

## **Review of Social Housing Regulation: Call for Evidence**

### **NFA response November 2018**

**Q1. We would welcome information on whether the current statutory objectives, and monitoring and enforcement powers are right, whether they need amending, and if so, how.**

The NFA strongly believes that the Social Housing Regulator role should be strengthened to be proactive in relation to consumer standards and widened to cover all landlords of social housing including councils and their managing agents such as ALMOs. This would help provide fairness and clarity to all existing and prospective tenants of social housing.

We think a rating on Consumer Standards could be added to the existing ratings on Viability and Governance and would help both the landlords and the Regulator understand how well organisations are doing in relation to customer service and focus improvement where it was required.

We believe that as part of a new regulatory framework landlords should be assessed against standards that matter to residents and think that a comparator basket of KPIs would be helpful to the Regulator to compare performance and then pick out outliers for further investigation and inspection.

We believe that some programme of inspection focused on areas that matter to tenants such as health and safety, the repairs service, customer complaints and opportunities to be engaged is critical to really finding out what is going on the ground and getting the reasons behind the figures as well as being able to determine whether the landlord understands what is happening and why and has viable plans for improvement or not.

**Q2. We would welcome information on whether the “regulated self-assurance” approach to regulation of social housing is the right approach. If not, how should it be changed?**

The NFA does not believe that the current “regulated self-assurance” approach to regulation is sufficient for social housing, where tenants have very little choice over provider. We would like to see more proactive consumer-focused regulation brought into force for Councils, ALMOs and Housing Associations.

Our members agree that social housing organisations should be focused on getting the core housing management job right, knowing their tenants and making sure customers receive redress if something goes wrong but they also acknowledge that without independent checks that does not always happen all of the time within every social housing organisation. Social housing tenants do not have normal consumer choice about changing their landlord if

they are not happy with its services and a home is a very different product to a bag of apples so there should be some additional regulation to compensate for these facts within the social housing sector.

However, any additional regulation for social housing providers should be fit for purpose, proportionate and help to achieve good outcomes for tenants. It should not be overly bureaucratic or time consuming.

Our members also recognise that for regulation to work it would need to have some teeth – what happens if organisations are not meeting the standards? The NFA would like to work in more detail with civil servants considering these issues but initial suggestions from members are: applying a grading system to councils and ALMOs and being downgraded as in the RP system, having to admit when they are failing, the Regulator requesting an Annual Report each year all social housing organisations in which performance against key indicators such as gas safety checks, complaints to housing ombudsman, STAR survey results and performance data on rent collection, voids and repairs is included. This should also be made public and sent to all tenants.

Once the Social Housing Regulator has this information they could look into outliers or cases where performance has significantly dropped during a certain time period, or the consumer standards could be given more focus during the current “deep dives” from the Regulator. The Social Housing Regulator could also have more involvement in directly monitoring council and ALMO performance. Peer reviews with tenants as part of the review team could be considered as part of any new regime so tenants talked to other tenants and could help make recommendations. If the Regulator is to start to use Key Performance Indicators (KPIs) and STAR surveys the government would have to stipulate a more regular timetable, so the information is up to date and agree with the sector the definitions and selection of KPIs. The NFA would be happy to work with the Regulator on developing a Council and ALMO sector scorecard which included key indicators on what is important for customers and then the Regulator could do quick spot checks or deep dives on outliers or anything which was a cause for concern.

The NFA is also looking at doing some work to identify good practice in monitoring ALMOs with CWAG (the Councils with ALMOs Group) and wants to identify where there are good partnerships with councils and promote the best arrangements to others to learn from. Some form of independent scrutiny of those relationships may also help ensure all tenants receive the best service, whoever is managing the homes.

The NFA would like to see the government take the opportunity to review good practice on tenant engagement, identify what works, what options should be available to tenants and promote some minimum standards. The current Tenant Involvement and Empowerment standard is a good starting point but is not something which has been focused on by the Regulator or Government recently, this could easily be rectified and the Regulator asked

specifically to look at that during any in depth assessments (IDAs). This could also be extended to Councils and ALMOs.

**Q3. We would welcome information on the effectiveness of the current approach to economic regulation.**

As ALMOs are not subject to the current approach to economic regulation and operate in a very different financial framework to Housing Associations we cannot comment on this area.

**Q4. We would welcome information on any areas of the economic regulatory framework which might not work effectively or provide sufficient oversight when meeting the challenges of the evolving sector.**

As ALMOs are not subject to the current approach to economic regulation and operate in a very different financial framework to Housing Associations we cannot comment on this area.

**Q5. We would welcome information on any specific issues that we should be aware of as the review progresses, to ensure that we retain a coherent regulatory framework.**

In our response to the Social Housing Green Paper the NFA has said that the list of issues identified by MHCLG as areas of concern for tenants and areas which therefore, landlords could report Key Performance Indicators on were broadly right:

- keeping properties in good repair
- maintaining the safety of buildings
- effective handling of complaints
- respectful and helpful engagement with residents
- responsible neighbourhood management, including tackling anti-social behaviour

But given the importance of getting this right and not driving the wrong kind of behaviour the NFA is working with both our members and other social housing sector stakeholders such as CWAG, ARCH, the LGA, the NHF and HouseMark to look at what our members already collect and what might work across all sectors.

We would like a continuing conversation with government on the right set of indicators after more detailed discussion with our members and tenant consultation. The NFA believes that the Regulator is best placed to prepare performance indicators but in partnership with social housing organisations, residents and organisations like HouseMark which have expertise in this area.

Once those KPIs are agreed and we agree they should be regularly reported to the Regulator and made available and accessible to tenants.

The NFA also believes that having tenants on boards with wider tenant engagement structures in place underneath helps set the culture that organisations should be open and transparent with the residents. We believe that the Regulator expecting this to be the case and proactively regulating to ensure consumer standards are being met and tenants are listened to will help focus some organisations' minds and deliver on this agenda. However, the change in culture required in some organisations may only come about with different leadership and a change of board membership or senior staff.

We also know that having tenant board members is not sufficient in terms of tenant engagement for social housing organisations and we would urge the government to focus on ensuring that all social housing organisations make sure the tenant voice is heard in a variety of ways and that these voices are listened to and acted upon at board level whatever the make-up of the board.

The experience of the ALMO sector in terms of having a carrot and stick approach (requiring a 2 star or more rating from the Audit Commission to unlock Decent Homes funding) has been proven to deliver a real change in both the service provided to council tenants and the culture within ALMOs to be much more customer focused organisations.

Table one summarises the inspection scores for housing providers for all inspections over the period that the Audit Commission carried out housing inspections.

Type of provider/ inspection score	Poor (%)	Fair (%)	Good (%)	Excellent (%)	Number of inspections
ALMOs	1%	19%	59%	22%	145
Housing associations	11%	56%	32%	2%	251
Local authorities	17%	62%	19%	2%	655

**Q6. We would welcome information on any risks arising from improving the approach to consumer regulation enforcement.**

The NFA does not believe there are any significant risks that would arise from improving the approach to consumer regulation as long as it focuses on outcomes and is developed with social housing providers and residents. Conversely it would provide tenants, the wider public, government and funders with reassurance that good services were being provided and there was no reputational risk associated with the sector.

**Q7. What are your views on risks and opportunities presented by the regulatory regime suggested by Dame Judith Hackitt and how that should work with social housing regulation?**

We welcome the approach of Dame Judith Hackitt's recommendations and some of our members have also proposed the following changes to the Decent Homes Standard to help ensure social homes are safe and decent:

- Health and Safety compliance in terms of statutory inspections and testing being part of the standard requirements, including:
  - o Asbestos
  - o Legionella
  - o Electrical testing
  - o Gas safety
  - o Fire safety (including whether a home has a valid fire risk assessment/ fire safety certificate/ hard wired smoke and CO alarms)
  - o Dampness/condensation prevention
- Integrating recommendations arising from the Hackitt Review, Building a Safer Future: Independent Review of Building Regulations and Fire Safety;
- A review of the design standards of doors and windows

**Q8. We would welcome any further information that might inform the review of the regulatory framework.**

A regular newsletter containing performance information that is both printed and available on the internet would help tenants digest performance information and get used to trends and issues. A template that is easy to understand, is in plain English and has been agreed with a number of tenants would help provide some consistency. Focus groups or performance workshops could be held to ensure tenants understand the performance data and have the opportunity to ask questions and seek clarification.

Many ALMO tenants acknowledge that good landlords already provide this type of information in newsletters, through websites and on social media and there is existing good practice that could be built on in this area.

Annual Reports are also useful as long as they present information tenants are interested in in easy to understand ways and allow for comparisons but also context to explain particular issues or problems. Again HQN did some work identifying good practice in this year some years ago which would be re-visited.

We are not sure that league tables are a useful publication but if all landlords were rated on consumer standards the ratings could be published and tenants would have a general understanding about where their landlord was on the spectrum that may be helpful. It has been suggested that tenants would be more interested in regional comparisons or in comparisons between similar types of landlord, rural or urban, size etc.

Our members also agreed that felt that badly performing landlords should not be able to develop more homes to manage badly and therefore a new criterion should be added to the Affordable Homes Programme that reflects residents' experience of their landlord. We believe this would help focus developing organisations' boards' minds on the issue of good housing management rather than just development.

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However, some landlords do not develop or use grant funding so some financial incentive or disincentive would need to be found for those who that mechanism would not apply to.

A right to switch housing management provider if performance fell below a certain threshold might also be a good alternative for tenants and an incentive to Boards who would not want to own stock being managed by someone else.

We also believe that consumer standards should apply to leaseholders and shared owners of social housing providers and as part of any assessment of consumer standards the Regulator should look at how leaseholders and shared owners are dealt with, if there are any particular issues coming through complaints for them specifically and include that as part of their overall judgement. Landlords should all be adhering to existing legislation on consultation and in our experience leaseholders are very much included in all of the “tenant” involvement and engagement work and would not be disadvantaged by their tenure in that respect.

In terms of how the Regulator would interact with bodies like ALMOs, TMOs or private housing management providers we believe that although the Local Authority may have to be the Registered Provider, and ultimately responsible for the service to their tenants, any monitoring and inspection should look at the framework used by that local authority to hold management organisations such as Tenant Management Organisations and ALMOs to account as well as the relationship between the two bodies and the performance of the housing management provider.

For ALMOs, we believe the current framework works well but as stated earlier would benefit from some additional oversight and testing from the Regulator which has been absent recently in the local authority world. As we have indicated the NFA believes the Consumer Standards should be proactively regulated and that regulation should apply to all social housing landlords and managing agents.

ALMOs and councils enter into management agreements or partnership agreements which set out what roles and responsibilities each party has. These are still invariably based on the standard model agreement developed by Trowers and Hamlins for ALMOs when they were first established by Government with some local variation where required.

Management or Partnership Agreements between local authorities and their housing companies provide the framework for managing performance and holding ALMOs to account. A robust framework requires a positive and constructive relationship that places tenants at the heart of decision making. Effective communication, protocols and clarity on roles and responsibilities is essential to making the ALMO / local authority arrangement work. Both parties need to be clear and active in their roles for the relationship to be successful. Each ALMO and council will agree the framework most suited them and their structures but in general include regular meetings, quarterly and annual reporting to council officers and politicians as well as attendance at council scrutiny meetings and agreeing performance targets, service fee, works fee, procurement plan and asset management strategy on an annual or bi-annual basis.