

HOMES POLICY DEVELOPMENT GROUP
20 SEPTEMBER 2022

BRIEFING ON THE SOCIAL HOUSING (REGULATION) BILL AND CHANGES TO THE SOCIAL HOUSING REGULATORY REGIME

Cabinet Member(s): Cllr Stuart Penny, Cabinet Member for Housing
Responsible Officer: Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing

Reason for Report and Recommendation: To provide an update to Members of the PDG on the Social Housing (Regulation) Bill which will reform the regulation of social housing; and which will set out the terms of approved schemes for the investigation of housing-related complaints. This paper also provides some information on the subsequent report of the Levelling Up, Housing and Communities Committee report, published on 20 July 2022 alongside an informal presentation by the Social Housing Regulator in August 2022.

Recommendation: That Members of the PDG note the briefing report

Financial Implications: The work of Mid Devon Housing (MDH) is financed through the rent paid by tenants. These monies are paid into the Housing Revenue Account (HRA) and management and maintenance work associated with the Council's own housing stock is funded through this account. The HRA is ring-fenced and there needs to be a balanced budget. MDH has been working towards delivering the requirements of the new legislation since late 2020 when the White Paper for Social Housing was published by the Government.

Budget and Policy Framework: MDH is currently reviewing policies relating to the management of the retained housing stock with the aim of aligning them more closely with the regulatory standards published by the Regulator for Social Housing. Budgets are under review for 2023/24 and provision will continue to be made to ensure that necessary changes to policy and procedures, and related changes to the service establishment can be made, as required, to deliver expected regulatory compliance.

Legal Implications: The Social Housing (Regulation) Bill went through the first reading in Parliament on 8 June 2022 and the second reading on 27 June 2022. The Committee stage is due to begin on 6 September 2022.

Risk Assessment: Failure to prepare for the changes being implemented through the Social Housing (Regulation) Bill could result in regulatory non-compliance. On 19 October 2021, Regulator for Social Housing (RSH) called upon housing providers to pre-empt any legislation by looking at: '*how they can improve their services and engagement with tenants*'. New powers to be introduced through the new legislation will give the RSH to greater rights to intervene in the work of the Council, for example, by entering premises and taking emergency remedial action as needed. The RSH will also be able to serve Performance Improvement Plan (PIP) Notices and to issue fines. Any such intervention will be publicised so failure to prepare and to be ready for the new arrangements could result in reputational risk.

Equality Impact Assessment: The aim of the Government, as stated by a previous Housing Minister, Robert Jenrick, is to ensure that the voices of residents never go unheard. The RSH has stated that the relationship between tenants and landlords is underpinned by shared expectations of fairness and respect and a shared understanding of their respective rights and responsibilities. Landlords will be expected to demonstrate that they understand the diverse needs of the communities in which they work, and for their service to reflect that.

Relationship to Corporate Plan: There is an aim to create sustainable and prosperous communities with Homes being a priority for the Council. The need for MDH to be compliant with relevant statutory and regulatory obligations is therefore of key importance.

Impact on Climate Change: This briefing note has no direct impact, although the Social Housing (Regulation) Bill is designed to drive up standards including those relating to the safety and the quality of the housing provided by registered providers of social housing (RPs), such as the Council. The Levelling Up, Housing and Communities (LUHC) Committee report, published on 20 July 2022, requested that the Government provide an update on the Social Housing Decarbonisation Fund, and Registered Providers ability to decarbonise.

1.0 Background

- 1.1 The fire at Grenfell Tower in 2017 led to proposals to introduce new regulatory standards and to strengthen the regulatory framework.
- 1.2 The Social Housing White Paper was published by the Government in November 2020. This is titled: The Charter for Social Housing Residents and contained plans to improve the experience of all those who live in social housing, including shared owners and leaseholders.
- 1.3 The White Paper contains seven chapters which set out the specific expectations of the Government. These relate to the work of registered providers of social housing (RPs) and set out what is expected in relation to the offer to residents:
 - To be safe in your home
 - To know how your landlord is performing
 - To have your complaints dealt with promptly and fairly
 - To be treated with respect
 - To have your voice heard by your landlord
 - To have a good quality home and neighbourhood to live in
 - To be supported to take your first step to ownership
- 1.4 The Social Housing (Regulation) Bill (the Bill) has been drafted with the aim of ensuring that the voices of tenants are heard in line with the proposals set out in the White Paper. In the Queen's Speech in May 2022, Prince Charles said that the legislation would '*improve the regulation of social housing, strengthen the rights of tenants and ensure better quality and safer homes*'.

1.5 The Bill went through the first reading in Parliament on 8 June 2022 and the second reading on 27 June 2022. The Committee stage is due to begin on 6 September 2022.

1.6 The Government has already consulted on proposed changes to regulation which will be taken forward in the Bill.

2.0 **The main changes proposed in the Social Housing (Regulation) Bill**

2.1 The Bill contained proposals which align with three key themes:

- Safety in the home
- Understanding how well (or not) landlords are performing
- The right for tenants to be treated fairly and with respect, with a strengthened regulatory framework to ensure compliance

Increased power to tenants and the regulator

2.2 The aim was to introduce measures which deliver more power to tenants, giving them improved access to redress in cases where things may have gone wrong, and to strengthen the powers of the Regulator for Social Housing (RSH).

2.3 These changes and powers will move registered providers and the RSH from a largely reactive regulatory regime to a proactive, consumer-led one with significant impact on how we work and how our performance will be measured and assessed.

2.4 The RSH is being given more powers to respond to cases where there are health and safety or other maintenance issues impacting the property. The RSH will be able to undertake inspections at short notice with the notice period falling from 28 days to 48 hours. Specific properties can be inspected with only 24 hours' notice being given to the tenant or other resident.

Safety, checks and repairs

2.5 The RSH will be required to ensure that homes are of good quality, safe and well managed.

2.6 All RPs will be required to identify a formally designated lead officer responsible for health and safety within their housing organisation or service; and the Bill will define the role that this person should have within the organisation. Their details will have to be published in an effort to ensure that RPs are open and transparent with their tenants. The lead officer will be required to monitor compliance with health and safety requirements, assess risks if the organisation fails to do so, and to provide advice to address any such risks. The RP will have to provide all necessary training and resources to enable the lead officer to perform effectively in the role.

2.7 The Bill will also require RPs to undertake electrical safety checks in the same way that private landlords are required to.

- 2.8 In the event of any serious risks arising from maintenance issues being found, the RSH will be able to order emergency repairs. They will be able to recharge the RP and also to seek interest in respect of the sum due.
- 2.9 The RSH will also be able to “name and shame” failing landlords who are failing to provide a safe, good quality home and to levy unlimited fines if an RP is persistently underperforming.

Updated mandatory consumer standards

- 2.10 The Government has already consulted on expanding the number of consumer standards. Currently there are four: the Tenancy Standard; the Homes and Community Standard; the Home Standard; and the Tenant Involvement and Empowerment Standard. The new themes announced by the Government last year are as follows:
- Safety
 - Quality
 - Neighbourhood
 - Transparency
 - Engagement and Accountability
 - Tenancy

Monitoring compliance, self-reporting and performance measures

- 2.11 RPs will be required to monitor compliance with standards and to self-report where they fail; or in cases where there is a risk that they will fail to comply.
- 2.12 There will also be a requirement for RPs to publish information relating to the salaries of senior Officers (although the Council already does so), income, management costs and other expenditure. Mid Devon Housing (MDH) publishes an annual report which would usually contains an overview of this information.
- 2.13 The Bill will enable the RSH to set standards for RPs relating to the provision of information to tenants and also to the RSH.
- 2.14 A new system of performance monitoring will be introduced by the RSH and landlords will be assessed with regard to their ability to meet the consumer standards, including complaint handling. The RSH will be able to direct RPs to collect and publish relevant information according to certain parameters.
- 2.15 New tenant satisfaction measures (TSMs) will be introduced and the results of these will be published allowing tenants to compare the performance of their landlord with that of other RPs. The RSH will be reviewing the information published and using this to inform its' work. RPs could be required to submit information on performance to the RSH, including the RP's own analysis of that information, and how it was collected, processed and published.

Removal of serious detriment test – why this matters

- 2.16 Currently, the RSH will only intervene in cases where serious detriment is present or where tenants are at risk of serious harm. The new legislation will remove this restriction and allow the RSH to intervene in less extreme cases. The serious detriment test currently prevents the Regulator from intervening in cases unless it has reason to believe tenants are at risk of a 'serious detriment'. The test has long stood in the way of the Regulator monitoring and enforcing consumer standards proactively – preventing the Regulator from inspecting landlords and enforcing all the consumer standards. With the removal of the serious detriment test, the Regulator will be able to set up a proactive inspection regime with teeth
- 2.17 The RSH will be given the power to publish a code of practice setting out good practice which will be available to use alongside the consumer standards. Compliance with this will not be mandatory.

Further regulator interventions, inspections and new relationship with Housing Ombudsman

- 2.18 The RSH will be able to intervene in cases where RPs fail to meet requirements relating to information and transparency and some of the sanctions include enforcement notices, financial penalties and the power to require a performance improvement plan.
- 2.19 In addition, the RSH will have the power to undertake inspections of RPs and we may see the introduction of a cyclical 'Ofsted' style regime.
- 2.20 The RSH and Housing Ombudsman Service (HOS) will work more closely together and the names of landlords who are served with a maladministration finding by the Housing Ombudsman will also be published. The Bill will require both organisations to co-operate and to publish and maintain a memorandum setting out how this will work in practice.
- 2.21 The HOS will be able to direct the RP to examine their own policies and procedures if, as a result of investigating a complaint, they find that something relating to the policy framework is an underlying cause of the issue referred to them.
- 2.22 A Resident Panel has being set up by the Government and Ministers will liaise with members regularly. The Panel is comprised of tenants from across the country and Ministers will talk to them about their experiences with a view to this informing policy and further improvements.

3.0 The Levelling Up, Housing and Communities Committee Report: the Regulation of Social Housing July 2022

- 3.1 The Levelling Up, Housing and Communities (LUHC) Committee published a report on 20 July 2022. This related to the Regulation of Social Housing. The Committee is appointed by the House of Commons to look at the operational work, and also that relating to policy, undertaken by the Department for Levelling Up, Housing and Communities.

- 3.2 The report included several recommendations which emphasised the need for RPs to work with their tenants to ensure that they can influence the way that homes, neighbourhoods and service delivery are managed.
- 3.3 The Committee stated a need for the strengthening of the roles of both the RSH and also the HOS. The aim of this was to ensure that RPs can be held to account in cases where policy has not been followed, or where there had been maladministration or systemic failings.
- 3.4 The report restated how important it is for RPs to prioritise the quality of housing provided to existing tenants. There were several recommendations designed to improve stock condition, and the need to monitor existing homes in management proactively, and to improve them.
- 3.5 In addition, the Committee recommended that RPs should undertake certain actions designed to reduce the stigma often felt by their tenants. As part of this proposal, a regulatory requirement relating to diversity was suggested.
- 3.6 With regard to the TSMs, there was a recommendation that the RSH should publish its plan for monitoring and reviewing these.
- 3.7 The Government was also asked to provide an update on the professionalisation review which was recently undertaken (MDH participated in this).
- 4.0 **LGA/Housing Quality Network and Regulatory of Social Housing briefing on Social Housing Bill for Local Authorities August 2022**
- 4.1 This informal briefing included a presentation by Kate Dodsworth who is Director of Consumer Regulation at the RSH. It gave local authorities an opportunity to gain direct insight into how the RSH is seeking to apply its new powers and the priorities for stock-holding Local Authorities in particular.
- 4.2 The regulator indicated that fundamentally it wants '*good, safe homes, quality landlords and a respectful relationship with tenants*'. The importance of understanding our tenants, engaging with them and being transparent around our performance (especially with regard to the TSMs) was emphasised.
- 4.3 The TSMs will be finalised in the autumn of 2022 and the regulator is clear that its focus will be consumer-led and place the greatest importance on:
- tenant satisfaction and communication
 - understanding our tenants, their ethnicity/diversity and meeting the needs of the most vulnerable
 - hearing the voices of our silent majority of the tenants, not just the vocal
 - transparency and clear information (user-friendly dashboards) and proactive engagement on decisions/policy and spend
 - property safety
 - decent homes and stock management/sustainability,
 - repairs performance and communications around repairs
 - complaints management

A move away from more traditional measures such as void times, debt recovery or allowing landlords to focus too much on high profile projects such as new build development programmes was highlighted and in this context landlords will be expected to balance their focus so they are consistent with new approaches.

4.4 The revision of the current consumer standards against the White Paper themes is well underway and there be consultation on each in due course. This will mean a number of policy reviews and updates for organisations.

4.5 The benefits of Local Authorities in assessing performance now against draft TSMs and engaging in 'critical friend' social housing peer reviews.

5.0 **Our response**

5.1 Since the publication of the White Paper in late 2020 and service has been undertaking preparation of these significant changes in the regulatory landscape. This has been accelerated once detail has emerged in the shape of the draft TSMs, the implementation of the new complaints code and Bill publication.

5.2 To summarise just some of these changes and activity over the last 18-months:

- Review and restructure of the service in line with the white paper
 - Innovative and well-supported staff consultation and engagement
 - Bringing together of Housing Services and Building Services into a combined Mid Devon Housing Service
 - Creation of a single tenant customer support team (working across tenancy and building functions)
 - Additional, dedicated staff resources for complaints handling, policy development, tenant engagement and commercial/development resource
 - Strengthened contract management
 - Repurposed Lifeline service under Commercial Team
 - Review of neighbourhood teams and emergent proposals for a complex case worker
- Regular member and Leadership Team briefings
- Engagement with LGA, HQN and the DHLUC/LGA Strategic Housing Group
- Repurposed and improved tenant engagement including an all new social media presence and daily content
- Improved website interface for tenants

- Review of performance data and ongoing development of a new infographics and dashboard
- Adoption of Housing Ombudsman Complaints Handling Code and completion of first review of compliance
- Adoption of new policy framework – streamlined and alignment with consumer standards ahead of standard reviews
- Review and regrading of technical roles in Building Services
- Development of draft Consumer Standards Manager role/JD and grading (potential designated H&S lead role) and budget provision made
- Pilot tenant survey on draft TSMs – ongoing
- Engagement with DLUHC lead housing professionalism research project (one of just six registered case studies nationally) – due for publication soon
- Early conversations with LGA to engage in their Social Housing Management Peer Review – likely late 2022/early 2023
- Invite to RSH (Kate Dodsworth) to provide a bespoke briefing to staff, members and tenant groups on the Social Housing Bill - tbc

6.0 Recommendation

6.1 That Members of the PDG note the briefing report

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Circulation of the Report:

Members of the Housing PDG
 Cllr Stuart Penny, Cabinet Member for Homes
 All Leadership Team
 All Corporate Management Team
 Group/Operations Managers
 Legal Services

Further information:

Social Housing (Regulation) Bill
<https://bills.parliament.uk/publications/46715/documents/1907>

Social Housing White Paper
<https://www.gov.uk/government/publications/the-charter-for-social-housing-residents-social-housing-white-paper>

GOV information on changes to regulation of social housing and TSMs

<https://www.gov.uk/topic/housing/social-housing-regulation-england>

<https://www.gov.uk/government/publications/reshaping-consumer-regulation-our-principles-and-approach>

<https://www.gov.uk/government/consultations/consultation-on-the-introduction-of-tenant-satisfaction-measures/tenant-satisfaction-measures-what-we-are-proposing-and-how-to-have-your-say-summary-accessible-version>