

**Written evidence submitted by Lord Adebowale, Aman Dalvi, Lord Filkin and Barry Simons<sup>1</sup> [RSH 079]**

## Black Tenants Matter

### 1. Summary

This paper presents evidence that housing associations have failed to protect tenants from racial harassment, and that many lack sufficient BAME people on Boards and in senior management. There is a need for the sector and the Regulator to act much more strongly to ensure freedom from harassment, racial justice, and good services to all tenants.

Potential systemic causes for these failings may be that associations have become larger and more remote from tenants; development, growth, and size have become priorities, and housing management and safety to tenants have become secondary. There is a need for radical action by associations, the National Housing Federation, and the Regulator to address these failings.

**Being able to live in peace in one's own home, free from racial harassment should be a basic right. It is a fundamental duty of every social landlord and the Regulator to ensure this.**

### 2. The London and Quadrant scandal - and others

Boards and managers have a legal and a moral duty to ensure that all people, of whatever ethnicity, can live peacefully in their homes. There are reputational risks for failing to do so; organisations which do not address racism can face damage to their reputations, as Yorkshire County Cricket Club and London and Quadrant Housing Association (L&Q) discovered.

Last year the Observer reported on a Court's condemnation of L & Q for failing to protect a tenant who had faced persistent racial harassment. The Court awarded £31,000 damages and £60,000 costs and the case attracted national publicity. The tenant had suffered repeated racial harassment, had complained to L & Q, who did not act, and became homeless. L & Q was held to be especially negligent as it knew there was a history of racial harassment at this address. This is not an isolated case, and without seeking them, three other serious cases came to us.

In another case, Mrs A complained to her association for two years about racial harassment; she was being called a nigger, a Paki and racist songs were being played out aloud by her neighbour. She accumulated considerable evidence but was not believed. She wrote to us and we took up the case. She had collected overwhelming evidence, but the social landlord did not investigate properly. Mrs A is very bitter and feels that she was treated as the perpetrator and not the victim. The social housing landlord only acted when we insisted that they read the evidence she had submitted. Again, as with L & Q, this association failed to recognise and to act on the harassment. Without intervention nothing would have happened.

In a further case, as with the L & Q one, the association knew there was a racist neighbour, yet a black tenant was housed there exposing them to harassment. In all these cases the social housing landlord had failed to address the harassment and were even unaware that racial harassment was taking place. These tenants are willing to speak publicly about their experiences.

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<sup>1</sup> The authors have worked for many years in housing as Directors, CEO's, and Board Chairs. See Appendix 1

Both Government and the National Housing Federation have made clear this is unacceptable: A Department for Levelling Up, Housing and Communities spokesperson said: *“Racism has no place in our society and action must be taken to root it out wherever it is found”* and Kate Henderson, Chief Executive of the NHF: *“Housing associations are at the heart of many diverse communities, and we understand that our sector has a crucial role in championing equality, diversity and inclusion”*<sup>2</sup>. But more than words are needed to be done to make this a reality.

No one knows how many other tenants have suffered racial harassment in housing association homes, no one looks for the evidence and associations can fail to recognise such incidents, but we are certain there are many others.

We have investigated what needs to change to ensure such failings are not repeated. We discussed the issues with the Chief Executives of the National Housing Federation, L & Q, and the Social Housing Regulator, all of whom were cooperative. This report sets out the actions we consider are needed by all associations, the NHF and the Regulator.

### 3. Discussions with London and Quadrant Housing Association

This Court judgement seriously damaged the reputation of L & Q. The then CEO and Board were completely unaware they were being sued by the tenant for these failings until they read about it in the Observer. How was it possible for such a serious case to be unresolved for so long, to go to Court, and for senior managers and the Board know nothing about it? If this tenant had not had unusual access to legal support, she would not have got her home back.

After the judgement L & Q commissioned an independent report into what went wrong and how to put it right. This report was scathing about the quality of L & Q's housing management casework and recommended a fundamental 2-to-3-year change programme.

Commendably, the new CEO and the Board of L&Q have accepted the report's findings that it had major weaknesses. They recognised they had to address fundamental problems of governance, resident involvement, and housing management. They committed to overhaul L & Q's governance to put residents in the driving seat, improve housing management, to manage as if they were small and local, with more front-line staff, smaller patches, and approved an action plan to deliver this.

The new CEO and Board of L & Q have responded well to this failure and the underlying causes. But if services and redress mechanisms failed in L & Q, how many other such cases are there? What does this say about the priority given to racial harassment and to tenant services in housing associations? We suspect that many other associations are equally unaware of such failures in their governance and services.

**Housing associations are monopoly providers.** Most tenants cannot go elsewhere if they are dissatisfied. Monopolies risk developing poor service standards and becoming complacent. Boards, senior management, and the Regulator need to recognise that tenants of social housing lack market choice and are more at risk. So good complaints and redress mechanisms with effective oversight are essential to counteract these dangers.

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<sup>2</sup> Both quotations from Inside Housing 11.11.2021.

**We call on the Regulator and all housing associations to examine how they deal with racial harassment and the quality of housing management and redress mechanisms. CEOs and Boards need to signal that such cases are fundamental. Priorities and governance must support this.**

### 3. Discussions with the National Housing Federation

We met twice with the Chair and CEO of the NHF. We asked them to conduct a wide-ranging review of the changes needed so that tenants who suffer from racial harassment receive adequate support and protection. In response they stated that:

- the NHF Board recognise these concerns about racial discrimination and that improvements can be made to policies, practices, and BAME representation
- they will establish a new national group of board-level members to consider the role of boards in racial discrimination, improving representation, and promoting racial equality.
- they have analysed data from owners of c.80% of housing association stock to compare the diversity of housing association leadership and staff with the communities they serve<sup>3</sup>.

The NHF is rightly promoting better diversity in the sector, and that Boards need people from BAME communities to bring knowledge of issues and to ensure action is taken. Traditional white professionals may not have these insights. The NHF's recent survey found that *"There is poor representation of non-White ethnic groups at executive level"*. As CEO, Kate Henderson rightly says, *"the housing association workforce, especially at the leadership level, does not represent the communities we serve. And how can we build trust with residents if our communities aren't reflected at a senior level?"*

The NHF has also taken important initiatives with its Code of Governance, to promote tenant involvement, to affirm that residents' needs, and safety should be demonstrated at the heart of an associations' mission and that Boards need to demonstrate a commitment to equality, diversity, and inclusion. But it is very unlikely that all associations are acting on these exhortations. What should the NHF and the Regulator do to ensure they do so?

**We will call on the NHF to act boldly on these three commitments and to circulate this report to all Chairs and CEO's of its members, making it explicitly clear that this is a fundamental issue for all associations and publicly to report progress.**

### 4 Discussions with the Regulator

These issues will need to be vigorously addressed by the Regulator too if change is to happen. We discussed with the Regulator the need to ensure good practice in racial harassment, and the linked need to promote much more diversity in housing association Boards and for mergers to improve, not worsen the quality of services to tenants.

But we have concerns about the Regulator itself. Earlier this year we sent in a Freedom of Information request which exposed that there was no BAME members on the Board of the Regulator of Social Housing nor on its management team when we submitted it<sup>4</sup>. We were also amazed that the Regulator had given L & Q the highest rating for Governance, which includes the quality of services to tenants, at the time as this case was on-going.

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<sup>3</sup> Published 9 December 2021.

<sup>4</sup> The composition of the Board has now changed.

The Regulator accepted the points made in the L & Q consultant's report and said they '*will mandate that the measure reported against by Landlords will include reported cases of both Hate Crimes and Domestic Abuse*'. But asking them to report on them will by itself not achieve much as associations have failed to recognise racial harassment cases when they happened.

On diversity of Boards, the Regulator stated they cannot prescribe the make-up of Boards but acknowledged that once the legislation is enacted "*Providers should have regard to the communities they serve*". We think this is both dilatory and weak. It could be years before the legislation is enacted.

Moreover, the Regulator is already empowered to act now and needs to do so. The Equality Act 2010 requires the Regulator "*to have due regard to the need to eliminate unlawful discrimination, harassment, and victimisation*". They can and should use this power and duty to make the moral and practical case for much more action on this by associations.

The Regulator committed to ensure that the lessons learnt from these harassment cases are widely shared in the Sector. We will ask them to circulate this report with a clear message to all Chairs, and Boards of associations that they should review their policies, practices, and priorities to ensure they deal properly with racial harassment and to review the composition of their Board and their senior management teams.

On mergers, the Regulator acknowledges that the sector needs to do more to spell out the objectives of mergers and monitor and report the progress towards them. But more is needed.

We suggest that the Regulator should make the case that better services to tenants should be an explicit goal for all mergers and that every merger should set out the how they will do so. We suggest that tenants representative bodies should always be invited to give their views on a proposed merger to the Boards to the associations and to the Regulator before a merger is agreed.

The Regulator said that legislation following the Social Housing White paper is likely to give them increased powers to enforce standards and tenant satisfaction indicators and KPI's and to improve the sector. We think the Regulator is too cautious and that there is much they could do now, by clear arguments and signals to promote better service standards.

**We consider that the Regulator needs to give stronger leadership now to address the current problems in the Sector, as above, in advance of legislation.**

#### 5. Root causes must be addressed

Failing to handle racial harassment is, we think, symptomatic of deeper problems. Three risk factors may contribute to failures: under-representation of BAME people in Executive Teams and on Boards; the impact of the drive for growth and mergers; remote housing management systems.

**The Regulator needs to address these three risks which threaten the quality of the sector.**

#### *Under-representation of BAME people*

The recent NHF survey into the diversity of the sector provides valuable if incomplete data. The NHF recognises that if a workforce, a senior management team and a Board is not representative

of the populations it serves, they risk being out of touch with the diversity of the needs and the suitability of their policies. All associations need to recognise that this is not optional.

The NHF Code of Governance rightly calls for Board *“to have members with diverse backgrounds and attributes with direct lived-in experience of the communities the organisation serves”*. Yet:

- London’s BAME population is 40%, yet there are only 21% on London Boards<sup>5</sup>.
- Large cities have 25% - 35% BAME people, associations only 15% BAME Board members.

All associations need to review and improve their BAME representation.

### *Growth and mergers – are they good for tenants?*

For many years there has been a strong push for growth and for mergers, with major consequences. The 50 largest housing associations each now manage 47,000 homes on average<sup>6</sup>, spread over wide areas. They have become big business and larger than most local authority landlords were in the past and very different from their origins as small local charities. Larger associations are increasingly being criticised as being remote by local politicians.

There are potential risks for large and growing associations. Boards and management teams risk being physically and socially remote from tenants, may not understand needs, be able to monitor the quality of services, or well placed to redress failures. Growth can dominate the attention of Boards and managers with less attention to services to tenants. Mergers can even worsen housing management services, as is well documented for the merger of Clarion with Circle. Yet governance and redress mechanisms have rarely been developed to compensate for these risks.

L & Q concluded that it had become exposed to such risks and is acting strongly to improve its services by reducing patch sizes and revising its housing management practices. Others need to follow this lead.

### *Remote housing management systems – do they work for tenants?*

The move to call centres and digital platforms also carries risks of increasing remoteness. If they are to be introduced, they need to be carefully thought through and to focus on service quality at least as much as cost savings. Call centre staff often do not know the tenants, the properties, or the locality, nor have the specialist skills needed for complex cases.

## 6. Recommendations

We make five recommendations:

1. Accept that racial harassment is a priority and collect the data

The Regulator and the NHF should emphasise to all social landlords that addressing hate crimes is a fundamental duty. Every Boards needs to discuss this and own how to ensure this fundamental responsibility is met, to ensure quiet enjoyment of homes, free from racial harassment

2. Boards and Senior Management Diversity

Social housing landlords must do much more to reflect the diversity of the communities they serve. This needs to be true for every association. This is fundamental for hate crimes and for tenant

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<sup>5</sup> G15 Diversity Pledge (May 2021):- one year on and 2011 Census Data

<sup>6</sup> G15 Website data and Individual RP Annual Reports

satisfaction to be taken seriously. It is also essential for all services and policies and for good housing management. Governance needs to improve representation, address diversity in policies and services and ensure that senior staff and the main Board monitor performance on these cases. There must be open public data on the diversity of every association.

### 3. Promote Good Practice in dealing with Hate Crimes

It has been known for 30 years what works to address racial harassment of tenants, a victim centred approach, specialist skilled staff, and making it a priority issue for top management, see Appendix 2. The NHF needs to be very visible on what it will do to ensure this is learnt. The Regulator needs to re-enforce its importance.

### 4. Better services to tenants must be a priority for all mergers

Improving services to tenants is rarely an objective of mergers, services can even get worse. This is obviously wrong. It is clear too that bigger is not necessarily better. The Regulator may not have powers to stop mergers, but they have great influence to affirm that tenants should benefit not suffer from them. The Regulator has a significant influence before a merger takes place and many powers after merger e.g., IDA's and Regulatory Notices. They should use these powers and influence. It is essential that there is a proper evaluation of the impact of mergers on tenant services and tenant satisfaction.

All associations need to ensure they have strong redress mechanisms for tenants for when things go wrong; to ensure that tenants are supported to get justice and fair treatment, and to create such redress mechanisms, internally and externally to ensure this. Without such help, tenants are largely powerless in the face of monolithic monopoly businesses.

### 5. Much more action by the Regulator

The Regulator needs to be much more proactive and own that they have a duty to promote racial equality, and good services to tenants. They have been too absent from these issues and need now to make a step change in their leadership without waiting for legislation.

*December 2021*

## Appendix 1 The Authors

### Lord Adebowale CBE

Victor is Chair of the NHS Confederation and Chair of Social Enterprise UK. He served for six years as a Non-Executive Director on the Board of NHS England. He has chaired numerous commissions including the 2000 Review of Social Housing. Inside Housing judged him to be one of the 25 most influential people in housing policy over the past 25 years. He began his career in Local Authority Estate Management then joined the housing association movement. He is a crossbench peer.

### Aman Dalvi OBE

Aman has worked in Housing for over three decades. He was a Chief Executive of three organisations and Executive Director of Housing, Planning and Regeneration in an inner London Borough. He has Chaired several Housing Associations including the Anchor Trust and PA Housing. He was also on the Board of English Partnerships and the Olympic Park Legacy Company. Aman Dalvi currently works in a Consultancy role for a major Real Estate Company, and he is continuing his work as Chair of two Registered Providers.

### Lord Filkin CBE

Geoffrey has worked in housing, public services, public policy, and in the House of Lords. He founded Brent Housing Aid Centre, was Deputy CEO of Merseyside Improved Houses, a Director of Housing for two local authorities, a CEO in local government. He then led the Association of District Councils and helped found the LGA. He was a Government Minister under Tony Blair. He has chaired two House of Lords Select Committees, founded, and chaired several charities and think-tanks, and continues in leadership and governance roles in aging, longevity, and population health.

### Barry Simons

Barry is a housing and planning practitioner with nearly 50 years' experience. He was a Director of Housing for three London Boroughs for 20 years and been Chair of two Charities, a Board member of six housing associations and Chair of an ALMO. He is credited with authorising the first eviction of a tenant for racial harassment in 1985 and for establishing clear policies and procedures for dealing with racial harassment. He is currently Director of Meridian Homestart a not-for-profit Company providing affordable rented housing in the Royal Borough of Greenwich.

## Appendix 2 Best Practice on dealing with racial harassment

Separate Hate Crimes (particularly racial harassment) from Anti-Social behaviour

Ensure a victim-based approach to such cases – believe the victim.

Employ specialist caseworkers in larger organisations and specialist training with a named person in smaller organisations.

Ensure staff are aware of measures necessary to deal with Perpetrators and act whether there are children in the perpetrator's family or not.

Re-house victims, if essential, outside normal procedures

Ensure that senior staff are aware of such cases through case-work meetings and appropriate KPI's which need to be reported through to the main Board.