

## Written evidence submitted by Clarion Housing Group [RSH 084]

Clarion Housing Group is Britain's largest social landlord, providing housing for 350,000 people living in 125,000 homes across 176 local authorities. Our core mission is to deliver good quality, affordable, sustainable homes which gives residents a platform to build a better future.

### Executive summary

- The current regulatory regime has created a thriving social housing sector that builds thousands of new homes every year taking a responsible and thoughtful approach to investment in neighbourhoods and communities.
- The regime's conditions foster a vibrant growing sector which does much to support and nurture social housing residents.
- We support the current emphasis which places responsibility for managing organisations with the Boards of those organisations.
- The regime's construct is a matter for Ministers but Boards taking responsibility is correct, reflecting the legal responsibility for running a housing association, which rests with its governing body. The regulator must respect this and not place itself in the position of a Shadow Board by directing the organisation itself.
- The regulator cannot and should not be the way in which individual residents seek redress for service failures. These are matters for the Housing Ombudsman.
- We welcome the scale and ambition of the reforms within the Social Housing White Paper and its more consumer-lead approach to regulation. Previous models of tenant-led regulation have not always been successful and the regulator should learn from these past attempts. The primary relationship is between residents and their landlord and this must be where redress for service failures takes place. No regulatory regime can substitute for this.
- It is important to have clear boundaries between the regulator, with its remit to set standards and assess performance, and the ombudsman with its remit to investigate individual service failures and act accordingly. Confusion will arise if these boundaries are blurred and the Ombudsman seeks to comment on overall sector performance or the regulator is obliged to act on individual cases.
- The Decent Homes Standard needs to reflect the growing urgency to meet Net Zero and decarbonise all homes but there needs to be a flexible approach. The current emphasis on component replacement is both inefficient and costly.

### 1. How widespread and serious are the concerns about the quality of social housing?

1.1. In our view there are concerns about the quality of all types of housing in the UK, not just social housing. We believe that while there are some concerns about the quality of social housing, they are not widespread. However, in some cases serious issues have been raised and we have experienced this with some of our homes in Merton. We conducted an investigation<sup>1</sup> and took decisive action to ensure that such problems are more effectively and

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<sup>1</sup> <https://www.clarionhg.com/media/2315/257-merton-lessons-learned-and-next-steps-a4-v04.pdf>

efficiently resolved in future. All housing associations are balancing their responsibility to build new homes with the ongoing maintenance of existing stock. This is an increasingly impossible circle to square. The need for new homes far exceeds the current output, and the investment in existing homes is constrained because housing associations are reliant entirely on their own resources to deliver.

- 1.2. As the English Housing Survey<sup>2</sup> shows, standards in social housing are better than any other part of the housing system. However, a high proportion of social housing dates back to the post-WW2 building programme and thousands of homes need increasing care and investment. The quality of many of the homes transferred from councils to housing associations was poor following decades of underinvestment due to constrained funding – which is often the driver for housing associations to embark on regeneration programmes. The Decent Homes Standard (DHS) and associated funding was intended to rectify this, however the NAO<sup>3</sup> identified funding problems as one of the reasons for non-achievement of the 2010 social housing DHS target. Currently there is no funding stream to maintain buildings at the end of their lives. We would encourage the government to consider introducing such a funding stream.
- 1.3. We also know that some newer homes perform worse than older properties. There are familiar and ongoing concerns around the poor quality of new-build homes and associated defects<sup>4</sup>. The quality of overall new build homes impacts on homes coming into social use as around 50% of social homes are delivered via S106.
- 1.4. Where housing associations have greater control over quality - where we own land or are in sole control of regeneration - the homes we build are of very high quality. We know this from post-occupancy data on the views of residents as our own asset measures. Residents who have moved into the homes recently built on the regenerated Ravensbury estate in Merton appreciate the improved comfort and quality of their new homes.

“The building itself is well insulated and I have noticed reduced energy bills despite working from home throughout the winter. The layout works well and is geared towards modern living - I also appreciate the natural light which floods inside when the weather allows it.”  
*(Ravensbury resident, POE survey Feb 2021)*

- 1.5. But there is insufficient money to regenerate all the tired and outmoded stock and no grant or subsidy to support. Few, if any, commercial housebuilders would take these challenges on. This means it is left up to housing associations to find funding and make the difficult decisions about renewal priorities.

## **2. What is the impact on social housing providers’ resources, and therefore their ability to maintain and improve their housing stock, of the need to remediate building safety risks and retrofit their homes to make them more energy efficient**

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<sup>2</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/103921/4/2020-21\\_EHS\\_Headline\\_Report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/103921/4/2020-21_EHS_Headline_Report.pdf)

<sup>3</sup> [http://www.nao.org.uk/publications/0910/the\\_decent\\_homes\\_programme.aspx](http://www.nao.org.uk/publications/0910/the_decent_homes_programme.aspx)

<sup>4</sup> <https://commonslibrary.parliament.uk/research-briefings/cbp-7665/> [New-build housing: construction defects](#) - issues and solutions (England) Nov 2020

- 2.1. Clarion has already invested £85 million in its fire safety programme with plans to invest a further £150 million over the next 4 years. We estimate we will build 1,800 fewer affordable homes over the next five years because of remediation costs<sup>5</sup>.
- 2.2. We are both paying to remediate recent legacy issues such as cladding, older legacy issues such as investment deprived former local authority homes and also face uncertain decarbonisation costs going forward. Clarion's 2040 Standard (see below for details) will cost a minimum of £400m (£330m of which is on energy works) and our current modelling to reach Net Zero suggests £2.7bn through to 2050.
- 2.3. The challenge is balancing meeting future emergent needs against no-regrets interim investment in homes where people are living now. Ensuring that existing new builds or retrofit programmes do not end up unintentionally creating new problems (as cladding did) is key. A golden thread of information is needed to ensure people know their buildings are safe and how that interacts with future energy efficiency retrofits. Clarion are going beyond current Government BIM golden thread expectations and are developing "digital twins" for all of our high-rise high-risk buildings but few Registered Providers (RPs) are able to invest in this level of digital safety innovation.
- 2.4. As a range of reports show<sup>6</sup> "estimating the costs and impacts of refurbishment or demolition is complex, uncertain and subjective" (UCL Urban Lab, 2014 p62). Economic life-cycle modelling for repairs, renewal or replacement is being reassessed as our understanding of the importance of embodied carbon increases. This is particularly pertinent when maintaining buildings at the end of their life or with low, hard to improve Energy Performance Certificates. Clarion have a responsible disposal programme we only transfer homes to other Housing Associations who meet stringent tests on their ability to manage and invest in the stock.

### **3. Is the current regime for regulating social housing fit for purpose?**

- 3.1. Yes (see introductory comments).

### **4. How clearly defined are the roles of the Regulator of Social Housing and the Housing Ombudsman?**

- 4.1. On paper, the roles as set out in the Social Housing White Paper are very clearly defined, but in practice there is sometimes confusion and overlap. The regulator has to consider the long-term sustainability and resilience of individual housing associations and the sector while the ombudsman reacts to the treatment of individual residents. Both have a forward-looking role but it is understandable if the ombudsman takes a more granular and topic specific focus.
- 4.2. The role of the regulator to ensure registered providers have processes and standards in place to ensure rapid redress is the right one. The effectiveness of the regime lies in the balance of the two roles with the ombudsman dealing with cases where redress has not been possible through the standard routes.

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<sup>5</sup> <https://www.insidehousing.co.uk/news/london-has-36bn-fire-safety-costs-impact-development-plans-73017>

<sup>6</sup> [https://www.ucl.ac.uk/engineering-exchange/sites/engineering\\_exchange/files/report-refurbishment-demolition-social-housing\\_1.pdf](https://www.ucl.ac.uk/engineering-exchange/sites/engineering_exchange/files/report-refurbishment-demolition-social-housing_1.pdf) UCL Urban Lab 2014 *Demolition or Refurbishment of Social Housing? A review of the evidence* <https://www.eci.ox.ac.uk/research/energy/archive-40house.html>

- 4.3. It is important to recognise that the Ombudsman views the sector through the prism of complaints. This equips the service to make sound and reasoned judgements on service failure, identify common and recurring issues but not to form a basis on the effectiveness of the sector as a whole. The Regulator conversely has the ability to take a view about organisational effectiveness but not to delve into individual cases. Working together the regulator should be able to take a view about the judgements made by the Ombudsman and pursue those organisations where there may be evidence that individual cases reveal more about the way that organisation performs. Without effective co-operation between the regulator and Ombudsman there is real risk of mission creep.
- 4.4. The parameters for what the regulator and ombudsman can and can't do need to be clearer for residents, as does their relationship to the Building Safety Regulator and the New Homes Ombudsman to avoid confusion. We recently wrote to all our 125,000 households advising them how to make a complaint to us, the role of the ombudsman and how to escalate complaints. We encourage feedback and use complaints for learning but our ambition is that no Clarion resident needs to use the ombudsman's complaints process and we are working towards this goal.

## **5. Does the current regime allow tenants to effectively resolve issues?**

- 5.1. The regime works in the majority of cases, but residents have to be knowledgeable and tenacious to negotiate it. Many residents are not aware of the ombudsman's role despite the government's campaign<sup>7</sup> and we are putting greater effort into making sure the current system is properly signposted and understood.
- 5.2. Our observation is that some resident dissatisfaction arises because they haven't understood the mechanism for reporting their issue. Removing the designated person has simplified access to the ombudsman reducing confusing parallel processes but only where that process does not result in resolution should a resident approach the ombudsman. Current disrepair legislation is frustrating in that it cuts across all complaints processes, halting activity<sup>8</sup>. And while the Pre-action Protocol for Housing Condition Claims is a powerful tool, opportunistic legal teams are encouraging residents to override it to make claims in the hope of compensation payments, with the negative consequences of slowing down repairs, increasing costs, and accelerating decline (i.e. a small leak left unreported for more dramatic effect). This is hampered by our inability to access residents' homes unless they are willing to allow us in. When a resident refuses access for whatever reason it slows down the resolution inevitably meaning that residents live with outstanding repairs for longer than they should.
- 5.3. We recognise the importance of the formal resolution process but there has to be opportunity for the landlord to put things right first. Positive progress has been made simplifying the regulatory complaints process by removing the designated person, the swifter investigation process and in the new Complaints Handling Code's emphasis on learning lessons when things do go wrong. But HAs need the chance to put these lessons into practice, with the

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<sup>7</sup> <https://socialhousingcomplaints.campaign.gov.uk/>

<sup>8</sup> When a legal disrepair claim begins, landlords are required to halt works to a property (apart from to make safe) whilst the matter is resolved through the legal system.

ombudsman recognising where (compared to the historic cases they are reviewing) performance has improved.

- 5.4. The practical barriers for residents trying to access our services are the same hurdles to engaging with the ombudsman; vulnerable residents with English as a second language, a disability or lacking digital skills to complete online forms<sup>9</sup>. These challenges are entrenched so any regime has to respond around them.

## **6. Do the regulator and ombudsman have sufficient powers to take action against providers?**

- 6.1. Yes

## **7. Will the reforms proposed in the Social Housing White Paper improve the regime and what progress has been made on implementing those reforms?**

- 7.1. We welcome the scale and ambition of the reforms within the 2020 Social Housing White Paper (SHWP) and await its introduction allowing housing associations to legally implement its requirements across the board.
- 7.2. Meanwhile Clarion, like all HAs, has been working hard with our residents pursuing the SHWP's intentions. We have reviewed our structures, processes and activities so that our residents have a stronger voice. Residents helped to develop our latest Resident Involvement Strategy, as well as reviewing how we handle complaints<sup>10</sup>. Our residents are also represented on the ombudsman's resident panel, the HQN SHWP steering group, and the regulator's focus groups.
- 7.3. The reforms proposed in the SHWP are broadly correct, but with such ambitious reforms, prioritisation is important, and government and sector progress has been uneven. Building safety has seen a lot of activity but will take a very long time for the regulation and required investment to be embedded. Transparency and measurement of landlord performance can be put in place relatively quickly, but it will take years until we can see the impact of monitoring and publishing performance.
- 7.4. We have some reservations about the proposed standardised approach to assess customer satisfaction using differing methodologies<sup>11</sup>. We believe firmly in the value of independent third party polling of our residents' views, as it is less open to manipulation and interpretive bias. The regulator is proposing a new series of measures which would rely upon landlords gathering their own data. At best these results will not be comparable or robust, at worst could lead to gaming. Other voices in the sector claim that there is a lack of transparency in the way housing associations make decisions. We firmly believe that is a false accusation, and we will continue to use external pollsters to independently report on resident views.
- 7.5. The SHWP's scope is very wide. Housing associations have to prioritise their core purpose; the regulator regulates our landlord services not the additional support that we provide to our

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<sup>9</sup> Only 81% of our residents have access to the internet compared with the English average of 96% and a third of our residents report a disability. See The Clarion Index 2020 <https://www.clarionhg.com/media/2115/2250820-the-index-2020-final-18092020.pdf>

<sup>10</sup> <https://www.myclarionhousing.com/my-community/have-your-say/resident-involvement-successes>  
Resident Involvement Impact Assessment report 2020-21

<sup>11</sup> Using telephone or face-to-face surveys capture wider views than an online version of the same questionnaire for example

communities. Responding to austerity, housing associations are providing more sustainment and support to help people stay in their homes. Yet associations are not the police, social services or Local Authority and clear lines of responsibility need to be drawn so we don't get pulled into work that ought to sit with others and that our staff are not trained to deal with.

## **8. What changes, if any, should the Government make to the Decent Homes Standard?**

- 8.1. Clarion residents<sup>12</sup> agree that the four criteria of the existing Decent Homes Standard (DHS) are the right ones. Additional criteria they wanted included were soundproofing, homes being suitable/adaptable for those occupying them and safety items such as better locks and CCTV.
- 8.2. The current component-led DHS drives unhelpful behaviour (for example prioritising kitchen and bathroom replacement), which was one reason Clarion developed its own 2040 Standard. This goes beyond simple measure of decency and holistically looks at nine areas covering the whole home (including size, accessibility, security, maintenance, component quality, as well as energy efficiency and affordability). It covers both existing and new homes. Our 2040 Standard will be long-term and expensive to deliver across all our stock, so being able to prioritise the right homes, rather than investment being forced in one direction is essential. Should the DHS be updated, it must include sufficient flexibility to accommodate where housing associations are already making greater progress.
- 8.3. The original DHS was accompanied by a Decent Homes Programme of funding. Government should avoid placing further requirements on registered providers without attaching appropriate levels of funding.
- 8.4. We believe, rather than a single prescriptive DHS, which would not take into account variance in stock profiles across the sector, housing associations should establish their own standards. These should be created with residents and driven by their needs and the regulator can use them to hold landlords to account. This would give us more flexibility in setting the right standards and help us to satisfy the needs of residents.

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

- 9.1. Yes, the DHS needs to account for Net Zero Carbon targets, rising fuel prices and resultant increasing fuel poverty. However, we would caution against a 'one size fits all' approach to thermal comfort targets. Evaluation of the Decent Homes programme<sup>13</sup> found stock diversity affected both rates of implementation and value for money. A co-created individual standard like Clarion's 2040 would also prevent perverse impacts of standardised regulation, such as increasing supply chain costs for certain components suddenly in huge demand from every landlord.
- 9.2. Energy efficiency and climate change mitigation should be considered together rather than in isolation. Technology changes fast and we need full confidence in the emerging solutions being installed. We are very pleased to have had the opportunity this year to work with the

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<sup>12</sup> Over 1,000 residents (self-selected so not necessarily representative) responding to a survey on the 2018 Social Housing Green Paper. Supplementing this online survey Clarion commissioned an independent research agency to carry out a four representative regional roundtables and depth interviews.

<sup>13</sup> [http://www.nao.org.uk/publications/0910/the\\_decent\\_homes\\_programme.aspx](http://www.nao.org.uk/publications/0910/the_decent_homes_programme.aspx)

Department of Business Energy and Industrial strategy on pilot projects in Fenland and Tonbridge, where government funding has enabled us to lead ground breaking investment in new technologies to reduce carbon emissions in existing homes.

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

10.1. Yes, our understanding that this is already the case except for some very small providers such as Alms Houses.

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

11.1. The housing crisis requires diversification, with as many varied providers as possible building and managing social housing. Not-for-profit providers have a common shared purpose – ensuring those the wider housing market doesn't serve have homes. Some not-for-profit associations are successfully leveraging in private investment. But this is radically different from organisations devised to drive up shareholder value. While the number of for-profits is not large, at around 50, it has doubled in the last 5 years. Their fundamentally commercial intent risks having a disproportionate impact (taking up the regulator's time, influencing the direction of the sector), because their motivating aims are different from the mass of social providers. While careful scrutiny must continue, we'd caution against the inflexibility of inspection regimes which drive process and bureaucracy at the expense of innovation and improved services. Since the pandemic the regulator's engagement has been tailored to providers' varied circumstances and this pragmatic flexibility should continue.

*December 2021*