

HOUSING MANAGEMENT CONSULTATIVE COMMITTEE

Agenda Item 79

Brighton & Hove City Council

Subject:	Consultation on revised arrangements for regulating the council's landlord services		
Date of Meeting:	6 February 2012		
Report of:	Strategic Director Place		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 Since April 2010 the council has been a registered provider of social housing regulated by the Tenant Services Authority (TSA) under its regulatory framework. Under the Localism Act 2011 the TSA is to be abolished in April 2012 and responsibility for regulating council landlords, housing associations and other registered providers transferred to a new independent regulation committee within the Homes and Communities Agency. This report outlines the revised regulatory framework for social housing in England from 1 April 2012, on which the TSA is currently consulting. The consultation period ends on 10 February 2012.

2. RECOMMENDATIONS:

- 2.1 That the Housing Management Consultative Committee notes the proposed new regulatory framework for social housing in England from 1 April 2012.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The regulatory framework for social housing in England is being revised to reflect provisions in the Localism Act 2011 and the government's new directions to the social housing regulator following its review of social housing regulation in October 2010. The proposals include some changes to the standards registered providers are required to meet and the circumstances in which the regulator will be able to use its monitoring and enforcement powers.

3.2 Although much of the existing standards remain intact, the main changes are as follows:

- the regulatory standards are now classified as either 'economic' or 'consumer' standards, and only consumer standards will apply to council landlords;
- the new regulator will have just a backstop role in relation to consumer standards on housing services to tenants. It will only be able to use its powers to intervene if it has reasonable grounds to believe that there is serious harm, or a risk of serious harm, to tenants. It will no longer have a role in monitoring how providers deliver their housing services or in defining or promoting best practice;
- for breaches of consumer standards that do not give rise to serious detriment or harm, it is expected that others such as tenant panels, councillors and MPs will have a more prominent role in helping tenants to get redress where they have received a poor service and in scrutinising landlords' overall performance;
- the revised Tenant Involvement and Empowerment standard will give more scope for tenants to be involved in repairs and maintenance, such as the tenant cashback scheme proposed by government;
- the proposed revised Tenancy standard allows different lengths of flexible tenancies in line with government policy and the Localism Act provisions and includes new expectations for providers to promote mutual exchange arrangements;
- the Value for Money standard is enhanced but will no longer apply to council landlords. It is included within the economic standards, which will only apply to private registered providers including housing associations;
- providers will no longer have to set out how they are meeting each standard and how they intend to meet them in the future in their annual report, and much of the detailed requirements for annual reports is removed;
- the regulator's main role will now be the economic regulation of private registered providers (not council landlords). It will have a proactive role in obtaining assurance that private providers are meeting the economic standards on Governance and Viability, Value for Money and Rent.

3.3 The required outcomes of the four consumer standards which will apply to the council from April are set out in Appendix 1, with significant proposed changes from the wording of the current TSA standards highlighted in italic type. Amendments to the more detailed specific expectations for each standard support the changes outlined above.

3.4 Landlords will still be required to meet all the standards that apply and councillors and boards who govern landlords' service delivery will remain responsible for ensuring they do so. They are expected to be transparent and to support tenants to shape and scrutinise service delivery and to hold them to account, in line with the principles of 'co-regulation'. The principles of 'local offers' and annual reporting to tenants are also retained. The revised requirements for annual reports to tenants are detailed in a separate report on this agenda.

- 3.5 The Localism Act retains all the regulatory, enforcement and general powers that the regulator might use to intervene to deal with providers' poor performance, though it has a duty to exercise its functions in a way that minimises interference and, as far as possible, is proportionate, consistent, transparent and accountable. However, the threshold for intervention is made significantly higher for the standards which apply to council landlords by the introduction of the 'serious detriment' test. Failure to meet one of more of the consumer standards will not in itself make landlords fail this test; the regulator has to be satisfied that the impact on tenants is likely to cause serious actual or potential harm. Examples of such harm given are health and safety issues, loss of home, unlawful discrimination or loss of legal rights.
- 3.6 Although the regulator will have no role in assessing councils against the economic standards, if it considers a case of serious detriment raises concerns about governance issues it may refer those to relevant parties such as the council's auditors, senior officers and lead councillor or the Department for Communities and Local Government.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

- 4.1 We informed council tenants and leaseholders of the regulatory framework and TSA standards currently in force through Homing In magazine and the annual reports to council tenants and leaseholders in 2010 and 2011, and information is also available on our council housing website. We will update residents about the changes to the regulatory framework through future editions of Homing In and our website and reflect the revised standards in other appropriate publications.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The majority of the costs associated with the regulatory standards, existing and proposed, are met within existing Housing Revenue Account budgets. Any financial implications that could arise from the new proposals, for example under 'involvement and empowerment' where tenants may become involved in the management of repair and maintenance services, will be reviewed and reported through the councils targeted budgets monitoring reports.

Finance Officer Consulted: Susie Allen

Date: 18/01/12

Legal Implications:

- 5.2 The changes described in the report to the regulatory framework for social housing will come into effect when sections 178 and 179 and Schedule 16 of the Localism Act 2011 are brought fully into force. The relevant commencement order(s) has not yet been made. No individual's human rights are adversely affected by the report's recommendation

Lawyer Consulted: Liz Woodley

Date: 24/01/12

- Equalities Implications:
- 5.3 The proposed revised Tenant Involvement and Empowerment standard retains the requirement for registered providers to understand and respond to the diverse needs of tenants, including in relation to the equality strands and tenants with additional support needs. Officers completed an Equalities Impact Assessment on work to meet the TSA's requirements when the regulatory framework was introduced.

- Sustainability Implications:
- 5.4 The revised Quality of accommodation standard requires landlords to meet the Decent Homes Standard or above for all their stock and to continue to maintain their homes to at least this standard, removing reference to the government's original date for compliance with the Decent Homes Standard of 31 December 2010. The regulator may agree a period of non-compliance where this is reasonable, and the council has already obtained an extension to the December 2010 deadline from the Department for Communities and Local Government.

Landlords are expected to ensure their tenants are aware of any the reasons for any period of non-compliance and their plan to achieve compliance and then report on progress delivering this plan. The council has communicated this information through its annual reports to all council tenants and leaseholders as well as through Area Panels and other meetings.

- Crime & Disorder Implications:
- 5.5 The Neighbourhood and Community standard retains the current requirements on preventing and tackling anti-social behaviour.

- Risk and Opportunity Management Implications:
- 5.6 The council will continue to regularly assess its compliance with the regulatory standards and the proposed new regulatory framework from April 2012.

- Public Health Implications:
- 5.7 The Home and Neighbourhood and Community standards in the proposed revised framework continue to provide for the health and safety of residents in and around their homes and co-operation with relevant partners to help promote social, environmental and economic wellbeing in the areas where they own properties.

- Corporate / Citywide Implications:
- 5.8 The council is obliged to comply with the regulatory framework and currently demonstrates how it does so in its annual reports to tenants and leaseholders. The revised standards continue to accord to a large extent with the council's own priorities.

SUPPORTING DOCUMENTATION

Appendices:

1. Proposed consumer regulatory standards for the council's landlord services from 1 April 2012

Documents in Members' Rooms

1. None

Background Documents

1. *A revised regulatory framework for social housing in England from April 2012*
A statutory consultation Tenant Services Authority, November 2011

**Proposed consumer regulatory standards for the council's landlord services
from 1 April 2012 (significant revisions to current standards in italics)**

Tenant Involvement and Empowerment
Customer service, choice and complaints
Registered providers shall: <ul style="list-style-type: none"> • provide choices, information and communication that is appropriate to the diverse needs of their tenants in the delivery of all standards • have an approach to complaints that is clear, simple and accessible that ensures that complaints are resolved promptly, politely and fairly.
Involvement and empowerment
Registered providers shall ensure that tenants are given a wide range of opportunities to influence and be involved in: <ul style="list-style-type: none"> • the formulation of their landlord's housing related policies and strategic priorities • the making of decisions about how housing related services are delivered, including the setting of service standards • the scrutiny of their landlord's performance <i>and the making of recommendations to their landlord about how performance might be improved</i> • the management of their homes, where applicable • the management of repair and maintenance services, <i>such as commissioning and undertaking a range of repair tasks, as agreed with landlords, and the sharing in savings made, and</i> • agreeing local offers for service delivery.
Understanding and responding to the diverse needs of tenants
Registered providers shall: <ul style="list-style-type: none"> • treat all tenants with fairness and respect • demonstrate that they understand the different needs of their tenants, including in relation to the equality strands and tenants with additional support needs.
Home
Quality of accommodation
Registered providers shall: <ul style="list-style-type: none"> • ensure that tenants' homes meet the standard set out in section five of the Government's Decent Homes Guidance and continue to maintain their homes to at least this standard • meet the standards of design and quality that applied when the home was built, and were required as a condition of publicly funded financial assistance, if these standards are higher than the Decent Homes Standard • in agreeing a local offer, ensure that it is set at a level not less than these standards and have regard to section six of the Government's Decent Homes Guidance.

Repairs and maintenance
Registered providers shall: <ul style="list-style-type: none"> • provide a cost-effective repairs and maintenance service to homes and communal areas that responds to the needs of, and offers choices to, tenants, and has the objective of completing repairs and improvements right first time • meet all applicable statutory requirements that provide for the health and safety of the occupants in their homes.
Tenancy
<i>Allocations and mutual exchange</i>
Registered providers shall let their homes in a fair, transparent and efficient way. They shall take into account the housing needs and aspirations of tenants and potential tenants. They shall demonstrate how their lettings: <ul style="list-style-type: none"> • make the best use of available housing • are compatible with the purpose of the housing • contribute to local authorities' strategic housing function and sustainable communities. <p>There should be clear application, decision-making and appeals processes.</p> <p><i>Registered providers shall enable their tenants to gain access to opportunities to exchange their tenancy with that of another tenant, by way of internet-based mutual exchange services.</i></p>
Tenure
Registered providers shall grant tenancies which are compatible with the purpose of the accommodation, <i>the needs of individual households</i> , the sustainability of the community, <i>and the efficient use of their housing stock</i> . <p>They shall meet all applicable statutory and legal requirements in relation to the form and use of tenancy agreements.</p>
Neighbourhood and Community
Neighbourhood management
Registered providers shall keep the neighbourhood and communal areas associated with the homes that they own clean and safe. They shall work in partnership with their tenants and other providers and public bodies where it is effective to do so.
Local area co-operation
Registered providers shall co-operate with relevant partners to help promote social, environmental and economic wellbeing in the areas where they own properties.
Anti-social behaviour
Registered providers shall work in partnership with other public agencies to prevent and tackle anti-social behaviour in the neighbourhoods where they own homes.

