

Independent review of regulation of social housing: Issues paper for residents

The Secretary of State has commissioned a widespread review of the regulation of social housing.

One of the principal objectives of the review is to identify the regulatory framework which will be most effective in securing high quality service delivery.

This paper focuses on issues that we are considering, and that we believe will be important to residents. However we are keen to receive all views on the issues, whether they are consistent with or different from our thoughts below. We recognise that we cannot presume that our judgement of this will necessarily be right, and if you feel that our assessment of the issues is incomplete or incorrect, then it is important to us that submissions to the review set out alternative views.

We see residents as the first of two principal ‘customers’ of social housing (the other customer being the taxpayers who fund this development and regulation). We want the regulatory arrangements to ensure that housing services are high quality and value for money and that residents have an effective say in how they are designed and delivered. We also want to explore how residents can play a more influential role in the regulation of social housing.

We are keen for residents to engage with the review and submit evidence. In considering how we address the issues which are important to residents, we think that the following set of questions is important for the review:

- *What is the definition of high quality housing services which best reflects what residents understand by this term?*
- *How do regulation and inspection work to secure the delivery of high quality services, both for housing and related services?*
- *What alternative regulatory options will improve on the current arrangements, rather than simply replace them with a different but no more effective (from residents’ perspective) regulatory system?*
- *What are residents’ preferences over the size of the organisation which provides services, and its nature (housing association, for profit organisation etc)*

What is a high quality housing service?

There are various definitions of quality of service to residents: the Housing Corporation's Regulatory Code, the Audit Commission's Key Lines of Enquiry, and the opinions of tenants reported by the Tenant Involvement Commission (TIC) (<http://www.housing.org.uk/involve>)

Having looked at the findings available from survey evidence, our assessment is that the significant majority of housing association tenants are satisfied overall with the service that they receive, and the homes that they live in. However, many are dissatisfied.

Tenants are clear when asked what their reasonable expectations of service delivery are. The TIC report summarise these expectations as follows:

- commitment to delivering a quality service;
- competent and polite service from frontline delivery staff;
- speedy repairs completed to a high standard;
- listening to tenants;
- security; and
- affordable rent.

We think that this is an understandable and reasonable starting point.

Question: Does the set of expectations recorded in the Tenant Involvement Commission report establish the right basis for specifying what is meant by a high quality housing service?

We are interested in whether the requirements in respect of these services are clearly specified. The principal statement of regulatory requirements for housing associations is the Regulatory Code and Guidance, and relevant parts of it broadly reflect what we understand to be the quality of service delivery which tenants might reasonably expect.

The Regulatory Code only applies to housing associations. Key Lines of Enquiry are used by the Audit Commission in inspection of housing associations, ALMOs and local authorities. The Housing Corporation and the Audit Commission requirements do not directly mirror each other. They are used in different ways, and contain different degrees of detail, but each reflects the basic components of service delivery. More information on what these requirements are can be found on the websites of the Housing Corporation and the Audit Commission, <http://www.housingcorp.gov.uk/server/show/nav.493> and

<http://www.audit-commission.gov.uk/housing/ha.asp?CategoryID=english%5E1628>

Whilst we may conclude that the way in which these regulatory requirements for high quality housing services can be improved, we do not think that what is presently expressed in those requirements for service delivery is at odds with what residents expect. This suggests that it is rather that the way in which housing providers are regulated and inspected, and their different ability and willingness to deliver a high quality service that are the principal questions which the review should address.

Question: How should the regulatory requirements for a high quality housing service best be documented and publicised to housing service providers and their residents?

How do regulation and inspection currently work to secure the delivery of high quality services, both for housing and related services?

Our call for evidence document briefly sets out the reasons for having a regulatory system at all. Due to the limited availability of social housing compared with how much is required, and the relatively low rent charged for it, residents have relatively little choice about who they rent their home from. The regulatory system is designed to provide alternative incentives and drivers to social housing providers to deliver good quality services as they would have to do if residents could freely and easily change who they rented their home from, or who provided housing management services.

The Housing Corporation is the principal regulator of housing associations. It collects information from housing associations and uses this as the basis for determining what level of regulatory engagement it requires with individual housing associations, and for publishing an overall assessment of each larger housing association. The Audit Commission inspects a proportion of housing associations each year, usually looking at a range of housing services. The results of inspections affect the Corporation's overall assessment.

Different arrangements apply for the regulation of local authorities and ALMOs, but they are inspected by the Audit Commission against the same standards defined in the Key Lines of Enquiry as housing associations.

When housing associations are judged to have breached regulatory requirements, they are subject to regulatory action by the Housing Corporation. However the Corporation's powers are defined in law, and are relatively limited.

The nature of these penalties is such that they tend to be used only in the case of the most serious failures. Remedying less serious failures relies on the regulator working with associations to improve their poor performance before statutory intervention becomes inevitable.

We think it is important to distinguish between the overall quality of a landlord's housing service, and the service which it provides to individual residents. Resolving individual disputes between a landlord and resident requires mechanisms which are different from those that are about securing overall landlord performance.

The law requires housing associations to be members of an approved ombudsman scheme (the Housing Ombudsman Service). This provides recourse for tenants to complain to an independent ombudsman where they believe that their landlord has not met its obligations under the tenancy agreement, and that they have exhausted the landlord's own complaints procedure. In the case of local authority and ALMO tenants the equivalent Ombudsman body is the Local Government Ombudsman.

Tenants of any landlord can also use the courts to adjudicate on disputes over the performance by their landlord of their obligations under their tenancy agreement. In practice, whilst overall regulatory assessment and inspection judgements may reflect an acceptable performance for any given organisation, some residents are still likely to have problems that are specific to their relationship with their landlord. Therefore the role of the courts and the Ombudsman will still be important.

Question: Is it right to work on the basis that housing providers should be required to establish effective mechanisms with their residents to identify weaknesses in service delivery and to address these without the need for the direct involvement of the regulator or inspector?

Question: What mechanisms are most effective for involving residents in identifying weaknesses in overall service delivery and working with their landlords to improve those weaknesses?

Question: Is the scope and role of the Housing Ombudsman Service widely understood by residents, and are there ways in which it might be improved to better address the problems experienced by individual residents?

Question: Are there issues which are specific to local authority and ALMO residents which are relevant to these questions which the review team should consider in taking forward the review?

What alternative regulatory options are available which may work to improve service delivery to residents?

Our initial assessment is that the regulator and inspector, and many associations have worked in the right direction, and that many residents receive a good service that they are satisfied with. But the incentives and levers in the current regulatory system have not worked well enough to deliver sufficiently high quality services to all residents.

The call for evidence which we have published proposes a number of alternatives to the current system. We think that most residents will be less concerned with the detail of the design and operation of the regulatory system than with whether it works effectively to secure the objectives of providing high quality services.

We welcome tenant views on any of the issues in the Call for Evidence. We would particularly welcome views on:

- How collective resident views can best be reflected in the way that the regulatory system operates
- What are the most effective and proportionate measures which can be used to remedy failures by landlords to meet their obligations to residents

There are a number of options for taking account of residents' views, a number of which are set out in the TIC report, including:

- the inclusion of a residents as a specified proportion of board members;
- formally establishing a residents' panel to articulate residents' views;
- conduct regular formal evaluations of resident involvement measures
- Use of survey evidence and measures of tenant satisfaction

This is not an exhaustive list.

Question: Which mechanisms are likely to be most effective for residents to be able to express their collective views about the performance of their landlord?

Question: How should the regulator and inspector make use of these mechanisms to reach their overall assessments of performance?

We have indicated above the range of sanctions which are currently available to the Housing Corporation as regulator. A recent report for Government on regulatory penalties and sanctions ('the Macrory report') has put forward

a range of possible penalties. Full details of these are available in that report, which can be found at

http://www.cabinetoffice.gov.uk/REGULATION/reviewing_regulation/penalties/index.asp

- Monetary administrative penalties – **these are similar to fines**. The potential to use these may be a greater incentive to some organisations to ensure that they meet regulatory requirements, but these involve the payment of money which might otherwise be used to improve services
- Statutory notices which include enforceable undertakings – these are similar to **instructions to improve which are legally binding**, and which, if ignored, may lead to the use of monetary penalties or prosecution
- Restorative justice – this is proposed in the Macrory report for further investigation, but the principle as applied to housing providers would be for them to be required to put residents collectively in the position which they should expect – **‘to put things right’**.

Question: Where housing providers fail to respond effectively to the requirements of residents, and service delivery is not of an adequate quality, which sanctions or penalties are, from residents’ perspectives, likely to be most effective?

What are residents’ preferences over the size and type of organisation which delivers housing services?

Social housing is provided by organisations of different sizes (large vs, small) and type (housing association, ALMO, local authority, developer working for profit). Whichever types of organisation are providing social housing, it is our presumption that tenants will have the same rights and security of tenure as they would at present, regardless of the type of organisation that is their landlord

From the perspective of the taxpayer, provided that they are delivering a good quality service, the principal concern is with which organisations are able to deliver services for the lowest cost, whether in terms of the cost of building new homes, or the cost of providing the full range of good quality housing and related services.

Residents are more likely to have views about whether they prefer one type of organisation rather than another as their landlord.

Question: Do residents prefer one type of body to another, and why?

Any views on the issues set out in this paper will be gratefully received. Please send your responses by email to cavereview@communities.gsi.gov.uk or to Elizabeth Knapp at 2/E1 Eland House, Bressenden Place, London, SW1E 5DU. **Responses may be published on the website www.communities.gov.uk/cavereview so please indicate if you do not wish your views to be published.** The review team will be holding meetings with tenants and tenants' organisations in the New Year and we will be contacting participants shortly.

Summary of questions:

- What is the definition of high quality housing services which best reflects what residents understand by this term?
- How do regulation and inspection work to secure the delivery of high quality services, both for housing and related services?
- What alternative regulatory options will improve on the current arrangements, rather than simply replace them with a different but no more effective (from residents' perspective) regulatory system?
- What are residents' preferences over the size of the organisation which provides services, and its nature (housing association, for profit organisation etc)
- Does the set of expectations recorded in the Tenant Involvement Commission report establish the right basis for specifying what is meant by a high quality housing service?
- How should the regulatory requirements for a high quality housing service best be documented and publicised to housing service providers and their residents?
- Is it right to work on the basis that housing providers should be required to establish effective mechanisms with their residents to identify weaknesses in service delivery, and to address these without the need for the direct involvement of the regulator or inspector?
- What mechanisms are most effective for involving residents in identifying weaknesses in overall service delivery and working with their landlords to improve those weaknesses?

- Is the scope and role of the Housing Ombudsman Service widely understood by residents, and are there ways in which it might be improved to better address the problems experienced by individual residents?
- Are there issues which are specific to local authority and ALMO residents which are relevant to these questions which the review team should consider in taking forward the review?
- Which mechanisms are likely to be most effective for residents to be able to express their collective views about the performance of their landlord?
- How should the regulator and inspector make use of these mechanisms to reach their overall assessments of performance?
- Where housing providers fail to respond effectively to the requirements of residents, and service delivery is not of an adequate quality, which sanctions or penalties are, from residents' perspectives, likely to be most effective?
- Do residents prefer one type of body to another, and why?