that a final direction issued on this basis could be subject to legal challenge
 - a few respondents argued that, contrary to the assertion made in the consultation paper, the direction would not take precedence over pre-existing private agreements that had been reached between landlords and other bodies (such as lenders)
 - two landlords noted that their tenancy agreements only permitted rents to be increased, not decreased. Therefore, implementing a rent reduction would require landlords to agree a revised tenancy agreement with all their tenants. These respondents sought advice from Government on how to address this
52. Some respondents disagreed with the Government's interpretation of the **existing rent guidance**. The consultation paper was entirely clear about the Government's interpretation, the consequences of it and the proposed new rent floor policy being consulted on.

53. Some respondents were concerned whether the directions and standards made under the powers in the 2008 Act would take precedence over any conflicting terms in **private agreements**. We consider that they do. That said, the Government cannot provide legal advice on the impact of the Directions and Standards on individual private agreements. On these, parties will need to seek their own legal advice and consult the TSA as necessary.
54. We recognise that there may be circumstances in which it would be undesirable to require landlords to comply with the direction where this would cause them to be unable to meet other standards – particularly in relation to financial viability. For this reason, the draft direction provided flexibility for TSA to allow extensions to the period over which the requirements of the rent standard need to be met in those circumstances. This was linked explicitly in the draft direction to the risk that reduced rental income causes landlords to fail to meet existing commitments such as banking or other lending covenants. TSA will shortly issue guidance to RSLs on rents in 2010-11, including on the availability of extensions³.
55. **In light of the lower than forecast level of RPI inflation in September, the Government intends to remove the rent floor from the draft direction. The TSA will write to RSLs shortly with detailed guidance on rent increases in 2010-11.**

Direction on quality of accommodation

56. The consultation paper included a proposed direction on quality of accommodation. The direction would be the basis for TSA standards on quality of accommodation for 2010-11 and all subsequent years until it was replaced (following a further consultation). The direction would apply to registered providers and local authorities.
57. The draft direction aimed to ensure progress in reaching the existing decent homes standard. It maintained the current policy on decent homes and would not impose any additional burdens on landlords – the only change was that the policy would be achieved in part through TSA regulation.

Q6: Do you agree with the principle and detail of our proposed direction on quality of accommodation (decent homes)?

58. The proposed quality of accommodation direction was generally welcomed by the vast majority of respondents.

³ See also paragraph [55.]

59. Many responses emphasised the need for adequate funding to be available in order to deliver decent homes. The Government accepts this. Given that meeting and maintaining the standard would, in practice, depend on the availability of funding from Government or other sources, the draft direction gave TSA the flexibility to work with landlords in developing a strategy to meet the standard after 2010 where there was good reason for doing so.
60. A number of respondents were concerned that this flexibility could be subject to abuse and there was a need for it to operate transparently. The TSA's co-regulatory and proportionate approach will be vital in making this work. However, the vast majority of social landlords have already been working to exceed the standard and we do not envisage abuse of this flexibility.
61. In fact, some respondents did not believe that decent homes standard was stretching and landlords should be looking to exceed it. A number of landlords agreed with this view and stated that they were already committed to doing so. A few respondents suggested that the direction should place greater emphasis on energy efficiency. In light of this, it was suggested that Government should review the direction in the near future. The Government notes this feedback. The Government has been looking at the standard as part of the review of council housing finance and in the context of the Heating and Energy Saving Strategy. If we consider the standard needs to be changed we will work with the TSA and undertake a public consultation.
62. **The Government has decided to proceed with the draft direction on quality of accommodation that was published in the consultation paper.**

Direction on tenant involvement

63. The consultation paper included a proposed direction on tenant involvement. The direction would apply to registered providers and local authorities.
64. The draft direction did not propose a change of policy. For RSLs, it would not require the TSA to change the current guidance issued on tenant involvement. For local authorities that own stock, it would not require TSA to set standards that exceeded existing requirements set out in the national framework for tenant participation compacts (which Government intends to review shortly).
65. The overall policy aim behind the draft direction was to ensure that social landlords offered the full range of opportunities for tenant involvement and that tenants were equipped with the skills needed to make use of them.

Q7: Do you agree with the principle and detail of our proposed direction on tenant involvement?

66. The draft direction was generally welcomed in responses from both tenants and landlords.
67. Some respondents were concerned that the direction might result in additional costs. The Government remains of the view that this is not the case, as the direction merely reflects existing policy. As such, we do not agree that the direction adds any additional burdens. However, as noted in the consultation paper, the TSA may choose to set a standard that goes beyond the scope of the draft direction. TSA is required to consult on the draft standard, so landlords and tenants would have the opportunity to comment on any additional requirements.
68. A number of respondents disagreed with the Government's aim, as stated in the consultation paper, to *"get all social landlords to not only offer the full range of opportunities [to engage] but to equip tenants with the skills that would enable them to make use of them."* It should be noted that it is the direction, rather than the consultation paper, that will have legal force. The requirement in the draft direction makes clear that we expect the TSA to work with landlords through the regulatory framework to ensure that *"tenants are supported to develop and implement this empowerment."* We believe that landlords have a responsibility to help build, sustain and develop the capacity of tenants to be involved in the management of their homes.
69. Several respondents pointed out that the terms 'empowerment' and 'involvement' seemed to be used interchangeably in the consultation paper and in the draft direction. The Government accepts that this could have been clearer. While there are no firm definitions of what constitutes involvement and empowerment (and their meaning is sometimes contested) we recognise that the latter is commonly held to mean a greater degree of influence and control over the management of homes than the former.
70. Section 197(2)(c) of the 2008 Act permits the secretary of state to direct the TSA to set a standard which relates to *"involvement by tenants in the management by registered providers of accommodation."* We have amended the direction to reflect this wording. Specifically, the references to TSA setting an 'empowerment' standard have been amended to 'involvement', and the direction now specifies that the standard should relate to the involvement by tenants in the management "by registered providers" of accommodation. (In the direction to local authorities, we have specified that this is management 'by local authorities').

71. However we have continued to label our direction (not the TSA's standard) as 'tenant empowerment' to allay any fears that use of the term 'involvement' represents a shift in the Government's fundamental policy aim in setting the direction. We also continue to refer to empowerment in paragraph (2) of the direction, because we believe that the specific requirements of the direction will contribute to tenant empowerment (as well as involvement).
72. One respondent emphasised the importance of ensuring that requirements around tenant involvement did not undermine the need for good governance within organisations. The Government understands this concern, but we do not believe that the proposed direction on tenant involvement would give rise to this risk. The TSA is required to balance its statutory objectives, which include ensuring that tenants have the opportunity to be involved in the management of social housing and ensuring that registered providers are financially viable and properly managed.
73. As noted earlier, some landlords weren't convinced by the need for a Government direction on tenant involvement. This concern is addressed in paragraphs 17-18.
74. **The Government has decided to proceed with its proposed direction– subject to the technical amendments outlined above.**

Section 3

Final directions

The Directions on Regulatory Standards

The Secretary of State, in exercise of the powers conferred by section 197 of the Housing and Regeneration Act 2008 (“the 2008 Act”) makes the following Directions:

Citation, application and interpretation

1.—(1) These Directions shall be cited as the Directions on Regulatory Standards and shall apply to registered providers of social housing from 1 April 2010.

(2) The Regulatory Standards set by the Regulator of Social Housing (“TSA”) pursuant to these Directions shall apply to low cost rental accommodation of registered providers but shall not apply to—

- (a) rental accommodation in relation to which grant has been given on the basis that the accommodation is intermediate rent, or
- (b) accommodation specified as exempt from the rent influencing regime in Rent Influencing Regime Guidance.

(3) In these Directions—

“category 1 hazard” has the meaning given by or under section 2 of the Housing Act 2004,

“Decent Homes Guidance” means A Decent Home: Definition and guidance for implementation published by the Department for Communities and Local Government in June 2006 and any guidance issued by the Department, or its successors, in relation to that document,

“Rent Influencing Regime Guidance” means the Rent Influencing Regime Guidance published by the Housing Corporation in October 2001, and any guidance issued by the Housing Corporation or TSA, or its successors, in relation to that document,

“RPI” means the general index of retail prices (for all items) published by the Office for National Statistics or, if that index is not published for any month, any substituted index or index figures published by that Office,

“set” in relation to a standard, includes revise, and cognate expressions shall be construed accordingly, and

“Social Rent Guidance” means the Guide to Social Rent Reforms published by the Department of the Environment, Transport and the Regions in March 2001 and any guidance issued by the Department, or its successors, in relation to that document.

(4) Expressions which are used, but not defined, in these Directions shall have the same meaning as in the 2008 Act

- (5) References in any document referred to by these Directions to—
- (a) registered social landlords, or cognate expressions, shall be treated as references to private registered providers of social housing,
 - (b) the Housing Corporation shall be treated as references to the TSA.

Quality of accommodation

2.—(1) The TSA shall set a standard relating to the quality of accommodation (“the Quality of Accommodation Standard”).

(2) In setting the Quality of Accommodation Standard, the TSA shall have regard to the Decent Homes Guidance.

(3) The TSA shall set the Quality of Accommodation Standard with a view to achieving the following, so far as possible—

- (a) that, by the date referred to in paragraph (4), the accommodation—
 - (i) contains no category 1 hazard,
 - (ii) is in a reasonable state of repair,
 - (iii) has reasonably modern facilities and services, and
 - (iv) includes facilities or services for the provision of a reasonable level of thermal comfort,
 - (b) that, when the accommodation has reached the standard set out in the Decent Homes Guidance, the registered provider maintains it at that standard.
- (4) The date mentioned in paragraph (3) is 31st December 2010 or, where it is reasonable for a registered provider to have an extension to this date, such later date as the TSA may agree with the provider.

Rent

3.—(1) The TSA shall set a standard relating to rent (“the Rent Standard”) and in setting the Rent Standard the TSA shall have regard to the Social Rent Guidance.

(2) The Rent Standard shall apply in relation to the setting of rents in the financial year beginning on 1 April 2010 and subsequent financial years.

(3) Subject to paragraph (4), the TSA shall set the Rent Standard with a view to achieving the following, so far as possible—

- (a) rents conform with the pattern produced by the rent formula set out in the Rent Influencing Regime Guidance (“target rents”) with a 5% tolerance on individual rents (10% for supported housing and sheltered housing)(“rent flexibility level”) but subject to the maximum rent levels specified in that Guidance (“rent caps”),
- (b) weekly rent for accommodation increases each year by an amount which is no more than—

$$\text{RPI} + 0.5\% + \text{£}2$$

until it reaches the upper limit of the rent flexibility level or the rent cap, whichever is lower,

- (c) weekly rent for accommodation which has reached or is above the upper limit of the rent flexibility level increases each year by an amount which is no more than the increase to the target rents,
- (d) rent caps increase annually by—
RPI + 1%, and
- (e) target rents increase annually by—
RPI + 0.5%.

(4) Where the application of the rents standard would cause providers to be unable to meet other standards, particularly in respect of financial viability including the risk that a reduction in overall rental income causes them to risk failing to meet existing commitments such as banking or other lending covenants, then the TSA may allow extensions to the period over which the requirements of the rent standard are met.

Tenant Empowerment

4.—(1) The TSA shall set a standard relating to the involvement by tenants in the management by registered providers of accommodation (“the Tenant Involvement Standard”).

(2) The TSA shall set the Tenant Involvement Standard with a view to achieving the following, so far as possible—

- (a) that tenants are given a wide range of opportunities to influence—
 - (i) the formulation of their housing related policies, and
 - (ii) the delivery of their housing related services, and
- (b) that tenants are supported to develop and implement this empowerment.

[Name]

For and on behalf of the Secretary of State for Communities and Local Government

[date]

The Directions on Regulatory Standards

(Local Housing Authorities)

The Secretary of State, in exercise of the powers conferred by section 197 of the Housing and Regeneration Act 2008 (“the 2008 Act”) makes the following Directions:

Citation, application and interpretation

1.—(1) These Directions shall be cited as the Directions on Regulatory Standards and shall apply to local housing authorities from 1 April 2010.

(2) The Regulatory Standards set by the Regulator of Social Housing (“TSA”) pursuant to these Directions shall apply to low cost rental accommodation of local housing authorities but shall not apply to accommodation not accounted for within a local housing authority's Housing Revenue Account.

(3) In these Directions—

“category 1 hazard” has the meaning given by or under section 2 of the Housing Act 2004,

“Decent Homes Guidance” means A Decent Home: Definition and guidance for implementation published by the Department for Communities and Local Government in June 2006 and any guidance issued by the Department, or its successors, in relation to that document,

“Housing Revenue Account” means the account a local housing authority is required to keep by virtue of section 74 of the Local Government and Housing Act 1989,

“RPI” means the general index of retail prices (for all items) published by the Office for National Statistics or, if that index is not published for any month, any substituted index or index figures published by that Office, and

“set” in relation to a standard, includes revise, and cognate expressions shall be construed accordingly.

(4) Expressions which are used, but not defined, in these Directions shall have the same meaning as in the 2008 Act.

(5) References in any document referred to by these Directions to the Housing Corporation shall be treated as references to the TSA.

Quality of accommodation

2.—(1) The TSA shall set a standard relating to the quality of accommodation (“the Quality of Accommodation Standard”).

(2) In setting the Quality of Accommodation Standard, the TSA shall have regard to the Decent Homes Guidance.

(3) The TSA shall set the Quality of Accommodation Standard with a view to achieving the following, so far as possible—

- (a) that, by the date referred to in paragraph (4), the accommodation—
 - (i) contains no category 1 hazard,
 - (ii) is in a reasonable state of repair,
 - (iii) has reasonably modern facilities and services, and
 - (iv) includes facilities or services for the provision of a reasonable level of thermal comfort,
- (b) that, when the accommodation has reached the standard set out in the Decent Homes Guidance, the local housing authority maintains it at that standard.

(4) The date mentioned in paragraph (3) is 31st December 2010 or, where it is reasonable for a local housing authority to have an extension to this date, such later date as the TSA may agree with the local housing authority.

Tenant Empowerment

3.—(1) The TSA shall set a standard relating to the involvement by tenants in the management by local authorities of accommodation (“the Tenant Involvement Standard”).

(2) The TSA shall set the Tenant Involvement Standard with a view to achieving the following, so far as possible—

- (a) that tenants are given a wide range of opportunities to influence—
 - (i) the formulation of their housing related policies, and
 - (ii) the delivery of their housing related services, and
- (b) that tenants are supported to develop and implement this empowerment.

[Name]

For and on behalf of the Secretary of State for Communities and Local Government

[date]

ISBN: 978-1-4098-2005-5

ISBN 978-1-4098-2005-5



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