

Briefing Paper to the meeting of the Decent & Affordable Homes Policy Group on 17 March 2015 on an update on the Homes and Communities (HCA) Consumer Standards and compliance with complaint handling.

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As a Registered Provider (RP) of social housing, the Council is obliged to take account of the standards contained within the revised regulatory framework which is administered by the Homes and Communities Agency (HCA).

This briefing paper updates Members on changes to the regulatory framework which take effect from 1 April 2015, provides examples of recent cases of serious detriment by landlords relating to the consumer standards and, also, examples of complaints which were referred to the Housing Ombudsman Service (HOS) during the period 2014/15.

1.0 Changes to regulatory framework

- 1.1 The new regulatory framework for social housing in England came into effect on 1 April 2012. The framework implements the requirements of the Localism Act and the Government's directions to the regulator. The regulatory standards contain the outcomes that providers are expected to achieve and the specific expectations of the regulator. The standards are classified as either 'economic' or 'consumer'. Local authority landlords are expected to comply with the Consumer Standards relating to tenant involvement and empowerment, home, tenancy, and neighbourhood and community.
- 1.2 Consumer standards apply to all RPs. Boards and Councillors are responsible for ensuring the standards are met and others such as tenant panels, MPs and elected representatives have a role in scrutinising that this is delivered. The regulator sets the consumer standards so that tenants, landlords and stakeholders know the outcomes that are expected. In this way, co-regulation is supported by the standards. The regulator does not have a proactive role in monitoring compliance with these standards and will only intervene in cases of serious detriment.
- 1.3 The standards are set largely with a focus on outcomes, avoiding detailed prescription wherever possible in order to give RPs freedom to choose how to provide services and to conduct their own business.
- 1.4 The regulator will only intervene in a service delivery matter if there is evidence of actual or potential serious detriment to tenants. The regulator will, however, expect the consumer standards to be met. Where there is a stock-holding Council, Councillors will be responsible for ensuring standards are met. Where complaints are not resolved through the landlord's complaints process then tenants have a right to contact the HOS for further advice. The HOS will investigate and make recommendations in order to assist with resolving the issues.
- 1.5 In April 2013, the Social Housing Regulator launched the discussion paper 'Protecting social housing assets in a more diverse sector'. The paper

explored whether the current regulatory framework needed strengthening to reflect a rapidly changing sector. RPs have, in recent years, seen a reduction in public subsidy and the impact of risks such as welfare reform has increased the need for effective risk management. RPs are exploring new ways of funding to allow them to contribute to meeting the demand for affordable housing. At the same time, new types of profit-making RPs are entering the sector.

- 1.6 Following consultation with RPs, there was a need for changes to the framework. These changes are reflected in the following standards: Governance and Financial Viability Standard and Code of practice, Rent Standard and Guidance, Registration criteria, General Consent, Business engagement assessment and Equality assessment. However, these changes will not impact upon the Council as a landlord.
- 1.7 The only change that may impact the Council as a landlord is reflected in the way the regulator may carry out equality assessments in the future. The HCA is mindful of its statutory equality duties under section 149 of the Equality Act 2010. The HCA has published its equalities strategy which sets out nine equality objectives that they are working to deliver. This includes work to ensure that they pay due regard to equality when undertaking their regulatory functions involving matters of serious detriment. The new arrangements come into effect from 1 April 2015.
- 2.0 Recent cases
- 2.1 The HCA is taking a firm line with landlords that put tenants at risk. Recently, there have been a number of cases where the HCA has acted on health and safety concerns. The main risks identified relate to gas safety, fire safety and health and safety.
- 2.2 The HCA announced in 2014/ 2015 their current regulatory notices which highlighted Merlin Housing Society Limited, Yorkshire Housing, and First Wessex failing to meet the Home Standard with the potential for serious detriment to tenants as a result. All the organisations had failed to comply with gas safety.
- 2.3 Other cases of detriment included Blackpool Council which was served with a regulatory notice by the HCA because of the collapse of a balcony in a block of Council flats managed by the authority's arm's length management organisation, Blackpool Coastal Homes (BCH). The Council failed to meet the HCA's Home Standard and in doing so breached the 'serious detriment' threshold for HCA intervention on consumer issues.
- 2.4 The latest landlord to be served a notice is Circle Anglia Ltd. The regulator considered the case as a potential breach of the Home Standard and specifically the regulatory requirement to meet all applicable statutory requirements that provide for the health and safety of the occupants in their homes and the requirement to have a cost effective repairs service that responds to the needs of tenants. Extensive evidence showed that for over a

year tenants, including vulnerable tenants, had experienced significant difficulties in getting essential repairs done, either on time or at all.

3.0 Landlord responsibilities

3.1 As a landlord, the Housing Service has a duty to minimise risks and to provide a safe environment for tenants, leaseholders, residents, contractors, employees and visitors when managing the risk of fire in their homes and communal areas. There is a duty to ensure that the means of escape from a building or any communal areas are not obstructed, to ensure that tenants and their visitors can exit safely and efficiently in the event of a fire.

3.2 Monthly communal inspections are carried out by Neighbourhood Officers to identify items left in communal areas which may constitute a fire or safety risk. In accordance with the provisions of Regulatory Reform (Fire Safety) Order 2005, risk assessments are undertaken by officers on a routine basis. In addition, they are reviewed as and when additional works are completed. This will include when new equipment has been installed, when doors have been replaced, before repainting or when equipment such as extinguishers are serviced. They will also be reviewed to take account of any new statutory provisions.

3.3 Housing Caretakers inspect communal areas on a 4-weekly cycle. They are responsible for completing minor repairs to ensure they are maintained to an acceptable standard. Fire doors will be checked to ensure that closers are working correctly. The appropriate signs displayed in communal areas such as fire exit signs will also be checked to ensure they are clearly visible.

3.4 Where communal areas provide emergency lighting, smoke detectors, carbon monoxide detectors and electrical items, servicing of these items will take place in accordance with the cyclical programme. In addition, periodic testing of relevant communal equipment including the testing of fire alarms will be completed by Caretakers.

3.5 In addition to any communal alarms; all residential properties are to be provided with mains-powered optical smoke alarms. An alarm is to be provided on each floor of a dwelling, located in accordance with the latest building regulations, British Standards and codes of practice.

3.6 The Housing Service has Neighbourhood Officers who are responsible for estate management in a specific area within the District boundaries. Officers carry out neighbourhood walkabouts twice a year which identifies any health and safety concerns; for example, any deterioration to pathways which could be trip hazards.

3.7 There is a legal obligation to carry out gas servicing at properties. Gas equipment that we supply is serviced by a qualified Gas Safe registered engineer. An annual gas safety test is carried out and a copy of the gas safety report is issued. The table (**Appendix 1**) highlights during the period 1 April 2014 to 31 January 2015, 99.9% of MDDC properties have a valid gas certificate with 0.01% still outstanding. When a tenant denies access to a

property for gas servicing purposes, legal action will be taken to obtain an injunction to gain access to carry out the Council's legal obligations.

4.0 Referrals to Housing Ombudsman

4.1 The HOS considers complaints and disputes involving housing providers in its jurisdiction. It also provides advice and support on effective complaints and dispute management, including training for housing providers. They reported that 87% of cases were resolved by landlords and tenants, with the support of the Housing Ombudsman, by using the landlord's complaints procedure. Whilst 11% of cases were referred to them by a designated person following completion of the landlord's complaints procedures.

4.2 The table (**Appendix 2**) highlights during the period 1 April 2014 to 31 January 2015, the Housing Service received 102 stage one complaints and 100 of these cases were completed on time. 54 complaints were upheld, however, 19 complaints were referred to stage two of the complaints process and 1 complaint was referred to the HOS.

4.3 The HOS publishes the outcome of some complaints on its website and the two detailed below were investigated during 2014/15.

4.4 Mr H complained to the Ombudsman about the way his landlord (a Council arm's-length management organisation) dealt with the six-day period the lift in his building (made up of ten floors) was out of order.

4.5 The landlord's response to his complaint accepted there had been significant errors, and that the lifts should have been repaired within one, and not six, days. The errors it identified included the way the repair requests were logged, the communication with its contractor, and the lack of ongoing updates and assistance offered to residents (some of whom were house-bound without the lifts). The response included a detailed explanation of the failures, along with an action plan setting out how they would be addressed. The landlord had therefore used the complaint to improve its service.

4.6 In response the landlord also apologised and offered £180 to Mr H. It advised that while it had learnt from the complaint, it could not change its out of hours contract service at that time. The offer of compensation was later increased to £240 following the involvement of a local councillor acting as a Designated Person. As this complaint was brought to the Ombudsman following the landlord's final response and the involvement of a Designated Person, their role was to assess the reasonableness of the landlord's response.

4.7 The Ombudsman decided that in light of the compensation, apology, and extensive report detailing the failures and resulting action plan, the landlord had responded to this complaint in a satisfactory way. It has not only put things right but had learnt from the outcome of the complaint. The Ombudsman did identify a lack of clarity in the landlord's compensation form and recommended improvements, and also recommended that the landlord update Mr H on what had been achieved by the landlord as a result of the ongoing action plan.

- 4.8 Another case reported, saw Ms R complain to her landlord (the local Council) because it failed to carry out repairs to her stairs, plastering, boiler and flooring after its surveyors had visited on several occasions. When it also failed to respond to Ms R's formal complaint within its published timetable, she contacted the Ombudsman for help.
- 4.9 The purpose of a complaints process is to review the service a landlord is providing in response to the concerns raised by its residents. The Ombudsman asked the landlord to respond to Ms R's complaint using this process because it would be the quickest way to investigate the reported disrepair. As a result the Council acknowledged there had been service failures, offered £250 in compensation and agreed to complete the outstanding works. Ms R contacted the landlord eight weeks after its formal response to explain that some of the repairs remained outstanding and that she felt the compensation was insufficient due to the damage and inconvenience caused by taking up her flooring several times.
- 4.10 The HOS can help landlords and tenants use the complaints process to try and resolve any dispute. The Ombudsman spoke to Ms R to clarify what repairs she thought were outstanding and what action she wanted to resolve the complaint. The Ombudsman then spoke to the landlord to try and clarify its position. Following the conversation, it confirmed when the remaining works would be completed and offered to increase the compensation to £400 in recognition of the continued delay. It also said it would consider whether any more compensation would be appropriate after the works were completed so that it could ensure its overall response fairly reflected what had gone wrong.
- 4.11 The Council contacted the Ombudsman a month later to confirm the repairs had been completed and that Ms R had been offered £400 compensation. Ms R was not satisfied with this offer, therefore to help resolve the complaint the Ombudsman asked that both parties provide more of an explanation. The Ombudsman asked the landlord to explain how its offer had been calculated so that Ms R could consider it in more detail, and the Ombudsman asked Ms R to explain why she felt she should be paid £1000. The Ombudsman also explained that compensation is not a punitive measure and that any offer should be based on published policies and proportionate to the individual circumstances of the case.
- 4.12 The landlord provided a breakdown of its compensation offer and in doing so also reassessed the offer to include the more recent delays. This new offer was for £600 which Ms R accepted based on the landlord's increased explanation. By discussing the complaint with both parties, and helping them to explain their position, the Ombudsman were able to help resolve this complaint. The Ombudsman will try to resolve complaints locally with tenants and landlords where they think it might be possible, either during the landlord's complaints procedure or even after it has been completed.
- 4.13 In light of the above, it is good practice for RPs and their governing bodies to keep up to date with developments and compliance associated with the HCA guidance of its standards and where those landlords have failed to meet these requirements to raise awareness for their own organisation.

- 4.14 The HOS in England gives public access to case digests of the most important Ombudsman decisions. When a complaint is received they will make recommendations and will expect organisations to carry out these recommendations. The HOS is committed to dispute resolution and is keen to publicise outcomes on the basis that understanding failings can lead to wider improvement across an organisation. Keeping abreast of the complaints being received by the Ombudsman will give guidance to landlords on what to watch for to avoid failure of service delivery.
- 4.15 Therefore, the lessons learned from a complaint or complaints can improve the quality and focus of services provided to the individual tenant and the wider tenant body. The Housing Service always reviews complaints with a view to identifying any lessons learnt.

Appendix 1 – Gas Servicing (2014-15)

	Year	Target	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	YTD
%Dwellings with a Valid Gas Certificate	2013-2014	>100%	99.8%	100%	100%	99.9%	99.9%	99.7%	99.9%	100%	100%	100%	99.8%	100%	100%
	2014-2015	>100%	100%	99.9%	99.9%	100%	100%	99.7%	99.9%	100%	99.8%	99.9%			99.9%
No. Dwellings Requiring a Valid Gas Certificate		N/A	2108	2105	2107	2106	2107	2107	2110	2118	2118	2117			2117
No. Dwellings with a Valid Gas Certificate		N/A	2108	2103	2105	2106	2107	2101	2108	2118	2114	2116			2115

Appendix 2 – Complaints received (2014-15)

	Year	Target	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	YTD
% Stage One Complaints Responded to On Time	2013-2014	>98%	95.5%	92.3%	100%	100%	100%	100%	100%	100%	92.3%	100%	100%	90%	97.3%
	2014-2015	>98%	100%	100%	92.9%	100%	100%	100%	100%	100%	100%	87.5%			98%
No. Stage One Complaints Closed		N/A	11	9	14	7	13	12	9	11	8	8			102
No. Stage One Complaints Completed On Time		N/A	11	9	13	7	13	12	9	11	8	7			100

	Year	Target	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	YTD
% Stage One Completed Upheld	2013-2014	N/A	13.6%	30.8%	40%	33.3%	30.8%	37.5%	43.8%	53.3%	15.4%	10%	47.8%	30%	32.8%
	2014-2015	N/A	36.4%	66.7%	35.7%	57.1%	61.5%	41.7%	55.6%	54.5%	75.0%	62.5%			52.9%
No. Stage One Complaints Closed		N/A	11	9	14	7	13	12	9	11	8	8			102
No. Stage One Complaints Upheld		N/A	4	6	5	4	8	5	5	6	6	5			54
No. Stage Two Complaints Closed		N/A	2	0	1	0	4	2	3	3	4	0			19
No. Ombudsman Complaints Closed		N/A	0	0	0	0	1	0	0	0	0	0			1