

Written evidence submitted by Tpas [RSH 042]

Introduction

Tpas are England's leading tenant engagement experts. Originally established as the Tenant Participation Advisory Service, we've evolved a lot and now support over 270 Housing Associations, Local Authorities, resident groups and contractors covering over 3.2 million homes, to experience the benefits of true tenant engagement. We've grown beyond delivering participation advisory services, and in 2016 we dropped our old name and chose to be known simply as **Tpas** – The tenant engagement experts

We're a not-for-profit organisation and have been representing our members across England since 1988. We promote, support and champion tenant involvement and empowerment in social housing across England.

Although we believe that our role helps us to consider questions of housing policy from a tenant perspective, we have never claimed to speak for tenants. We strongly agree with those tenants arguing for the establishment of a National Tenants' Voice, which we believe would be of benefit to tenants and to all involved in the provision, regulation and management of social housing in England.

Bearing in mind our particular focus, we have only responded to the questions where we believe our perspective will help with the Committee's work.

Is the current regime for regulating social housing fit for purpose?

We respect and value the role of the Regulator for Social Housing (RSH). But we believe that they are working within an unhelpful regime. As a result, regulation overall is not fit for purpose.

Our focus is on the regulation of the Consumer Standards, which we believe provide a reasonable framework for protecting tenants from poor practice and poor quality (subject to comments below relating to the Decent Homes Standard). Unfortunately, the restrictions on the RSH's role currently prevent it from acting to enforce the standards until the problems can be shown to be 'systemic' and to cause (or risk causing) serious detriment, which is usually interpreted as referring to physical health or safety. This threshold means that individual tenants can suffer very poor conditions over a prolonged period with little risk of penalties to the landlord. Unfortunately the RSH's restricted role, which was established by a previous government in 2010, is not widely understood. This means that the RSH comes in for a level of criticism which we believe to be unfair. We believe they do a good job within the current constraints of their role.

The co-regulatory approach, required of the RSH, relies on boards or relevant local authority committees to satisfy themselves as to compliance with consumer standards. Housing association boards understandably focus on major risks to their organisations, and are aware that the regulator doesn't proactively regulate consumer standards. It's disappointing but not really surprising that some boards have little awareness of the standards of homes and services in their organisation.

In a local authority context, since the abolition of the Audit Commission's Housing Inspection regime, there has been almost no external oversight of housing services. The RSH's 'backstop position' means that some elected members may be unaware of the consumer standards required of their landlord services. This risk may be even greater for councils with Arms-Length Management Organisations (ALMOs), where landlord responsibilities remain with the council but are delivered by a separate organisation.

How clearly defined are the roles of the Regulator of Social Housing and the Housing Ombudsman?

We believe the response to the recent ITV investigations, where both the Housing Ombudsman Service (HoS) and the RSH were criticised for 'failing to act', indicates that there's a lack of clarity about their roles. In this context, it's unhelpful that the HoS covers all tenants, leaseholders and so on of member organisations, while the RSH's role on consumer regulation relates almost exclusively to tenants.

We note that the HoS and RSH have established improved arrangements for information sharing, and we believe that their moves towards a 'no wrong door' approach will help to make the distinction between their roles less vital over time.

Currently, we believe there remains a problem in that some matters affecting tenants may fall between the organisations. The HoS focuses on the complaints of individual tenants and residents, while the RSH is restricted to systemic problems. There appears to be a gap between the two where a small group of tenants is affected by repeated failure, or by an inappropriate landlord policy, that makes their lives miserable but is not systemic, or falls short of 'serious detriment'.

Does the current regime allow tenants to effectively resolve issues?

In responding to this question, we think it's important to recognise the lengthy period of underinvestment, particularly in local authority housing, that has left some landlords unable to meet all of their most pressing priorities. In some cases, landlords are unable to resolve all of the issues with which they are faced.

That said, our experience is that most issues are resolved by providers, without the need for regulatory or HoS intervention. And we commend the positive progress made by the HoS in improving resolution times, together with their commitment to further improvement. However, when issues can't be resolved simply and quickly by organisations, the current systems may be seen as remote, complex and 'technical' in nature.

We believe that an effective future approach needs to both resolve individual issues and ensure that they contribute towards an overall view of the landlord. We hope that closer working between the RSH and HoS will help to close the gaps. Within the new joined up approach, we'd like tenants to have access to independent advice and support. Tackling these problems as an individual takes a toll on wellbeing, on top of the pressures of

enduring the conditions that have led to the issue in the first place. It's not right that tenants should have to deal with these situations alone.

The recent proliferation of actions under the fitness standard suggests that there are too many issues that aren't readily resolved for tenants and residents. In the absence of disinterested independent advocacy, tenants have turned to commercial 'claim management companies' who act on their behalf, but focus on financial compensation in which they claim a substantial share.

We're concerned that the HoS's analysis of complaints suggests that the most complex cases are likely to involve more vulnerable tenants, and that lack of support, unclear communication and complex systems all conspire to make things worse than they need to be. We believe the stigmatisation of tenants that was highlighted in the White Paper is also a contributing factor, and that independent support or advocacy for tenants in these complex cases could be positive for both tenants and landlords.

Do the regulator and ombudsman have sufficient powers to take action against providers?

Currently no.

If the RSH and HoS are sufficiently resourced and fully empowered as envisaged in the White Paper, then between them, we believe they'll have the power to resolve individual issues and tackle systemic ones. However, it's still likely to be a lengthy process .

Although there are fairly clear penalties in place for officers at councils that fail to deliver on consumer standards, it's not clear what the impact is on Members, nor in fact on either officers or board members at HAs. Even with the new regime envisaged by the White Paper, the regulators will still lack the ability to sanction the leaders and Boards that have permitted the problems to arise at providers. Tenants, quite reasonably, would like to know what punishment could fall on the people that have made their lives so miserable. This applies to both HAs and LAs.

Will the reforms proposed in the social housing White Paper improve the regime and what progress has been made on implementing those reforms?

Although the language of the White Paper and the apparent direction of travel are promising, we don't yet have enough substance to judge whether they will actually deliver improvements. We urgently need to see legislation coming forwards to give effect to the White Paper's ambitions and enable the regulatory regime to be developed for the benefit of tenants, and we need to be confident that the RSH and HoS will be funded to deliver.

One gap in the proposed reforms relates to the challenge of regulating democratically accountable local authority landlords. We understand that this is a difficult area, but we

strongly believe that all social housing tenants are entitled to the benefit of effective regulation. The importance of social housing in local electoral terms varies enormously, and it is not right that some council tenants may lack effective redress as a result.

What changes, if any, should the Government make to the Decent Homes Standard?

We have been involved in the Sounding Board for part 1 of the Government's Decent Homes Review, and have been glad of that opportunity to offer our detailed views. Overall, our view is that the standard needs to be brought up to date to reflect modern expectations, and to ensure that homes are not simply 'decent' but are able to support family life in terms of space standards, facilities and **affordable** 'thermal comfort'.

We'd also like to take this opportunity to emphasise our strongly held view that the decency standard needs to be expanded to include the public realm. As an absolute minimum this should include the facilities within a block of flats, such as lighting, ventilation and safe access routes. Our preferred standard is that the shared spaces around homes should be safe and attractive for residents, particularly women who've repeatedly been shown not to be safe walking home. We recognise that responsibility for these public areas may be shared by multiple public and private bodies, but we're confident that their experience of cooperating in other areas would enable them to form effective partnerships to improve the quality of life for many.

Should the Decent Homes Standard be amended to include energy efficiency and other means of mitigating climate change, and if so how?

We're persuaded that there's no need to reiterate the proven benefits in terms of health spending that can be achieved by investing in warm safe homes, or the opportunity this represents in terms of levelling up for both tenants and the local economy. Currently, and in the absence of a mass building programme, social housing is prioritised for lower income groups. Although we're very supportive of measures to mitigate climate change, we believe that framing Decent Homes requirements in terms of affordable warmth would support a more tenant-centred approach.

We believe that a relevant component of the Decent Homes Standard expressed in terms of affordability - such as the ability to achieve an agreed temperature through lower quartile energy consumption – would complement existing 'Net Zero' requirements on providers, and drive moves towards affordable warmth.

Should all providers of social housing, not just councils, be required to register with the regulator?

Our position is that all tenants of social housing should be protected by the same regulatory standards and equivalent enforcement powers. This implies more than consistent registration.

Currently the regulator's powers to intervene vary between housing associations, where the powers are clearest and most extensive; for-profit registered providers, where some powers are restricted; and local authorities, where sanctions are more complex because of the role played by local democratic structures. Recent revelations have shown that democracy is not always a safeguard against poor quality homes and services, perhaps because council tenants are now likely to be a minority of the electorate.

Additionally, the regulatory regime for smaller housing associations and for-profit registered providers is 'light touch', which means less support for the providers that are least well-resourced.

Although we don't believe it to be a deliberate policy intention, we'd suggest the current situation treats some tenants as less worthy of protection than others.

What challenges does the diversification of social housing providers pose for the regulatory system?

Any regulatory system needs to be constantly refreshed, in order to keep pace with innovation within the sector it regulates. Recent governments have not prioritised regulation generally, and the social housing sector is not alone in needing to make up ground.

Within the social housing sector, diversification has often been a response to reduced government funding. These approaches to diversification essentially boil down to extracting increased value – income or loan security - from the social housing provider's assets in order to create cross-subsidy for social purpose. As these assets are tenants' homes, this is naturally a concern for tenants. So we've been pleased and reassured to observe the focus that the RSH has brought to the protection of social assets, such as their interventions with lease-based providers.

However, the commercial nature of diversified activity means it's often deliberately promoted by providers, magnifying its apparent impact even when it represents a small part of the business. We believe this creates anxiety for many tenants, who may believe their home to be at risk, as well as a disproportionate reputational risk for the sector as a whole. Although regulation related to the financial risks of diversification appears to be working effectively, most diversified activity falls outside of the regulator's remit in terms of quality standards. This means there's little they can do to manage the reputational risks of service failure, which are likely to affect the sector as a whole, rather than just a single provider.

We'd like the RSH to have both the powers and the funding to intervene when a registered provider's non-regulated activity risks reputational damage to the wider sector. This is of particular concern since it is often the larger and more high profile Registered Providers that engage most extensively in diversified business activities.