

Appendix 1 – Legislative and Regulatory Requirements

Social Housing White Paper

Following Grenfell fire in 2017, a government review of failings and a wide consultation with the social housing sector revealed five themes for further action. These were published for further consultation in the “A New Deal for Social Housing” green paper:

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

The white paper published in November 2020 sets out changes to how social housing organisations operate, and the themes from the green paper have been re-drafted and expanded into seven themes with further specific policies, measures, and an enhanced role for The Regulator for Social Housing and The Housing Ombudsman.

There is a greater emphasis on safety, resident voice, performance monitoring and home ownership. This will be backed up by a risk-based inspection regime from The Regulator of Social Housing. Non-compliance with a new consumer standard can result in unlimited fines, and reputation-damaging publication of results.

The seven themes in the social housing white paper are linked by a common thread – that the safety, wellbeing and opinions of social housing residents is paramount, and it's the responsibility of landlords to demonstrate engagement and performance to their residents. Six of the seven themes are particularly relevant when considering the options for future housing management.

There are some particular implications for managing housing through an ALMO which are highlighted.

Building and home safety

Building and home safety will become an explicit part of the redesigned consumer regulation standards. All landlords will need to have a nominated, publicly named person who is responsible for health and safety compliance.

There will be consistency in safety measures across the private and social rented sectors, with mandatory installation of smoke and carbon monoxide alarms, and an increased focus on electrical safety.

Landlords will need to engage residents of all tenures on safety issues. Two-way balanced engagement leads to trust which is key to ‘feeling safe’. The accountable person for every high-rise building will be required to produce and action a resident engagement strategy to share safety information and allow safety concerns to be voiced.

Where an ALMO is managing stock, the Council as landlord will need to be able to assure itself that all requirements of the new standards are met. It will not be able to defer the responsibility to the ALMO. This would imply the need for additional specialist expertise within the Council's clienting function.

Landlord Performance

A set of Key Performance Indicator metrics is being developed which landlords will have to produce. They will follow the themes of the green paper around properties being in good

repair, building safety, engagement and neighbourhood management – including measures on anti-social behaviour.

Once gathered, landlords will be required to share these metrics with residents in a standardised and consistent way – at least annually, but preferably on a continuous basis – using technology. Additionally, information on landlord performance must be easier to access, through a reduced ‘freedom of information’ request approach.

Alongside the new KPIs, landlords will also be required to publish expenditure data. Each landlord will need to name a nominated person responsible for consumer standards compliance; someone suitably senior and identifiable to all, including The Ombudsman, The Regulator and residents.

This will require increased resources for the Council as landlord to ensure that it can fulfil these roles. It will no longer be sufficient to delegate these matters to the ALMO.

Complaint Handling

The ‘democratic filter’ (where residents must go through a “designated person” or wait 8 weeks before taking their complaint to The Ombudsman) is to be removed.

The Ombudsman’s new complaints handling code will be designed to help ensure consistency of complaint handling by different landlords and also put greater emphasis on learning from complaints as a route to service improvement.

Complaints handling will be sped up, with The Ombudsman given powers to take action against landlords who are systemically unreasonably slow in handling complaints or are slow to provide information to The Ombudsman for them to review escalated complaints. The Ombudsman will also speed up their own case handling, reducing average case times to 3-4 months by March 2022.

The Ombudsman will publish online reports of complaints handled for each landlord as well as detailing the outcomes. On a quarterly basis they will also publish ‘complaint handling failure orders’ – naming the landlords and reason for failure.

The Regulator, The Ombudsman and the Government will lead a centralised awareness raising campaign of social housing residents’ right to complain and the routes of objection open to them. Landlords will also be required to publish their complaints process both on their website and more widely, as well as raising awareness themselves of the complaints process.

This will involve revising complaints handling to ensure that it can be demonstrated that the Council is learning from complaints.

New Consumer Standards

The Regulator is preparing new consumer standards and an accompanying code of practice. This is likely to include requirements for landlords to publish policy on tackling domestic abuse, evidence how they have sought best practice to improve tenant engagement and an objective surrounding greater transparency.

The “serious detriment” threshold for Regulator intervention will be scrapped and replaced by a four yearly inspection cycle. The inspections will be in the form of an annual desk-top review of the new KPIs and complaints (particularly those escalated to The Ombudsman), four yearly inspections based on risk (considering the size of the organisation and those who house the most vulnerable i.e. specialist providers) and reactive investigations where non-compliance is suspected.

Landlords will be required to self-refer any breaches of the consumer standard to The Regulator. The cap on fines which The Regulator can impose will be removed, and Performance Improvement Plans will be introduced for failing landlords. Local Authorities will also be held to greater accountability for their management of ALMOs and TMOs.

The notice period The Regulator must give a landlord to survey the condition of their properties will be reduced from 28 to 2 days. Following completion of a survey The Regulator will be empowered to arrange repairs to homes and recoup the costs.

The Council will need to be ready for the new inspection regime, and so if changes to the arrangements with Lewisham Homes are to be instigated, they need to be implemented with a view to the new regime. Whether or not there are changes, the Council clienting function will need to be able to provide information directly to The Regulator rather than referring to the ALMO.

Empowering Tenants

'Involved tenants' should be a key part of any landlord's governance and scrutiny arrangements. Residents who don't want to attend formal meetings or join a panel need to have their needs identified and voices heard too. Landlords need to tailor engagement opportunities to residents' needs and interests, encouraging and supporting greater involvement.

The Regulator will review if landlords have "sought out best practice" in resident engagement and involvement, and continually improved how they engage with residents.

A Government-led learning and support programme will be accessible to all residents of social housing to improve the skills of residents who would like to be more involved in formal scrutiny and decision making,

The Government will lead a working group to review professional training and development, including the need for mental health awareness training for frontline staff, to ensure residents are treated with care and receive the correct support from landlords.

Where an ALMO is managing a Council's stock, there will be a need for the Council to have more direct engagement with tenants and leaseholders. This will involve additional resources within the Council's housing service.

Decent Homes Standard

A revised Decent Homes Standard is being considered. This revision will include energy efficiency and decarbonisation, access to green spaces and access to communal space.

The inclusion of 'satisfaction with anti-social behaviour' handling in the new KPIs has relevance, with landlords having to report how they are performing in this area, and can be challenged on this by The Regulator.

The Government will clarify the responsibilities of landlords and the police in directly tackling anti-social behaviour, so residents understand where to access support and what to expect in terms of a response, including greater clarity around the availability of Community Trigger or multi-agency ASB Case Review arrangements.

The new regulatory consumer standards will include requiring landlords to have a policy to tackle issues surrounding domestic abuse.

The social housing green paper included an evidence collection exercise, gathering data on how allocations processes were working in different areas. This review will also aim to ensure people with disabilities are allocated suitably adapted and accessible homes.

Where an ALMO is managing a Council's stock, the Council will need to be able to report to The Regulator and take responsibility for aspects for the new standard rather than relying on the ALMO to fulfil all requirements. This will involve increase resources for clienting.

Fire Safety Act 2021

The Fire Safety Bill was introduced following the Grenfell Tower fire in June 2017. The Act closes the loophole that the Regulatory Reform (Fire Safety) Order 2005 overlooked some 16 years ago.

The Order requires that the 'Responsible Person' (the person having control of the building, or a degree of control) takes reasonable steps to reduce the risk from fire and makes sure people can safely escape if there is a fire. This includes all people that might visit the premises. The 'Responsible Person' has a legal responsibility to commission a fire risk assessment with these points being considered.

The Act applies to all multi-occupied residential buildings and is not dependent on the height of the building. It allows the Fire and Rescue Service to enforce against non-compliance in relation to the external walls and the individual doors opening onto the common parts of the premises.

The Act introduces the concept of 'risk-based guidance' in order to support a proportionate approach towards assessing the structure, external walls, flat entrance doors and other doors adjacent to common parts that provide (or line) escape routes from multi-occupied residential buildings in buildings which contain two or more domestic premises.

If a building owner or manager can show compliance with the risk-based guidance (once that guidance is made available), then that will be an indication that the Fire Safety Order has not been breached. It follows that the opposite scenario will be indicated where any failure in terms of compliance is demonstrated.

Although the Bill received Royal Assent in April 2021, it is yet to come into force and be a legal requirement. The risk-based guidance is not yet finalised, having been closed for consultation in May 2021, but is due out shortly

If a Responsible Person fails to follow the risk-based guidance, in the worst case scenario they could face criminal prosecution and an unlimited fine. The Responsible Person is from Lewisham Homes under the current arrangements.

Lewisham Homes have undertaken Fire Risk Assessments to make sure they cover the external walls and individual entrance doors, bringing them in line with the proposed Act.