



House of Commons  
Levelling Up, Housing and  
Communities Committee

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# The Regulation of Social Housing

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**First Report of Session 2022–23**

*Report, together with formal minutes relating  
to the report*

*Ordered by the House of Commons  
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## Levelling Up, Housing and Communities Committee

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## Summary

The current debate about the quality of social housing in England began after survivors of the Grenfell Tower fire in 2017 accused their housing provider of marginalising and belittling residents and repeatedly ignoring their concerns about the building's safety. More recently, a series of media reports, particularly from ITV News, has revealed appalling levels of disrepair in some social housing, including serious damp and mould. In response, the Government has announced a series of measures to raise standards in the sector. In particular, it is currently legislating, through the Social Housing (Regulation) Bill, to reform the regime for regulating the quality of social housing and has instructed the regulatory body, the Regulator of Social Housing, to review its consumer standards, which all registered providers are supposed to meet.

On levels of disrepair, we conclude that most social housing in England is of a decent standard, as evidenced by the most recent English Housing Survey, but that the condition of some homes has deteriorated so far as to be unfit for human habitation. We also note with concern the extremely serious impact on the mental and physical health of those affected. Whatever the precise extent and causes of housing disrepair, we call on everyone in and connected to the sector to prioritise above all else the quality of housing being provided to existing tenants.

In some instances, housing disrepair can be attributed to factors that are not entirely within the control of housing providers, such as the age and design of the existing stock and the overall shortage of social housing. For this, some blame must attach to successive Governments for not investing enough in new homes, which has increased the sector's reliance on outdated stock, and for not providing funding specifically for regeneration. We therefore call on the Government to introduce funding specifically for regeneration and to deliver on its commitment to increase the supply of homes for social rent.

We also have concerns about the proposed extension of Right to Buy to tenants of private housing providers. The existing policy has reduced the number of homes available for social rent and increased the proportion of the social housing stock that is hard to maintain, as most of the properties bought have been in suburban areas, rather than inner-city areas, where much of the harder-to-maintain stock is concentrated. To prevent the further erosion of the social housing stock, we recommend that the Government present a fully-funded plan for ensuring the one-for-one and like-for-like replacement of every home sold under Right to Buy.

The social housing sector must still take much of the responsibility for the condition of some social housing, as it is clear that some providers have contributed to disrepair by managing their housing badly. In particular, too many are guilty of:

- not responding quickly enough to requests for repairs or investigating the structural causes of disrepair;
- preferring quick fixes over proper remediation work;
- neglecting sites earmarked for regeneration; and

- relying too heavily on tenants to report problems, rather than proactively monitoring the condition of their stock.

To remedy the latter, we call on the regulator, as parts of its review of the consumer standards, to require providers to routinely audit the condition of their stock.

The condition of tenants' homes does not exhaust the grounds on which they complain about their provider; of equal concern to them is the quality of service they receive and how they are treated or spoken to by their provider. In many cases, we believe the poor treatment of tenants can be attributed, in particular, to:

- a lack of respect for tenants arising from a stigma attached to being a social housing tenant, or to other forms of discrimination;
- the power imbalance between providers and tenants; and
- the commercialisation of the sector, which has distanced some providers from their tenants and from their original social mission.

To reduce stigma and discrimination, we call on providers to ensure their boards and senior management teams better reflect the diversity of their communities, and on the regulator to incorporate this requirement into its revised consumer standards. To strengthen tenant voice, we call on the regulator to require providers to support the establishment of tenants and residents associations that are led by tenants and residents and not unduly influenced by providers. We also urge the Government to establish a permanent national tenant voice body to send the clearest possible signal that it intends to involve tenants in the national conversation about how to drive up standards in social housing. To reverse the trend of some providers becoming too remote, we also recommend the regulator strengthen the wording of its tenant involvement and empowerment standard to require providers to deliver housing services that are genuinely local and tenant centred.

Whilst the role of the Housing Ombudsman is to investigate individual complaints against providers, the primary responsibility for resolving disputes lies with providers themselves. Too often, however, their complaint handling processes are inefficient and obstructive, and it is understandable if tenants sometimes conclude they have been specifically designed to prevent them from ever referring their complaint to the ombudsman. It is also quite clear that, as well as adding insult to injury, the inefficiency of some providers' complaint handling processes is itself contributing to levels of disrepair, since repeated requests for repairs will nearly always also be complaints, and satisfactory resolution will usually involve the completion of remediation or repair work. All providers that have not already done so must immediately review and where necessary improve their complaint handling processes.

To drive improvement and greater consistency in how providers deal with complaints, the ombudsman has been given the power to publish a complaint handling code and to issue complaint handling failure orders to providers that fail to deal with complaints properly. It published its first code in July 2020, and has asked providers to self-assess against it, but it cannot compel them to do so. We welcome the ombudsman's new powers but recommend that it more proactively monitor providers' compliance with the

complaint handling code. We also recommend either that the Government legislate to require providers to self-assess against the code and to implement complaint handling processes broadly in line it, or that the regulator introduce a new standard to the same effect.

If, when it investigates a complaint, the ombudsman finds a provider guilty of maladministration, it may order the latter to compensate tenants for financial loss and avoidable inconvenience, distress and detriment. In 2020–21, the average level of compensation awarded was just £260. This clearly does not come anywhere close to reflecting the detriment to tenants. In its recent White Paper on reforming the private rented sector (PRS), the Government promised to establish a new ombudsman for the PRS with the power to award compensation of up to £25,000. We call on the Government to amend the Social Housing (Regulation) Bill to give the social housing ombudsman the same power. To tolerate a situation in which social housing tenants are not receiving the same levels of compensation as tenants in the PRS would amount to blatant discrimination. Significantly increasing levels of compensation should also help to concentrate the minds of boards and senior management teams on improving service standards.

The regulator regulates the quality of social housing through its consumer standards. Since 2011, this regime has been subjected to the ‘serious detriment’ test, according to which it may only find a provider in breach of a consumer standard if the failure being investigated caused, or could cause, serious detriment to tenants. It is universally accepted that the ‘serious detriment’ test has prevented the regulator from properly regulating the consumer standards, and for this reason the Government is now legislating to repeal it, which we strongly welcome.

The regulation of the consumer standards is also governed by a ‘systemic failure’ test, which is based on the regulator’s interpretation of its statutory duty, set out in the Housing and Regeneration Act 2008, to minimise interference and act proportionately. Under the ‘systemic failure’ test, the regulator only intervenes where there is evidence of systemic failure within the organisation concerned. This is perhaps the most passive interpretation of its statutory duty imaginable and has resulted in providers that are responsible for serious mismanagement affecting dozens of tenants nonetheless being found compliant with the standards. It has also introduced a regulatory gap between the regulator and the Housing Ombudsman. For all these reasons, we call on the regulator to reconsider its interpretation of the duty to minimise interference and act proportionately, and to abandon the ‘systemic failure’ test.

# 1 Introduction

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## Background

1. On 14 June 2017, a fire broke out on the fourth floor of Grenfell Tower, a council-owned tower block in Kensington, west London, that ultimately claimed 72 lives. The debate that followed initially focused on the flaws in the safety of high-rise buildings, but it soon initiated another conversation, about the quality of social housing in England. Survivors accused the council, the Royal Borough of Kensington and Chelsea (RBKC), and its housing management company, the Kensington and Chelsea Tenant Management Organisation (KCTMO), of marginalising and belittling tenants and of repeatedly ignoring their concerns about the building's safety.<sup>1</sup>

2. On 22 June, the then Prime Minister told the House of Commons that “for too long in our country, under Governments of both colours, we simply have not given enough attention to social housing” and that this was “a symptom of an even more fundamental issue”. She continued:

It should not take a disaster of this kind for us to remember that there are people in Britain today living lives that are so far removed from those that many here in Westminster enjoy. In this tower—just a few miles from the Houses of Parliament and in the heart of our great city—people live a fundamentally different life, do not feel the state works for them and are therefore mistrustful of it. So, long after the TV cameras have gone and the world has moved on, let the legacy of this awful tragedy be that we resolve never to forget these people and instead to gear our policies and our thinking towards making their lives better and bringing them into the political process.<sup>2</sup>

3. In August 2018, the Government published a social housing Green Paper in which it promised a “fundamental shift in the state’s approach to social housing and the people who call it home”. To do this, it said it would ensure residents had access to safe and decent homes and address the power imbalance between residents and providers. It correctly said many social housing tenants felt ignored and stigmatised and treated with a lack of respect by remote and unaccountable providers, and promised to tackle the stigma attached to social housing. It also acknowledged the shortage of social housing and promised to work with developers to increase supply.<sup>3</sup>

4. In 2020, the Government published a social housing White Paper in which it committed itself to reforming the regulation of social housing, in particular by strengthening the ability of the Regulator of Social Housing (the regulator) to regulate the condition of social housing and the quality of the services provided by registered providers.<sup>4</sup>

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1 Grenfell United ([RSH0108](#))

2 HC Deb, 22 June 2017, [col. 169](#) [Commons Chamber]

3 Ministry of Housing, Communities and Local Government, [A new deal for social housing](#), 14 August 2018, p. 10

4 Ministry of Housing, Communities and Local Government, [The Charter for Social Housing Residents](#), 17 November 2020



5. In March 2021, ITV News, and its political correspondent, Daniel Hewitt, revealed the appalling conditions in a housing block on Regina Road, South Norwood, owned by Croydon Council. Since 2019, tenants had been complaining to the council about leaks in their flats that had resulted in serious damp and black mould that had left their homes dangerous and uninhabitable. Polly Neate, the chief executive of Shelter, described the conditions as “probably the worst I personally have ever seen” and said there was no “possible way” the properties were fit for human habitation.<sup>5</sup> According to Daniel Hewitt, the report got the biggest response ITV News had had to a home story in a generation. This prompted further reporting throughout 2021 and into 2022.<sup>6</sup> In June, for example, it reported on the Eastfields estate, in Mitcham, south London, where it had found dozens of families living in damp, mouldy and rodent-infested homes. Residents accused their provider, Clarion, of ignoring their complaints for years. In response, Clarion apologised to residents, saying they had not had the service they deserved.<sup>7</sup>

6. In the light of these reports, and many others, Rt Hon Michael Gove MP, the former Secretary of State for Levelling Up, Housing and Communities, told a fringe event at the Conservative 2021 party conference that the quality of social housing remained “scandalously poor”.<sup>8</sup> On 8 June 2022, the Government published the Social Housing (Regulation) Bill, the main purpose of which is to improve the quality of social housing and make sure tenants are treated with respect, including by introducing a more proactive regulatory regime and addressing the power imbalance between tenants and providers.<sup>9</sup> In the light of both the concerns about the quality of social housing and the Government’s proposed reforms, we decided to conduct this inquiry.

## Our inquiry

7. On 16 November 2021, we launched our inquiry into the quality and regulation of social housing in England with a call for evidence. We received and published 102 written submissions. We also held six oral evidence sessions, in which we heard from private and local authority providers and bodies representing them, tenant representatives and housing bodies. We also heard from Daniel Hewitt and two of the tenants featured in the ITV News investigation, from the Housing Ombudsman (the ombudsman) and the regulator, and from Eddie Hughes MP, the Minister for Rough Sleeping and Housing in the Department for Levelling Up, Housing and Communities (DLUHC).

8. We wanted to engage with as many social housing tenants as possible. For this reason, on 31 March we launched a survey of social housing tenants. It ran until 14 April and sought their views on matters ranging from the condition of their property to their providers’ responsiveness to requests for repairs and their awareness of their right to take a complaint to the ombudsman. We received 628 responses. To see the condition of some social housing for ourselves, and to talk directly with tenants, on 11 May we also visited two social housing sites in London, Regina Road, in Croydon, and Central Hill in Lambeth, and then held a roundtable discussion with tenants from those sites and elsewhere.

5 [ITV News, ‘The worst I’ve ever seen’: The appalling and ‘unliveable’ council housing conditions some have endured during lockdown](#), 22 March 2021

6 [Q218](#) [Daniel Hewitt, political correspondent, ITV News]

7 [ITV News, Collapsed ceilings, mice and mould: Appalling conditions uncovered on housing estate of 500 homes](#), 16 June 2021; [Eastfields Residents Association \(RSH0032\)](#)

8 [Inside Housing, Quality of social housing ‘scandalously poor’, says Gove](#), 4 October 2021

9 [Department for Levelling Up, Housing and Communities, Press release: Ofsted-style inspection and unlimited fines for failing landlords](#), 8 June 2022

9. We would like to thank everyone who gave evidence to our inquiry, whether in written or oral evidence, or via the survey or our public engagement. In particular, we would like to thank those tenants who shared with us often very upsetting details about their experience of social housing. Whether or not we refer directly to particular evidence in our report, it all helped to inform our inquiry and shape our conclusions and recommendations. We are also grateful to our two specialist advisers, Christine Whitehead, Emeritus Professor of Housing Economics at the London School of Economics and Political Science, and Aileen Murphie, Honorary Professor, Department of Accounting, University of Durham.

### **Structure of our report**

10. In Chapter 2, we explore the evidence on the nature and extent of housing disrepair and its possible causes, including the ageing housing stock and poor housing management. In Chapter 3, we look at the reasons some tenants are ignored or treated with disrespect by their provider, including stigma, lack of tenant voice and the commercialisation of social housing. In Chapter 4, we look at complaint handling and the role of the ombudsman in providing redress to tenants. In Chapter 5, we turn to the regulation of social housing and the Government's reforms in the Social Housing (Regulation) Bill, particularly the introduction of a more proactive regime for regulating the quality of social housing.

## 2 Housing disrepair

### The nature and extent of housing disrepair

11. It appears from most of the evidence to our inquiry that some social housing has deteriorated to the point of being unfit for human habitation. The worst conditions were variously described as “horrendous”,<sup>10</sup> “appalling”,<sup>11</sup> “disgraceful”,<sup>12</sup> “scandalous”,<sup>13</sup> and “unimaginable, uninhabitable and criminal”.<sup>14</sup> Nick Murphy, Chief Executive, Nottingham City Homes (NCH), called this deteriorated housing an “embarrassment” to everyone in the sector,<sup>15</sup> and Helen Garrett, BRE Group, even questioned “whether it would be safe for a surveyor to go into those homes”.<sup>16</sup> Daniel Hewitt, ITV News, described one site as “the most indescribably poor, squalid and dangerous housing” he had ever seen, and the moment he saw it as “probably the angriest” he had ever been, “not just as a journalist, but as a human being”.<sup>17</sup> Kate Henderson, Chief Executive, National Housing Federation (NHF), said the worst conditions were “completely unacceptable” and personally apologised on behalf of the providers her organisation represented.<sup>18</sup>

12. As illustrated in the ITV News investigation, the worst housing conditions often involve damp and mould. This was borne out by the evidence to our inquiry.<sup>19</sup> James Prestwich, Chartered Institute of Housing (CIH), called it “a particularly significant issue”.<sup>20</sup> We heard of one woman living with two children in a property with black mould all over the bedroom walls and mushrooms growing from the corners. All three had developed breathing problems, and their GP had agreed their living conditions were to blame, yet after two years the problem had still not been fixed.<sup>21</sup> Angela Price, a tenant who gave evidence alongside Daniel Hewitt, told us the damp and mould in her property was so bad her daughter was too embarrassed to bring friends home. She said their social lives had completely stopped because she was so ashamed and that she “smelled to high heaven” as the smell had penetrated her clothes.<sup>22</sup>

10 [Q3](#) [Suzanne Muna, Social Housing Action Campaign];

11 [Q27](#) [Professor Ian Cole, Chair of Board Management, South Yorkshire Housing Association]

12 Submission on behalf of G15 largest London housing associations’ residents Jamie Ratcliff (Executive Director at Network Homes); Lydia Bocage (Resident at Catalyst); Mary Burke (Resident at Notting Hill Genesis); Marc Merry (Resident at Southern Housing Group); Jerry Piper (Resident at Metropolitan Thames Valley Housing); Fayann Simpson (Resident at L&Q); Terry Stacey (Resident at Clarion) ([RSH0055](#))

13 [Qq27–28](#) [Professor Ian Cole, Chair of Board Management, South Yorkshire Housing Association; Clare Miller, Chief Executive, Clarion Housing Group]

14 [Participant C, Group 1](#)

15 [Q85](#) [Nick Murphy, Chief Executive Officer, Nottingham City Homes]; [Q191](#) [Helen Garrett, National Housing Data and Insights Leads, BRE Group]

16 [Q191](#) [Helen Garrett, National Housing Data and Insights Lead, BRE Group]

17 [Q218](#) [Daniel Hewitt, political correspondent, ITV News]

18 [Q113](#) [Kate Henderson, Chief Executive, National Housing Federation]

19 [Q187](#) [James Prestwich, Director of Policy and External Affairs, Chartered Institute of Housing]; The Housing Ombudsman Service ([RSH0023](#)); [Q3](#) [Suzanne Muna, Social Housing Action Campaign]; South West London Law Centre ([RSH0098](#)); Eastfields Residents Association ([RSH0032](#)); [Q245](#) [Angela Price, tenant, Guinness Partnership]; Caseworker of Justin Madders MP ([RSH0018](#))

20 [Q187](#) [James Prestwich, Director of Policy and External Affairs, Chartered Institute of Housing]

21 South West London Law Centre ([RSH0098](#))

22 [Q245](#) [Angela Price, Tenant, Guinness Partnership]

13. There was broad agreement, however, among both providers and tenant bodies, that the worst conditions, though appalling, were not representative of the sector.<sup>23</sup> Midland Heart, a private provider, said it “would not be prudent to judge the entirety of a sector as large as housing based on a minority of landlords and cases”,<sup>24</sup> while Campbell Tickell, consultants specialising in social housing, said the examples of poor quality “were clearly more than isolated instances” but still concluded that “the vast majority of homes in the sector “ were “of decent quality”.<sup>25</sup>

14. As evidence of the overall quality of social housing, several submissions cited the findings in the English Housing Survey (EHS) showing that homes in the sector are generally in better condition than those in other sectors.<sup>26</sup> The most recent EHS estimated that 13% of homes in the social rented sector failed to meet the decent homes standard in 2020, compared to 21% in the private rented sector and 16% in the owner occupied sector. It also estimated that 5% contained a category 1 hazard, compared to 12% of private rented housing and 10% of owner-occupied homes. The figures for damp were 4%, 6% and 2% respectively.<sup>27</sup> Helen Garrett, BRE Group, which carries out the EHS, said there were “only roughly 16,000 homes with category 1 damp in the social housing sector” and that only “a very small percentage of the stock” had the “worst damp conditions that would present the most serious health risk to occupants”.<sup>28</sup> It should be noted, however, that the decent homes standard, which is the basis of these estimates, is now 20 years old and that the Government is currently consulting on whether and how to update it.<sup>29</sup>

15. As the BRE Group and Campbell Tickell pointed out, however, the figure of 13% still equates to more than 500,000 homes, which means that far too many people are living in non-decent homes.<sup>30</sup> For this reason, some of the evidence placed more emphasis on the prevalence of poor conditions. Danielle Gregory, Tower Blocks UK, said that safety, disrepair, or both, “almost certainly” affected every tower block in the UK.<sup>31</sup> A caseworker

23 [Q80](#) [Chloe Fletcher, Policy Director, National Federation of ALMOs; Councillor David Renard, Chair of Economy, Environment, Housing and Transport Board, Local Government Association; Nick Murphy, Chief Executive Officer, Nottingham City Homes]; National Federation of ALMOs ([RSH0068](#)); Midland Heart ([RSH0017](#)); Nottingham City Council (in conjunction with Nottingham City Homes) ([RSH0080](#)); Great Places Housing Group ([RSH0025](#)); National Housing Federation ([RSH0088](#)); [Q114](#) [Kate Henderson, Chief Executive, National Housing Federation]; [Q115](#) [Matthew Walker, Chair, PlaceShapers]; [Q116](#) [Karen Brown, Senior Policy Advisor, Northern Housing Consortium]; Optivo ([RSH0044](#)); Submission on behalf of G15 largest London housing associations’ residents Jamie Ratcliff (Executive Director at Network Homes); Lydia Bocage (Resident at Catalyst); Mary Burke (Resident at Notting Hill Genesis); Marc Merry (Resident at Southern Housing Group); Jerry Piper (Resident at Metropolitan Thames Valley Housing); Fayann Simpson (Resident at L&Q); Terry Stacey (Resident at Clarion) ([RSH0055](#)); [Q163](#) [Dr Amanze Ejiogu, Senior Lecturer in Accounting and Finance, Newcastle University Business School]; [Q184](#) [Helen Garrett, National Housing Data and Insights Lead, BRE Group]; London Tenants Federation ([RSH0097](#)); Campbell Tickell ([RSH0094](#)); Homes for the South West ([RSH0051](#))

24 Midland Heart ([RSH0017](#))

25 Campbell Tickell ([RSH0094](#)) (See also [OPTIVO]National Federation of ALMOs ([RSH0068](#)) and London Tenants Federation ([RSH0097](#))

26 Northern Housing Consortium ([RSH0049](#)); Chartered Institute of Housing ([RSH0037](#)); National Housing Federation ([RSH0088](#)); Yorkshire Housing ([RSH0067](#)); G15 ([RSH0073](#)); Liverpool City Region Housing Associations (Policy and Communications Group), Sovini Group ([RSH0019](#)); [Q114](#) [Kate Henderson, Chief Executive, National Housing Federation]; National Federation of ALMOs ([RSH0068](#)); The Guinness Partnership ([RSH0107](#)); Homes for the South West ([RSH0051](#)); The Guinness Partnership ([RSH0107](#))

27 Department for Levelling Up, Housing and Communities, [English Housing Survey, Headline Report, 2020–21](#), 9 December 2021

28 [Q184](#) [Helen Garrett, National Housing Data and Insights Lead, BRE Group]

29 Department for Levelling Up, Housing and Communities, [Decent Homes Standard: review](#), 8 February 2021

30 BRE Group ([RSH0078](#)); Campbell Tickell ([RSH0094](#))

31 Miss Danielle Gregory (Projects and Campaigns at Tower Blocks UK) ([RSH0024](#))

for Justin Madders MP said it was rare to go a day without “a handful” of disrepair cases.<sup>32</sup> In response to our survey of tenants, 20% of respondents rated the condition of their housing as excellent or very good, 33% as acceptable and 47% as poor or very poor. Daniel Hewitt told us how, following the first report, on Regina Road, his team was inundated with similar stories:

We received hundreds of emails in the first week. Within a few weeks, it was thousands, and we set about telling those stories around the country. We are still telling them. ... There will be a report on ITV News next week of another social housing tenant. We could tell these stories every day if we wanted.<sup>33</sup>

16. For those who are affected by disrepair, the consequences, particularly for their mental and physical health, can also be extremely serious.<sup>34</sup> Residents of Tower Hamlets Community Housing said their relationship with their provider was “destroying” their health “mentally and physically”.<sup>35</sup> Nick Murphy, NCH, said fixating on the overall picture missed “the devastating impact of just one poor quality home on the people that have to live in that home”.<sup>36</sup> The impact on tenants is aggravated by the fact that they are more likely in the first place to be vulnerable or to suffer from mental ill-health or a disability than those in the private rented sector, particularly given the statutory duties on local authorities to house the homeless as well as people fleeing domestic violence,<sup>37</sup> and because they cannot “shop around” like private renters can.<sup>38</sup>

17. **It is not possible to gauge exactly how prevalent poor quality is within the social housing sector. Given that the English Housing Survey (EHS) estimated that 13% of homes in the social rented sector failed to meet the decent homes standard in 2020, it is fair to conclude that the majority of homes are decent, although we note that this is based on an outdated decent homes standard. It is equally apparent, however, that the condition of some of the stock has deteriorated so far as to be unfit for human habitation and that the impact on the mental and physical health of those affected is extremely serious. According to the EHS, 5% of social housing contains a category 1 hazard. This might be less than in the private rented sector, but it still equates to an unacceptable number of homes.**

18. *Whatever the extent and causes of housing disrepair, we call on everyone in and connected to the social housing sector to work together and prioritise above all else the quality of housing being provided to existing tenants.*

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32 Caseworker of Justin Madders MP ([RSH0018](#))

33 [Q218](#) [Daniel Hewitt, political correspondent, ITV News]

34 [Midland Heart \(RSH0017\)](#); [Savills \(UK\) Ltd \(RSH0063\)](#); [TAROE Trust \(RSH0026\)](#); [The Housing Ombudsman Service \(RSH0023\)](#); [Justice for THCH Residents \(RSH0074\)](#)

35 [Justice for THCH Residents \(RSH0074\)](#)

36 [Q85](#) [Nick Murphy, Chief Executive, Nottingham City Homes]

37 [Q183](#) [Tarun Bhakta, Policy Officer, Shelter]; [Savills \(UK\) Ltd \(RSH0063\)](#); [Campbell Tickell \(RSH0094\)](#); [Midland Heart \(RSH0017\)](#); [Action Disability Training & Consulting \(RSH0043\)](#) According to the most recent English Housing Survey, 55% of households in the social rented sector had one or more members with a long-term illness or disability, compared with 29% in the private rented sector; Department for Levelling Up, Housing and Communities, [English Housing Survey, Headline Report, 2020–21](#), 9 December 2021, p. 13

38 [Lord Filkin](#); [Lord Adebowale](#); [Aman Dalvi](#); [Barry Simons \(RSH0079\)](#); [Justice for THCH Residents \(RSH0074\)](#); [Devonshires Solicitors LLP \(RSH0039\)](#); [Barkantine Management Team \(RSH0031\)](#)

## Some causes of housing disrepair

19. The regulator is responsible for regulating the condition of social housing as part of its consumer objective. In meeting this objective, it has set four consumer standards, one of which is the home standard, which requires providers to ensure tenants' homes meet the decent homes standard and provide a cost-effective repairs and maintenance service that responds to the needs of tenants and aims to complete repairs and improvements right first time.<sup>39</sup> In November 2021, in response to the proposals in the White Paper, the regulator announced it would be reviewing and updating its consumer standards and that it would consult on the content of the new standards after the Government had legislated.<sup>40</sup>

20. From the evidence we received, it seems that the principal causes of housing disrepair are:

- the age and design of the social housing stock, aggravated by the lack of funding for regeneration and the lack of new social housing;
- the competing financial pressures on providers, particularly the need to remediate building safety defects and decarbonise the housing stock;
- fuel poverty and overcrowding, resulting in and worsening damp and mould from condensation; and
- poor housing management, which manifests itself in many different ways, including a failure to respond properly to requests for repairs.

## The ageing housing stock

### The cost of maintaining and regenerating outdated housing stock

21. The difficulty of maintaining or regenerating old and poorly designed social housing stock was frequently cited as one of the main causes of disrepair.<sup>41</sup> The National Federation of ALMOs (arm's length management organisations) (NFA) attributed some poor quality to "historic poor building design and quality in the sector" and described council housing as "some of the most difficult to maintain stock in the country".<sup>42</sup> Midland Heart said social housing providers often had "the most difficult stock to maintain and upgrade", and partly blamed Right to Buy, under which "much of the better-quality stock" had been sold, leaving most of "the older and poorer quality stock under their management".<sup>43</sup>

22. In some instances, when a site has reached the end of its life, the only option might be whole-scale regeneration, by which is usually meant demolition and rebuild.<sup>44</sup> The NHF said some homes were simply "no longer fit for purpose", often "due to their age and the nature of their original construction", and that "the fabric of the building itself and, in

39 Regulator of Social Housing, [Guidance: Home Standard](#), 1 April 2012

40 Regulator of Social Housing, [Reshaping consumer regulation: our principles and approach](#), 17 November 2021

41 Clarion Housing Group ([RSH0084](#)); L&Q ([RSH0081](#)); PlaceShapers ([RSH0029](#)); National Federation of ALMOs ([RSH0068](#)); Midland Heart ([RSH0017](#)); Northern Housing Consortium ([RSH0049](#)); National Housing Federation ([RSH0088](#)); Shelter ([RSH0047](#)); Yorkshire Housing ([RSH0067](#)); Great Places Housing Group ([RSH0025](#)); Campbell Tickell ([RSH0094](#)); [Q186](#) [Tarun Bhakta, Policy Officer, Shelter]

42 National Federation of ALMOs ([RSH0068](#))

43 Midland Heart ([RSH0017](#))

44 National Housing Federation ([RSH0088](#)); National Federation of ALMOs ([RSH0068](#)); Citizen Housing ([RSH0102](#))

some cases, older systems of construction” made remediation difficult “without whole-scale regeneration”.<sup>45</sup> At present, however, the Government does not provide funding for the replacement of homes demolished through regeneration.<sup>46</sup> Such schemes are explicitly excluded from the terms of the Affordable Homes Programme (AHP), although some funding is available where regeneration results in net additional affordable homes.<sup>47</sup> Citizen Housing said this lack of “subsidy to help deal with poor quality and obsolete stock” would “hamper the strive to improve the quality of social housing”.<sup>48</sup>

23. It was to this lack of funding that Clare Miller, Chief Executive, Clarion, partly attributed the problems at Eastfields. As a result, she said “these enormously expensive projects” were “very difficult to piece together”, and at Eastfields this meant “residents were living in their homes longer than we had intended in these conditions”.<sup>49</sup> In its written submission, Clarion said there was “insufficient money to regenerate all the tired and outmoded stock and no grant or subsidy” and that “few, if any, commercial housebuilders would take these challenges on”, which meant it was “left up to housing associations to find funding and make the difficult decisions about renewal priorities”.<sup>50</sup> According to Homes for the South West, “a significant flaw in current funding models is the assumption that homes last forever”, whereas, in reality, “older homes and estates become more expensive to maintain and, in some cases, unfit for purpose”.<sup>51</sup>

### *Lack of social housing and the impact of Right to Buy*

24. Since 1991, there has been an average annual net loss of 24,000 homes in the social rented sector, primarily because fewer homes are being built than are being lost through demolition or sale under the right to buy.<sup>52</sup> To increase the supply of affordable and social housing, the Government recently launched its latest AHP, which is set to run from 2021 to 2026. It said the new fund would make £8.6 billion available for investment and deliver 120,000 new affordable homes over 10 years, including 30,000 homes for social rent.<sup>53</sup> In April 2022, the former Secretary of State told a housing conference that recent Governments had not focused enough on enabling providers to develop homes for social rent.<sup>54</sup> We heard that the shortage of social housing was adding to the problem by increasing providers’ reliance on older stock,<sup>55</sup> and that the housing crisis had in turn been compounded by the right to buy and the failure to replace homes sold on a one-for-one basis.<sup>56</sup> The former Secretary of State restated his commitment to building more social housing in oral evidence on the Levelling-Up and Regeneration Bill.<sup>57</sup>

45 National Housing Federation ([RSH0088](#))

46 Citizen Housing ([RSH0102](#)); Homes for the South West ([RSH0051](#)); Clarion Housing Group ([RSH0084](#)); [Q96](#) [Nick Murphy, Chief Executive, Nottingham City Homes]

47 Department for Levelling Up, Housing and Communities, [Guidance: Apply for affordable housing funding](#), 10 September 2020

48 Citizen Housing ([RSH0102](#))

49 [Q33](#) [Clare Miller, Chief Executive, Clarion Housing Group]

50 Clarion Housing Group ([RSH0084](#))

51 Homes for the South West ([RSH0051](#))

52 Shelter, [Social housing deficit](#)

53 Ministry of Housing, Communities and Local Government, [Press release: £8.6 billion for affordable homes to give boost onto housing ladder](#), 31 August 2021

54 Inside Housing, [Gove vows to explore ways to increase number of social rent homes](#), 21 April 2022

55 Local Government Association ([RSH0060](#)); National Federation of ALMOs ([RSH0068](#)); National Housing Federation ([RSH0088](#)); Abri Group Ltd ([RSH0105](#))

56 Local Government Association ([RSH0060](#))

57 Oral evidence taken on 13 June 2022, HC309, [Q17](#) [Rt Hon Michael Gove MP, Secretary of State for Department for Levelling Up, Housing and Communities]

25. On 9 June 2022, the Government announced it would extend the right to buy to all tenants of private providers of social housing. This right had previously only been available during pilots, such as in the Midlands in 2018. These pilots followed the passage of the Housing and Planning Act 2016, which took forward the then Government’s commitment to require local authorities to manage their housing assets more efficiently. Under the Act, local authorities would be required to make a payment to the Secretary of State based on the value of their vacant higher value housing. These payments would then be used to help support people into home ownership, including funding discounts for housing association tenants’ Right to Buy. The value of this housing would also be used to fund the building of new homes to meet housing need. The provisions under the Act have never been implemented but they remain on the statute book.<sup>58</sup> It said the scheme would be capped and that providers would be fully compensated, and promised that every property sold would be replaced.<sup>59</sup> In response to the Government’s announcement, the NHF said the pilots had shown there was “not enough money from sales to build new homes to replace those sold”, as a result of which there had been “a net loss of social housing”. It said it was “deeply concerned about the long term impact of Right to Buy” but that it would “engage with the Government” and was “keen to understand the detail”.<sup>60</sup>

26. In oral evidence on the Levelling-Up and Regeneration Bill, the former Secretary of State said providers would be encouraged to join the scheme, rather than forced to do so, and that those who did would see no “detriment to their balance sheets” as a result. He said the extension would be fully funded from central Government, although he could not say exactly where the money would come from, and committed to the like-for-like replacement of every home sold. This would include the Government making available sufficient funds to cover the cost of building the new housing. He also confirmed that the number of people who could benefit in any given year would be capped but did not explain how it could be described as a right to buy if there was a limit on the number of homes that could be bought. He also said that although private providers had “a number of questions” they welcomed the “direction of travel”.<sup>61</sup>

27. In October 2015, the Office for National Statistics (ONS) reclassified private providers as public sector bodies, meaning the sector’s £60 billion of debt was henceforth to be counted as public debt. The ONS’s decision was based on its assessment of the level of government control of the sector being exerted through the regulator. In particular, it cited government consent powers over asset disposals and the restructuring and winding up of housing associations and powers to appoint managers and officers to housing providers. In response, the Government introduced a series of deregulatory measures, and in 2017, the ONS accordingly reclassified private providers as belonging to the private sector.<sup>62</sup>

**28. The level of disrepair in some parts of the social housing sector can undoubtedly be attributed partly to the age and design of the housing stock, some of which was never built to last and is now approaching obsolescence. For this, some blame must attach to**

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58 Para 20, [Housing and Planning Act 2016 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

59 Prime Minister’s Office, [Right to buy extension to make home ownership possible for millions more people](#), 9 June 2022

60 National Housing Federation, [Right to Buy - our response](#), 9 June 2022

61 Oral evidence taken on 13 June 2022, HC309, [Qq4–19](#) [Rt Hon Michael Gove MP, Secretary of State for Department for Levelling Up, Housing and Communities]

62 Office for National Statistics, Classification announcement: “Private registered providers” of social housing in England, 30 October 2015; [Housing and Planning Act 2016](#); Office for National Statistics, [Statement on classification of English housing associations](#), November 2017



successive Governments for not investing enough in new social housing or providing funding specifically for regeneration. We therefore welcome the Government's commitment to building more homes for social rent.

29. We are concerned, however, about the Government's decision to extend the statutory right to buy to all tenants of private social housing providers. The existing policy has reduced the number of homes available for social rent and increased the proportion of the social housing stock that is hard to maintain, as most of the properties bought have been in suburban areas, rather than inner-city areas, where much of the harder-to-maintain stock is concentrated. It is impossible to properly assess the proposal for extending the right, however, as it lacks detail. If it does amount to a genuine right to buy for tenants of private providers, it must surely amount to far greater central government interference in the sector than did the measures that prompted the Office for National Statistics (ONS) in 2015 to reclassify private providers as part of the public sector.

30. *To reduce the social housing sector's reliance on outdated stock, we recommend that the Government introduce funding specifically for regeneration that does not require the delivery of net additional housing and deliver on its commitment to increase the supply of homes for social rent. We also recommend that it amend the Affordable Homes Programme to remove the requirement to deliver net additional housing.*

31. *To prevent the further erosion of the social housing stock, we urge the Government to set out how it plans to fully fund the one-for-one and like-for-like replacement of every home sold under the proposed extension of the statutory right to buy to tenants of private social housing providers. One-for-one replacement must be completed within three years of the sale. We also call on the Government to publish its assessment of whether extending a genuine right to buy to tenants of private providers might result in the ONS reclassifying the sector as part of the public sector.*

### **Competing financial pressures**

32. In addition to the cost of maintenance and regeneration, some providers are facing enormous financial pressure from having to decarbonise their homes and remediate building safety risks, which has the potential to divert funds away from investment in the existing stock. The Government has made some funding available to help social housing providers with the cost of both. The funding for building safety comprises:

- £400 million to cover the cost of remediating all unsafe ACM cladding on social residential buildings over 17.7 metres;<sup>63</sup>
- a £4.5 billion Building Safety Fund to cover the cost of remediating unsafe non-ACM cladding;<sup>64</sup> and
- £4 billion to fix unsafe cladding on buildings between 11 metres and 17.7 metres.<sup>65</sup>

63 Ministry of Housing, Communities and Local Government, [Guidance: Social Sector ACM Cladding Remediation Fund](#), 3 July 2018

64 Department for Levelling Up, Housing and Communities, [Guidance: Remediation of non-ACM buildings](#), 11 March 2020; Ministry of Housing, Communities and Local Government, [Press release: Government to bring an end to unsafe cladding with multi-billion pound intervention](#), 10 February 2021

65 Department for Levelling Up, Housing and Communities, [Press release: Government forces developers to fix cladding crisis](#), 10 January 2022

The Building Safety Fund is available to social housing providers in respect of buildings they own that also have leaseholders in them. In such cases, they can apply for a level of funding proportionate to the number of leaseholders. Otherwise, the fund is available to the sector only where providers can demonstrate that the cost of remediation is unaffordable or a threat to financial stability.<sup>66</sup> In our recent report, *Building Safety: Remediation and Funding*, we said social housing providers must have full access to all funds for building safety remediation, ideally through a comprehensive building safety fund.<sup>67</sup>

33. To address the wider building safety crisis, the Government has legislated for a building safety levy to be paid by developers when they apply for building control approval for higher-risk residential buildings in England. In addition, the Government has recently announced an agreement that would see the industry contribute £5 billion towards the cost of remediation.<sup>68</sup> In our recent report, *Building Safety: Remediation and Funding*, we recommended that social housing providers be exempt from the building safety levy and any other taxes or levies connected to building safety remediation.<sup>69</sup> In response, the Government said it was considering an exemption since applying it to affordable housing “would increase the cost of developing affordable housing” and so would be “likely to disincentivise supply”.<sup>70</sup>

34. To help social housing providers with the cost of decarbonising their homes, the Government has established a Social Housing Decarbonisation Fund (SHDF) worth £3.8 billion.<sup>71</sup> It says the fund will upgrade a significant amount of social housing stock to an energy performance certificate (EPC) rating of C.<sup>72</sup> In March 2021, the Government awarded the first tranche of this money—£62 million to social landlords across England and Scotland as part of a SHDF Demonstrator project—to test innovative approaches to retrofitting at scale.<sup>73</sup> Wave 1 of the SHDF, launched in August 2021, will provide up to £160 million in 2021–2022.<sup>74</sup> In its Heat and Buildings Strategy, published in October 2021, the Government committed further SHDF funding of £800 million between 2022–23 and 2024–25.<sup>75</sup>

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66 Department for Levelling Up, Housing and Communities, [Building Safety Fund for the remediation of non-ACM Cladding Systems \(England only\): Fund Application Guidance](#), April 2022

67 Levelling Up, Housing and Communities Committee, Seventh Report of Session 2021–22, [Building Safety: Remediation and Funding](#), HC-1063, para. 49

68 Department for Levelling Up, Housing and Communities, [Agreement with major developers to fund building safety repairs](#), 13 April 2022

69 Levelling Up, Housing and Communities Committee, Seventh Report of Session 2021–22, [Building Safety: Remediation and Funding](#), HC-1063, para. 50

70 Department for Levelling Up, Housing and Communities, [Building safety: remediation and funding - government response to the Select Committee reports](#), 16 May 2022

71 Conservative and Unionist Party, [Costings Document](#), 2019, p. 9

72 Department for Business, Energy and Industrial Strategy, [Wave 1 of the Social Housing Decarbonisation Fund](#), 16 June 2021

73 Department for Business, Energy and Industrial Strategy, [Social Housing Decarbonisation Fund Demonstrator – successful bids](#), 23 March 2021

74 Department for Business, Energy and Industrial Strategy, [Wave 1 of the Social Housing Decarbonisation Fund](#), 16 June 2021

75 HM Government, [Heat and Buildings Strategy](#), October 2021, p. 24

35. We heard that the cost of remediating building safety defects and decarbonisation was putting unsustainable pressure on housing providers' budgets even with the funding available.<sup>76</sup> Clarion estimated it would have to spend £150 million on fire safety work over the next five years, whilst South Yorkshire Housing Association (SYHA) told us it could not meet the cost of reaching net zero “without breaking its business plan”.<sup>77</sup> Similarly, PlaceShapers, a group of place-based providers, said only one out of 116 organisations it had spoken to could “ensure financial sustainability” when incorporating the cost of net zero into their business plans.<sup>78</sup> According to a group of providers in Liverpool, one “area of certainty and commonality” is that “the total costs are beyond current financial resource and potential borrowing capacity of most, if not all social housing providers and will not be met unless supplemented with significant central government funding”.<sup>79</sup>

**36. The social housing sector is under serious financial pressure, and the Government is asking it to do far too much without sufficient resources. We therefore welcome the progress made towards finding a financial solution to the building safety crisis and the Government’s commitment to exploring ways of exempting social housing providers from the building safety levy. The Government says the Building Safety Fund is available to social housing providers if they can demonstrate that the costs of remediation are unaffordable or present a threat to financial stability, but it is not clear how easily a provider could demonstrate this. Social housing providers must have exactly the same access to funds for building safety remediation as private sector landlords. There must be no discrimination against social housing.**

*37. We recommend that the Government provide an update on social housing providers’ access to funds for building safety remediation and commit to ensuring they have exactly the same access to funds as private landlords. It should also provide an assessment of the total cost of remediating the social housing stock, and the gap between this and the funds that are available, from whatever source, to carry out the remediation work. The Government should then work with the sector to identify how the funding gap can be bridged. We also call on the Government to provide an update on the impact of the Social Housing Decarbonisation Fund and on the ability of social housing providers to decarbonise their housing stock.*

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76 PlaceShapers ([RSH0029](#)); London Tenants Federation ([RSH0097](#)); Clarion Housing Group ([RSH0084](#)); South Yorkshire Housing Association Ltd ([RSH0038](#)); National Federation of ALMOs ([RSH0068](#)); Nottingham City Council (in conjunction with Nottingham City Homes) ([RSH0080](#)); Midland Heart ([RSH0017](#)); Legal & General Affordable Homes ([RSH0082](#)); Chartered Institute of Housing ([RSH0037](#)); BRE Group ([RSH0078](#)); Great Places Housing Group ([RSH0025](#)); The Riverside Group Ltd ([RSH0077](#)); Devonshires Solicitors LLP ([RSH0039](#)); Campbell Tickell ([RSH0094](#)); National Housing Federation ([RSH0088](#)); Liverpool City Region Housing Associations (Policy and Communications Group), Sovini Group ([RSH0019](#))

77 [Q42](#) [Professor Ian Cole, Chair of Board Management, South Yorkshire Housing Association; Clare Miller, Chief Executive, Clarion Housing Group]

78 PlaceShapers ([RSH0029](#))

79 Liverpool City Region Housing Associations (Policy and Communications Group), Sovini Group ([RSH0019](#))

### **Fuel poverty and overcrowding**

38. Some of the evidence partly attributed damp and mould to condensation, often caused by fuel poverty,<sup>80</sup> or by overcrowding resulting from the housing crisis, or a mixture of both.<sup>81</sup> Kate Henderson said 3% of housing association homes had a problem with damp and mould caused by condensation, often because tenants could not afford to heat or ventilate their homes properly, and called on providers to help, including by providing dehumidifiers.<sup>82</sup> James Prestwich, CIH, partly blamed condensation on a lack of outside drying areas.<sup>83</sup> One Manchester said “the critical housing shortage” in its area meant many homes were overcrowded, which was “adding to wear and tear and the likelihood of condensation and mould issues”.<sup>84</sup> Grand Union Housing also referenced a housing crisis caused by “decades of failure to invest in the new homes “ and said overcrowded homes were “more likely to suffer from occurrences of damp and mould”.<sup>85</sup>

39. There is a difference between acknowledging the contribution of overcrowding and fuel poverty to damp and mould and blaming tenants’ “lifestyles” for causing such disrepair, as some providers have been doing. In its written submission, the ombudsman encouraged providers to “be more proactive and take responsibility” rather than blaming tenants, said the word “lifestyle” should be “banished from the vernacular”, and called on providers to adopt a “zero-tolerance attitude, rather than being fatalistic about damp and mould”.<sup>86</sup> Professor Cole, SYHA, said the habit of blaming lifestyle was “just a measure of the distance between many landlords and the tenants they serve”.<sup>87</sup> Yorkshire Housing told us it was “wholly unrealistic” to expect households who might have had to choose between eating and heating “to then open their windows to improve ventilation”, and that providers needed to help by providing additional insulation and “suitable passive or mechanical ventilation” as well as “appropriate advice”.<sup>88</sup>

**40. We agree with our witnesses that housing disrepair, particularly damp and mould, is often aggravated by the inability of tenants to heat or ventilate their homes properly or by overcrowding, or by a mixture of both. We also agree that tenants cannot, and must not, be held responsible for either of these things. It would be unacceptable if anyone was suffering from fuel poverty or experiencing overcrowded living conditions, and also being blamed for their home falling into disrepair as a consequence. This is of particular concern at a time when fuel poverty is likely to increase significantly as a result of rising energy bills.**

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- 80 [Q117](#) [Kate Henderson, Chief Executive, National Housing Federation]; National Housing Federation ([RSH0088](#)); National Federation of ALMOs ([RSH0068](#)); Northern Housing Consortium ([RSH0049](#)); [Q115](#) [Matthew Walker, Chair, PlaceShapers]; [Q116](#) [Karen Brown, Senior Policy Adviser, Northern Housing Consortium]; [Q187](#) [James Prestwich, Director of Policy and External Affairs at the Chartered Institute of Housing]
- 81 National Housing Federation ([RSH0088](#)); National Federation of ALMOs ([RSH0068](#)); Northern Housing Consortium ([RSH0049](#)); [Q116](#) [Karen Brown, Senior Policy Adviser, Northern Housing Consortium]; [Q186](#) [Tarun Bhakta, Policy Officer, Shelter]; One Manchester ([RSH0062](#)); Grand Union Housing Group ([RSH0076](#)); [Participants C and D, Group 1](#)
- 82 [Q117](#) [Kate Henderson, Chief Executive, National Housing Federation]
- 83 [Q187](#) [James Prestwich, Director of Policy and External Affairs, Chartered Institute of Housing]
- 84 One Manchester ([RSH0062](#))
- 85 Grand Union Housing Group ([RSH0076](#))
- 86 The Housing Ombudsman Service ([RSH0023](#))
- 87 [Q27](#) [Professor Ian Cole, Chair of Management Board, South Yorkshire Housing Association]
- 88 Yorkshire Housing ([RSH0067](#))

41. *We urge all providers of social housing to support tenants who, through no fault of their own, cannot heat or ventilate their homes properly. This support should include the provision of dehumidifiers and mechanical ventilation systems to deal with condensation before it leads to damp and mould.*

## Poor housing management

42. The age and design of the stock can only partly explain disrepair. According to Tarun Bhakta, Shelter, “poor management of housing” is responsible for the worst conditions”.<sup>89</sup> According to the evidence, the most common problems include:

- providers failing to respond properly to requests for repairs and preferring quick fixes to a proper investigation of the causes of a problem;
- providers failing to monitor their stock properly and relying too much on tenants to report problems; and
- providers neglecting sites earmarked for regeneration.

## *Failure to respond properly to requests for repairs*

43. Concerns about disrepair are interlinked with concerns about the responsiveness of providers to requests for repairs, as often serious problems could have been prevented had providers responded straightaway. This was a common theme throughout the evidence from tenants. In our survey of tenants, 35% of respondents said their provider was very responsive or somewhat responsive to repairs, 10% that they were neither responsive nor unresponsive, and 55% that they were somewhat unresponsive or very unresponsive. In the case of damp and mould, one of the biggest problems is providers failing to investigate leaks properly.<sup>90</sup> This was the case at Regina Road. In May 2021, a report commissioned by Croydon Council attributed the conditions there to a water leak that had gone undiagnosed for four years, and blamed a range of issues across the council’s operational teams, including a lack of capacity and competence, a poor operating culture, a lack of care and respect for tenants, and poor communication.<sup>91</sup>

89 [Q186](#) [Tarun Bhakta, Policy Officer, Shelter]

90 Krystelle Grimmond ([RSH0115](#)); Karen Edwards ([RSH0114](#)); [Q248](#) [Nicole Walters, tenant, Southwark Council]; [Participant B, Group 2](#)

91 Ark Consultancy, [Croydon Council: Independent Investigation](#), May 2021

**Nicole's story**

**Nicole Walters, a tenant of Southwark Council, told us about the impact an unrepaired leak in her building had on her and her family. It started in a property above hers in August 2017. She said the council would “fix it so it looked like it was fixed from the inside” but that “internally there was so much going on”. As a result, she said it “rained” inside the property on and off for nine months. This culminated in the ceiling collapsing on her whilst she was sleeping on the sofa. Over the next three years, she had to put up with repeated leaks and further ceiling collapses as a result of the council’s failure to deal with the cause of the problem. She said she felt like her “life was ruined” and that she “could not live a normal life”. On the last occasion, she arrived home at 6am to find water “pelting down” and the house “screaming” at her. When she rang the council, she was told they could not send anyone out until 9am. Ultimately, the ceiling collapsed at 8am. Without help from the council, she said she was forced to call the fire brigade.<sup>92</sup>**

44. According to some of the evidence, the tendency of some providers to not investigate disrepair properly and to apply quick fixes to structural problems goes a long way to explaining some of the worst conditions. Great Places Housing Group said the “failure in some cases to operate an effective strategy to resolve complex repairs problems”, such as hard-to-diagnose leaks, “and the potentially serious and significant issues arising from a lack of effective escalation”, was one “of the most significant concerns about the quality of the housing stock”.<sup>93</sup> Suzanne Muna, Social Housing Action Campaign (SHAC), said damp and mould was generally the result of “structural problems” and that providers tended “to be reluctant to deal with these” as it is often “quite expensive to address them”, which meant they ended up leaving tenants in “truly horrendous conditions”.<sup>94</sup> The LFT also partly blamed the “outsourcing of day-to-day and major repairs”, which had “often left tenants having to deal with shoddy workmanship from contractors and sub-contractors” whose work, it thought, was not properly overseen by providers.<sup>95</sup>

45. Some providers said the difficulty of accessing people’s homes sometimes prevented them from remediating disrepair.<sup>96</sup> Midland Heart called it “one of our biggest challenges in maintaining safe homes”,<sup>97</sup> while Clarion said they were “hampered” by the inability to “access residents’ homes unless they are willing to allow us in” and that when “a resident refuses access for whatever reason it slows down the resolution”.<sup>98</sup> Nick Murphy, NCH, said tenants were sometimes “reluctant to let people in” but that this happened only on “rare occasions”.<sup>99</sup> On the other hand, some evidence accused providers of justifying their failure to respond properly to requests for repairs by wrongly or misleadingly accusing tenants of denying them access.<sup>100</sup> One participant at our roundtable said their provider would sometimes not turn up for appointments and then say they had not been provided access.<sup>101</sup> Daniel Hewitt said:

92 [Q248](#) [Nicole Walters, tenant, Southwark Council]

93 [Great Places Housing Group \(RSH0025\)](#)

94 [Q3](#) [Suzanne Muna, Representative, Social Housing Action Campaign]

95 [London Tenants Federation \(RSH0097\)](#)

96 [Midland Heart \(RSH0017\)](#); [Clarion Housing Group \(RSH0084\)](#); [Cornwall Council \(RSH0058\)](#); [Riverside Group \(RSH0110\)](#)

97 [Midland Heart \(RSH0017\)](#)

98 [Clarion Housing Group \(RSH0084\)](#) (see also [Q86](#) [Nick Murphy, Chief Executive, Nottingham City Homes])

99 [Q86](#) [Nick Murphy, Chief Executive, Nottingham City Homes]

100 [Participants B and C, Group 1](#); [Participant E, Group 2](#); [Q243](#) [Daniel Hewitt, political correspondent, ITV News]

101 [Participant C, Group 1](#)

That is quite common where you have [a claim that access has been denied]. I find with councils and housing associations that, if there are one or two occasions where they have not been able to access the property for whatever reason, they will state that in their statement.<sup>102</sup>

### *Inadequate monitoring of stock condition*

46. We heard that providers needed to be more proactive in monitoring or auditing the condition of their stock, rather than relying on tenants to report problems.<sup>103</sup> Yorkshire Housing said housing services were “usually reactive” and too often waited for the tenant to say there was a problem, although it said it had “started on a journey to change this approach” by contacting tenants who had not requested repairs in the last three years and, in some cases, agreeing access to ensure properties were in a good state of repair.<sup>104</sup> Savills agreed with this approach, saying providers could “avoid serious deterioration in the quality of their properties, and can be assured about the quality of residents’ homes, if they undertake regular inspections of stock condition”.<sup>105</sup> The Housing Quality Network said every provider should commission a stock survey from suitably qualified experts and demonstrate they had a “viable plan in place for fixing the homes and the finances to do so”.<sup>106</sup>

### *Managed decline*

47. As Clare Miller, Clarion, acknowledged, the problems at Eastfields began after Clarion earmarked the estate for demolition and rebuild. During its investigation into what went wrong at the estate, Clarion “discovered” it had “made a decision” not to continue with its planned replacement of components in people’s homes and that, as a result, it had “missed some of the deterioration in those homes”. She denied that Clarion had deliberately run down the estate to justify regeneration but said that with such a big project, “you have to make judgments about the extent to which you continue to invest in properties that are coming to the end of their life”.<sup>107</sup>

48. We heard elsewhere that providers often did deliberately neglect regeneration sites. The LTF said tenants at such sites could “suffer years of repairs and maintenance neglect” apparently “designed to persuade tenants the only way to address the problems is via demolition”.<sup>108</sup> Suzanne Muna, SHAC, said in some cases, including at Eastfields, providers had adopted a policy of “managed decline” with “what we believe to be an eye to regeneration”.<sup>109</sup> We heard that a similar situation had arisen at the High Path estate in Wimbledon. The High Path Community Association (HPCA) said some residents had been living in squalor, as a result of a poor repairs service, and that its provider had therefore decided to regenerate, rather than retrofit, the properties. As a result, it said repairs and maintenance were now being neglected further.<sup>110</sup>

102 [Q243](#) [Daniel Hewitt, political correspondent, ITV News]

103 Savills (UK) Ltd ([RSH0063](#)); Yorkshire Housing ([RSH0067](#)); [Participant C, Group 1](#)

104 Yorkshire Housing ([RSH0067](#))

105 Savills (UK) Ltd ([RSH0063](#))

106 HQN Ltd ([RSH0075](#))

107 [Qq32–33](#) [Clare Miller, Chief Executive, Clarion Housing Group]

108 London Tenants Federation ([RSH0097](#))

109 [Q3](#) [Suzanne Muna, Social Housing Action Campaign]

110 High Path Community Association ([RSH0092](#))

49. Whilst social housing providers cannot be blamed for the age of their stock or for government policy, they must certainly take responsibility, where they have failed to respond properly to requests for repairs, have preferred quick fixes to structural problems, have failed to properly investigate the causes of serious disrepair, and have allowed sites earmarked for regeneration to fall into disrepair. We are also concerned that many providers are too passive in monitoring the condition of their stock and relying on tenants to report problems.

50. *We recommend that housing providers put in place systems for regularly monitoring the condition of their stock, rather than relying on tenants to report problems. We also recommend that, as part of its review of the consumer standards, the Regulator of Social Housing consider amending its home standard to place a specific requirement on providers to regularly monitor their stock.*



## 3 The treatment of tenants

### Introduction

51. The condition of some social housing, though a serious cause of concern, does not exhaust the grounds on which tenants complain about their provider. Of equal concern to them is the quality of service they receive and the way they are treated or spoken to by their provider. Dr Mercy Denedo and Dr Amanze Ejiogu, authors of a report on stigma and social housing, said their research had recorded “countless” cases of tenants being ignored after requesting repairs” and, when repairs were carried out, of work being completed with disrespect and disregard for tenants.<sup>111</sup> The Grenfell Tower fire is the most devastating example of what can happen when tenants are ignored. In its submission, Grenfell United, the group comprising survivors and the bereaved, said its provider and housing manager had “helped cause the fire” by repeatedly ignoring their complaints and concerns.<sup>112</sup>

52. Of all the evidence we heard, the most distressing concerned the impact on some tenants when they are treated with disrespect or worse by their provider. Angela Price told us she would “not be the same person ever again” and that she could not “believe that somebody thinks they are entitled to treat you in that manner”.<sup>113</sup> One tenant, who ended up taking her provider to court, said the court had found she had “been subjected to conditions that no human being can be expected to endure in the normal run of things”.<sup>114</sup>

#### An example of poor treatment of tenants

**A participant in our public engagement event described “one of the most traumatic days” of her life, when a disrepair manager came to her home and “gaslit” her by telling her there was no leak in the property. She described what happened next:**

So what happens is when I get over-anxious I [collapse at times. So that’s what happened; I collapsed, and the ambulance service was called. And while I was there, he had his workers were coming into the flat. I’m lying there and the ambulance crew had to be like, ‘It’s very undignified, we’re looking after a patient, can you ask your workers to leave?’ And he was still telling them, ‘come have a look here, come have a look there,’ while I’m lying on the floor. Honestly, every time I think about it it’s very upsetting. And it’s very undignified. I felt that I wasn’t even a human being to be treated like that. You just ask yourself: why am I being treated this way? What did I do to deserve being treated this way? Have I done something? Then you start looking at other factors that might not even be there: is it because of the colour of my skin and things like that, are they presuming that I’m from a lower class, so they think that it’s ok to treat me this way?<sup>115</sup>

111 Dr Mercy Denedo (Assistant Professor in Accounting at Durham University Business School); Dr Amanze Ejiogu (Senior Lecturer in Accounting at Newcastle University Business School) ([RSH0036](#))

112 Grenfell United ([RSH0108](#))

113 [Q227](#) [Angela Price, tenant, Guinness Partnership]

114 Rachel Waters ([RSH0113](#))

115 [Participant F, Group 1](#)

53. The regulator is responsible for ensuring providers involve tenants in decisions that affect them through its tenant involvement and empower standard, one of its consumer standards. As mentioned in Chapter 2, the regulator is current reviewing its consumer standards with a view to consulting on the content of the new standards once the Government has legislated.<sup>116</sup>

54. Apart from the weakness of the regulatory regime, which we discuss in Chapter 5, the evidence we heard attributed the poor treatment of tenants, in particular, to:

- a lack of respect for tenants arising from a stigma attached to being in social housing, or to other forms of discrimination;
- the power imbalance between providers and tenants; and
- the commercialisation of social housing, which some said had distanced providers from their original social mission.

### Stigma and discrimination

55. The existence of a stigma attached to social housing and the need to tackle it were the most consistent themes raised by residents at the engagement events that informed the Government’s social housing Green Paper in 2018.<sup>117</sup> In that Green Paper, the Government said it recognised that “public perceptions” had “contributed to the stigma felt by residents”. In consultation, tenants had said that “for decades politicians and the media” had “contributed to the problem” by using “negative language”, which it said could have “a lasting impact on how social housing and its residents are perceived”. Finally, it said it was “determined to tackle such prejudice to ensure that the positive contribution that social housing residents make to their communities, and to society as a whole, is recognised.”<sup>118</sup> In contrast, the social housing White Paper, published two years later, hardly mentioned stigma at all.<sup>119</sup>

56. The evidence was in no doubt about the existence of a stigma attached to being a social housing tenant, although exactly who was guilty of and responsible for it was disputed.<sup>120</sup> For some, the social housing sector itself is sometimes guilty of stigmatising tenants, and when they are treated with disrespect or ignored, it is often because staff

116 Regulator of Social Housing, [Reshaping consumer regulation: our principles and approach](#), 17 November 2021

117 Ministry of Housing, Communities and Local Government, [A new deal for social housing and a call for evidence on social housing regulation: summary of response](#), 17 November 2020

118 Ministry of Housing, Communities and Local Government, [A new deal for social housing](#), October 2018, p. 48

119 Ministry of Housing, Communities and Local Government, [The Charter for Social Housing Residents](#), 17 November 2020

120 Dr Mercy Denedo (Assistant Professor in Accounting at Durham University Business School); Dr Amanze Ejiogu (Senior Lecturer in Accounting at Newcastle University Business School) ([RSH0036](#)); [Q177](#) [Dr Amanze Ejiogu, Senior Lecturer in Accounting and Finance, Newcastle University]; TPAS ([RSH0042](#)); [Q180](#) [Jenny Osbourne, Chief Executive, TPAS]; [Q93](#) [Chloe Fletcher, Policy Director, National Federation of ALMOs]; [Q94](#) [Councillor David Renard, Chair of the Economy, Environment, Housing and Transport Board, Local Government Association]; [Q94](#) [Nick Murphy, Chief Executive, Nottingham City Homes]; Submission on behalf of G15 largest London housing associations’ residents Jamie Ratcliff (Executive Director at Network Homes); Lydia Bocage (Resident at Catalyst); Mary Burke (Resident at Notting Hill Genesis); Marc Merry (Resident at Southern Housing Group); Jerry Piper (Resident at Metropolitan Thames Valley Housing); Fayann Simpson (Resident at L&Q); Terry Stacey (Resident at Clarion) ([RSH0055](#)); Miss Danielle Gregory (Projects and Campaigns at Tower Blocks UK) ([RSH0024](#))

hold stigmatising views.<sup>121</sup> Dr Mercy Denedo and Dr Amanze Ejiogu said Grenfell had helped to “illuminate the stigma experienced by social housing tenants by shedding light on the ineffective, discriminatory and dismissive complaints procedures”. They said their research had heard “several examples of social housing professionals and their contractors stigmatising tenants through their lack of respect when engaging with social housing tenants, ignoring repair requests, ignoring anti-social behaviour complaints and using derogatory rhetoric”.<sup>122</sup> Danielle Gregory, a social housing tenant, said she had raised concerns about disrepair with her provider, Southwark Council, for years but was not taken seriously. She thought this was due to the stigma she faced “as a young single parent and a council tenant” and that she had been made to feel like she “should be grateful to have a home at all”.<sup>123</sup>

57. The evidence from providers, while recognising the existence of stigma, focused more on the media and the Government. Kate Henderson denied stigma was a problem within the sector. She said private providers were “not stigmatising tenants” and that people working in social housing were “driven by wanting to provide good quality, safe, secure, affordable homes for people on the lowest incomes”.<sup>124</sup> Chloe Fletcher, NFA, said stigma was “an issue for social housing tenants” and had “been promoted in the mainstream media”, “on social media”, and was part of government rhetoric. She said this “popular image” of social housing tenants had now “lodged itself in lots of people’s minds”, although she confessed to being “shocked and surprised” to hear that some tenants had experienced the same thing from social housing staff themselves. Like others, she referenced the sector’s See the Person campaign as evidence of the sector’s commitment to combatting stigma.<sup>125</sup>

58. Nick Murphy, NCH, agreed that, whilst there was undoubtedly stigma, NCH tenants had said it came not so much from their provider but from the media and “to a certain extent” a housing policy that “seemed to value home ownership as a tenure over and above social housing”, which made them feel “they were being treated as second-class citizens”. At the same time, he acknowledged that it was an issue particularly for larger providers, and that what mattered was “employing the right people with the right motivation and who really want to provide good quality housing services because they value the people they are providing services for”.<sup>126</sup> Dr Amanze Ejiogu said that, for the past 20 or 30 years, stigma had been used “to drive policy around welfare cuts” and that the media had “picked up” on this. He said this had resulted in a “societal stigma” and a “stereotype of the social housing tenant as someone who is antisocial and cannot make decision for themselves, so needs to be managed, controlled and governed in a particular way”.<sup>127</sup>

59. In their joint submission, a group of G15 residents said the Government had “reinforced stigma in social housing by describing it explicitly and implicitly as a tenure of

121 Dr Mercy Denedo (Assistant Professor in Accounting at Durham University Business School); Dr Amanze Ejiogu (Senior Lecturer in Accounting at Newcastle University Business School) ([RSH0036](#)); TPAS ([RSH0042](#)); Submission on behalf of G15 largest London housing associations’ residents Jamie Ratcliff (Executive Director at Network Homes); Lydia Bocage (Resident at Catalyst); Mary Burke (Resident at Notting Hill Genesis); Marc Merry (Resident at Southern Housing Group); Jerry Piper (Resident at Metropolitan Thames Valley Housing); Fayann Simpson (Resident at L&Q); Terry Stacey (Resident at Clarion) ([RSH0055](#)); [Q180](#) [Jenny Osbourne, Chief Executive, TPAS]

122 Dr Mercy Denedo (Assistant Professor in Accounting at Durham University Business School); Dr Amanze Ejiogu (Senior Lecturer in Accounting at Newcastle University Business School) ([RSH0036](#))

123 Miss Danielle Gregory (Projects and Campaigns at Tower Blocks UK) ([RSH0024](#))

124 [Q119](#) [Kate Henderson, Chief Executive, National Housing Federation]

125 [Q93](#) [Chloe Fletcher, Policy Director, National Federation of ALMOs]

126 [Q94](#) [Nick Murphy, Chief Executive, Nottingham City Homes]

127 [Q177](#) [Dr Amanze Ejiogu, Senior Lecturer in Accounting and Finance, Newcastle University Business School]

last resort”.<sup>128</sup> Darren Hartley, TAROE Trust, said the Government had an “obsession” with home ownership, which was “really unhelpful” and, commenting on how little attention the White Paper paid to stigma, compared with the Green Paper, he said he hoped the Government had not placed it in the “too difficult to do” box.<sup>129</sup> Jenny Osbourne, Chief Executive, TPAS, said stigma existed “in the media, politicians and housing providers” but that ultimately it came from the top. She said: “The language we use is so important in this country in terms of how we talk about social housing. If we talk about it as if tenants or social housing do not matter, it makes it much harder for people in social housing to do good jobs. It filters down into organisations in a way that is quite difficult to stop and contain”. Dr Ejiogu and Jenny Osbourne both said the residualisation caused by the shortage of social housing, which meant only the most vulnerable were in social housing, was adding to the problem. The latter said the “biggest thing” we could do was “build more social housing”.<sup>130</sup>

60. According to Dr Ejiogu, stigma in social housing intersects with mental health, disability and race. He and Dr Mercy Denedo had heard several examples of people who had been racially abused by neighbours and complained to their provider but nothing had been done.<sup>131</sup> In their joint submission, Lord Adebawale, Lord Filkin, Aman Dalvi and Barry Simons similarly told us some providers had “failed to protect tenants from racial harassment”.<sup>132</sup> They referenced a case in 2021 involving L&Q, the private provider, which a court found had been negligent towards a tenant who had faced persistent racial abuse from her neighbours. In their submission, they said this was not an “isolated case” and that three other serious cases very similar to the L&Q one had come to their attention. They partly blamed the under-representation of black and minority ethnic people among the staff and senior management and on the boards of housing providers and called on the regulator and providers to examine how they dealt with racial harassment. They also said the composition of boards and senior management teams needed to better reflect the diversity of the communities they served.<sup>133</sup>

61. We heard a comparable story from a disabled female survivor of domestic violence living in sheltered accommodation who accused her provider of “systemic discrimination on the grounds of disability”. She said her provider had not only failed to prevent antisocial and intimidatory behaviour directed at her by neighbours who were tenants of the same provider, but threatened her with eviction whenever she complained. Once, when she reported noise nuisance, she says she was told that “reporting noise nuisance is anti-social behaviour and will not be tolerated”. When she took her neighbours to court, as a result of which two received criminal convictions, her provider told her that “taking proceedings against your neighbours is anti-social behaviour and will not be tolerated”.<sup>134</sup> Similarly, we heard from Professor Andrew King, University of Surrey, that the sector needed to do more to protect LGBT+ tenants from harassment.<sup>135</sup>

128 Submission on behalf of G15 largest London housing associations’ residents Jamie Ratcliff (Executive Director at Network Homes); Lydia Bocage (Resident at Catalyst); Mary Burke (Resident at Notting Hill Genesis); Marc Merry (Resident at Southern Housing Group); Jerry Piper (Resident at Metropolitan Thames Valley Housing); Fayann Simpson (Resident at L&Q); Terry Stacey (Resident at Clarion) ([RSH0055](#))

129 [Q7](#) [Darren Hartley, Chief Executive, TAROE Trust]

130 [Q180](#) [Jenny Osbourne, Chief Executive, TPAS]

131 [Q180](#) [Dr Amanze Ejiogu, Senior Lecturer in Accounting and Finance, Newcastle University Business School]

132 Lord Filkin; Lord Adebawale; Aman Dalvi; Barry Simons ([RSH0079](#)); Rachel Waters ([RSH0113](#))

133 Lord Filkin; Lord Adebawale; Aman Dalvi; Barry Simons ([RSH0079](#))

134 Rachel Waters ([RSH0113](#));

135 Professor Andrew King (Professor of Sociology at University of Surrey) ([RSH0033](#))

62. The presence of a stigma attached to being a social housing tenant is very hard to dispute, although it is difficult to say how prevalent stigmatising views are among contractors and staff working for social housing providers. It is also difficult to say how prevalent other types of discrimination are. If, however, even a small number of contractors or staff in the sector are discriminating against tenants, it is clearly a very serious problem that the sector must respond to immediately.

63. *We call on social housing providers to take stigma and discrimination seriously, not to assume its staff are immune from such prejudices, and to ensure their boards better reflect their communities. We also encourage them to make every effort to encourage diversity among their senior management teams. As part of its review of the consumer standards, we also recommend that the Regulator of Social Housing introduce a requirement on providers to demonstrate that their boards and senior management teams reflect the diversity of the communities they serve.*

## The power imbalance between tenants and providers

### Lack of tenant voice

64. Closely related to the stigmatisation of social housing tenants is the power imbalance between them and housing providers. There is currently some requirement on providers to involve tenants in decision making. One of the regulator's consumer objectives is "to ensure that tenants of social housing have the opportunity to be involved in its management and to hold their landlords to account". To achieve this objective, the regulator has set a tenant involvement and empowerment standard, which places certain requirements on registered providers. As discussed in Chapter 5, however, the standard is regulated reactively, as a result of which the regulator rarely finds providers to be in breach.<sup>136</sup> In its social housing Green Paper, the Government said these expectations might need to be "clarified to ensure greater consistency and transparency of expectations".<sup>137</sup>

65. Jenny Osbourne, Chief Executive, TPAS, which provides accreditation for providers' tenant involvement arrangements, told us many providers engaged well with their tenants, but she said across the sector many boards had not taken tenant involvement as seriously as they should have done, largely because of the absence of proactive consumer regulation. She called the lack of tenant engagement a "widespread problem" and said there had been a decline in the number of tenants and residents associations and federations across the country.<sup>138</sup> Pat Turnbull, LTF, said that "democratically constituted tenants and residents associations and delegate bodies at regional and national level" were "the only way to guarantee a strong voice for tenants" and that this strong voice was essential to improve the quality of homes, but she also regretted the loss of such bodies in recent years.<sup>139</sup>

66. We received written evidence, especially from tenants and residents associations, about inadequate tenant engagement.<sup>140</sup> Barkantine Management Team (BMT) said it had no way of engaging meaningfully with its provider, One Housing, which had recently

136 Regulator of Social Housing, [Tenant Involvement and Empowerment Standard](#), 1 July 2017

137 Ministry of Housing, Communities and Local Government, [A new deal for social housing](#), 14 August 2018, p. 35

138 [Q164](#) [Jenny Osbourne, Chief Executive, TPAS]; TPAS ([RSH0042](#))

139 [Q4](#) [Pat Turnbull, Regional Representative, London Tenants Federation]

140 Dr Mercy Denedo (Assistant Professor in Accounting at Durham University Business School); Dr Amanze Ejiogu (Senior Lecturer in Accounting at Newcastle University Business School) ([RSH0036](#)); [Q166](#) [Dr Amanze Ejiogu, Senior Lecturer in Accounting and Finance, Newcastle University Business School]

been taken over by Riverside Housing. It said the members of the area panels, the official resident representatives, were appointed by One Housing, not by residents, and were paid, which meant they had little incentive to “rock the boat”. Furthermore, residents could not attend meetings of the area panel or even contact its members.<sup>141</sup> We heard similar evidence from the 4 Estates Forum, an umbrella group of residents of One Housing, including those from the Barkantine estate,<sup>142</sup> and from Justice for Tower Hamlets Community Housing Residents, which said residents had no way to make their “voice heard” and that resident board members were “carefully selected” and did not represent tenants.<sup>143</sup>

**67. The power imbalance between tenants and housing providers is one of the biggest problems facing the social housing sector today. One of the most effective ways of empowering tenants, however, is through the establishment of tenants and residents associations, led by tenants themselves, with which providers must engage first and foremost when consulting tenants.**

**68. We recommend that, as part of its review of the consumer standards, the Regulator of Social Housing amend the tenant involvement and empowerment standard to require providers to support the establishment of genuinely independent tenants and residents associations, including by providing the necessary funding.**

## **The Governments proposals for empowering tenants**

### *Tenant satisfaction measures*

69. In the 2018 social housing Green Paper, the Government said that for residents to be empowered they needed reliable information on how their provider’s performance compared to others.<sup>144</sup> Under the regulator’s tenant involvement and empowerment standard, providers are already supposed to provide tenants with “timely and relevant information to support effective scrutiny” of providers’ performance, including annual reports containing information on repair and maintenance budgets.<sup>145</sup> As the White Paper noted, however, the form and content of these can vary significantly, which means tenants cannot easily compare providers’ performance.<sup>146</sup> To fix this, the Government said it would legislate to enable the regulator to introduce a set of tenant satisfaction measures (TSMs) for all providers “on things that matter to tenants”. It said these measures would make it easier for tenants to see how their provider is performing.<sup>147</sup> Clause 20 of the Social Housing (Regulation) Bill provides the legislative basis for the introduction of the TSMs.<sup>148</sup>

70. Jenny Osbourne was supportive of TSMs. She said they were “not perfect” but that TPAS welcomed the “perception measures” on “things that tenants find most important” as they would “give tenants a real chance to say how they perceive a service”.<sup>149</sup> No one else

141 Barkantine Management Team ([RSH0031](#))

142 4 Estates Forum ([RSH0011](#))

143 High Path Community Association ([RSH0092](#))

144 Ministry of Housing, Communities and Local Government, [A new deal for social housing](#), 14 August 2018

145 Regulator of Social Housing, [Tenant Involvement and Empowerment Standard](#), 1 July 2017

146 Ministry of Housing, Communities and Local Government, [The Charter for Social Housing Residents](#), 17 November 2020, p. 21

147 Ministry of Housing, Communities and Local Government, [The Charter for Social Housing Residents](#), 17 November 2020, p. 21

148 [Social Housing \(Regulation\) Bill](#) [Lords], Clause 21 [Bill 21 (2022–23)]

149 [Q168](#) [Jenny Osbourne, Chief Executive, TPAS]

was so enthusiastic, and most of the evidence there was on TSMs was at best ambivalent. Darren Hartley, Chief Executive, TAROE Trust, which helped draw up the TSMs, said it was difficult to criticise making such information more available to tenants, but that TSMs were slightly “peripheral” to the “broader issue of accountability” and that the sector should not “get obsessed” with measuring things.<sup>150</sup> Nick Murphy called them “part of the answer, but not the whole answer”, and said when NCH consulted its tenants they had been “spectacularly uninterested in league tables” and were “much more interested in their personal experience”.<sup>151</sup>

71. The evidence from the LTF and SHAC was the most scathing. The LTF called the TSMs “insufficient and patronising”, while Suzanne Muna said that “without fail” everyone SHAC had spoken to had “just shrugged their shoulders and said, ‘How will this help me?’”.<sup>152</sup>

### *Access-to-information scheme*

72. To further address the power imbalance between providers and tenants, the Government said in the White Paper it wanted providers to be more open with tenants, beyond the information provided through the TSMs, and accordingly promised to introduce a new access-to-information scheme for tenants of private providers, similar to that available to council tenants under the Freedom of Information Act 2000 (the FOI Act). It said the scheme would allow “tenants or their representatives” (for example, councillors, MPs, solicitors or local journalists) to access information related to “the management of social housing held by their landlord” and “relevant information that may be held by sub-contractors”.<sup>153</sup>

73. The Government said the circumstances in which a provider could refuse to disclose information would be “broadly aligned” with the exemptions under the FOI Act and that where information was withheld the first stage of appeal would be to the provider itself and after that tenants would have a right of appeal to the ombudsman. Finally, it said the ombudsman could refer potential systemic problems to the Regulator of Social Housing.<sup>154</sup> Clauses 17 and 19 of the Social Housing (Regulation) Bill pave the way for the new scheme by allowing the regulator to set standards on the provision of information and transparency and the Secretary of State to direct the regulator to set such standards.<sup>155</sup> The details of the scheme are still to be decided, but the explanatory notes to the Bill suggest they will be in line with those described in the White Paper.<sup>156</sup>

74. In its written submission, the Information Commissioner’s Office (ICO) raised concerns about the access-to-information proposal, which it said was potentially narrower than the power provided in the FOI Act, since it would only be open to tenants and “their representatives” and would only relate to information concerning the “management” of their housing. Instead, the ICO called on the Government to extend the FOI Act to cover private companies undertaking work on behalf of the public sector. It also raised concerns

150 [Q8](#) [Darren Hartley, Chief Executive, TAROE Trust]

151 [Q110](#) [Nick Murphy, Chief Executive Officer, Nottingham City Homes]

152 London Tenants Federation ([RSH0097](#)); [Q8](#) [Suzanne Muna, Representative, Social Housing Action Campaign]

153 Information Commissioner’s Office [[RSH0103](#)]

154 Ministry of Housing, Communities and Local Government, [The Charter for Social Housing Residents](#), 17 November 2020, p. 23–24

155 [Social Housing \(Regulation\) Bill](#) [Lords], Clauses 17 and 19 [Bill 21 (2022–23)]

156 [Explanatory Notes to the Social Housing \(Regulation\) Bill](#), para. 93

about the proposed scheme being overseen by the ombudsman and the regulator. It said that having a parallel scheme overseen by different organisations might cause confusion and that the ombudsman and regulator might lack the necessary expertise.<sup>157</sup> The Riverside Group said subjecting private providers to a regime exactly like in the FOI Act would risk the private social housing sector being reclassified as part of the public sector.<sup>158</sup>

**75. The tenant satisfaction measures (TSMs) and the new access to information scheme are central to the Government’s plans for making the sector more transparent. While we do welcome the steps taken to improve transparency, we must note how underwhelmed the sector is by these proposals. In their current form, we think they could, if implemented properly, make a small but meaningful contribution to the ability of tenants to hold their provider to account.**

*76. We urge the Government and the Regulator of Social Housing to work together to ensure the TSMs and the access-to-information scheme are implemented in such a way that tenants can have confidence in their reliability and effectiveness as a means of holding their provider to account. We also recommend that the regulator set out how it intends to monitor and review the performance of the TSMs, with a view to making improvements if they are not delivering for tenants.*

### *A national voice for tenants*

77. In a statement to the House shortly after the Grenfell Tower fire, the then Prime Minister, Rt Hon Theresa May MP, promised to gear government policy towards making social housing tenants’ lives better and bringing them into the political process.<sup>159</sup> The social housing Green Paper promised to empower tenants by ensuring their voices were heard and they could influence decisions that affected them. At the same time, a campaign group, called A Voice for Tenants steering group (AV4T), was set up to seek the establishment of a national body to speak on behalf of social housing tenants. It argued that until such a body had been established, the commitment to bringing social housing tenants into the political process would not have been fulfilled.<sup>160</sup> In its written submission, TPAS said it strongly agreed with those arguing for the establishment of a national tenant voice body, which it said would “be of benefit to tenants and to all involved in the provision, regulation and management of social housing in England”.<sup>161</sup>

157 Information Commissioner’s Office ([RSH103](#))

158 The Riverside Group Ltd ([RSH0077](#)); this is a reference to a decision by the Office for National Statistics (ONS) in October 2015 to reclassify private providers as public sector bodies, meaning the sector’s £60 billion of debt was henceforth to be counted as public debt. The ONS’s decision was based on its assessment of the level of government control of the sector being exerted through the regulator. In particular, it cited government consent powers over asset disposals and the restructuring and winding up of housing associations and powers to appoint managers and officers to housing providers. In response, the Government introduced a series of deregulatory measures, and in 2021, the ONS accordingly reclassified private providers as belonging to the private sector; see: Office for National Statistics, Classification announcement: “Private registered providers” of social housing in England, 30 October 2015; [Housing and Planning Act 2016](#); Office for National Statistics, [Statement on classification of English housing associations](#), November 2017

159 HC Debate, [vol. 626](#), col. 169, 22 June 2017

160 [A Voice for Tenants](#)

161 Tpas ([RSH 042](#))



78. Grenfell United told us how Grenfell residents had “lacked the support of a national tenants’ organisation” prior to the fire and that to deliver on the Minister’s commitment to giving social housing tenants a greater voice, the Government should without delay assist the establishment of a member-led, “democratically mandated, national tenants’ voice organisation, created on a statutory footing and on a sustainable funding-governance model”. It said it should be independent of government and providers and work “closely in partnership with local tenant organisations, connect them regionally, and collaborate nationally with existing resident engagement organisations”. It said such a body would “go some way” to putting residents “at the centre of the regulatory regime” and to fostering “collaboration” between them and providers.<sup>162</sup> Kate Henderson agreed that a national voice for tenants would be an “excellent idea”.<sup>163</sup> The Housing Quality Network said it could provide “constructive challenge to landlords” and a “fairer balance between the view of landlords and tenants”.<sup>164</sup>

79. On 29 March 2022, the Government launched its Social Housing Quality Resident Panel. It said it wanted to bring together social housing residents from across the country so they could contribute to the Government’s efforts to drive up the quality of social housing. It said the panel, which will comprise up to 250 social housing residents, would meet around three times a year for the foreseeable future and would hold at least six meetings in total. On membership, the Government said it would invite residents to join, based on expressions of interest, and that it would ensure “a broad mix of residents from different regions and types of landlords”.<sup>165</sup> We asked the Minister whether the panel would be a permanent national voice for tenants, or whether it would be wound up eventually. He said that before deciding if it should “continue in perpetuity” the Government wanted to see if it worked effectively and if tenants felt there was “value in it”. “If everybody sees the merit and benefit of it”, he said, “that is what will ensure its continued use”. He said nobody would want it to carry on if tenants stopped “turning up” or “contributing” because they did not think it was “delivering on their expectations”. He said that he was “very excited about the panel and very keen to make sure” it worked for tenants.<sup>166</sup>

80. We were not able to ask stakeholders what they thought about the proposed resident panel as it was announced after the evidence-gathering stage of our inquiry was concluded.

**81. We are pleased the Government is setting up the Social Housing Quality Resident Panel, but we believe there is a strong argument for committing now to making it a permanent national voice for tenants, or at least to establishing such a body in one form or another. We also have significant concerns about how residents will be selected. If the panel is to speak for tenants, it must be genuinely representative.**

**82. We recommend that the Government establish the Social Housing Quality Resident Panel on a permanent basis as the national tenant voice body that tenants representatives have been calling for. The Government should send the strongest possible signal to tenants that it is determined to involve them in the national conversation about how to drive up standards in social housing. To ensure the panel can truly speak for tenants, the Government must also ensure that the selection process is transparent and that the panel includes as broad a mix of tenants as possible.**

162 Grenfell United ([RSH0108](#))

163 [Q121](#) [Kate Henderson, Chief Executive, National Housing Federation]

164 HQN Ltd ([RSH0075](#))

165 Department for Levelling Up, Housing and Communities, [Social Housing Quality Resident Panel](#), 29 March 2020

166 [Q415](#) [Eddie Hughes MP, Minister for Housing, Department for Levelling Up, Housing and Communities]

## Commercialisation

83. In 2011, the coalition Government significantly altered the way social housing was funded. The first AHP, which ran from 2011–15, cut grant funding for new social housing by more than 50% and permitted providers to charge rents of up to 80% of market value (now known as “affordable” rent) to make up the difference. It said affordable rent would form the “principal element” of new housing supply and also allowed providers to convert “a proportion” of existing social rented homes to affordable rent. One of the explicit purposes of the reforms was to give providers greater flexibility over how they generated income. It said the model would “be more flexible” by allowing providers to use “existing assets to help reduce the amount of public funding needed to deliver new supply”.<sup>167</sup>

84. Since the introduction of the AHP, the social housing sector has, as the coalition Government intended, become more financially dependent on the profits it makes from developing and then selling or renting properties at affordable or market rates.<sup>168</sup> The majority of providers’ income now comes from borrowing, with the profits being used to cross-subsidise new social housing or, in the case of for-profit providers, paid to shareholders. As well as the development of non-social rented properties, two recent developments are of particular note. The first is the growth in the size of traditional not-for-profit housing associations, often as a result of so-called mega-mergers, and often in pursuit of greater efficiency, and the second is the emergence of for-profit providers, which have been allowed to register with the regulator since the 2008 Act and the number of which has been rising rapidly in the last few years.<sup>169</sup>

85. The evidence to our inquiry confirmed that the commercialisation of social housing was a response to the cuts to government funding. PlaceShapers, said that to “meet the growing demands, and in a period where government subsidy for housing and especially for social housing” had “significantly reduced”, providers had “become increasingly reliant on private financing to fund their housebuilding and physical restoration work”.<sup>170</sup> Professor Mike Raco and Dr Sonia Freire-Trigo, Bartlett School of Planning, University College London, explained that, “especially since 2010”, providers had been “encouraged to develop their own streams of finance through the sale of market housing and/or joint ventures with house-builders and developers” and then to use this income “to cross-subsidise other activities”. In addition, they are being “encouraged to use existing assets and rents from tenants as a form of collateral to obtain finance on good terms from investors and use this for the building of new supply”.<sup>171</sup> Optivo told us the growth of for-profit provision provided “an opportunity to bring additional capital funding” into the sector.

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167 Department for Communities and Local Government and Homes and Communities Agency, [2011–15 Affordable Homes Programme - Framework](#), 15 February 2011

168 PlaceShapers ([RSH0029](#)); TAROE Trust ([RSH0026](#)); Professor Mike Raco (Professor of Urban Governance and Development at Bartlett School of Planning, University College London); Dr Sonia Freire-Trigo (Lecturer in Urban Planning at Bartlett School of Planning, University College London) ([RSH0091](#)); [Q57](#) [Clare Miller, Chief Executive, Clarion Housing Group]; TPAS ([RSH0042](#)); [Q10](#) [Darren Hartley, Chief Executive, TAROE Trust; Pat Turnbull, Regional Representative, London Tenants Federation]

169 Inside Housing, [Around 50 organisations currently applying to become for-profit providers, says Regulator](#), 21 May 2021

170 PlaceShapers ([RSH0029](#))

171 Professor Mike Raco (Professor of Urban Governance and Development at Bartlett School of Planning, University College London); Dr Sonia Freire-Trigo (Lecturer in Urban Planning at Bartlett School of Planning, University College London) ([RSH0091](#))

As an example, it cited its rent deal with Sage Housing, as a result of which it received more than £100 million of additional investment it would not otherwise have had.<sup>172</sup> Sage told us for-profit providers were bringing “new long-term institutional capital” to the sector.<sup>173</sup>

86. According to some, this commercialisation has undermined the quality of social housing provision.<sup>174</sup> Darren Hartley said “a number of features of commercialisation” had “resulted or potentially resulted within some organisations in a deterioration in service”.<sup>175</sup> The LTF said the focus on developing new homes for market or affordable rent often appeared to be “at the expense of existing social housing tenants” and that many felt providers had “moved far away from their social objectives”.<sup>176</sup> SHAC said that as a result of commercialisation providers’ priority was keeping investors happy, rather than tenants.<sup>177</sup>

87. For some, the appearance of very large providers was most concerning.<sup>178</sup> SYHA said “a minority of predominantly large social landlords do appear to have fallen short in their service standards and their culture” and that this appeared “to be particularly the case for some organisations that are over-spread and/or over-large”. It added that some “large housing associations work in dozens of local authority areas and some work in well over 100”. It concluded that the “trend towards mega-mergers should now be reviewed” and it was perhaps “time to consider whether some of these associations should be broken into more compact regional organisations”.<sup>179</sup>

88. A particular concern was whether very large providers had become too remote from their tenants. Darren Hartley said “a lot of tenants feel they no longer have a local presence from their landlord” and see them as “large, monolithic commercial entities that do not care, are not committed and do not understand the local communities in which they live”, and accused some providers of adopting an “Amazon-type” approach to service delivery.<sup>180</sup> In their joint submission, Lord Adebowale, Lord Filkin, Aman Dalvi and Barry Simons agreed that mergers could “worsen housing management services” as large providers risked “being physically and socially remote from tenants” and unable to understand their needs or to monitor service standards.<sup>181</sup> Currently, the only requirement on providers to deliver local services is contained in the regulator’s tenant involvement and empowerment standard, which says requires must providers to “consult with tenants on the scope of local offers for service delivery”.<sup>182</sup>

89. We heard evidence from tenant bodies corroborating the claim that some providers have become too remote to deliver genuinely tenant-focused services. BMT described how its original provider, Toynbee Island Homes, which had owned 2,000 properties, had

172 Optivo ([RSH0044](#))

173 Sage Housing ([RSH0095](#))

174 [Q10](#) [Darren Hartley, Chief Executive, TAROE Trust]; [Q167](#) [Dr Amanze Ejiogu, Senior Lecturer in Accounting and Finance, Newcastle University Business School]; London Tenants Federation ([RSH0097](#)); Barkantine Management Team ([RSH0031](#))

175 [Q10](#) [Darren Hartley, Chief Executive, TAROE Trust]

176 London Tenants Federation ([RSH0097](#))

177 Social Housing Action Campaign ([RSH0030](#))

178 [Qq55–56](#) [Professor Ian Cole, Chair of Board of Management, South Yorkshire Housing Association]; South Yorkshire Housing Association Ltd ([RSH0038](#)); Savills (UK) Ltd ([RSH0063](#)); London Tenants Federation ([RSH0097](#)); Lord Filkin; Lord Adebowale; Aman Dalvi; Barry Simons ([RSH0079](#)); TAROE Trust ([RSH0026](#))

179 South Yorkshire Housing Association Ltd ([RSH0038](#))

180 [Q10](#) [Darren Hartley, Chief Executive, TAROE Trust]

181 Lord Filkin; Lord Adebowale; Aman Dalvi; Barry Simons ([RSH0079](#))

182 Regulator of Social Housing, [Tenant Involvement and Empowerment Standard](#), 1 July 2017

merged with another provider to form One Housing, which owned 17,000 properties. As a result, it went from being a local to a London-wide provider. One Housing recently merged with Riverside to create a nation-wide provider with 75,000 homes. BMT said that with each merger “residents lost influence and were made to feel more remote from their landlord” and that its own provider had recently taken away its estate officers without consulting residents. In conclusion, it said these “giant, remote and impersonal” providers were not “liked by their residents”, who had “seen a decline in their services”.<sup>183</sup>

90. The 4 Estates Forum, an umbrella group of One Housing residents, told us how service quality had deteriorated since their estates had been transferred from Tower Hamlets Council. It said residents had benefitted in the 1980s from having “locally accountable, easily accessible housing staff” on their “doorstep” but that over time these services had been eroded. They no longer had a named housing officer who knew the area but instead had to speak to call centre staff with no knowledge of, or connection to, the estates.<sup>184</sup> Eastfields Resident Association made the same complaint about Clarion. It said tenants could only contact Clarion via a call centre and would regularly be put on hold for 45 minutes. When someone did answer, they only took the details and then referred it to the repairs team. The tenant would then be told that someone would be in touch within 24 hours, but this often did not happen, which meant the tenants had “no option but to start the procedure all over again”.<sup>185</sup>

91. For others, the emergence of for-profit provision was possibly a bigger problem.<sup>186</sup> Clarion drew a distinction between for-profit provision and even the very largest not-for-profit providers. It said that while some of the latter were “successfully leveraging in private investment”, this was “radically different from organisations devised to drive up shareholder value”, which have a “fundamentally commercial intent” and whose “motivating aims are different from the mass of social providers”.<sup>187</sup> On the other hand, Legal and General Affordable Homes and Sage Housing, two of the largest for-profit providers, told us that, rather than compromising quality, for-profit provision was helping to raise standards within the sector by adopting a more business-like focus on customer service.<sup>188</sup>

92. We explored this subject in oral evidence with Clare Miller, Clarion, the largest provider in the country, Professor Ian Cole, SYHA, a medium-sized, place-based, not-for-profit provider, and Ben Denton, Legal and General Affordable Homes. Professor Cole said the “increased interest of investors” in the social housing sector, which had resulted from “the reduction in grant for housing associations”, had had a “mixed impact”. He did not think the sector could any longer get by without this additional source of financing, but he regretted the accompanying “growth logic” of “expansion, merger and acquisition”, which was “not germane” to providing good housing. He said the geographical expansion of providers and the ditching of place-based names (for example, Merseyside, which has

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183 Barkantine Management Team ([RSH0031](#))

184 4 Estates Forum ([RSH0011](#))

185 Eastfields Residents Association ([RSH0032](#))

186 Professor Mike Raco (Professor of Urban Governance and Development at Bartlett School of Planning, University College London); Dr Sonia Freire-Trigo (Lecturer in Urban Planning at Bartlett School of Planning, University College London) ([RSH0091](#))

187 Clarion Housing Group ([RSH0084](#))

188 Legal & General Affordable Homes ([RSH0082](#)); Sage Housing ([RSH0095](#))

now become Riverside) was evidence of some providers seeking to release themselves from “the constraints of place”. He also thought the sector was now more accountable to the market than to tenants.<sup>189</sup>

93. The HPCA told us about the successive changes to the name of its provider as it merged with other providers. First, it was the London Borough of Merton. After a stock transfer, it became Merton Priory and later Circle Merton Priory Homes. After one merger, it became Affinity Sutton, which, after another, became Clarion. It said this had left residents confused and asking who Clarion was and what they represented.<sup>190</sup>

94. Clare Miller called Clarion “a very big organisation” that provided “a very local service” with staff based in the neighbourhoods and communities where it had its homes. She acknowledged that Clarion’s expansion had been “driven largely by the reduction in grant from the Government over many years”, which had “thrown us back on our own resources”, but said there were “huge advantages” that came with size. She denied Clarion’s size had contributed to its recent service failures and said she did not think size was “a contributor and a necessary corollary to poor service”.<sup>191</sup> Ben Denton agreed that large organisations were not “in themselves” bad and could and did “deliver great customer service”, but he warned that mergers tended to produce organisations with “multiple data in lots of different systems” and said the regulator needed to satisfy itself that any merger was prioritising customer service. On for-profit provision, he said customer service sat “right at the top” of everything L&G Affordable Homes did and that the tenants, not pension fundholders, who provided most of its finance, were its priority.

**95. The commercialisation of social housing can be traced back to the cut to government funding in 2011. Whilst we would like the Government to provide more central funding for specific purposes, such as regeneration, building safety, decarbonisation and new housing, the sector is now clearly dependent on high levels of private investment, and will continue to be so. In many respects, this has had regrettable consequences. Many housing associations have charitable status because they exist to provide housing for those who have difficulty in affording market rent. The interests of private investors, particularly regarding their return on investments, must not outweigh the welfare of tenants.**

**96. It is difficult to say for certain whether very large providers are more likely to lose sight of their core responsibility, which is to their tenants, but it seems obvious that there is a tendency for such providers to become more remote and impersonal. If such providers struggle to provide more local and personal housing services, it means they are simply too big and have forgotten their original purpose, which is to provide affordable housing to those who cannot meet their housing needs elsewhere. The Regulator of Social Housing’s tenant involvement and empowerment standard is far too weak on the provision of local services.**

***97. We urge all social housing providers, especially the larger ones, to prioritise putting the tenant at the centre of how they deliver housing services, including by relying far less on impersonal and remote methods of communication and increasing the number of local offices with staff who know the area. We also recommend that, as part of its review***

189 [Qq55–56](#) [Professor Ian Cole, Chair of Board Management, South Yorkshire Housing Association]

190 High Path Community Association ([RSH0092](#))

191 [Q57](#) [Clare Miller, Chief Executive, Clarion Housing Group]

*of the consumer standards, the Regulator of Social Housing significantly strengthen the wording of the tenant involvement and empowerment standard to require providers to deliver housing services that are genuinely local and tenant centred.*

### A lack of professionalism within the sector

98. As the social housing White Paper acknowledged, most tenants' experience of their provider is through front-line staff, whether staff in call centres or local housing offices or contractors carrying out repairs. In the White Paper, the Government said that whilst it had heard of some "positive experiences" of tenants being treated with respect, this was "not always the case, and there were incidences where people felt talked down to or ignored by staff and contractors". It said it wanted everyone working in the sector "to act professionally, listen to their residents and, at all times, treat them with courtesy and respect". To support this, it said it would "establish a review of professional training and development to consider the appropriate qualifications and standards for social housing staff in different roles, including senior staff" and that senior leaders "must be able to manage their organisations effectively and drive forward cultural changes to ensure that all residents are treated with courtesy and respect".<sup>192</sup>

99. On 18 January 2022, the Government announced a review of qualifications and professional training in the social housing sector to "drive up standards by making sure social housing staff are better equipped to support tenants, deal effectively with complaints, and make sure homes are good quality". It said the professionalisation review would "explore the qualifications currently available for staff" and consider if additional training was required to improve service standards. It urged residents "to come forward and have their say in the review" and to "talk about their experience dealing with social housing staff" and suggest changes.<sup>193</sup>

100. It seems from the evidence that the experience of some tenants can sometimes only be explained by the attitudes and training of the staff they interact with. Echoing this concern, Jenny Osbourne, from TPAS, said:

I wonder whether we have lost some sight of what social housing is there for and whom it is there to provide for. In terms of losing some of that sight of what is about, do we have people in the sector who do not understand that, who do not have the right values and empathy, and who do not truly believe that tenants have a right and a voice that should be listened to and acted upon?<sup>194</sup>

101. Similarly, the CIH, which sets standards for the housing professionals, said the sector needed to consider the "professionalism of the housing sector alongside its regulation". It said housing professionals with the right behaviours, knowledge and skills would drive better outcomes for residents and that it supported the "embedded focus on professionalism" in the White Paper, as well as the "specific reference to the behaviours and attitudes of people who work in the housing sector".<sup>195</sup> Grenfell United said the "experience of living

192 Ministry of Housing, Communities and Local Government, [The Charter for Social Housing Residents](#), 17 November 2021, p. 49

193 Department for Levelling Up, Housing and Communities, [Government to drive up standards in social housing](#), 18 January 2022

194 [Q165](#) [Jenny Osbourne, Chief Executive, TPAS]

195 Chartered Institute of Housing ([RSH0037](#))

in Grenfell Tower prior to the fire was one of being maligned by specific members of staff” who, “emboldened by the prevailing cultures within their organisations”, acted “without professionalism and without regard for the residents whose interests they were supposed to be working for”. It said the reform of the regulatory regime would only be successful “if standards of competence and professionalism” were “driven up across the sector”.<sup>196</sup> On 9 June 2022, the NHF and the CIH announced they were setting up an independent panel to improve the quality of services provided by the social housing sector.<sup>197</sup>

**102. Whatever external or impersonal forces might be contributing to the very poor treatment some tenants have to endure, ultimate responsibility must lie first with the individuals concerned and then with senior management. We therefore strongly welcome the Government’s review of qualifications and professional training. Ensuring those working in the sector are properly qualified will be critical, as the most important step in improving service standards must be preventing the wrong people from entering the profession in the first place. We also welcome the announcement of an independent quality panel by the National Housing Federation and the Chartered Institute of Housing.**

***103. We call on the Government to provide an update on the progress of its review of qualifications and professional training in the social housing sector, including a timeline for implementation of any new qualifications.***

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196 Grenfell United ([RSH0108](#))

197 National Housing Federation, [Independent panel on quality in housing association homes](#), 9 June 2022

## 4 The Housing Ombudsman

### The role of the ombudsman

104. The role of the ombudsman is to investigate and resolve disputes between tenants and providers who are members of the Housing Ombudsman Scheme.<sup>198</sup> When a complaint is made, the ombudsman first decides if it falls within its remit for investigation. For this to be the case, the complaint must have been made by a tenant, former tenant or prospective tenant, or by a representative of such a person.<sup>199</sup> In addition, the tenant must have referred their case through a “designated person” (the ‘democratic filter’) or waited eight weeks after exhausting their provider’s own complaint handling process, although this rule is soon to be repealed.<sup>200</sup> If, following an investigation, the ombudsman makes a finding of maladministration, it can order or recommend that the provider, among other things, apologise to the complainant, pay compensation or perform contractual or other obligations between the member and the complainant.<sup>201</sup> If a member fails to comply with an order, the ombudsman may refer them to the regulator.<sup>202</sup>

### The ombudsman’s new powers

105. The current scheme gives the ombudsman new powers and responsibilities, the most significant of which are:

- a new responsibility to develop a complaint handling code to identify best practice in complaint handling and achieve greater consistency across providers’ complaint procedures;
- a new power, since 1 January 2021, to issue complaint handling failure orders (CHFOs) against providers who fail to comply with the code or the ombudsman scheme; and
- the ability to conduct a further investigation beyond an initial complaint to establish whether any evidence might indicate a systemic failure, and where this is the case, to refer the matter to the Regulator of Social Housing.<sup>203</sup>

### The complaint handling code and complaint handling failure orders

106. The ombudsman published its first code in July 2020 and an updated version in April 2022.<sup>204</sup> The code sets out good practice that aims to enable providers to respond to complainants effectively and fairly and to help to create a positive complaint handling culture among staff and residents. It states that providers should make it easy for residents

198 Housing Act 1996, [Section 51](#) and [Schedule 2](#); Housing Ombudsman Service, [The Housing Ombudsman Scheme](#), (1 September 2020)

199 Housing Ombudsman Service, [The Housing Ombudsman Scheme](#), (1 September 2020), para. 25

200 Section 160 of the Building Safety Act 2022 provides for the repeal of the democratic filter, so that once a resident has completed the complaints process, and remains dissatisfied, they can immediately refer their complaint to the ombudsman. The statutory instrument implementing the provisions in Section 160 will come into force on 1 October 2022.

201 Housing Ombudsman Service, [The Housing Ombudsman Scheme](#), (1 September 2020), para. 56

202 Housing Ombudsman Service, [The Housing Ombudsman Scheme](#), (1 September 2020), para. 60

203 Housing Ombudsman Service, [The Housing Ombudsman Scheme](#), 1 September 2020, para. 50; Housing Ombudsman Service, [Business Plan 2020–21](#), March 2020, p. 11

204 Housing Ombudsman Service, [The Housing Ombudsman’s Complaint Handling Code](#), March 2022



to complain, that providers' complaints processes should ideally comprise two stages, and never more than three, and that they should progress complaints through each stage promptly. If a provider fails to deal with complaints in accordance with the code, the ombudsman has the power to issue a complaint handling failure order (CHFO).<sup>205</sup> If a provider fails to comply with a CHFO, it falls within the ombudsman's formal remit for investigation.<sup>206</sup> The ombudsman asked providers to self-assess against the first code by 30 December 2020 and to publish their results. The Government is currently legislating through the Social Housing (Regulation) Bill to place the code on a statutory footing.<sup>207</sup>

107. Nick Murphy, NCH, said his organisation had adopted the code and that it had had a "beneficial impact". He said it had focused minds on resolving complaints "at the earliest possible stage" and embedded a culture in which senior managers got more involved in preventing complaints from escalating.<sup>208</sup> Chloe Fletcher, NFA, said she was "pretty sure" all the federation's members had self-assessed against the code.<sup>209</sup> Matthew Walker, PlaceShapers, and Kate Henderson, NHF, both welcomed the code and thought most of their members had signed up to it but did not have the precise figures.<sup>210</sup>

108. The importance of the complaint handling code was clear from the evidence, as the same problems seem to blight some providers' complaint handling processes as do their systems for responding to requests for repairs.<sup>211</sup> Daniel Hewitt told us about the experience of Fransoy Hewitt, a tenant at Regina Road, who was living in "the most indescribably poor, squalid and dangerous housing". She had "complained and complained and complained, and reported it and reported it, and nothing had been done".<sup>212</sup> We heard providers' complaint handling process were "tortuously long and protracted"<sup>213</sup> and "designed to wear tenants down until they choose to live with a problem that requires repair rather than persisting in trying to get it solved".<sup>214</sup> One tenant said the process was so tedious many tenants "give up in despair".<sup>215</sup>

109. As we heard, slow complaint handling also delays the moment when tenants can take their case to the ombudsman.<sup>216</sup> One participant in our public engagement event said the ombudsman had refused to take her case until she had completed her providers complaints process but that this ended up taking two years.<sup>217</sup> One tenant thought providers had specifically designed their complaints processes to never give a final response for this very reason.<sup>218</sup> The South West London Law Centre (SWLLC) said it was aware of many instances of tenants having their complaints closed down at stage 1 with

205 Housing Ombudsman Service, [The Housing Ombudsman's Complaint Handling Code](#), March 2022, paras. 13–15 and 63

206 Housing Ombudsman Service, [Quarterly report: Complaint Handling Failure Orders issued July to September 2021](#), November 2021

207 [Social Housing \(Regulation\) Bill](#) [Lords], Clause 31 [Bill 21 (2022–23)]

208 [Q100](#) [Nick Murphy, Chief Executive, Nottingham City Homes]

209 [Q101](#) [Chloe Fletcher, Policy Director, National Federation of ALMOs]

210 [Q151](#) [Matthew Walker, Chair, PlaceShapers; Kate Henderson, Chief Executive, National Housing Federation]

211 London Tenants Federation ([RSH0097](#)); Dr Mercy Denedo (Assistant Professor in Accounting at Durham University Business School); Dr Amanze Ejiogu (Senior Lecturer in Accounting at Newcastle University Business School) ([RSH0036](#)); [Q218](#) [Daniel Hewitt, political correspondent, ITV News]; Mr Liam Kelly ([RSH0096](#)); [Participant E, Group 2](#)

212 [Q218](#) [Daniel Hewitt, political correspondent, ITV News]

213 [Q3](#) [Suzanne Muna, Social Housing Action Campaign]

214 [Q14](#) [Pat Turnbull, Regional Representative, London Tenants Federation]

215 Mr Liam Kelly ([RSH0096](#))

216 [Participant F, Group 1](#)

217 [Participant F, Group 1](#)

218 Ms Alison Bancroft ([RSH0006](#))

their provider incorrectly declaring them resolved.<sup>219</sup> Nicole Walters, a former tenant of Southwark Council, said she made several formal complaints to Southwark Council, and sent 33 emails in all, but never got past stage 1, and that only when ITV News got involved was any action taken.<sup>220</sup> One of the participants at our public engagement event, whose property was infested with rodents, told us how they had spent three years complaining and never got past stage 1.<sup>221</sup>

110. We asked Richard Blakeway, the Housing Ombudsman, how many providers had self-assessed against the code. He said he did not have the power to monitor how many self-assessments had been done, but if he found during an investigation that a provider had not self-assessed he might “make findings” in this regard. He wanted “the power to do more” so he could identify whether providers had self-assessed before the investigation stage, as by then “you are months, possibly years, down the line”. Since the introduction of the code, he thought that providers’ complaint handling practices had become more consistent. He also said the revised code allowed tenants to come to the ombudsman if they thought their provider was not progressing their complaint fast enough, and that the ombudsman could then investigate and, if necessary, issue a CHFO.<sup>222</sup>

**111. The primary responsibility for resolving disputes between tenants and providers lies with the providers themselves, and yet too often their complaint handling processes are inefficient and obstructive. It is understandable if tenants sometimes conclude they have been specifically designed to prevent them from ever referring their complaint to the Housing Ombudsman. It is also quite clear that, as well as adding insult to injury, the inefficiency of some providers’ complaint handling processes is itself contributing to levels of disrepair, since repeated requests for repairs will nearly always also be complaints, and satisfactory resolution will usually involve the completion of remediation or repair work.**

**112. The introduction of the Housing Ombudsman’s complaint handling code and complaint handling failure orders must drive improvement and consistency in the way providers respond to complaints. We are pleased therefore that the Government is legislating through the Social Housing (Regulation) Bill to place the power to establish such a code on a statutory footing. It is not clear, however, if this will strengthen the ombudsman’s ability to enforce compliance. We are also concerned that no one is proactively monitoring whether providers have self-assessed against the code, although we are not sure if the ombudsman or the Regulator of Social Housing would be best placed to do this.**

***113. If they have not already done so, all providers must immediately review and where necessary improve their complaint handling processes. As part of this, all providers that have not already self-assessed against the ombudsman’s complaint handling code should immediately do so. We also recommend that the ombudsman more proactively monitor providers’ compliance with the code.***

***114. We recommend that the Government legislate through the Social Housing (Regulation) Bill to place a legal requirement on social housing providers to self-assess***

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219 South West London Law Centre ([RSH0098](#))

220 [Q253](#) [Nicole Walters, tenant, Southwark Council]

221 [Participant E, Room 2](#)

222 [Qq274–279](#) [Richard Blakeway, Housing Ombudsman]

*against the Housing Ombudsman’s complaint handling code and to report to the ombudsman when they have done so. To ensure that providers are self-assessing against the code, we recommend that either:*

- *the Government give the ombudsman the power and duty to monitor whether providers are self-assessing against the complaint handling code and whether their complaint handling processes are broadly in line with it; or*
- *the regulator, as part of its review of the consumer standards, introduce a new requirement on social housing providers to self-assess against the complaint handling code and to implement complaint handling processes that are broadly in line with it.*

### *Power to investigate systemic failures*

115. The third significant new power given to the ombudsman in its revised scheme is the ability to conduct further investigations beyond initial complaints to establish whether any evidence might indicate a systemic failure, and, where this is the case, to refer the matter to the regulator. The ombudsman used that new power to issue a call for evidence on damp and mould, having identified this as a frequent problem arising in the complaints brought to it. In its report, the ombudsman said it had investigated 142 landlords following complaints about damp and mould and found maladministration against 92 of them. It concluded that, whilst most social housing was in good condition, providers needed to make addressing damp and mould a higher priority and to be more proactive, rather than relying on residents to report problems.<sup>223</sup>

116. There was some concern, particularly among housing providers, that the ombudsman’s power to investigate systemic failures risked encroaching on the remit of the regulator and thereby creating confusion about their respective roles.<sup>224</sup> Yorkshire Housing said some of its reporting had “strayed into what would in any other sector be classified as regulatory activity” and that without a clarification of its role there was a “danger of overlap or conflicting priorities”.<sup>225</sup> Raco and Freire-Trigo said it was unclear how differences of opinion between the regulator and the ombudsman over systemic issues would be resolved and questioned how efficient it was to have two public bodies overseeing the same issues of compliance.<sup>226</sup> In contrast, Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing, said the organisation welcomed the ombudsman’s reports on systemic issues, that they had been “useful learning for the sector”, and that the two organisations shared information quite regularly. He also said there was no overlap of functions: the ombudsman was looking across the sector, while the regulator was concerned with recurring issues within individual organisations.<sup>227</sup>

223 Housing Ombudsman Service, [Spotlight on: Damp and mould](#), October 2021

224 Nottingham City Council (in conjunction with Nottingham City Homes) ([RSH0080](#)); Midland Heart ([RSH0017](#)); South Yorkshire Housing Association Ltd ([RSH0038](#)); Great Places Housing Group ([RSH0025](#)); Yorkshire Housing ([RSH0067](#)); Professor Mike Raco (Professor of Urban Governance and Development at Bartlett School of Planning, University College London); Dr Sonia Freire-Trigo (Lecturer in Urban Planning at Bartlett School of Planning, University College London) ([RSH0091](#))

225 Yorkshire Housing ([RSH0067](#))

226 Professor Mike Raco (Professor of Urban Governance and Development at Bartlett School of Planning, University College London); Dr Sonia Freire-Trigo (Lecturer in Urban Planning at Bartlett School of Planning, University College London) ([RSH0091](#))

227 [Q347](#) [Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing]

117. **The Housing Ombudsman’s new power to investigate systemic issues across the sector is an extremely valuable tool for improving quality across the sector, and we disagree strongly with the assertion that this represents any sort of encroachment on the remit of the Regulator of Social Housing.**

118. *We encourage the Housing Ombudsman to continue investigating systemic failings across the social housing sector. In response to this report, the ombudsman should identify which further areas it may investigate. We further encourage both the ombudsman and the Regulator of Social Housing to continue co-operating and sharing information, building on each of their roles so their work complements each other, with a view to driving up standards across the sector.*

### **Awards of compensation**

119. Following a finding of maladministration, the ombudsman may make orders or recommendations. The main aims of any order or recommendation are to ensure that repairs are done, that tenants get redress and that action is taken to prevent such failures from happening again.<sup>228</sup> Among other things, the ombudsman can order a provider to pay compensation to a tenant following a finding of maladministration. The amount of any compensation awarded is “based on what is considered fair in the particular circumstances of the case”. It can order compensation to be paid for “actual, proven financial loss sustained as a direct result of the maladministration of service failure” or for “avoidable inconvenience, distress, detriment of other unfair impact of the maladministration of service failure”, or for a combination of these.<sup>229</sup> In 2020–21, it issued 1,705 orders to pay compensation. The total paid was £450,000. The average award was just over £260.<sup>230</sup>

120. Some of the evidence criticised the size of the compensation payments.<sup>231</sup> Great Places said compensation appeared relatively low, did not provide sufficient redress from the perspective of tenants and did not “provide, in the eye of many observers, adequate punishment to providers to prevent issues re-occurring”.<sup>232</sup> Suzanne Muna described them as “nothing to a housing association” that counts its “turnover in the hundreds of millions” and said that it would be financially better for a housing association to get fined rather than address problems in the first place. Darren Hartley said the sums awarded to tenants bore “no resemblance” to the misery tenants had experienced.<sup>233</sup>

121. As explained, the ombudsman may award compensation for financial loss incurred as a result of a service failing. We heard in our roundtable event how repairs teams often fail to turn up when they say they will, which can result in a loss of earnings if tenants have taken time off work to wait at home.<sup>234</sup>

122. Richard Blakeway said compensation was “not meant to be punitive” or “a regulatory fine” but “meant to relate to the individual”. He also said, however, that there had been

228 Housing Ombudsman Service, [The Housing Ombudsman Scheme](#), (1 September 2020), paras 60–61

229 <https://www.housing-ombudsman.org.uk/useful-tools/fact-sheets/compensation/>

230 The Housing Ombudsman Service, [Annual Report and Accounts, 2020–21](#), November 2021, p. 10

231 Great Places Housing Group ([RSH0025](#)); Campbell Tickell ([RSH0094](#)); [Q14](#) [Suzanne Muna, Representative, Social Housing Action Campaign]; [Q15](#) [Darren Hartley, Chief Executive, TAROE Trust]; Miss Danielle Gregory (Projects and Campaigns at Tower Blocks UK) ([RSH0024](#))

232 Great Places Housing Group ([RSH025](#))

233 [Q14](#) [Suzanne Muna, Representative, Social Housing Action Campaign]; [Q15](#) [Darren Hartley, Chief Executive, TAROE Trust]

234 [Participants B, C, F and G, Group 1](#)

a “step change” in the amount of compensation awarded in the last year, from £450,000 in 2020–21 to £600,000 in 2021–22, and that the ombudsman had “introduced a new band for compensation” for “severe maladministration” worth “more than £1,000 for each individual finding where we find severe maladministration”.<sup>235</sup>

123. On 16 June 2022, the Government published a White Paper on reforming the private rented sector (PRS). Among other things, it said it would introduce an ombudsman specifically for the PRS and give it the power to compel landlords to pay compensation of up to £25,000.

**124. The Housing Ombudsman is supposed to award compensation to cover financial loss and avoidable inconvenience, distress and detriment. We do not think, however, that the levels of compensation being awarded come anywhere close to reflecting any of these things. We also think financial loss should explicitly include loss of earnings incurred when tenants stay at home waiting for repairs teams that do not then turn up.**

**125. We welcome the ombudsman’s decision to increase the levels of compensation for the most serious service failings, but even these are inadequate. If the Government thinks tenants in the private rented sector (PRS) should be entitled to compensation of up to £25,000, it cannot argue otherwise for social housing tenants. To tolerate a situation in which social housing tenants are not receiving the same levels of compensation as tenants in the PRS would amount to blatant discrimination. Significantly increasing levels of compensation should also help to concentrate the minds of boards and senior management teams on improving service standards.**

*126. The Government must commit to ensuring social housing tenants get the same levels of compensation it has said tenants in the PRS will be entitled to under its proposals for a new ombudsman. We recommend it does this by amending the Social Housing (Regulation) Bill to include provisions setting out that the ombudsman may award compensation of up to £25,000. If not, it should publish its justification for treating social housing tenants and PRS tenants differently. Whether it commits to doing this or not, we call on the ombudsman to immediately increase the levels of compensation it awards. We also recommend that it include among those things for which it may award compensation an explicit reference to loss of earnings incurred when tenants take time off work to wait for repairs teams that do not turn up.*

### **Tenant awareness of the ombudsman**

127. One of the conditions of membership of the ombudsman scheme is that providers must “inform residents of their right to bring complaints to the ombudsman”.<sup>236</sup> Despite this, awareness of the ombudsman among social housing residents is low. In 2021, the ombudsman surveyed its newly established 600-strong resident panel and found that only 50% of respondents thought their provider’s signposting to the ombudsman was acceptable or better. Some 57% of respondents disagreed that providers had done more to promote awareness of the ombudsman in the last year. Many raised concerns about only

235 [Q292](#) [Richard Blakeway, Housing Ombudsman]

236 Housing Ombudsman Service, [The Housing Ombudsman Scheme](#), (1 September 2020), para. 9(c)

being told about the ombudsman at the end of their provider’s own complaints process, and there was a consistent view that providers could do more to highlight the ombudsman through newsletters, their websites and social media.<sup>237</sup>

128. Partly in response to the findings in its resident survey, the ombudsman updated its complaint handling code in 2022. To comply with the code, providers must now:

- publicise the Housing Ombudsman Scheme in leaflets, posters, newsletters and online, and as part of their regular correspondence with residents;
- provide residents with contact information for the ombudsman as part of their regular correspondence; and
- advise residents early on of their right to access the Housing Ombudsman Service.<sup>238</sup>

129. In its written evidence to the inquiry, the ombudsman said it was essential that residents knew they had the right to bring their complaint to the ombudsman and how to get in touch, and that it had worked hard to increase awareness of our service. It added that, although recent increases in the volume of complaints being referred to it suggested there had been a “transformation” in awareness of its service, it remained concerned some individuals or groups might still face “accessibility barriers”. As part of its work to promote accessibility and awareness, it said it would examine its data to identify under-represented groups and specific actions to improve accessibility for these residents.<sup>239</sup>

130. Chloe Fletcher, NFA, said the ombudsman had raised its profile recently and was advertising itself much more to tenants. She also said every response to a complaint sent by the federation’s members should include a paragraph informing tenants of their right to go to the ombudsman, and that it should be on all their websites too, although she said that some were not as clear as others.<sup>240</sup> Karen Brown, Northern Housing Consortium (NHC), said providers had been “stepping up” their awareness raising and had a “vested interest” in helping tenants access the ombudsman, because otherwise they might resort to legal action.<sup>241</sup> This last point was backed up by others.<sup>242</sup> G15 said some of its residents were not familiar with the different routes of escalating a complaint and so were taking legal action, which slows down remediation work, as providers are required to halt repairs (except to make a property safe) whilst the matter is resolved in the courts.<sup>243</sup> Moreover, once a tenant instructs a solicitor, they cannot then complain to the ombudsman. Angela Price said she had taken legal action without realising it would prevent her from referring her case to the ombudsman.<sup>244</sup>

131. Other witnesses remained of the view that awareness of the ombudsman was extremely low. The SWLLC said it had not spoken to a single tenant who had been made aware of their right to take their complaint to the ombudsman.<sup>245</sup> Daniel Hewitt, from

237 Housing Ombudsman Service, [Annual Complaints Review, 2020–21](#), March 2022, pp. 15–17

238 Housing Ombudsman Service, [The Housing Ombudsman’s Complaint Handling Code](#), 9 March 2022, p. 23

239 The Housing Ombudsman Service [[RSH023](#)]

240 [Q100](#) [Chloe Fletcher, Policy Director, National Federation of ALMOs]

241 [Q148](#) [Karen Brown, Senior Policy Adviser, Northern Housing Consortium]

242 TPAS ([RSH0042](#)); G15 ([RSH0073](#)); Riverside Group ([RSH0110](#))

243 G15 ([RSH0073](#))

244 [Qq239–40](#) [Angela Price, Tenant, Guinness Housing]

245 South West London Law Centre ([RSH0098](#))

ITV News, said he could “count on one hand” the number of tenants whose provider told them about the ombudsman.<sup>246</sup> In response to our survey of tenants, 57% said they had heard of the ombudsman, 38% said they had not, and 5% said they were not sure. When asked if their provider had made them aware of their right to take a complaint to the ombudsman, however, 27% said yes and 56% said no.

**132. It is clear from the evidence we received during this inquiry, and from the constituency casework we deal with, that generally tenants are not aware of the Housing Ombudsman. We welcome the work the ombudsman has done recently to raise awareness of its service among tenants and agree that this could partly explain the increase in the number of complaints being referred to it. Providers, however, are very clearly not doing enough to inform tenants of their right to take a complaint to the ombudsman. It is possibly too easy for tenants to miss sentences inserted into correspondence and links on websites if they have not been made prominent.**

*133. We encourage all social housing providers and the Housing Ombudsman to adopt a co-ordinated strategy to increase awareness among tenants of the ombudsman. As part of that, providers should routinely send letters and leaflets specifically about how they can complain to the ombudsman, as well as including this information in all other correspondence. Every single piece of correspondence about a complaint that providers send to tenants should inform the latter of their right to complain to the ombudsman and how to go about it. This should also explain that if tenants take legal action they cannot also refer their case to the ombudsman. We also recommend that the Regulator of Social Housing, as part of its review of the consumer standards, introduce a requirement on housing providers to ensure tenants are aware of their right to take a complaint to the ombudsman.*

## Local authority enforcement of housing standards

134. Under the Housing Act 2004, if a local authority suspects the presence of a category 1 hazard in any residential premises, it has a duty to take appropriate enforcement action to fix the problem as soon as possible. Among other measures, this can include serving an improvement notice requiring the owner to take immediate remedial action.<sup>247</sup> According to enforcement guidance published in 2006, where the property is owned by a private provider of social housing, “informal working” with the provider is considered preferable to formal enforcement measures if the provider has a timetable for making the stock decent, but that “occupiers should not be left for long periods in unsafe housing”.<sup>248</sup>

135. We heard evidence of social housing tenants turning to their local council when their private provider failed to carry out adequate repairs and being told the council could not inspect private providers. Angela Price, a former tenant of the Guinness Partnership, told us how she had called her council after Guinness had failed to clean her flat properly after it had been flooded with raw sewage, only to be told they could not do anything because there was “a conflict of interest” when they acted against private providers.<sup>249</sup> Krystelle Grimmond, a Hyde tenant, told us in the roundtable event and in subsequent

246 [Q224](#) [Daniel Hewitt, political correspondent, ITV News]

247 Housing Act 2004, [Sections 5 and 11](#)

248 Office of the Deputy Prime Minister, [Housing Health and Safety Rating System: Enforcement Guidance](#), February 2006, para. 2.3

249 [Qq229–231](#) [Angela Price, Tenant, Guinness Partnership]

written evidence what happened when she contacted Croydon Council about a leak in her property that began in October 2020. She described her situation as “very frightening” as water was “pouring into the electrics” and “causing sparks and outages”. When Hyde said it would take them two and a half weeks to send someone round, she repeatedly asked Croydon Council to send round an environmental health officer, but each time it refused, saying it was only allowed to inspect private landlords.<sup>250</sup>

136. When we asked the Housing Minister, Eddie Hughes MP, if there was any reason a council could not inspect a property owned by a private provider and issue an enforcement notice, he replied, “No”.<sup>251</sup> He also confirmed that, although a council cannot take legal action against itself (in this case, by issuing an enforcement notice), there was nothing preventing a council’s environmental health team from inspecting properties owned by that council and issuing it with a non-legal warning.<sup>252</sup>

**137. It appears that some local authorities might have misinterpreted the Housing Health and Safety Rating System enforcement guidance, and as such are not inspecting private providers. We welcome the Minister’s reiteration that a council can inspect a property owned by a private provider and issue an enforcement notice, although we note the significant pressures on local government finances at the moment. Perhaps more than anything else, these inspections could provide social housing tenants trapped in potentially unsafe homes with the reassurance that they can turn to someone independent of their housing provider who will advocate on their behalf.**

**138. We strongly recommend that the Government immediately make it clear to local councils that they have a duty to inspect all unsafe homes, irrespective of who owns it, including, if necessary, by producing new enforcement guidance. This must include setting out that there is nothing preventing a council’s environmental health team from inspecting properties owned by that council and issuing it with a non-legal warning.**

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250 Krystelle Grimmond ([RSH0115](#))

251 [Q417](#) [Eddie Hughes MP, Minister for Housing, Department for Levelling Up, Housing and Communities]

252 [Q418](#) [Eddie Hughes MP, Minister for Housing, Department for Levelling Up, Housing and Communities]



## 5 The Regulator of Social Housing

### Legislative background

139. In 2007, the Cave Review of the regulation of social housing, commissioned by the then Labour Government, recommended that a single body be established to regulate both the standard of social housing and the financial viability of social housing providers.<sup>253</sup> Accordingly, the Government legislated, through the Housing and Regeneration Act 2008 (the 2008 Act), to establish a new regulatory regime for social housing with the creation of a new Regulator of Social Housing responsible for proactively monitoring and regulating both economic and consumer standards. The first body to assume the functions of the new Regulator was the Tenant Services Authority (TSA). The TSA could take enforcement action wherever it determined a provider had failed to meet one of its standards.

140. In 2010, the coalition Government undertook another review of social housing regulation. Citing its localism agenda, the need to make financial savings and its objective of reducing the number of quangos, the Government concluded that the TSA should be abolished and its regulatory functions transferred to the Housing and Communities Agency (HCA), the national housing, land and regeneration agency, and that the consumer regulatory regime should concentrate only on addressing the most serious failures against the standards.<sup>254</sup> These proposals were subsequently enacted through the Localism Act 2011.<sup>255</sup> To ensure independence from the HCA's other functions, the 2011 Act provided that it could only exercise its functions as the Regulator of Social Housing through a separate statutory regulation committee.<sup>256</sup> It also amended the 2008 Act to restrict the regulator to intervening in respect of the consumer standards only when it suspected a breach of those standards had resulted, or could result, in serious detriment to tenants (the 'serious detriment' test).

141. In 2016, the Government reviewed the operation of the HCA, in the light of its commitment to increasing the delivery of new homes, and decided to transfer the responsibility for regulating social housing to a standalone regulator. In 2018, the Government accordingly rebranded the HCA as Homes England and transferred its regulatory functions to a new Regulator of Social Housing.<sup>257</sup> The regulator's functions are set out in the 2008 Act and comprise two fundamental objectives: a consumer objective and an economic objective. To enable the regulator to meet these objectives, the Act allows it to set standards or the Secretary of State to direct the regulator to set standards.

142. In 2020, largely in response to the flaws in the regulatory regime revealed in the aftermath of the Grenfell Tower fire, the Government published a social housing White Paper setting out its proposals for reforming social housing regulation.<sup>258</sup> In particular, it promised to introduce a more proactive regime for regulating the consumer standards by repealing the 'serious detriment' test and establishing a system of regular inspections

253 Professor Martin Cave, [Every Tenant Matters: A review of social housing regulation](#), June 2007

254 Communities and Local Government, [Review of social housing regulation](#), October 2010

255 [Explanatory memorandum to the Localism Act 2011 \(Regulation of Social Housing \(Consequential Provisions\) Order 2021\)](#)

256 [Ibid](#), para. 7.2

257 Legislative Reform (Regulator of Social Housing) (England) Order 2018 ([SI 2018/1040](#))

258 Ministry of Housing, Communities and Local Government, [The Charter for Social Housing Residents](#), 17 November 2021

for larger providers. On 9 June 2022 the Social Housing (Regulation) Bill was published.<sup>259</sup> The purpose of the Bill is to make those changes promised in the White Paper that require legislation.

## Consumer regulation

### *The regulator's consumer objective and consumer standards*

143. Under the 2008 Act, the regulator has two fundamental objectives: a consumer objective and an economic objective. The consumer objective is to:

- support the provision of social housing that is well-managed and of appropriate quality;
- ensure that actual or potential tenants of social housing have an appropriate degree of choice and protection;
- ensure tenants of social housing have the opportunity to be involved in its management and to hold their landlords to account; and
- encourage registered providers of social housing to contribute to the environmental, social and economic well-being of the areas in which the housing is situated.

To enable it to achieve its consumer objective, the 2008 Act permits the regulator to set standards for registered providers “as to the nature, extent and quality of accommodation, facilities or service provided”.<sup>260</sup> There are currently four such consumer standards: the home standard, the tenancy standard, the neighbourhood and community standard and the tenant involvement and empowerment standard. When the regulator finds a provider in breach of one of the consumer standards, it will issue a regulatory notice setting out its finding and explaining what, if any, enforcement action it is taking.

### *The regulator's approach to regulating the consumer standards*

#### *Introduction*

144. The regulator's approach to regulating the consumer standards is governed by three main principles: the ‘serious detriment’ test, which the Government is legislating to remove, the ‘systemic failure’ test and the principle of co-regulation, both of which stem from the regulator's statutory duty to exercise its functions in a way that “minimises interference” and which, “so far as possible”, is “proportionate, consistent, transparent and accountable”.<sup>261</sup>

#### *The ‘serious detriment’ test*

145. The 2008 Act originally allowed the regulator to regulate the consumer standards proactively, including by carrying out routine inspections. As amended by the Localism

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259 [Social Housing \(Regulation\) Bill](#) [Lords] [Bill 21 (2022–23)]

260 Housing and Regeneration Act 2008, [Section 193\(1\)](#)

261 Housing and Regeneration Act 2008, [Section 92K](#)

Act 2011, the 2008 Act now restricts it to regulating the consumer standards reactively by permitting it to intervene, when a provider fails to meet a consumer standard, only if it also has “reasonable grounds to suspect” that the failure has resulted in “serious detriment” to the registered provider’s tenants or potential tenants, or if there is a “significant risk” that, if it does not act, the failure will result in serious detriment.<sup>262</sup> This rule is known as the ‘serious detriment’ test.<sup>263</sup> The application of the ‘serious detriment’ test is the principal element of the reactive regulatory regime. In response to widespread criticism, the Government is now legislating to repeal the ‘serious detriment’ test through the Social Housing (Regulation) Bill.<sup>264</sup>

146. The evidence to our inquiry was overwhelming in its support for repealing the ‘serious detriment’ test.<sup>265</sup> Optivo said its removal would have a “transformative effect”.<sup>266</sup> TAROE Trust said the test had resulted in the regulator regulating with “one arm tied behind its back” and that its removal would “go some way to ameliorating the shortcomings of the existing regulatory regime”.<sup>267</sup> The NHC said it had limited the regulator’s “ability to make use of its powers” and meant problems were “often only identified after the fact”.<sup>268</sup> Grenfell United called its removal “an indispensable cornerstone to reforming the system”.<sup>269</sup> Jonathan Walters said it had “become increasingly apparent” in the last few years that the ‘serious detriment’ test had been preventing the regulator from “taking appropriate regulatory action” and that it too would welcome its removal.<sup>270</sup>

**147. We welcome the removal of the serious detriment test, which has obstructed the effective regulation of the consumer standards for far too long.**

### *The ‘systemic failure’ test*

148. Section 92K of the 2008 Act requires the regulator to exercise its functions in a way that “minimises interference” and which, “so far as possible”, is “proportionate, consistent, transparent and accountable”.<sup>271</sup> When regulating the consumer standards, the regulator therefore focuses “on whether there is material evidence of systemic or organisational failure on the part of the provider” that it judges “to be indicative of a wider breakdown in the provider’s overall organisation and systems”.<sup>272</sup> The ‘systemic failure’ test is not strictly prescribed in legislation, as is the ‘serious detriment’ test, but based on the regulator’s interpretation of Section 92K.

262 Housing and Regeneration Act 2008, [Section 198A](#); Regulator of Social Housing, [Regulating the Standards](#), March 2020, p. 29

263 Housing and Regeneration Act 2008, [Sections 193, 198A, 199 and 201](#)

264 [Social Housing \(Regulation\) Bill](#) [Lords] [Bill 21 (2022–23)]

265 TAROE Trust ([RSH0026](#)); [Q18](#) [Darren Hartley, Chief Executive, TAROE Trust]; National Federation of ALMOs ([RSH0068](#)); Nottingham City Council (in conjunction with Nottingham City Homes) ([RSH0080](#)); Northern Housing Consortium ([RSH0049](#)); TPAS ([RSH0042](#)); Midland Heart ([RSH0017](#)); Shelter ([RSH0047](#)); The Riverside Group Ltd ([RSH0077](#)); Campbell Tickell ([RSH0094](#)); Chartered Institute of Housing ([RSH0037](#)); Grenfell United ([RSH0108](#)); [Q105](#) [Chloe Fletcher, Policy Director, National Federation of ALMOs]; Optivo ([RSH0044](#))

266 Optivo ([RSH0044](#))

267 TAROE Trust ([RSH0026](#)); [Q18](#) [Darren Hartley, Chief Executive, TAROE Trust] (see also Northern Housing Consortium ([RSH0049](#)))

268 Northern Housing Consortium ([RSH0049](#))

269 Grenfell United ([RSH0108](#))

270 [Q309](#) [Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing]

271 Housing and Regeneration Act 2008, [Section 92K](#)

272 Regulator of Social Housing, [Regulating the Standards](#), March 2022, p. 21

149. The impact of the ‘systemic failure’ test was illustrated last year when the regulator investigated Clarion over its management of the Eastfields estate. In August 2021, the regulator issued a statement clearing Clarion of a breach of consumer standards, saying that, although “there were clearly individual repairs issues which required resolution”, it had not found “evidence of systemic or organisational failure which indicates a breach of the consumer standards”.<sup>273</sup>

150. According to TPAS, the ‘systemic failure’ test is too restrictive. It said that by only intervening where it suspects systemic failure the regulator risked ignoring cases where “a small group of tenants is affected by repeated failure, or by an inappropriate landlord policy, that makes their lives a misery but is not systemic”. It also pointed out that, given the remit of the ombudsman, this approach had allowed a regulatory gap to open up between individual complaints and systemic failure.<sup>274</sup> The TAROE Trust agreed there had been “large gaps between redress from individual complaints dealt with by the HOS and the high threshold before intervention from the RSH is permissible”.<sup>275</sup> Shelter said the ‘systemic failure’ test, along with the ‘serious detriment’ test, had set “an unnecessarily high bar” for intervention”.<sup>276</sup>

151. The regulator and the ombudsman, recognising that many of the issues they deal with are of mutual interest, have signed a memorandum of understanding (MOU) that, among other things, commits them to seeking a complementary approach “so far as is consistent with their independent roles” and to meeting and communicating regularly to discuss matters of mutual interest.<sup>277</sup> The Government is currently legislating through the Social Housing (Regulation) Bill to require the two organisations to “take such steps as it considers appropriate to co-operate in the exercise of their respective functions” and to prepare and maintain a memorandum describing how they intend to comply that requirement.<sup>278</sup>

152. We asked Jonathan Walters why the regulator had interpreted the duty to minimise interference to mean it should only act where there was evidence of systemic failure. He said the regulator only tended to get involved “where landlords either do not want to or are unwilling to admit that something has gone wrong or that they have made a mistake”.<sup>279</sup> When asked how it decided if a failure was systemic, he said the regulator looked at whether the evidence indicated “a broad failing across the organisation”.<sup>280</sup> In the case of Clarion and Eastfields, he said the regulator concluded that “something had gone wrong” and that what tenants had experienced was “unacceptable”, but it did not find evidence that “across the piece” Clarion’s “systems were not working”.<sup>281</sup> When asked if there was a gap between the remit of the regulator and the ombudsman, he talked about the “visibility” of both organisations but did not address whether there was a gap.<sup>282</sup>

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273 Regulator of Social Housing, [Statement on Clarion Housing Association](#), 12 August 2021

274 TPAS (RSH0042)

275 TAROE Trust (RSH0026);

276 Shelter (RSH0047)

277 Housing Ombudsman and the Regulator of Social Housing, [Memorandum of Understanding between the Housing Ombudsman and RSH](#), 1 September 2020

278 [Social Housing \(Regulation\) Bill](#), [Lords], Clause 4 [Bill 21 (2022–23)]

279 [Q320](#) [Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing]

280 [Q321](#) [Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing]

281 [Q323](#) [Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing]

282 [Q324](#) [Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing]

153. When pressed on how a provider who had mismanaged an estate as badly as Clarion had mismanaged Eastfields could be found compliant with the standards, Mr Walters compared it with the situation at Regina Road. In that case, Croydon Council had been found guilty of systemic failure, because it “simply did not have the systems to identify that things were going wrong”, whereas Clarion “had those systems and processes in place”.<sup>283</sup> When asked again about its interpretation of the duty to minimise interference and whether this had resulted in a gap between the regulator and the ombudsman, he gave no clear answer but did not give the impression that the regulator planned to abandon the ‘systemic failure’ test.<sup>284</sup> When we put the same question to the Minister, Eddie Hughes MP, he told us it was not his role to “second-guess the role of the regulator”, which “rightly values its independence”, but he also said that the Government’s reforms were giving everybody, including the regulator, “the opportunity to revisit the way they work” and that he “would not be surprised” if there was change as a result of the legislation.<sup>285</sup>

**154. The Regulator of Social Housing is independent of the Government and is alone responsible for the interpretation of its statutory duties. It interprets its duty to minimise intervention and act proportionately to mean that it should only find a provider non-compliant with the consumer standards if it also finds evidence of systemic failure. The application of this ‘systemic failure’ test has resulted in perhaps the most passive consumer regulatory regime permissible under the Housing and Regeneration Act 2008. It has also opened up a clear and worrying gap between the remit of the Housing Ombudsman, which investigates individual complaints, and that of the regulator. As happened at the Eastfields estate, it is possible under the ‘systemic failure’ test for a provider to be guilty of very serious mismanagement affecting dozens of tenants and not be found in breach of the standards.**

**155. We did not find the explanation by the Regulator of why Clarion could be compliant in the case of Eastfields to be convincing, especially given the comparison with Croydon Council and Regina Road. Croydon had been found guilty of systemic failure because it “simply did not have the systems to identify that things were going wrong”, whereas Clarion “had those systems and processes in place” yet still allowed things to go wrong. The former suggests incompetence; the latter suggests indifference; but our view is that both constitute systemic failure.**

***156. To ensure that the consumer regulatory regime does not continue to let down tenants whose providers are responsible for serious mismanagement that does not meet the ‘systemic failure’ test, we strongly urge the Regulator of Social Housing to reconsider its interpretation of its duty to minimise interference and act proportionately. In particular, we recommend that it scrap the ‘systemic failure’ test and report back to us on how it plans to change its approach. We also recommend that the Government amend Clause 4 of the Social Housing (Regulation) Bill to require the regulator and the Housing Ombudsman to set out in their memorandum of understanding how they intend to prevent gaps between their respective remits.***

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283 [Q325](#) [Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing]

284 [Qq327–329](#) [Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing]

285 [Q361](#) [Eddie Hughes MP, Minister for Housing, Department for Levelling Up, Housing and Communities]

### *The principle of co-regulation and tenant involvement*

157. Mindful of its duty to minimise interference and to act proportionately, and of its fundamental objective of supporting the provision of social housing, the regulator also takes what it calls a “co-regulatory approach” to regulating both the economic and the consumer standards. This means that:

- providers are responsible for ensuring their businesses are “managed effectively” and “comply with all regulatory requirements”;
- providers must support tenants to shape and scrutinise service delivery and to hold boards and councillors to account; and
- the regulator operates as an “assurance-based regulator”, “seeking assurance from providers that they are complying with the standards” - in other words, “the onus is on providers” to demonstrate compliance.<sup>286</sup>

158. There was strong support among providers for the co-regulatory approach to regulating the standards.<sup>287</sup> The G15, the group representing London’s largest housing associations, called co-regulation “a mature approach which places the onus on boards of registered providers to work with residents in seeking assurance that standards are being met, and then demonstrating how they do this to the regulator”.<sup>288</sup> The Grand Union Housing Group called co-regulation an important principle and said the “traditional social housing sector takes regulation seriously; things will go wrong, mistakes happen and in the vast majority of cases, regulated entities put things right”.<sup>289</sup> South Yorkshire Housing Association called the regulator’s approach “proportionate and level-headed”.<sup>290</sup>

159. In contrast, the NFA criticised the co-regulatory approach for putting “far too much faith in organisations doing the right thing”.<sup>291</sup> Yorkshire Housing Association said the regime was too dependent on the willingness of landlords to engage in meaningful co-regulation.<sup>292</sup> The Social Housing Action Campaign said co-regulation could “more accurately” be described as “self-regulation”,<sup>293</sup> as did one other submission,<sup>294</sup> whilst someone else said it encouraged providers to “see what they can get away with”.<sup>295</sup> TPAS said it relied “on boards or relevant local authority committees to satisfy themselves as to compliance with consumer standards” but that boards “understandably” focused on “major risks” and were “aware that the regulator doesn’t proactively regulate consumer standards”.<sup>296</sup>

160. The 2008 Act requires the regulator to promote awareness of its functions among tenants of social housing and, where it thinks it appropriate, to consult them about, and

286 Regulator of Social Housing, [Regulating the Standards](#), March 2022, p. 8

287 Liverpool City Region Housing Associations (Policy and Communications Group), Sovini Group ([RSH0019](#)); South Yorkshire Housing Association Ltd ([RSH0038](#)); Northern Housing Consortium ([RSH0049](#)); G15 ([RSH0073](#)); Grand Union Housing Group ([RSH0076](#)); The Riverside Group Ltd ([RSH0077](#))

288 G15 ([RSH0073](#))

289 Grand Union Housing Group ([RSH0076](#))

290 South Yorkshire Housing Association Ltd ([RSH0038](#))

291 National Federation of ALMOs ([RSH0068](#))

292 Yorkshire Housing ([RSH0067](#))

293 Social Housing Action Campaign ([RSH0030](#))

294 Mr Liam Kelly ([RSH0096](#))

295 Anonymous ([RSH0056](#))

296 TPAS ([RSH0042](#))

involve them in, the exercise of its functions.<sup>297</sup> This statutory duty is not reflected in the co-regulatory approach to regulating the standards. The only reference to tenants in the regulator’s definition of co-regulation reads: “providers must support tenants to shape and scrutinise service delivery and to hold boards and councillors to account”. In short, it would appear that the principle of co-regulation covers the relationship between the regulator and providers and between tenants and providers but not that between the regulator and tenants.<sup>298</sup>

161. As a result, we heard evidence that the regulator was not listening to residents.<sup>299</sup> Residents from Barkantine estate, near Canary Wharf, said the regulator did not seem interested in residents’ experience. They said their provider had failed to consult residents properly about a proposed merger, and when they asked the regulator to investigate, the latter only spoke to the provider, “accepted the CEOs version without question”, and “seemed to have no interest in what residents thought”. They called the whole process “just a box that needed ticking”.<sup>300</sup> Suzanne Muna said the regulator relied “almost entirely on the word” of providers.<sup>301</sup> Eastfields Residents Association said it had “become apparent” that nothing would change unless the regulator started listening “to residents themselves, rather than just listening to” providers’ “side of the story”.<sup>302</sup> Jonathan Walters appeared to confirm a lack of engagement with residents by the regulator. When asked about the regulator’s investigation at Eastfields, he said it “engaged extensively with Clarion”, “took evidence from the ombudsman” and “looked at its own casework on Clarion”, but mentioned nothing about speaking to tenants.<sup>303</sup> Nick Burkitt, DLUHC, said the regulator knew it had to listen to tenants and that their voices must be heard.<sup>304</sup>

**162. If the Regulator of Social Housing engages as little with tenants as seems to be the case, we are deeply concerned. It is impossible for the regulator to even give the appearance of putting tenants at the centre of its consumer regulation if it does not seem interested in their experience, even where a provider has failed tenants as badly as Clarion did at Eastfields.**

**163. We recommend that the Government use the Social Housing (Regulation) Bill to amend the Housing and Regeneration Act 2008 to place a much clearer requirement on the Regulator of Social Housing to engage with tenants whenever it investigates possible breaches of the consumer standards. Whether or not the Government does this, we call on the regulator to place tenants at the centre of its approach to regulation, to talk to tenants whenever it investigates a potential breach of the consumer standards, and to incorporate engagement between itself and tenants into its definition of co-regulation.**

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297 Housing and Regeneration Act 2008, [Section 98](#)

298 Regulator of Social Housing, [Regulating the Standards](#), March 2020, p. 6

299 Barkantine Management Team ([RSH0031](#)); Miss Danielle Gregory (Projects and Campaigns at Tower Blocks UK) ([RSH0024](#)); [Q23](#) [Suzanne Muna, Representative, Social Housing Action Campaign]; Eastfields Residents Association ([RSH0032](#)); [Q36](#) [Professor Ian Cole, Chair of Board Management, South Yorkshire Housing Association]

300 Barkantine Management Team ([RSH0031](#))

301 [Q23](#) [Suzanne Muna, Representative, Social Housing Action Campaign]

302 Eastfields Residents Association ([RSH0032](#))

303 [Q323](#) [Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing]

304 [Q381](#) [Nick Burkitt, Head of Affordable Housing Regulation and Investment, Department for Levelling Up, Housing and Communities]

## Economic regulation

### *The regulator's economic objective and economic standards*

164. The regulator's economic objective - the second of the two fundamental objectives under the 2008 Act - is to:

- ensure that registered providers “are financially viable and properly managed, and perform their functions efficiently and economically”;
- support the provision of social housing sufficient to meet reasonable demands (including by encouraging and promoting private investment in social housing);
- ensure that value for money is obtained from public investment in social housing;
- ensure that an unreasonable burden is not imposed (directly or indirectly) on public funds; and
- guard against the misuse of public funds.<sup>305</sup>

To meet this objective, the regulator has set three economic standards: the governance and financial viability standard, the value for money standard and the rent standard.<sup>306</sup>

### *The regulator's approach to regulating the economic standards*

165. The regulator takes both a proactive and a reactive approach to regulating the economic standards. Its proactive regulation only applies to providers with more than 1,000 homes and includes, among other things, periodic in-depth assessments (IDAs). The frequency of IDAs depends on providers' risk profiles but in most cases they are done every three or four years. Throughout its engagement, the regulator says it will “require evidence of compliance, rather than assuming it”.<sup>307</sup> Where necessary, it publishes regulatory judgments on providers' compliance with the governance and financial viability standard. There are four governance grades (G1, G2, G3 and G4) and four viability grades (V1, V2, V3 and V4). Grades G1 and G2 and V1 and V2 are considered compliant, although the expectation is that all providers should be G1 and V1.<sup>308</sup>

166. In addition, the regulator takes a reactive approach to regulating the economic standards as it does with the consumer standards. In respect of providers that own more than 1,000 properties, when it receives information or allegations, whatever the source, it will “seek to ascertain” whether any of it suggests a breach of one of the economic standards that might warrant regulatory action. In accordance with its interpretation of its duty to minimise interference and act proportionately, it will investigate only:

- where the issues relate to the viability of a private registered provider;
- where they could,

305 Housing and Regeneration Act 2008, [Section 92K](#)

306 Regulator of Social Housing, [Governance and Financial Viability Standard](#), 31 March 2015; Regulator of Social Housing, [Value for Money Standard](#), 3 June 2021; Regulator of Social Housing, [Rent Standard](#), 15 November 2021

307 Regulator of Social Housing, [Regulating the Standards](#), March 2020, pp. 11–17

308 Regulator of Social Housing, [Regulating the Standards](#), March 2020, pp. 28–29



- if proven, affect its regulatory judgement of the private registered provider, or,
- if proven and unaddressed, have a significant reputational risk for the sector; or,
- if proven, could affect its view of a local authority registered provider’s compliance with the rent standard.

167. In respect of smaller providers, it only investigates where, if proven, an issue might “trigger the use of its statutory powers by reason of” either “a failure to comply with the standards” or “mismanagement”.<sup>309</sup> If it finds a provider in breach of an economic standard and decides to take action, it most often downgrades either its governance or its viability rating.

### *The effectiveness of economic regulation*

168. The regulation of the economic standards is generally considered to have been a success in reassuring investors about the attractiveness of the sector.<sup>310</sup> UK Finance said that the “robustness of the economic regulation regime” had given investors “the confidence needed to lend and to invest” and had “enabled private finance and investment to be widely available to housing associations at competitive rates”.<sup>311</sup> Campbell Tickell said the regulator had “succeeded in fulfilling its role as a risk-based regulator” by “giving primacy of focus to protecting social housing assets”. It said it had “prevented the collapse of financially unstable housing associations” and “maintained the level of engagement in the sector by lenders”. As a result, it said it had “protected the reputation of the sector and its ability to access private funding”. It said the IDAs had been “a particular success” and had “driven a sector-wide improvement in the quality of governance”.<sup>312</sup> Altair said the regulator’s approach meant it had “a grip on the sector’s long-term financial viability” but could “also intervene in a timely way to address any short-term viability issues through active engagement with providers”. On this basis, it felt “the level of regulation” ensured the sector remained “attractive to external investment”.<sup>313</sup>

169. In 2013, one of our predecessor Committee’s published a report on the work of the Regulation Committee of the Homes and Communities Agency, the regulator’s predecessor body. In that report, we were highly critical of the regulator for using its governance ratings to convey its assessment of providers’ financial viability, which we said lacked openness and was confusing.<sup>314</sup> In response, the regulator committed to being more transparent, and is now much tougher on both governance and financial viability.

309 Regulator of Social Housing, [Regulating the Standards](#), March 2020, p. 19

310 UK Finance ([RSH0052](#)); Northern Housing Consortium ([RSH0049](#)); The Riverside Group Ltd ([RSH0077](#)); Great Places Housing Group ([RSH0025](#)); Campbell Tickell ([RSH0094](#)); Liverpool City Region Housing Associations (Policy and Communications Group), Sovini Group ([RSH0019](#)); Altair Ltd ([RSH0059](#)); Optivo ([RSH0044](#)); National Housing Federation ([RSH0088](#)); Nottingham City Council (in conjunction with Nottingham City Homes) ([RSH0080](#))

311 UK Finance ([RSH0052](#))

312 Campbell Tickell ([RSH0094](#))

313 Altair Ltd ([RSH0059](#))

314 Communities and Local Government Committee, Second Report of 2013–14, [The work of the Regulation Committee of the Homes and Communities Agency](#), HC-310, p. 3

### Challenges facing economic regulation

170. The economic regulatory regime, while generally thought to be effective, faces a number of challenges, in particular from:

- the diversification of providers into non-traditional business streams;
- the increasing reliance on borrowing to fund housebuilding and investment in existing stock;
- large-scale mergers resulting in very big providers that some argue have forgotten their original social mission; and
- the emergence of for-profit providers. As touched on earlier, these developments have been partly driven by changes to how social housing is funded.<sup>315</sup>

### Diversification

171. For several years, providers have been seeking to supplement their rental and grant funding income by diversifying into non-traditional business streams, such as market sales, student housing, commercial property portfolios and specialist care.<sup>316</sup> According to the regulator’s most recent sector risk profile, 29% of providers’ forecast income over the next five years is accounted for by activity other than social housing lettings. It said diversification “brings a different profile of risk” and that boards “must ensure that they have the required skills, information and advice to appropriately assess any move into a new business stream” and “have appropriate governance structures and ring-fencing arrangements in place to ensure that social housing assets are not put at risk by, for example, guarantees or impairment relating to non-social assets”.<sup>317</sup> The NHC said diversification would probably require regulation to evolve to take account of diverse business models.<sup>318</sup> TPAS said the regulator needed “the powers and funding to intervene when a registered provider’s non-regulated activity” risked “reputational damage to the wider sector” and that this was of particular concern as it was “often the larger and more high profile [providers that engaged] most extensively in diversified business activities”.<sup>319</sup>

### Mega-mergers

172. The original 2008 Act required registered providers to obtain the regulator’s consent for mergers. In 2015, the ONS reclassified the sector as part of the public sector, and cited this power among the reasons for concluding there was too much central control over the sector. As such, the Government amended the Act to require providers only to notify the regulator of its intention to merge.<sup>320</sup> We asked Jonathan Walters whether the regulator would like the power to consent to mergers again. He said no one “would welcome the debt being put back on the public sector balance sheet”, pointed out that mergers were happening before it lost the consent power, and said mergers were increasingly being driven by the need to have “the financial capacity to withstand some of the financial

315 National Federation of Housing, [The history of housing associations](#); Social Housing, [Are HAs becoming more like housebuilders?](#), 4 October 2019

316 Social Housing, [Sector sees large rise in income from non-social housing](#), 4 October 2019;

317 Regulator of Social Housing, [Sector risk profile 2021](#), October 2021, p. 7

318 Northern Housing Consortium ([RSH0049](#))

319 TPAS ([RSH0042](#))

320 Housing and Planning Act 2016, [Section 92 and Schedule 4](#)

pressures” on providers at the moment. He also said in recent mergers providers had been considering whether they were getting too big and were committing to moving to patch systems or to reintroducing local housing officers. He also said they were starting to recognise that as they got bigger they needed “to work quite hard” to ensure they stayed “in touch with their local communities”. Finally, he said the regulator had seen no “direct correlation” between the size of a provider and its performance”.<sup>321</sup>

### *Reliance on borrowing*

173. In response to cuts to grant funding, providers have become more reliant on debt that it finances through more commercial activity, such as building and selling homes for market rent and sale. As a result, debt now accounts for the majority of financing in the sector.<sup>322</sup> In March 2021, Standard and Poor, the credit ratings agency, predicted that the need to invest in existing stock and to develop new homes would drive up debt in the sector to £107 billion by 2023.<sup>323</sup> In its latest sector risk profile, the regulator said providers were “forecasting greater reliance on debt to deliver increased investment in existing stock and delivering new supply” and that this increased their exposure to interest rate risks. It said failure “to maintain investor appetite and manage interest rate exposure would lead to reduced capacity to deliver new developments and capital investment in existing stock”.<sup>324</sup>

174. In its written evidence, the regulator was relaxed about the level of debt in the sector. It said its economic regulation had meant “no secured creditor” had yet “made a loss from investing in social housing” and that lenders continued “to have confidence in the social housing sector” which was “allowing it to benefit from borrowing at favourable rates”. It said at the end of September 2021 the sector had a total of £115 billion in “facilities”, not all of which had been drawn, and that in 2020/21 it had agreed “the highest level of new facilities recorded in a single year at £15.1 billion”, which was supporting “investment in existing homes as well as the provision of new social housing”.<sup>325</sup> Jonathan Walters told us the sector was in a “good financial position” but acknowledged that the country was coming to the “end of a period of low borrowing costs”, that interest rates were beginning to rise and that inflation was “the big economic story at the moment”. He said this would have a “particular impact on housing association business plans” and that there were some “challenges” and “headwinds”.<sup>326</sup>

### *For-profit providers*

175. As we touched on earlier, for-profit providers have been allowed to register with the regulator since the 2008 Act was passed, and their number has increased rapidly in recent years. In its social housing White Paper, the Government said for-profit providers could present dangers, especially if those providers sought to maximise profits at the expense of service provision, and that it would continue to work to ensure it properly understood the impact of for-profit provision. In the meantime, it said it would tighten the definition of “non-profit” to ensure providers were properly classified—for example, to:

321 [Q336](#) [Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing]

322 Regulator of Social Housing, [Sector risk profile 2021](#), October 2021, para. 5.1

323 Inside Housing, [Housing associations to rack up £107 billion in debt by 2023, S&P predicts](#), 17 March 2021

324 Regulator of Social Housing, [Sector risk profile 2021](#), October 2021, para. 5.5

325 Regulator of Social Housing ([RSH0065](#))

326 [Q334](#) [Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing]

- prevent providers that are really for-profit from attracting the more favourable housing benefit status for supported housing;
- require providers to notify the regulator when there was a change in control; and
- introduce a “look through” power to enable the regulator to follow the money paid to bodies outside of the regulated sector and who were therefore not directly regulated.<sup>327</sup>

176. The proposed “look through” power is set out in Clause 3 of the Social Housing (Regulation) Bill. The clause will broaden the regulator’s existing power to require third parties to provide documents or information it thinks relevant to its regulatory functions. Currently, the regulator can only require information from third parties if the provider has not, or cannot, provide it itself. The aim of the clause is to ensure the regulator can follow information relating to funds or assets after they have left the regulator sector and so improve its ability to regulate the economic standards. It would, for example, enable the regulator to follow money paid to bodies outside of the social housing sector and investigate potential fraud by examining the financial accounts of organisations thought to be financially deriving profits from the activities of a registered provider.<sup>328</sup>

### *The increasing complexity of some providers’ financial and other arrangements*

177. Devonshires Solicitors said that, as a result of commercialisation and diversification, some providers had entered into complex financial arrangements, including the use of interest rate derivatives, complicated corporate structures, including the use of multiple entities and joint ventures with private sector businesses, and complex asset-holding structures, including arrangements under which ownership of the primary asset sits outside the registered provider, which then holds it on a medium-term lease.<sup>329</sup> It said the regulator had not sought to “write specific guidance for each type of structure” but was relying “on its overall approach to sound governance and protections of financial viability”, and that when things had gone wrong, it had “frequently been because the board and/or officers did not fully understand the risks of the structures they were entering into”.<sup>330</sup>

178. Savills said the regulator appeared “limited in its capacity to quickly take action”, especially in respect of “very specialist provision, particularly complex business structure, or scale of activity”. It said the regulatory framework had been developed before the emergence of very large providers with over 100,000 homes and that recent well-publicised cases had shown that some large providers could be found to be performing acceptably overall but still “experience severe local service failures” that put “the health and well-being of residents at risk”.<sup>331</sup>

179. Optivo said the regulator would need to ensure it had “the requisite skills, budget and resources in place to manage providers with a more diverse range of operating and funding/investor models” and that its knowledge and experience of “traditional, charitable

327 Ministry of Housing, Communities and Local Government, [The Charter for Social Housing Residents](#), 17 November 2021, pp. 35–44

328 [Explanatory Notes to the Social Housing \(Regulation\) Bill](#), pp. 6–7

329 Devonshires Solicitors LLP ([RSH0039](#))

330 Devonshires Solicitors LLP ([RSH0039](#))

331 Savills (UK) Ltd ([RSH0063](#))

housing associations” would “no longer suffice”. It said the regulator would need staff with a “strong commercial background, including those previously involved in regulating a sector where generating profit or shareholder value [were explicit aims]”.<sup>332</sup> The British Property Federation suggested the regulator recruit more staff from the areas it was now having to regulate.<sup>333</sup>

180. We asked Jonathan Walters whether the regulator had the skills and capacity to understand and effectively regulate the increasing complexity of the sector. He told us the regulator had “to work hard to keep up to speed” and that ever since the failure of the Cosmopolitan Housing Group<sup>334</sup> the regulator had been focused on ensuring it had the “skills and capacity” to understand the new structures. He also said the complexity of providers constitutions and borrowing arrangements was one of the focuses of its IDAs and that this included assessing whether boards had the right skills and were taking the right advice to understand and manage risk.<sup>335</sup>

181. On the capacity of the regulator to ensure the financial viability of an increasingly complex sector, the Minister said he would not want to see “a ginormous regulator”, because that would be “indicative of the fact that things are not running well”, but he did say the regulator would no doubt increase its “muscularity” and staffing levels in order to be “on top of the situation”. He was confident that the regulator appreciated how complex the new financial arrangements and company structures were and that it had been “staffing up and recruiting based on that understanding”.<sup>336</sup>

182. As the sector has grown and become more complex, many larger providers have acquired portfolios covering very large geographical areas. Consequently, many communities are now served by several different providers, potentially making the provision of housing services in those areas less efficient. In view of this, we asked Jonathan Walters whether the regulator, under its regulation of the value for money standard, should be trying to shape the market by encouraging providers to rationalise and consolidate their portfolios. He said some providers had been consolidating through stock swaps, and the regulator did “encourage landlords to think about putting in place the best arrangements to deliver the best value for money”. However, reshaping the market was not in the regulator’s remit, as it would take the regulator “beyond minimising interference”. When we asked if the Government should reconsider the duty to minimise interference, he said it “would be a very different regulator” and that the Government “would need to think very carefully about the trade-off, the pros and cons, that would come from that”.<sup>337</sup>

**183. The social housing sector has commercialised and diversified almost beyond recognition since 2011. That nothing has gone seriously wrong yet should be no cause for complacency, especially as we enter a period of rising inflation and interest rates. A single failure in the sector could be catastrophic, particularly given that the assets of housing providers primarily comprise people’s homes. We therefore welcome the**

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332 [Optivo \(RSH0044\)](#)

333 [British Property Federation \(RSH0083\)](#)

334 Cosmopolitan was a housing provider that found itself in serious financial difficulty, following a merger with Chester and District Housing Trust in 2012, and was heading for insolvency before it was rescued by Sanctuary Housing

335 [Q337](#) [Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing]

336 [Qq367–368](#) [Eddie Hughes MP, Minister for Housing, Department for Levelling Up, Housing and Communities]

337 [Qq338–342](#) [Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing]

strengthening of the regulator's powers in the Social Housing (Regulation) Bill. At the same time, however, the Regulator of Social Housing needs the skills and capacity to continue to regulate the economic standards effectively. Having an adequately resourced regulator is not, as was suggested to us, a sign of failure in the sector.

184. We are also uncertain about the argument that any increase in the regulator's powers would prompt the Office for National Statistics to reclassify the social housing sector as belonging to the public sector and so push its debt on to the government balance sheet. The primary consideration should be the interest of tenants, not where the debts sits. In any case, the sector's debt is fairly insignificant compared to the overall public debt. We understand that the regulator's consent powers in respect of mergers was one of the reasons the ONS reclassified the sector in 2015, but it should be possible to give it a stronger role in monitoring mergers that stops short of such a consent power.

185. We disagree with the regulator's assertion that intervening to shape the market - for example, to encourage providers to consolidate their stock in particular areas - would take the regulator beyond its duty to minimise interference. As we have stated elsewhere, we think it should reinterpret this duty, as its current interpretation has resulted in a regulator that is simply too passive.

186. *We urge the Government and the Regulator of Social Housing to make sure the latter has the resourcing, skills and capacity to continue to regulate the economic standards properly. As part of this, the Government must first assess the regulator's capacity now to understand the complex financial and corporate structures proliferating in the sector. We also recommend that it keep an open mind about increasing the regulator's powers to regulate the economic standards, even if this would mean the sector being reclassified. In particular, we recommend that the Government give the regulator more of a role in monitoring mergers to ensure tenants, not shareholders, are at the centre of any decision to restructure.*

## The regulator's regulatory and enforcement powers

### *The regulator's approach to using its regulatory and enforcement powers*

187. In regulating both the economic and the consumer standards, the regulator may make use of various regulatory and enforcement powers provided in the 2008 Act. Its regulatory powers include the ability to survey a provider's social housing stock and to inspect the "performance of its functions in relation to the provision of social housing" or its "financial or other affairs".<sup>338</sup> Its enforcement powers include the ability to issue enforcement notices to require a provider to "take specific action to resolve a specified failure or other problem", to impose financial penalties on providers, to award compensation to tenants, except where they have already been awarded compensation by the ombudsman, and to intervene in the management and constitution of a provider.<sup>339</sup> In deciding when and how to use its statutory powers, the regulator takes "the most appropriate and least

338 Housing and Regeneration Act 2008, [Chapter 6](#)

339 Housing and Regeneration Act 2008, [Chapter 7](#)

intrusive power available”, taking into account its duty to minimise interference and to act proportionately”.<sup>340</sup> In practice, this means the regulator rarely exercises its power under the 2008 Act, and that some of them have never been used at all.<sup>341</sup>

188. As mentioned earlier, in October 2015, the ONS reclassified private providers as public sector bodies, which pushed the sector’s £60 billion of debt on to the public balance sheet. The ONS’s decision was based on its assessment of the level of government control of the sector being exerted through the regulator and local authorities. In particular, it cited recent legislative changes, particularly in the 2008 Act, including government consent powers over asset disposals and the restructuring and winding up of housing associations and powers to appoint managers and officers to housing providers.<sup>342</sup> In response, the Government introduced a series of deregulatory measures through the Housing and Planning Act 2016 designed to reduce the level of central control.<sup>343</sup> In 2017, the ONS accordingly reclassified private providers as belonging to the private sector.<sup>344</sup> As a result, it is sometimes argued, by the sector, the regulator and the Government, that strengthening the regulator’s powers could result in another reclassification.

189. Campbell Tickell and Devonshire Solicitors, both specialists in social housing, claimed the regulator was reluctant to use its remaining enforcement powers as providers subject to statutory intervention by the regulator would usually be considered in default of their loan agreements.<sup>345</sup> Devonshire Solicitors said the regulator was “acutely conscious of the need to protect the reputation of the sector”. It said using its powers could precipitate a default and that if this happened regularly it could in turn damage the sector’s current high rating and prejudice the availability and/or terms of private sector finances.<sup>346</sup> Jonathan Walters said the regulator never took into account the possibility a provider might be in default of a loan agreement when deciding whether to take enforcement action. As evidence of this, he said it regularly used its power to appoint board members, even though this could “trigger a loan default”.<sup>347</sup>

### *Inspections and surveys*

190. Under the 2008 Act, the regulator may arrange for a survey of the condition of homes or for an inspection of a provider’s performance or financial or other affairs.<sup>348</sup> Currently, when regulating the consumer standards, the regulator can only use these regulatory powers where the ‘serious detriment’ test has been met.<sup>349</sup>

191. In the social housing White Paper, the Government said that once the “serious detriment” test had been repealed, it would “introduce routine inspections for the

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340 Regulator of Social Housing, [Annex 1: Guidance on the regulator’s approach to intervention, enforcement and use of powers](#), December 2019, p. 4

341 Devonshires Solicitors LLP ([RSH0039](#))

342 Office for National Statistics, Classification announcement: “Private registered providers” of social housing in England, 30 October 2015

343 [Housing and Planning Act 2016](#)

344 Office for National Statistics, [Statement on classification of English housing associations](#), November 2017

345 Campbell Tickell ([RSH0094](#)); Devonshires Solicitors LLP ([RSH0039](#))

346 Devonshires Solicitors LLP ([RSH0039](#))

347 [Q305](#) [Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing]

348 Housing and Regeneration Act 2018, [Sections 199 and 201](#)

349 Housing and Regeneration Act 2018, [Section 198A](#)

largest landlords (those with over 1,000 homes) every four years”.<sup>350</sup> The Government also promised in the White Paper to reduce from 28 days to 2 days the notice period the regulator must give a provider before it can survey the condition of properties, although it said the regulator was “most likely to use this power in emergency situations when investigating whether tenants are living in unacceptable or unsafe conditions”.<sup>351</sup> Finally, it said it would enable the regulator, following the completion of a survey, to arrange repairs of dwellings in an emergency.<sup>352</sup>

192. The Government is currently legislating to make these changes through the Social Housing (Regulation) Bill.<sup>353</sup> Under Clause 24, the regulator may arrange for emergency remedial action to be carried out, following a survey, if “the registered provider has failed to maintain the premises in accordance with” the consumer standards; if “that failure has caused an imminent risk of serious harm to the health or safety” of tenants”; and if the provider “has failed to comply with an enforcement notice requiring it to take action to address the failure”.<sup>354</sup>

193. We sought to find out from the regulator and the Minister what the inspections regime would involve and how often the regulator would be physically inspecting the condition of people’s homes. When asked what the inspections would involve, Jonathan Walters said:

It will be going out to meet the landlord, to meet their tenants and to look at the information the landlord has. It would be trying to get under the skin of the organisation and how well it is delivering the consumer standards, in much the same way as we currently do on the economic standards.<sup>355</sup>

194. On the power to survey the condition of properties, Jonathan Walters said the regulator’s job “initially” would not be “as an inspector of buildings or properties”. He said the regulator would “have a legal power to look at stock” and that it “would be prepared to do it if we needed to” but that it “would always hope” that the landlord would put things right first, “because it is the landlord who is responsible for providing a good quality home to their tenants” and that the “onus” lay with them.<sup>356</sup>

195. Similarly, the Minister said the regulator would have the “opportunity” to survey properties and that he would be “surprised if the regulator did not carry out inspections at some point” but that the onus was still on providers to be surveying their own properties. He also made it clear that the “routine inspections” referred to in the White Paper would not “automatically” include surveys of physical stock. When asked what they would include, he said: “you could go to see an organisation, meet the direct labour organisation, speak to the people who manage and run that, and get some understanding of how efficient and effective their repairs and service team is”. He said surveys should be undertaken

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350 Ministry of Housing, Communities and Local Government, [The Charter for Social Housing Residents](#), 17 November 2021, p. 35

351 Ministry of Housing, Communities and Local Government, [The Charter for Social Housing Residents](#), 17 November 2021, p. 40

352 Ministry of Housing, Communities and Local Government, [The Charter for Social Housing Residents](#), 17 November 2021, p. 41

353 [Social Housing \(Regulation\) Bill](#), [Lords], Clauses 20, 22 and 24 [Bill 21 (2022–23)]

354 [Social Housing \(Regulation\) Bill](#), [Lords], Clause 24 [Bill 21 (2022–23)]

355 [Q315](#) [Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing]

356 [Qq 312–315](#) (Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing)



on a “risk-assessed basis”, meaning in response to complaints or other referrals to the regulator, and suggested that anything more proactive would be impractical, especially with very large providers.<sup>357</sup>

196. When it was suggested to the Minister that proactively surveying even a relatively small number of properties owned by a single provider would suffice to identify a problem, he said “there might be other ways” the regulator could reassure itself. Nick Burkitt, DLUHC, told us the process had not yet been designed, that the regulator knew it could not “take the word of senior managers at face value, and that it needed to find ways of checking what was really going on.”<sup>358</sup>

**197. The removal of the ‘serious detriment’ test will make it much easier for the regulator to inspect providers proactively and to survey properties where it has reason to suspect serious disrepair. We welcome this development as perhaps the most important reform of the consumer regulatory regime. We appreciate that proactively surveying properties could be burdensome, if done on a large scale, but we do not think the regulator should limit itself to using its powers to survey only reactively.**

*198. We urge the regulator to publish details as soon as possible of how it plans to use its enhanced regulatory powers under the Social Housing (Regulation) Bill, particularly those on inspections and surveys, and to place them at the centre of its new proactive regime for regulating the consumer standards. Even if it only commits to using its power to survey reactively, we urge it to use the power to provide immediate relief to tenants forced to live with serious disrepair.*

### **Financial penalties**

199. Under the 2008 Act, the regulator may also fine private providers (but not local authorities) that breach any of its standards. Currently, the Act provides that the size of a fine may not exceed £5,000, although the current provisions of the Social Housing (Regulation) Bill would permit the regulator to impose unlimited fines and to fine local authorities.<sup>359</sup>

200. We heard some support for, and no objections to, removing the cap on fines.<sup>360</sup> In practice, however, the regulator almost never imposes fines for breaches of the consumer standards.<sup>361</sup> In oral evidence, when asked why the regulator chose not to issue fines, Jonathan Walters told us that the regulator did not find them to be “a particularly effective measure” and that it had “other tools” in its “armoury” that were more effective. He also said that fining not-for-profits and local authorities would take money out of the system. When asked why the Government was lifting the cap, he said fines might be “a useful tool” against the growing number of for-profit providers. When asked if the regulator could be subject to a legal challenge for discrimination if it only fined one type of provider,

357 [Qq373–377](#) [Eddie Hughes MP, Minister for Housing, Department for Levelling Up, Housing and Communities]

358 [Qq379–381](#) [Eddie Hughes MP, Minister for Housing, Department for Levelling Up, Housing and Communities; Nick Burkitt, Head of Affordable Housing Regulation and Investment, Department for Levelling Up, Housing and Communities]

359 Department for Levelling Up, Housing and Communities, [Social housing regulation: draft clauses](#), 29 March 2022

360 TAROE Trust ([RSH0026](#)); Legal & General Affordable Homes ([RSH0082](#)); Shelter ([RSH0047](#)); Savills (UK) Ltd ([RSH0063](#))

361 Savills (UK) Ltd ([RSH0063](#))

he did not provide a direct answer.<sup>362</sup> In response to the same question, the Minister said he “would not expect” the regulator to treat for-profit and not-for-profit providers differently.<sup>363</sup>

**201. Whilst understanding the advantages of a relatively light touch regulatory regime, we still find the regulator to be extremely reticent and passive in its use of its enforcement powers. It is appropriate for the regulator to punish providers responsible for the most serious service failures. If used sparingly, the power to impose fines would have a negligible impact on the sector’s financial position. The fact that the Government is legislating through the Social Housing (Regulation) Bill to remove the cap on fines suggests it agrees with us that the regulator should be fining providers, at least in the most serious cases of service failure.**

*202. We recommend that the Government make it clearer to the regulator that its statutory duty to minimise interference does not preclude it from using its enforcement powers. We call on the regulator to make more use of its enforcement powers, especially in the most serious cases.*

## The scope of the regulatory regime

### Mandating registration

203. For local authorities with housing stock, registration with the regulator is mandatory, but for private providers it is voluntary.<sup>364</sup> Under Clause 112 of the 2008 Act, any “English body” that is not a local authority is eligible for registration if it is, or intends to become, a provider of social housing in England, and if it can satisfy any relevant criteria set by the regulator as to its “financial situation”, “constitution” and “other arrangements for its management”.<sup>365</sup> The Act defines “social housing” as “low cost rental accommodation” or “low cost home ownership accommodation”.<sup>366</sup> Clause 6 of the Social Housing (Regulation) Bill will tighten the regulator’s registration criteria by requiring it to ensure that providers can demonstrate compliance with its standards before registering.<sup>367</sup>

204. We heard strong support for requiring all providers of social housing to register with the regulator.<sup>368</sup> Midland Heart said it was “vital” that all providers of social housing be “subject to, the same regulator, regulations, and requirements ... regardless of size and scope”. It said this would “help protect the reputation of the sector”. It argued that some smaller providers were “less able to deliver effective financial covenants” or were “prone to more governance failures” and that, without proper regulation, “organisations may go under the radar”.<sup>369</sup> According to Altair, the social housing consultants, all providers

362 [Qq 304–308](#) [Jonathan Walters, Deputy Chief Executive, Regulator of Social Housing]

363 [Q387](#) [Eddie Hughes MP, Minister for Housing, Department for Levelling Up, Housing and Communities]

364 Except for organisations receiving financial assistance from Homes England or the Greater London Authority (GLA); for example, see: Regulator of Social Housing, [Registered provider social housing England – stock and rents \(2020–21\)](#), February 2021, p. 21

365 Housing and Regeneration Act 2008, [Clause 112](#)

366 Housing and Regeneration Act 2008, [Clause 68](#)

367 [Social Housing \(Regulation\) Bill](#) [Lords], [Clause 6](#) [Bill 21 (2022–23)]

368 PlaceShapers ([RSH0029](#)); National Federation of ALMOs ([RSH0068](#)); Nottingham City Council (in conjunction with Nottingham City Homes) ([RSH0080](#)); Midland Heart ([RSH0017](#)); Northern Housing Consortium ([RSH0049](#)); Savills (UK) Ltd ([RSH0063](#)); TPAS ([RSH0042](#)); Shelter ([RSH0047](#)); Yorkshire Housing ([RSH0067](#)); Great Places Housing Group ([RSH0025](#)); Sovereign Housing Association ([RSH0100](#)); Altair Ltd ([RSH0059](#))

369 Midland Heart ([RSH0017](#))

should be required to register “because social housing residents and social homes require protections regardless of who their landlords are”.<sup>370</sup> Savills said the “broad success of the regulator regime” suggested “all providers of social housing should be compelled to register”, as it demonstrated the regime was “acceptable to investors”. It said there were “thousands of people” living in unregulated social housing who were “unable to meet their needs well in the open market” and “often vulnerable for financial or social reasons” and who might “benefit from the protection of a regulatory regime”.<sup>371</sup>

205. The CIH and the NHF raised some concerns about mandating registration. The CIH called it “an area that warrants further consideration” but suggested requiring all providers to register could “force some out of the market due to the regulatory burden” and noted that “most non-registered ‘social’ landlords” had “less than 2,000 homes” and were “subject to some form of ‘social regulation’ - for example, by the Care Quality Commission.”<sup>372</sup> The NHF said its membership included some “very small unregistered housing associations” with “small numbers of homes for which they charge social rents, or sub-market rents”, and said their regulation should “remain proportionate given that they are already subject to charities regulation and the general regulations covering landlords”.<sup>373</sup>

206. According to some of the submissions, mandating registration, although desirable, would raise questions about the definition of “social housing” in the 2008 Act, as any organisation caught by it would then be required to register.<sup>374</sup> As Midland Heart pointed out, the current definition would mandate registration by any individual or organisation renting properties at sub-market rates. Instead, it suggested it be based on whether a body is charging rents in line with the rent standard.<sup>375</sup> Altair said there were no rules about how much social housing a provider must provide to be eligible for registration. As it stands, an organisation does not need to be providing any at all, as long as it “intends” to do so. This meant some providers were registering for the benefits (access to exempt accommodation rates, section 106 agreements, tax benefits and grant funding) without providing much social housing. It said it knew of some providers that had only one social home and that amending the eligibility criteria to require that a certain proportion of providers’ stock be social housing could mean these organisations were “better incentivised” to provide more social housing.

207. Jonathan Walters said mandating registration might result in the ONS reclassifying the sector as belonging to the public sector and therefore its debt as part of the national debt.<sup>376</sup> On the same question, the Minister admitted that the current system of voluntary registration risked inadequate providers going unregulated, but he said mandating registration would be disproportionate, since it would mean the Government taking on the sector’s debt.<sup>377</sup> Nick Burkitt said the decision to reclassify the sector as part of the private sector was based partly on assurances that it would not be “fully regulated” and therefore would remain at “arm’s length from the Government”.<sup>378</sup> The Minister

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370 Altair Ltd ([RSH0059](#))

371 Savills (UK) Ltd ([RSH0063](#))

372 Chartered Institute of Housing ([RSH0037](#))

373 National Housing Federation ([RSH0088](#))

374 Midland Heart ([RSH0017](#)); Altair Ltd ([RSH0059](#))

375 Midland Heart ([RSH0017](#))

376 [Q302](#) (Jonathan Walters);

377 [Q394](#) [Eddie Hughes MP, Minister for Housing, Department for Levelling Up, Housing and Communities]

378 [Q397](#) [Nick Burkitt, Head of Affordable Housing Regulation and Investment, Department for Levelling Up, Housing and Communities]

provided further details in writing. He first said the sector would need to be reclassified if the Government mandated registration. After setting out the reasons for the ONS's reclassification, however, none of which involved the question of mandating registration, he adopted a more equivocal tone, saying only that he "would be concerned" that mandating registration might "potentially" result in reclassification".<sup>379</sup>

**208. We are not convinced that requiring all social housing providers to register with the Regulator of Social Housing would necessarily prompt the Office for National Statistics to reclassify the sector as part of the public sector. It might well be the case, but without a definitive statement from the ONS, it is not possible to come to a firm conclusion. This question aside, and notwithstanding the question of how to define "social housing", there seems no justification for abandoning even one tenant to an unregulated social housing provider. We agree, however, that mandating registration might require an amendment to the definition of social housing in the Housing and Regeneration Act 2008.**

*209. We recommend that the Government invite the Office for National Statistics to make a public announcement on whether requiring all social housing providers to register with the Regulator of Social Housing would prompt a reclassification. If the conclusion is that it would not, we recommend that the Government amend the Social Housing (Regulation) Bill to mandate registration through whatever mechanism it deems most appropriate, and if necessary to amend as appropriate the definition of social housing in the 2008 Act.*

### **The regulation of supported housing**

210. One final concern about the scope of regulation related to the provision of specialist supported housing.<sup>380</sup> As Campbell Tickell explained, where a registered provider also provides "care" services, the latter are regulated by the Care Quality Commission (CQC), but this regulatory regime does not extend to provision of "support". In call cases, the regulator is responsible for regulating only the provision of housing, irrespective of what other services a provider offers. This has left those residents, some of whom are extremely vulnerable with complex needs, without the support they require. It suggested the Government learn from Scotland, where supported housing is regulated by the Care Inspectorate, although it said this "would need to be adequately resourced" and staffed by people "with sufficient experience and understanding of housing support provision".<sup>381</sup> Devonshires Solicitors said the regulator might "not be best equipped to manage specialist supported housing activity" and that the CQC or local authorities might be more appropriate.<sup>382</sup> One submission raised very serious concerns about the quality of the support services being provided by providers of supported housing.<sup>383</sup>

211. The Minister confirmed that care services were regulated by the CQC, under the Health and Social Care Act 2008, and that most "support" provided by housing providers was counted as "personal care" and so was caught by this regulatory regime. By law, a service is not regulated by the CQC:

379 [Letter from the Minister for Rough Sleeping and Housing](#), 13 June 2022

380 Campbell Tickell ([RSH0094](#)); Anonymous ([RSH0112](#)); Midland Heart ([RSH0017](#))

381 Campbell Tickell ([RSH0094](#))

382 Devonshires Solicitors LLP ([RSH0039](#))

383 Anonymous ([RSH0112](#))

- if a person is receiving personal care that is not being provided in the place where they are living at the time the care is provided (for example day services); and
- 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.

212. As the Minister explained, the second of these categories covers “a diverse collection of housing-related activities that are provided to people who need help to live independently, or transition to independent living”, but there is no definition of ‘support’ in legislation. As a result, support is not a regulated activity, although it is often commissioned by local authorities, which “provide oversight of the services being delivered under the commissioning contract”. He referred to his statement on 17 March 2022 on supported housing, in which he committed himself to ensuring supported housing was of good quality. To do this, he said the Government would:

- set minimum standards for the support provided to residents;
- give local authorities new powers to “better manage their local support housing market and ensure rogue landlords cannot exploit the system to the detriment of vulnerable residents; and
- change housing benefit regulations “to seek to define care, support and supervision to improve quality and value for money across all specified support housing provision”.

Finally, he said he was working with stakeholders to develop detailed options for delivering on these commitments.<sup>384</sup> We are currently exploring this subject in more detail as part of our inquiry into exempt accommodation.<sup>385</sup>

**213. We are concerned that potentially extremely vulnerable residents in receipt of unregulated support services do not currently benefit from the protection of regulation by the Care Quality Commission. We are encouraged by the Government’s stated commitment to improving standards in supported housing, but it is impossible to say from the few details provided so far whether the proposals will go far enough. We will return to this subject in our upcoming report on exempt accommodation.**

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384 [Letter from the Minister for Rough Sleeping and Housing](#), 13 June 2022

385 [Levelling Up, Housing and Communities Committee, Inquiry into Exempt Accommodation](#)

## Conclusions and recommendations

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### Housing disrepair

1. It is not possible to gauge exactly how prevalent poor quality is within the social housing sector. Given that the English Housing Survey (EHS) estimated that 13% of homes in the social rented sector failed to meet the decent homes standard in 2020, it is fair to conclude that the majority of homes are decent, although we note that this is based on an outdated decent homes standard. It is equally apparent, however, that the condition of some of the stock has deteriorated so far as to be unfit for human habitation and that the impact on the mental and physical health of those affected is extremely serious. According to the EHS, 5% of social housing contains a category 1 hazard. This might be less than in the private rented sector, but it still equates to an unacceptable number of homes. (Paragraph 17)
2. *Whatever the extent and causes of housing disrepair, we call on everyone in and connected to the social housing sector to work together and prioritise above all else the quality of housing being provided to existing tenants. (Paragraph 18)*
3. The level of disrepair in some parts of the social housing sector can undoubtedly be attributed partly to the age and design of the housing stock, some of which was never built to last and is now approaching obsolescence. For this, some blame must attach to successive Governments for not investing enough in new social housing or providing funding specifically for regeneration. We therefore welcome the Government's commitment to building more homes for social rent. (Paragraph 28)
4. We are concerned, however, about the Government's decision to extend the statutory right to buy to all tenants of private social housing providers. The existing policy has reduced the number of homes available for social rent and increased the proportion of the social housing stock that is hard to maintain, as most of the properties bought have been in suburban areas, rather than inner-city areas, where much of the harder-to-maintain stock is concentrated. It is impossible to properly assess the proposal for extending the right, however, as it lacks detail. If it does amount to a genuine right to buy for tenants of private providers, it must surely amount to far greater central government interference in the sector than did the measures that prompted the Office for National Statistics (ONS) in 2015 to reclassify private providers as part of the public sector. (Paragraph 29)
5. *To reduce the social housing sector's reliance on outdated stock, we recommend that the Government introduce funding specifically for regeneration that does not require the delivery of net additional housing and deliver on its commitment to increase the supply of homes for social rent. We also recommend that it amend the Affordable Homes Programme to remove the requirement to deliver net additional housing. (Paragraph 30)*
6. *To prevent the further erosion of the social housing stock, we urge the Government to set out how it plans to fully fund the one-for-one and like-for-like replacement of every home sold under the proposed extension of the statutory right to buy to tenants of private social housing providers. One-for-one replacement must be completed within*

*three years of the sale. We also call on the Government to publish its assessment of whether extending a genuine right to buy to tenants of private providers might result in the ONS reclassifying the sector as part of the public sector. (Paragraph 31)*

7. The social housing sector is under serious financial pressure, and the Government is asking it to do far too much without sufficient resources. We therefore welcome the progress made towards finding a financial solution to the building safety crisis and the Government's commitment to exploring ways of exempting social housing providers from the building safety levy. The Government says the Building Safety Fund is available to social housing providers if they can demonstrate that the costs of remediation are unaffordable or present a threat to financial stability, but it is not clear how easily a provider could demonstrate this. Social housing providers must have exactly the same access to funds for building safety remediation as private sector landlords. There must be no discrimination against social housing. (Paragraph 36)
8. *We recommend that the Government provide an update on social housing providers' access to funds for building safety remediation and commit to ensuring they have exactly the same access to funds as private landlords. It should also provide an assessment of the total cost of remediating the social housing stock, and the gap between this and the funds that are available, from whatever source, to carry out the remediation work. The Government should then work with the sector to identify how the funding gap can be bridged. We also call on the Government to provide an update on the impact of the Social Housing Decarbonisation Fund and on the ability of social housing providers to decarbonise their housing stock. (Paragraph 37)*
9. We agree with our witnesses that housing disrepair, particularly damp and mould, is often aggravated by the inability of tenants to heat or ventilate their homes properly or by overcrowding, or by a mixture of both. We also agree that tenants cannot, and must not, be held responsible for either of these things. It would be unacceptable if anyone was suffering from fuel poverty or experiencing overcrowded living conditions, and also being blamed for their home falling into disrepair as a consequence. This is of particular concern at a time when fuel poverty is likely to increase significantly as a result of rising energy bills. (Paragraph 40)
10. *We urge all providers of social housing to support tenants who, through no fault of their own, cannot heat or ventilate their homes properly. This support should include the provision of dehumidifiers and mechanical ventilation systems to deal with condensation before it leads to damp and mould. (Paragraph 41)*
11. Whilst social housing providers cannot be blamed for the age of their stock or for government policy, they must certainly take responsibility, where they have failed to respond properly to requests for repairs, have preferred quick fixes to structural problems, have failed to properly investigate the causes of serious disrepair, and have allowed sites earmarked for regeneration to fall into disrepair. We are also concerned that many providers are too passive in monitoring the condition of their stock and relying on tenants to report problems. (Paragraph 49)
12. *We recommend that housing providers put in place systems for regularly monitoring the condition of their stock, rather than relying on tenants to report problems. We also*

*recommend that, as part of its review of the consumer standards, the Regulator of Social Housing consider amending its home standard to place a specific requirement on providers to regularly monitor their stock. (Paragraph 50)*

### The treatment of tenants

13. The presence of a stigma attached to being a social housing tenant is very hard to dispute, although it is difficult to say how prevalent stigmatising views are among contractors and staff working for social housing providers. It is also difficult to say how prevalent other types of discrimination are. If, however, even a small number of contractors or staff in the sector are discriminating against tenants, it is clearly a very serious problem that the sector must respond to immediately. (Paragraph 62)
14. *We call on social housing providers to take stigma and discrimination seriously, not to assume its staff are immune from such prejudices, and to ensure their boards better reflect their communities. We also encourage them to make every effort to encourage diversity among their senior management teams. As part of its review of the consumer standards, we also recommend that the Regulator of Social Housing introduce a requirement on providers to demonstrate that their boards and senior management teams reflect the diversity of the communities they serve. (Paragraph 63)*
15. The power imbalance between tenants and housing providers is one of the biggest problems facing the social housing sector today. One of the most effective ways of empowering tenants, however, is through the establishment of tenants and residents associations, led by tenants themselves, with which providers must engage first and foremost when consulting tenants. (Paragraph 67)
16. *We recommend that, as part of its review of the consumer standards, the Regulator of Social Housing amend the tenant involvement and empowerment standard to require providers to support the establishment of genuinely independent tenants and residents associations, including by providing the necessary funding. (Paragraph 68)*
17. The tenant satisfaction measures (TSMs) and the new access to information scheme are central to the Government's plans for making the sector more transparent. While we do welcome the steps taken to improve transparency, we must note how underwhelmed the sector is by these proposals. In their current form, we think they could, if implemented properly, make a small but meaningful contribution to the ability of tenants to hold their provider to account. (Paragraph 75)
18. *We urge the Government and the Regulator of Social Housing to work together to ensure the TSMs and the access-to-information scheme are implemented in such a way that tenants can have confidence in their reliability and effectiveness as a means of holding their provider to account. We also recommend that the regulator set out how it intends to monitor and review the performance of the TSMs, with a view to making improvements if they are not delivering for tenants. (Paragraph 76)*
19. We are pleased the Government is setting up the Social Housing Quality Resident Panel, but we believe there is a strong argument for committing now to making it a permanent national voice for tenants, or at least to establishing such a body in



one form or another. We also have significant concerns about how residents will be selected. If the panel is to speak for tenants, it must be genuinely representative. (Paragraph 81)

20. *We recommend that the Government establish the Social Housing Quality Resident Panel on a permanent basis as the national tenant voice body that tenants representatives have been calling for. The Government should send the strongest possible signal to tenants that it is determined to involve them in the national conversation about how to drive up standards in social housing. To ensure the panel can truly speak for tenants, the Government must also ensure that the selection process is transparent and that the panel includes as broad a mix of tenants as possible.* (Paragraph 82)
21. The commercialisation of social housing can be traced back to the cut to government funding in 2011. Whilst we would like the Government to provide more central funding for specific purposes, such as regeneration, building safety, decarbonisation and new housing, the sector is now clearly dependent on high levels of private investment, and will continue to be so. In many respects, this has had regrettable consequences. Many housing associations have charitable status because they exist to provide housing for those who have difficulty in affording market rent. The interests of private investors, particularly regarding their return on investments, must not outweigh the welfare of tenants. (Paragraph 95)
22. It is difficult to say for certain whether very large providers are more likely to lose sight of their core responsibility, which is to their tenants, but it seems obvious that there is a tendency for such providers to become more remote and impersonal. If such providers struggle to provide more local and personal housing services, it means they are simply too big and have forgotten their original purpose, which is to provide affordable housing to those who cannot meet their housing needs elsewhere. The Regulator of Social Housing's tenant involvement and empowerment standard is far too weak on the provision of local services. (Paragraph 96)
23. *We urge all social housing providers, especially the larger ones, to prioritise putting the tenant at the centre of how they deliver housing services, including by relying far less on impersonal and remote methods of communication and increasing the number of local offices with staff who know the area. We also recommend that, as part of its review of the consumer standards, the Regulator of Social Housing significantly strengthen the wording of the tenant involvement and empowerment standard to require providers to deliver housing services that are genuinely local and tenant centred.* (Paragraph 97)
24. Whatever external or impersonal forces might be contributing to the very poor treatment some tenants have to endure, ultimate responsibility must lie first with the individuals concerned and then with senior management. We therefore strongly welcome the Government's review of qualifications and professional training. Ensuring those working in the sector are properly qualified will be critical, as the most important step in improving service standards must be preventing the wrong people from entering the profession in the first place. We also welcome the announcement of an independent quality panel by the National Housing Federation and the Chartered Institute of Housing. (Paragraph 102)

25. *We call on the Government to provide an update on the progress of its review of qualifications and professional training in the social housing sector, including a timeline for implementation of any new qualifications. (Paragraph 103)*

### The Housing Ombudsman

26. The primary responsibility for resolving disputes between tenants and providers lies with the providers themselves, and yet too often their complaint handling processes are inefficient and obstructive. It is understandable if tenants sometimes conclude they have been specifically designed to prevent them from ever referring their complaint to the Housing Ombudsman. It is also quite clear that, as well as adding insult to injury, the inefficiency of some providers' complaint handling processes is itself contributing to levels of disrepair, since repeated requests for repairs will nearly always also be complaints, and satisfactory resolution will usually involve the completion of remediation or repair work. (Paragraph 111)
27. The introduction of the Housing Ombudsman's complaint handling code and complaint handling failure orders must drive improvement and consistency in the way providers respond to complaints. We are pleased therefore that the Government is legislating through the Social Housing (Regulation) Bill to place the power to establish such a code on a statutory footing. It is not clear, however, if this will strengthen the ombudsman's ability to enforce compliance. We are also concerned that no one is proactively monitoring whether providers have self-assessed against the code, although we are not sure if the ombudsman or the Regulator of Social Housing would be best placed to do this. (Paragraph 112)
28. *If they have not already done so, all providers must immediately review and where necessary improve their complaint handling processes. As part of this, all providers that have not already self-assessed against the ombudsman's complaint handling code should immediately do so. We also recommend that the ombudsman more proactively monitor providers' compliance with the code. (Paragraph 113)*
29. *We recommend that the Government legislate through the Social Housing (Regulation) Bill to place a legal requirement on social housing providers to self-assess against the Housing Ombudsman's complaint handling code and to report to the ombudsman when they have done so. To ensure that providers are self-assessing against the code, we recommend that either:* (Paragraph 114)
- *the Government give the ombudsman the power and duty to monitor whether providers are self-assessing against the complaint handling code and whether their complaint handling processes are broadly in line with it; or*
  - *the regulator, as part of its review of the consumer standards, introduce a new requirement on social housing providers to self-assess against the complaint handling code and to implement complaint handling processes that are broadly in line with it.*

30. The Housing Ombudsman's new power to investigate systemic issues across the sector is an extremely valuable tool for improving quality across the sector, and we disagree strongly with the assertion that this represents any sort of encroachment on the remit of the Regulator of Social Housing. (Paragraph 117)
31. *We encourage the Housing Ombudsman to continue investigating systemic failings across the social housing sector. In response to this report, the ombudsman should identify which further areas it may investigate. We further encourage both the ombudsman and the Regulator of Social Housing to continue co-operating and sharing information, building on each of their roles so their work complements each other, with a view to driving up standards across the sector.* (Paragraph 118)
32. The Housing Ombudsman is supposed to award compensation to cover financial loss and avoidable inconvenience, distress and detriment. We do not think, however, that the levels of compensation being awarded come anywhere close to reflecting any of these things. We also think financial loss should explicitly include loss of earnings incurred when tenants stay at home waiting for repairs teams that do not then turn up. (Paragraph 124)
33. We welcome the ombudsman's decision to increase the levels of compensation for the most serious service failings, but even these are inadequate. If the Government thinks tenants in the private rented sector (PRS) should be entitled to compensation of up to £25,000, it cannot argue otherwise for social housing tenants. To tolerate a situation in which social housing tenants are not receiving the same levels of compensation as tenants in the PRS would amount to blatant discrimination. Significantly increasing levels of compensation should also help to concentrate the minds of boards and senior management teams on improving service standards. (Paragraph 125)
34. *The Government must commit to ensuring social housing tenants get the same levels of compensation it has said tenants in the PRS will be entitled to under its proposals for a new ombudsman. We recommend it does this by amending the Social Housing (Regulation) Bill to include provisions setting out that the ombudsman may award compensation of up to £25,000. If not, it should publish its justification for treating social housing tenants and PRS tenants differently. Whether it commits to doing this or not, we call on the ombudsman to immediately increase the levels of compensation it awards. We also recommend that it include among those things for which it may award compensation an explicit reference to loss of earnings incurred when tenants take time off work to wait for repairs teams that do not turn up.* (Paragraph 126)
35. It is clear from the evidence we received during this inquiry, and from the constituency casework we deal with, that generally tenants are not aware of the Housing Ombudsman. We welcome the work the ombudsman has done recently to raise awareness of its service among tenants and agree that this could partly explain the increase in the number of complaints being referred to it. Providers, however, are very clearly not doing enough to inform tenants of their right to take a complaint to the ombudsman. It is possibly too easy for tenants to miss sentences inserted into correspondence and links on websites if they have not been made prominent. (Paragraph 132)

36. *We encourage all social housing providers and the Housing Ombudsman to adopt a co-ordinated strategy to increase awareness among tenants of the ombudsman. As part of that, providers should routinely send letters and leaflets specifically about how they can complain to the ombudsman, as well as including this information in all other correspondence. Every single piece of correspondence about a complaint that providers send to tenants should inform the latter of their right to complain to the ombudsman and how to go about it. This should also explain that if tenants take legal action they cannot also refer their case to the ombudsman. We also recommend that the Regulator of Social Housing, as part of its review of the consumer standards, introduce a requirement on housing providers to ensure tenants are aware of their right to take a complaint to the ombudsman. (Paragraph 133)*
37. It appears that some local authorities might have misinterpreted the Housing Health and Safety Rating System enforcement guidance, and as such are not inspecting private providers. We welcome the Minister's reiteration that a council can inspect a property owned by a private provider and issue an enforcement notice, although we note the significant pressures on local government finances at the moment. Perhaps more than anything else, these inspections could provide social housing tenants trapped in potentially unsafe homes with the reassurance that they can turn to someone independent of their housing provider who will advocate on their behalf. (Paragraph 137)
38. *We strongly recommend that the Government immediately make it clear to local councils that they have a duty to inspect all unsafe homes, irrespective of who owns it, including, if necessary, by producing new enforcement guidance. This must include setting out that there is nothing preventing a council's environmental health team from inspecting properties owned by that council and issuing it with a non-legal warning. (Paragraph 138)*

### The Regulator of Social Housing

39. We welcome the removal of the serious detriment test, which has obstructed the effective regulation of the consumer standards for far too long. (Paragraph 147)
40. The Regulator of Social Housing is independent of the Government and is alone responsible for the interpretation of its statutory duties. It interprets its duty to minimise intervention and act proportionately to mean that it should only find a provider non-compliant with the consumer standards if it also finds evidence of systemic failure. The application of this 'systemic failure' test has resulted in perhaps the most passive consumer regulatory regime permissible under the Housing and Regeneration Act 2008. It has also opened up a clear and worrying gap between the remit of the Housing Ombudsman, which investigates individual complaints, and that of the regulator. As happened at the Eastfields estate, it is possible under the 'systemic failure' test for a provider to be guilty of very serious mismanagement affecting dozens of tenants and not be found in breach of the standards. (Paragraph 154)
41. We did not find the explanation by the Regulator of why Clarion could be compliant in the case of Eastfields to be convincing, especially given the comparison with Croydon Council and Regina Road. Croydon had been found guilty of systemic

failure because it “simply did not have the systems to identify that things were going wrong”, whereas Clarion “had those systems and processes in place” yet still allowed things to go wrong. The former suggests incompetence; the latter suggests indifference; but our view is that both constitute systemic failure. (Paragraph 155)

42. *To ensure that the consumer regulatory regime does not continue to let down tenants whose providers are responsible for serious mismanagement that does not meet the ‘systemic failure’ test, we strongly urge the Regulator of Social Housing to reconsider its interpretation of its duty to minimise interference and act proportionately. In particular, we recommend that it scrap the ‘systemic failure’ test and report back to us on how it plans to change its approach. We also recommend that the Government amend Clause 4 of the Social Housing (Regulation) Bill to require the regulator and the Housing Ombudsman to set out in their memorandum of understanding how they intend to prevent gaps between their respective remits.* (Paragraph 156)
43. If the Regulator of Social Housing engages as little with tenants as seems to be the case, we are deeply concerned. It is impossible for the regulator to even give the appearance of putting tenants at the centre of its consumer regulation if it does not seem interested in their experience, even where a provider has failed tenants as badly as Clarion did at Eastfields. (Paragraph 162)
44. *We recommend that the Government use the Social Housing (Regulation) Bill to amend the Housing and Regeneration Act 2008 to place a much clearer requirement on the Regulator of Social Housing to engage with tenants whenever it investigates possible breaches of the consumer standards. Whether or not the Government does this, we call on the regulator to place tenants at the centre of its approach to regulation, to talk to tenants whenever it investigates a potential breach of the consumer standards, and to incorporate engagement between itself and tenants into its definition of co-regulation.* (Paragraph 163)
45. The social housing sector has commercialised and diversified almost beyond recognition since 2011. That nothing has gone seriously wrong yet should be no cause for complacency, especially as we enter a period of rising inflation and interest rates. A single failure in the sector could be catastrophic, particularly given that the assets of housing providers primarily comprise people’s homes. We therefore welcome the strengthening of the regulator’s powers in the Social Housing (Regulation) Bill. At the same time, however, the Regulator of Social Housing needs the skills and capacity to continue to regulate the economic standards effectively. Having an adequately resourced regulator is not, as was suggested to us, a sign of failure in the sector. (Paragraph 183)
46. We are also uncertain about the argument that any increase in the regulator’s powers would prompt the Office for National Statistics to reclassify the social housing sector as belonging to the public sector and so push its debt on to the government balance sheet. The primary consideration should be the interest of tenants, not where the debts sits. In any case, the sector’s debt is fairly insignificant compared to the overall public debt. We understand that the regulator’s consent powers in respect of mergers was one of the reasons the ONS reclassified the sector in 2015, but it should be possible to give it a stronger role in monitoring mergers that stops short of such a consent power. (Paragraph 184)

47. We disagree with the regulator's assertion that intervening to shape the market - for example, to encourage providers to consolidate their stock in particular areas - would take the regulator beyond its duty to minimise interference. As we have stated elsewhere, we think it should reinterpret this duty, as its current interpretation has resulted in a regulator that is simply too passive. (Paragraph 185)
48. *We urge the Government and the Regulator of Social Housing to make sure the latter has the resourcing, skills and capacity to continue to regulate the economic standards properly. As part of this, the Government must first assess the regulator's capacity now to understand the complex financial and corporate structures proliferating in the sector. We also recommend that it keep an open mind about increasing the regulator's powers to regulate the economic standards, even if this would mean the sector being reclassified. In particular, we recommend that the Government give the regulator more of a role in monitoring mergers to ensure tenants, not shareholders, are at the centre of any decision to restructure.* (Paragraph 186)
49. The removal of the 'serious detriment' test will make it much easier for the regulator to inspect providers proactively and to survey properties where it has reason to suspect serious disrepair. We welcome this development as perhaps the most important reform of the consumer regulatory regime. We appreciate that proactively surveying properties could be burdensome, if done on a large scale, but we do not think the regulator should limit itself to using its powers to survey only reactively. (Paragraph 197)
50. *We urge the regulator to publish details as soon as possible of how it plans to use its enhanced regulatory powers under the Social Housing (Regulation) Bill, particularly those on inspections and surveys, and to place them at the centre of its new proactive regime for regulating the consumer standards. Even if it only commits to using its power to survey reactively, we urge it to use the power to provide immediate relief to tenants forced to live with serious disrepair.* (Paragraph 198)
51. Whilst understanding the advantages of a relatively light touch regulatory regime, we still find the regulator to be extremely reticent and passive in its use of its enforcement powers. It is appropriate for the regulator to punish providers responsible for the most serious service failures. If used sparingly, the power to impose fines would have a negligible impact on the sector's financial position. The fact that the Government is legislating through the Social Housing (Regulation) Bill to remove the cap on fines suggests it agrees with us that the regulator should be fining providers, at least in the most serious cases of service failure. (Paragraph 201)
52. *We recommend that the Government make it clearer to the regulator that its statutory duty to minimise interference does not preclude it from using its enforcement powers. We call on the regulator to make more use of its enforcement powers, especially in the most serious cases.* (Paragraph 202)
53. We are not convinced that requiring all social housing providers to register with the Regulator of Social Housing would necessarily prompt the Office for National Statistics to reclassify the sector as part of the public sector. It might well be the case, but without a definitive statement from the ONS, it is not possible to come to a firm conclusion. This question aside, and notwithstanding the question of how to

define “social housing”, there seems no justification for abandoning even one tenant to an unregulated social housing provider. We agree, however, that mandating registration might require an amendment to the definition of social housing in the Housing and Regeneration Act 2008. (Paragraph 208)

54. *We recommend that the Government invite the Office for National Statistics to make a public announcement on whether requiring all social housing providers to register with the Regulator of Social Housing would prompt a reclassification. If the conclusion is that it would not, we recommend that the Government amend the Social Housing (Regulation) Bill to mandate registration through whatever mechanism it deems most appropriate, and if necessary to amend as appropriate the definition of social housing in the 2008 Act.* (Paragraph 209)
55. We are concerned that potentially extremely vulnerable residents in receipt of unregulated support services do not currently benefit from the protection of regulation by the Care Quality Commission. We are encouraged by the Government’s stated commitment to improving standards in supported housing, but it is impossible to say from the few details provided so far whether the proposals will go far enough. We will return to this subject in our upcoming report on exempt accommodation. (Paragraph 213)

## Formal minutes

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The following declarations of interest were made at meetings relating to the Regulation of Social Housing:

### 17 January 2022

Clive Betts declared that he was a Vice-President of the Local Government Association (also declared on 7 February, 9 and 14 March, 19 April and 16 May).

Ian Byrne declared that he was a councillor in Liverpool at this meeting. He also declared he employed a councillor in his office (also declared on 7 February, 14 March, 19 April and 16 May).

Bob Blackman declared that he was a Vice-President of the Local Government Association and that he employed a councillor in his office (also declared on 7 February).

Rachel Hopkins declared that she was a Vice-President of the Local Government Association and employed a councillor in her office.

Matt Vickers declared that he had family members who are councillors, and employed a councillor in his office (also declared on 7 February).

Mohammad Yasin declared that he was a member of the Bedford Town Deal Board (also declared on 9 and 14 March, and 19 April).

### 7 February 2022

Brendan Clarke-Smith declared that he employed councillors in his office, was formerly a Nottingham City councillor, and was an operational board member of Nottingham City Homes.

Mary Robinson declared that she employed a councillor in her staff team (also declared on 19 April and 16 May).

### 9 March 2022

Andrew Lewer declared that he was a vice-president of the Local Government Association (also declared on 14 March and 19 April).

14 March 2022

Kate Hollern declared that she employed a councillor in her office (also declared on 19 April and 16 May).

### 19 April 2022

Darren Henry declared that he was co-chair of Midlands Engine All Party Parliamentary Group, his wife was Police and Crime Commissioner for Nottinghamshire, and that he was a member of the Stapleford Town Board and Stapleford Cycle Network Group.



## 16 May 2022

Ben Everitt declared that he employed a councillor in his office.

Darren Henry declared that he employed a councillor in his office.

## Wednesday 13 July 2022

### Members present:

Mr Clive Betts, in the Chair

Ian Byrne

Darren Henry

Ben Everitt

Kate Hollern

### The Regulation of Social Housing

Draft report (The Regulation of Social Housing) proposed by the Chair, brought up and read.

*Ordered*, That the report be read a second time, paragraph by paragraph.

Paragraphs 1 to 213 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the First Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

### Adjournment

Adjourned until Monday 18 July at 3.30pm

## Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

### Monday 17 January 2022

**Darren Hartley**, Chief Executive, TAROE Trust; **Suzanne Muna**, Representative, Social Housing Action Campaign; **Pat Turnbull**, Regional Representative, London Tenants Federation

[Q1–25](#)

**Clare Miller**, Chief Executive, Clarion Housing Group; **Ben Denton**, Chief Executive, Legal and General Affordable Homes; **Professor Ian Cole**, Chair of Board Management, South Yorkshire Housing Association

[Q26–78](#)

### Monday 7 February 2022

**ClIr David Renard**, Chair of the Economy, Environment, Housing and Transport Board, Local Government Association (LGA); **Chloe Fletcher**, Policy Director, National Federation of ALMOs; **Nick Murphy**, Chief Executive Officer, Nottingham City Homes

[Q79–112](#)

**Kate Henderson**, Chief Executive, National Housing Federation; **Matthew Walker**, Chair, PlaceShapers; **Karen Brown**, Senior Policy Advisor, Northern Housing Consortium

[Q113–160](#)

### Wednesday 9 March 2022

**Jenny Osbourne**, Chief Executive, TPAS; **Dr Amanze Ejiogu**, Senior Lecturer in Accounting and Finance, Newcastle University Business School

[Q161–180](#)

**James Prestwich**, Director of Policy and External Affairs, Chartered Institute of Housing; **Helen Garrett**, National Housing Data and Insights Lead, BRE Group; **Tarun Bhakta**, Policy Officer, Shelter

[Q181–217](#)

### Monday 14 March 2022

**Angela Price**, Tenant, Guinness; **Nicole Walters**, Tenant, Southwark Council; **Daniel Hewitt**, Political Correspondent, ITV News

[Q218–266](#)

### Tuesday 19 April 2022

**Richard Blakeway**, Housing Ombudsman, Housing Ombudsman Service; **Jonathan Walters**, Deputy Chief Executive, Regulator of Social Housing

[Q267–352](#)

### Monday 16 May 2022

**Eddie Hughes MP**, Minister for Rough Sleeping and Housing, Department for Levelling Up, Housing and Communities; **Nick Burkitt**, Head of Affordable Housing Regulation and Investment, Department for Levelling Up, Housing and Communities

[Q353–446](#)

## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

RSH numbers are generated by the evidence processing system and so may not be complete.

- 1 4 Estates Forum ([RSH0011](#))
- 2 Abri Group Ltd ([RSH0105](#))
- 3 Action Disability Training & Consulting ([RSH0043](#))
- 4 Almshouse Consortium Ltd ([RSH0104](#))
- 5 Altair Ltd ([RSH0059](#))
- 6 Anonymous, ([RSH0112](#))
- 7 Anonymous, ([RSH0010](#))
- 8 Anonymous, ([RSH0040](#))
- 9 Anonymous, ([RSH0056](#))
- 10 Association of Residents at St Georges Estate ([RSH0106](#))
- 11 BRE Group ([RSH0078](#))
- 12 Bancroft, Ms Alison ([RSH0006](#))
- 13 Barkantine Management Team ([RSH0031](#))
- 14 British Property Federation ([RSH0083](#))
- 15 Brown, Claire (PhD Researcher , Tyndall Centre for Climate Change - The University of Manchester) ([RSH0069](#))
- 16 Buchanan, Phyll ([RSH0027](#))
- 17 Campbell Tickell ([RSH0094](#))
- 18 Caseworker of Justin Madders MP ([RSH0018](#))
- 19 Chartered Institute of Housing ([RSH0037](#))
- 20 Citizen Housing ([RSH0102](#))
- 21 Clarion Housing Group ([RSH0084](#))
- 22 Cluer, Mrs Lynn ([RSH0013](#))
- 23 Cornwall Council ([RSH0058](#))
- 24 Crisis ([RSH0066](#))
- 25 Denedo, Dr Mercy (Assistant Professor in Accounting , Durham University Business School); and Ejiogu, Dr Amanze (Senior Lecturer in Accounting, Newcastle University Business School) ([RSH0036](#))
- 26 Department for Levelling Up, Housing and Communities ([RSH0050](#))
- 27 Devonshires Solicitors LLP ([RSH0039](#))
- 28 Eastfields Residents Association ([RSH0032](#))
- 29 Edwards, Karen ([RSH0114](#))
- 30 Electrical Safety First ([RSH0020](#))
- 31 G15 ([RSH0073](#))

- 32 George, Mr John ([RSH0005](#))
- 33 Grand Union Housing Group ([RSH0076](#))
- 34 Great Places Housing Group ([RSH0025](#))
- 35 Gregory, Miss Danielle (Projects and Campaigns, Tower Blocks UK) ([RSH0024](#))
- 36 Grenfell United ([RSH0108](#))
- 37 Grimmond, Krystelle ([RSH0115](#))
- 38 HQN Ltd ([RSH0075](#))
- 39 Haringey Defend Council Housing ([RSH0101](#))
- 40 Harlow Defend Council Housing. ([RSH0012](#))
- 41 High Path Community Association ([RSH0092](#))
- 42 Homes for Cathy ([RSH0064](#))
- 43 Homes for the South West ([RSH0051](#))
- 44 Hull Tenants' Forum (Tenant Volunteer, Hull City Council); and Hull Tenants' Forum (Tenant Volunteer, Hull City Council) ([RSH0028](#))
- 45 Information Commissioner's Office ([RSH0103](#))
- 46 Justice for THCH Residents ([RSH0074](#))
- 47 Kelly, Mr Liam ([RSH0096](#))
- 48 King, Professor Andrew (Professor of Sociology, University of Surrey) ([RSH0033](#))
- 49 L&Q ([RSH0081](#))
- 50 Legal & General Affordable Homes ([RSH0082](#))
- 51 Liverpool City Region Housing Associations (Policy and Communications Group); and Sovini Group ([RSH0019](#))
- 52 Livin Housing ([RSH0022](#))
- 53 Local Government Association ([RSH0060](#))
- 54 London Councils ([RSH0090](#))
- 55 London Tenants Federation ([RSH0097](#))
- 56 Look Ahead Care and Support ([RSH0087](#))
- 57 Lord Filkin; Lord Adebawale; Dalvi, Aman; and Simons, Barry ([RSH0079](#))
- 58 Marsh, Mr Dawud ([RSH0111](#))
- 59 Mayor of London ([RSH0109](#))
- 60 McDonagh, Ms Siobhain (Member of Parliament, MP for Mitcham and Morden) ([RSH0053](#))
- 61 Merton Centre for Independent Living ([RSH0048](#))
- 62 Midland Heart ([RSH0017](#))
- 63 Mydin, Ms Nooraini (Writer, Travelogical) ([RSH0071](#))
- 64 National Federation of ALMOs ([RSH0068](#))
- 65 National Housing Federation ([RSH0088](#))
- 66 Northern Housing Consortium ([RSH0049](#))
- 67 Nottingham City Council (in conjunction with Nottingham City Homes) ([RSH0080](#))

- 68 One Manchester ([RSH0062](#))
- 69 Optivo ([RSH0044](#))
- 70 Peabody ([RSH0093](#))
- 71 Piggins, Mr Vincent ([RSH0034](#))
- 72 PlaceShapers ([RSH0029](#))
- 73 Raco, Professor Mike (Professor of Urban Governance and Development, Bartlett School of Planning, University College London); and Freire-Trigo, Dr Sonia (Lecturer in Urban Planning, Bartlett School of Planning, University College London) ([RSH0091](#))
- 74 Rathbone Greenbank Investments ([RSH0086](#))
- 75 Regulator of Social Housing ([RSH0065](#))
- 76 Riverside Group ([RSH0110](#))
- 77 Rodgers, Professor Sarah (Professor of Health Informatics, University of Liverpool); and The Housing and Health Study Team ([RSH0015](#))
- 78 Sage Housing ([RSH0095](#))
- 79 Savills (UK) Ltd ([RSH0063](#))
- 80 Shared Ownership Resources ([RSH0054](#))
- 81 Shelter ([RSH0047](#))
- 82 Social Housing Action Campaign ([RSH0030](#))
- 83 South West London Law Centre ([RSH0098](#))
- 84 South Yorkshire Housing Association Ltd ([RSH0038](#))
- 85 Sovereign Housing Association ([RSH0100](#))
- 86 Stonewater ([RSH0046](#))
- 87 Submission on behalf of G15 largest London housing associations' residents Jamie Ratcliff (Executive Director, Network Homes); Lydia Bocage (Resident, Catalyst); Mary Burke (Resident, Notting Hill Genesis); Marc Merry (Resident, Southern Housing Group); Jerry Piper (Resident, Metropolitan Thames Valley Housing); Fayann Simpson (Resident, L&Q); and Terry Stacey (Resident, Clarion) ([RSH0055](#))
- 88 TAROE Trust ([RSH0026](#))
- 89 TPAS ([RSH0042](#))
- 90 The Almshouse Association ([RSH0021](#))
- 91 The Guinness Partnership ([RSH0107](#))
- 92 The Housing Ombudsman Service ([RSH0023](#))
- 93 The Riverside Group Ltd ([RSH0077](#))
- 94 UK Finance ([RSH0052](#))
- 95 Walsh, ([RSH0008](#))
- 96 Waters, Rachel ([RSH0113](#))
- 97 Wilson, Robert ([RSH0014](#))
- 98 YMCA England & Wales ([RSH0045](#))
- 99 YMCA St Paul's Group ([RSH0089](#))
- 100 Yorkshire Housing ([RSH0067](#))

101 Your Housing Group ([RSH0061](#))

102 believe housing ([RSH0041](#))

## Correspondence

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103 Central Hill Estate Residents Association Committee ([1](#))

104 Department for Levelling Up, Housing and Communities ([1](#)), ([2](#))

105 Guinness Partnership ([1](#))

106 BRE ([1](#))

107 Local Government Association ([1](#))

108 Broadacres Housing Association ([1](#))

# List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the publications page of the Committee's website.

## Session 2021–22

Number	Title	Reference
1st	The future of the planning system in England	HC 38
2nd	Local authority financial sustainability and the section 114 regime	HC 33
3rd	Permitted Development Rights	HC 32
4th	Progress on devolution in England	HC 36
5th	Local government and the path to net zero	HC 34
6th	Supporting our high streets after COVID-19	HC 37
7th	Building Safety: Remediation and Funding	HC 1063
8th	Appointment of the Chair of the Regulator of Social Housing	HC 1207

## Session 2019–21

Number	Title	Reference
1st	Protecting rough sleepers and renters: Interim Report	HC 309
2nd	Cladding: progress of remediation	HC 172
3rd	Building more social housing	HC 173
4th	Appointment of the Chair of Homes England	HC 821
5th	Pre-legislative scrutiny of the Building Safety Bill	HC 466
6th	Protecting the homeless and the private rented sector: MHCLG's response to Covid-19	HC 1329
7th	Cladding Remediation—Follow-up	HC 1249