



Department for Levelling Up,
Housing & Communities

Eddie Hughes MP

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13 May 2022

Dear Clive,

LUHC COMMITTEE: REGULATION AND QUALITY OF SOCIAL HOUSING INQUIRY

Thank you for inviting me to provide evidence to the Inquiry into the regulation and quality of social housing on 16 May 2022. I noted I would respond in writing to a few points raised in this Inquiry session, outlined below.

Implications of mandatory registration of social housing providers with the Regulator of Social Housing

You asked whether the social housing sector would need to be reclassified if the Government required mandatory registration with the Regulator of Social Housing for all social housing providers. I can confirm this would be the case.

In October 2015, private registered providers of social housing were classified by the Office for National Statistics as public corporations. This classification meant that the private debt of those providers was added to the Government's accounts. The decision was based on the overall level of control exerted over the regulated sector.

This decision was reversed in November 2017, following legislation which removed a number of Government controls. I would be concerned if introducing a mandatory requirement to be registered would potentially reclassify the £86 billion of existing (and any future) debt on to the public books and thereby potentially limit future investment.

Unregulated social housing providers

There are around 4.4 million homes that are owned and managed by social housing landlords that are registered with RSH. While it is mandatory that local authority landlords are registered, for other social housing providers it remains voluntary.

As I stated at the Inquiry session, there are strong drivers for landlords to register – not least the opportunities provided to access grant to build more homes and the ability to access cheap sources of funding to support investment given the assurance that registration and effective regulation provides to lenders. Consequently, there is no reason why a provider seeking to profit from the sector would seek to provide social housing while not registering with the Regulator.

You asked how many unregulated social housing providers there are. We have no accurate figures, although we do know there is only one large, unregistered provider, which is MHS Homes who manage around 9500 properties in Kent. This is an anomaly and relates to a

stock transfer from Rochester in 1990. Beyond this exception, unregistered providers are likely to be small charities such as alms-houses who have chosen not to register and have not accessed government grants.

My understanding is based on members of the Almshouse Association, as 300 are registered and around 1300 are not. Members of the Association provide homes to roughly 36,000 people across the UK, although there is no breakdown of resident numbers in registered and unregistered accommodation.

How tenants of unregulated social housing providers access redress and support

You asked what support and means of redress is on offer for tenants of unregulated social housing providers.

All providers of social housing should provide tenants with quality homes and a good service, regardless of whether or not they are registered with the Regulator. In cases where a tenant has a problem with their housing, they should always complain to their landlord in the first instance. All landlords should respond promptly to resolve tenant issues.

If a tenant has a problem with their accommodation presenting a risk to health and safety which their landlord has not resolved, they can contact the local council. Local councils have powers to assess properties for hazards under the Housing Health and Safety Rating System (HHSRS) introduced under the Housing Act 2004. If the local council becomes aware of a serious ("category 1") hazard, they have a duty to take appropriate action.

Providers who are not registered with the Regulator can also join the Housing Ombudsman scheme on a voluntary basis, which allows tenants to seek redress if they are not satisfied with the outcome of a complaint. The largest unregistered provider, MHS Homes, is registered with the Housing Ombudsman Service.

Some providers who are not registered with the Regulator (and so not required to join the Housing Ombudsman Scheme) are alms-houses. If the alms-house is a member of the Almshouse Association, the Association provide access to a mediation service, and can also work with trustees to find a solution to problems.

A range of charities offer support to social housing tenants, including Shelter and Citizens' Advice. They offer free, independent and confidential advice to tenants.

Regulation of care services

The Care Quality Commission (CQC) is the independent regulator for health and social care in England. The CQC monitor, inspect and regulate services to make sure they meet fundamental standards of quality and safety. Inspection reports on individual providers are publicly available.

Under the Health and Social Care Act 2008, providers of health and adult social care services must, by law, register with CQC if they carry on a regulated activity. If they carry on a regulated activity without being registered, they may be prosecuted and liable to pay a fine.

Most supported living and extra care housing services require the provider to be registered for the regulated activity 'Personal care'. 'Personal care' is defined in Regulation 2

(Interpretation) of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. Supported living providers that do not provide the regulated activity 'Personal care' do not have to be registered with CQC.

In some cases, supported living and extra care housing services may need to be registered for the regulated activity 'Accommodation for persons requiring nursing or personal care'. This happens when a provider is offering residential accommodation as a single package that includes nursing or personal care.

By law, the following services do not need to register with the CQC:

- If a person is receiving personal care but it is not being provided in the place where they are living at the time the care is provided (for example day services).
- Where the support being offered is not within the definition of personal care, such as cleaning, cooking and shopping, or supervising the person to take medicine (as opposed to 'administering') that has been prescribed by their doctor.

Regulation of support services

As set out above, the Care Quality Commission regulate personal care. Support services are a diverse collection of housing-related activities that are provided to people who need help to live independently, or transition to independent living. There is no set definition of "support" in legislation.

Some support activities overlap with housing management tasks, and others (in particular prompting and supervision) overlap with the definition of personal care.

Support is not a regulated activity. However, it is often commissioned by a local authority who provide oversight of the services being delivered under the commissioning contract.

In my statement of 17 March 2022, I set out my commitment to ensuring that supported housing is good quality and meets the needs of its residents. My intention is to take forward a package of measure that includes setting standards for support services:

- Minimum standards for the support provided to residents to ensure residents receive the good quality support they expect and deserve in order to live as independently as possible and achieve their personal goals.
- New powers for local authorities in England to better manage their local supported housing market and ensure that rogue landlords cannot exploit the system to the detriment of vulnerable residents and at the expense of taxpayers; and
- Changes to Housing Benefit regulations to seek to define care, support and supervision to improve quality and value for money across all specified supported housing provision.

We are currently working with stakeholders from across the supported housing sector to develop detailed options that will deliver on my commitment.

Housing Ombudsman Service powers

You asked whether the Housing Ombudsman Service has the power to undertake investigation.

Under the Housing Ombudsman Scheme, a member landlord must establish and maintain a complaints procedure in accordance with any good practice recommended by the Ombudsman. This puts a membership condition on all member landlords to ensure that their complaints procedures are set out in line with the Complaint Handling Code.

Failure of a member to comply with the conditions of membership, such as the one set out above, may result in the Housing Ombudsman issuing a Complaint Handling Failure Order to the member and setting a requirement to rectify the failure within a given timescale.

In order for the Housing Ombudsman to undertake an investigation, a complaint must be made to the Ombudsman. However, when carrying out a complaint investigation the Housing Ombudsman will consider whether the landlord dealt with the complaint in accordance with the Complaint Handling Code. Any failure identified could result in a finding of service failure, maladministration or severe maladministration for complaint handling and orders and recommendations may be made to put matters right and ensure compliance with the Code.

Emergency remediation power

You asked whether government was still intending to introduce the emergency remediation power for the Regulator set out in the White Paper. The emergency remediation power was not in the draft clause we published in March, but it is in the Bill we introduced to Parliament on 8th June (Clause 24).

Yours ever,



EDDIE HUGHES MP