

# HOUSING MANAGEMENT CONSULTATIVE COMMITTEE

## Agenda Item 55

Brighton & Hove City Council

<b>Subject:</b>	<b>Tenant Services Authority consultation on new arrangements for regulating the council's landlord services</b>		
<b>Date of Meeting:</b>	<b>7 December 2009</b>		
<b>Report of:</b>	<b>Director of Adult Social Care &amp; Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Carol Jenkins</b>	<b>Tel:</b> 29-3832
	<b>E-mail:</b>	Carol.jenkins@brighton-hove.gov.uk	
<b>Key Decision:</b>	No		
<b>Wards Affected:</b>	All		

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Tenant Services Authority (TSA) is expected to become the regulator of the council's landlord services from 1 April 2010 when, subject to Parliamentary approval, it becomes responsible for regulating all social housing landlords. The TSA has now published details of its proposed regulatory approach and standards for landlords for formal consultation.
- 1.2 This report outlines the content of the consultation document for noting by the Committee and proposes arrangements for Committee members, tenant representatives, residents, staff in both Housing Strategy and Housing Management divisions and other stakeholders, including the Social Landlords Forum, to be involved in the consultation.

#### 2. RECOMMENDATIONS:

- 2.1 (1) That the Housing Management Consultative Committee note the contents of this report.
- 2.2 (2) That the Housing Management Consultative Committee endorse the consultation arrangements proposed in section 4 of this report.

#### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The TSA was created under the 2008 Housing and Regeneration Act as an independent regulator of providers of social housing (to be known as 'registered providers'). Its objectives include ensuring:
  - that actual or potential tenants of social housing have an appropriate

degree of (a) choice, and (b) protection;

- that tenants of social housing have the opportunity to be involved in its management; and
- that registered providers of social housing perform their functions efficiently, effectively and economically.

The TSA aims to ensure tenants are able to be involved in decisions that affect them, their homes and neighbourhoods and to protect tenants if their landlord performs poorly. Its model for regulating landlords is one where tenants are at the heart of shaping, influencing and monitoring the services they receive. This 'co-regulation' model sees landlords self-regulating involving their tenants, with the TSA intervening on an exception basis where landlords fail to improve.

- 3.2 The TSA's powers cover tenants of low-cost rented accommodation and low-cost home ownership, though not leaseholders. This reflects government's view that leaseholders have a degree of choice to move out of social housing (unlike most tenants) and are protected by other regulations and legislation. However, the TSA considers the improvements its regulation will have for tenants are likely to have positive 'spill over' effects for leaseholders and it also encourages providers to include leaseholders and other residents in their involvement strategies.
- 3.3 The TSA took over the regulation of housing associations in December 2008. From 1 April 2010, government intends the TSA to become responsible for supervising all social housing landlords, including councils which own housing stock. It proposes to put an order (The Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2009) before Parliament later this year which would give the TSA the powers to regulate local authority landlords, in line with the recommendations of the independent Cave review of social housing regulation in 2007. The aim is to ensure tenants receive an equally good service, no matter who their landlord happens to be.
- 3.4 During 2009 the TSA has held a 'National Conversation' with tenants and landlords around the country to identify what matters most to social housing tenants and decide how best to use its new powers to make a difference to the four million households who live in social rented homes in England. The responses of 27,000 tenants fed into its initial proposals, which have now been refined in the formal consultation documents.
- 3.5 At the centre of how the TSA will regulate social housing landlords are six national standards which social housing providers must meet. These describe the outcomes the TSA wants to see delivered and the specific requirements it expects all providers to comply with in meeting those outcomes. They are not intended, however, to prescribe detailed processes landlords should follow. The TSA believes the best place for the quality of services to be discussed, agreed and scrutinised is locally - between landlords and their tenants. So the standards require providers to set out what they offer to tenants and agree local standards with their tenants that reflect the priorities of local communities, to complement and strengthen the national standards. A summary of the national standards and the areas expected to be supplemented by local standards is at Appendix 1.

- 3.6 The standards on governance and financial viability will not apply to local authorities as the Audit Commission already has responsibility for overseeing these aspects of councils' performance and different legislation and regulations apply. The TSA has committed to working with the Audit Commission in regulating council landlords and supporting the Local Performance Framework. It intends to minimise the additional burden on council landlords by making best use of information landlords already have available.
- 3.7 It is proposed, however, that landlords with more than 1,000 homes – which would include the council - should, between April and October 2010, publish for the benefit of their tenants a report setting out how they already meet, or their plans for meeting, each of the national standards, noting any gaps and setting out their improvement plans, and how they will assure or measure their compliance against these standards in future. The report should include plans for developing local standards with their tenants to apply by 1 April 2011 at the latest. From 2011, providers will have to publish an annual report by 1 July to their tenants and the TSA on their performance against the national and their local standards, tenant scrutiny of their performance and, where appropriate, use of external validation, peer review and benchmarking. As well as producing the required reports and plans, the council will ensure that the resident involvement strategy which is currently in course of development in connection with the review of the Tenant Compact meets all the TSA's requirements.
- 3.8 Where providers do not either meet national standards or have robust processes to set and account for local standards, the TSA will expect speedy self-improvement. If that is insufficient, the TSA will have a range of enforcement powers to ensure that services to tenants are improved to meet the standards. For councils, those powers would include collecting information; arranging an inspection or survey; directing an inquiry or extraordinary audit; appointing advisors; enforcement notices; directing a tender or transfer of management; directing the Homes and Communities Agency not to invest; and placing restrictions on disposals or transfers of property. For other providers, the TSA will also be able to impose fines and order compensation. The TSA undertakes to take a proportionate and generally graduated approach in exercising its powers, seeking first to agree the way forward with the landlord and consider any voluntary undertakings the provider makes.
- 3.9 As well as becoming the regulator of the council's housing management services and allocations of council homes, the TSA considers its regulation of social housing will help local authorities' strategic place-shaping role. For example, it will be able to collect and share information on social housing landlords operating in the city and all providers will be required to meet the standard on local area co-operation.

#### **4. CONSULTATION**

- 4.1 The TSA's consultation ends on 5 February 2010 and it welcomes views from everyone with an interest in the future of social housing in England. The full documents, including a summary, are available from the TSA's website at [www.tenantservicesauthority.org](http://www.tenantservicesauthority.org) or from their Customer Service team on 0845 230 7000. The TSA can provide copies in large print, Braille and audio cassette and translated into Arabic, Urdu, Bengali, Somali and Turkish, on request.

- 4.2 The council has sent a copy of the summary formal consultation document to all council tenant and resident associations for information and comment. All associations were also sent an invitation to apply to be on the council of the National Tenant Voice, the new national tenants' organisation to give tenants influence over national policy through engaging with government and the TSA.
- 4.3 All council tenants and leaseholders have been informed of the development of the TSA's proposals through *Homing In* newsletters, including contact details for the TSA for more information and to have their say.
- 4.4 Staff from both Housing Management and Housing Strategy divisions are being informed of the proposals through internal briefings and invited to comment on them.
- 4.5 All council members will be informed of the consultation and invited to comment.
- 4.6 The council will seek the views of housing association representatives on the consultation documents at the Social Landlords Forum meeting in January 2010.
- 4.7 The comments of the Committee will be collated with those received from tenant representatives, members, officers and other stakeholders and summarised in a draft response to the consultation for sign off by the Cabinet Member for Housing. Comments should be sent to Carol Jenkins, Housing Stock Review Manager, Housing Management, Room 235, Kings House, Grand Avenue, Hove BN3 2SR or email Carol.jenkins@brighton-hove.gov.uk by 15 January 2010.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 5.1 Any financial implications arising from the outcome of the consultation will be included in the monthly targeted Budget monitoring forecast for 2010/11 and considered in future HRA Budget setting.

*Finance Officer Consulted:* Sue Chapman

*Date:* 19/11/09

### Legal Implications:

- 5.2 The Housing and Regeneration Act 2008 established the Regulator for Social Housing. The Tenant Services Authority is the current regulator. Sections 193 and 194 of the 2008 Act empower the regulator to set standards as to financial management, the nature, extent and quality of accommodation and facilities or services provided in connection with social housing. In due course the Regulator will have powers to take enforcement action where a registered provider has failed to meet a section 193 or 194 standard. (The relevant sections of the Act are not yet in force). The consultation process outlined in the report affords the Council and its tenants the opportunity to influence those standards. It is not considered that any individual's human rights will be adversely affected by the report's recommendations.

*Lawyer Consulted:*

Liz Woodley

*Date:* 18/11/09

Equalities Implications:

- 5.3 The TSA's formal consultation states registered providers must consider equality issues and the diversity of their tenants, including tenants with additional support needs, in relation to all the standards they will be required to meet. The specific requirements for the Tenant Involvement and Empowerment standard include having arrangements for understanding tenants and their needs, incorporating choices designed to meet the diverse needs of their tenants and providing support to build tenants' capacity to be effectively engaged, involved and empowered.

Sustainability Implications:

- 5.4 The proposed TSA standards promote the use of engagement and partnership with tenants to support sustainable communities. The Neighbourhood and Community standard includes a requirement for registered providers to co-operate with relevant partners to help promote social, environmental and economic well being in the areas where their properties are located.

Crime & Disorder Implications:

- 5.5 The proposed Neighbourhood and Community standard will require registered providers to work in partnership with other public agencies to prevent and tackle anti-social behaviour in the neighbourhoods where they own homes. Registered providers will also have to ensure their tenants have the opportunity to agree a local standard for anti-social behaviour.

Risk and Opportunity Management Implications:

- 5.6 Risks of not meeting the TSA's proposed standards are set out in paragraph 3.8 of this report.

Corporate / Citywide Implications:

- 5.7 In regulating the councils' landlord function the TSA has committed to co-ordinate its approach with the Audit Commission and work within the Local Performance Framework.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Outline of proposed Tenant Services Authority standards

**Documents In Members' Rooms**

None

## **Background Documents**

1. *A new regulatory framework for social housing in England* Tenant Services Authority, November 2009