

## **Response to TSA – Discussion document**

### **Q1. Do the main findings from our National Conversation research have resonance with your experience and are we drawing the correct messages for the development of the new regulatory framework?**

The findings from the National Conversation hold resonance with our own ongoing tenant research around what is important to them. It highlights that tenants want their landlords to get the basics right and provide good quality services, particularly around the way that repairs services are designed and delivered.

We believe that much of what the TSA proposes has drawn on the correct messages for the framework but would like ensure that any framework moves away from a tick-box exercise to something more meaningful. It needs to be simple and ensure that it represents value for money and is less bureaucratic than the current system.

Involvement of tenants is very important, however we believe it is a landlords' role to provide for future tenants and the wider community in which we operate as well as to take into account the wishes and views of current tenants. We need to ensure a balance viewpoint and acknowledge as a sector that a vast number of residents choose not to participate in the management of their housing provider. They simply want a good quality of home and neighbourhood at an affordable rent.

Our only point of concern is that the discussion document mentions that housing groups are not 'tenant friendly'. As a large group we wish to seek further clarification on what exactly 'tenant friendly' means.

### **Q2. Does our approach to regulation seem a reasonable basis on which to proceed and one best designed to ensure we achieve improvements for tenants, whilst generating a sense of ownership from landlords?**

Circle Anglia believes that the discussion document builds on the work of Cave and highlights co-regulation as being the most pragmatic and sensible approach. This is something that we support. We believe clarity is required on what is meant by national standards, local standards/good practice and choice. Our suggestion on what this could look like is outlined below:

- i) National standards set out the minimum to which all landlords (this is across the whole of the social housing domain, including local authorities and ALMOs) must comply.
- ii) Local variations / code of guidance could be based on conversations that were had with RPs / local authorities / ALMOs that go above the national minimum standards. These are the elements of local variation that could be rolled into best practice where they are deemed / shown to deliver added value. This would help to encourage innovation, creatively and encourage high performance. However, these local "variations" should sit outside the performance standards monitored / assessed formally by the TSA.
- iii) Choice – this is around the local standards only. Landlords should be working across the whole of the social housing domain to provide tenants' choice on a local basis as to where they would most like to see resources directed (and it should be noted this would be within the financial parameters of each landlord).

It is essential that local standards are determined after robust consultation work by tenants landlords. We should also be looking at ways of delivering services to tenants and communities that go beyond the initial appreciation of need/demand. In any market, a provider must always be prepared to take the customer beyond their current identified demand.

There is a need to define more clearly what 'local' means. The discussion document leaves it open to interpretation by each housing provider. This is helpful on the one hand, however, as the remit of the TSA expands to include local authorities there is a danger that local standards could be used to benefit local authority indicators / requirements rather than that of tenants. There needs to be a method to review and monitor this.

It is hoped that the pilot local programmes (of which two Circle Anglia partners are involved with), will help to define more what the local indicators might look like. Whilst stock rationalisation maybe a preferred outcome there is a need to recognise that many housing associations have a dispersed stock. Local solutions offer the need to be pragmatic. There is also a danger that common local standards will actually work against

creativity and difference which we believe should be celebrated. Any local framework needs to reflect that housing associations tend to work extensively had a local level in 'driver/main areas' but in others where we have less stock we will seek to work to a national framework (due to time/financial investment).

It is important that any framework does not "penalise" the best performers. We believe that to ensure the best use of time and resources, regulatory time should be focused on those who are maternally failing and helping them to move forward and improve. By setting a minimum standard - and looking for people to go above it - we should reward those RPs who are already well in excess of the minimum standard.

To this end, we are keen that any standard ensures that there is a connection between the TSA and the HCA.

This means that the best performers are left alone, have very light touch regulation and will be allowed to run their businesses without real intrusion. For continual poor performance, there should be penalties, this could include not receiving grant funding for new build or maintenance programmes or ultimately being forced into mergers to improve their performance overall.

We need to be careful about how we compare landlords and we need to ensure that any benchmarking and peer review, is done on a level playing field with clear definitions of how data will be considered and measured. There is a need to establish a high level of confidence in peer review and self regulation through effective governance; and to strike the balance between an inspection and regulation regime and safe guarding tenants and the public's interests. The initial proposal to base risk assessment mainly on the number of units in management is flawed. Risk is not a measure simply of size. Further clarity is needed on how we will be assessed. We would be against setting up of any third party organisation to do this.

In a nutshell we are looking for a framework that has 'teeth' on getting basic standards right but that allows businesses who are performing well to be free from the burden of high intervention.

**Q3: Do our key propositions for shaping the new standards framework seem reasonable basis on which to proceed?**

Circle Anglia's response to question two addresses this question in the main. To reiterate we would support a national minimum standard with local variation / choice building upon these standards. We would emphasise that we believe all landlords across the whole social housing domain should be monitored / scored against the minimum national standards and there is a level playing field for monitoring. On top of this landlords should be highlighted as delivering best practice or rewarded further through local best practice variations. There is not a pragmatic way of trying to regulate all landlords to achieve the same local variations, because by their very nature they will be down to the choice of the local population.

The areas that have been proposed to be covered within the national standards are very similar to many areas that RPs are regulated on today – they seem sensible at this stage.

TSA does need to focus on what matters to tenants. Their national conversation has reiterated what landlords have said for some time and repairs/a good overall service are obviously key. There does need to be an eye on viability (both in the short and long term) as well as landlords having strong governance structure and value for money running through everyone they do (rather than as a separate measure).

National minimum acceptable standards need to be sufficiently flexible to accommodate the variations in service expectations and context at a local level but clear, simple and basic. A tenant in central London may have different needs, aspirations and priorities from those in rural Yorkshire, for example. Therefore, a small number local standards would be beneficial.

Any measurement/codes of practice should avoid duplication with current measures and good practice guides or replace them. It is a waste of time and resources to measure against many different indicators.

**Q4: Does the initial list of areas for national standards and our approach to diversity and tenants with care and support needs seem appropriate?**

We broadly agree with the initial list of areas for national standards. Whilst it makes sense to base the standards on the relevant statutory objectives, the links between the themes and the standards appear more arbitrary for example the tenancy agreement theme includes allocations. In addition, Themes D, E and F contain only one standard each. Although LCHO is included in the scope of the document, there is no explicit acknowledgement of specific services required by, for example, shared owners in the proposed standards.

We agree with the suggestion that diversity should be integrated into every standard as it is a cross cutting area and touch on all aspects of a housing providers work.

We believe that there needs to be flexibility within the standards and, in particular, when dealing with vulnerable tenants. We believe further consideration needs to be given to separating out care and support as these are different services. It is also necessary to avoid double regulation on this area.

Currently the Care Quality Commission regulates RPs where there are care and support elements within the group. It would seem sensible that the TSA, therefore, does not need to regulate this area of work or join forces with the Care Quality Commission. We also believe that more consideration needs to be given to how landlords will engage with vulnerable tenants, particularly groups or landlords who have a large care and support element.

**Q5: Do our initial thoughts on the areas where local standards might supplement national standards seem appropriate?**

Broadly yes. This crosses with our response to question four and again reiterates the need to have a national minimum standard against which all landlords are measured. Local variation / choice will then build upon the minimum standards (subject to budgetary constraints with each landlord) and best practice will be developed this way.

In addition, we need to ensure that local / the definition of local remains variable and it does not give local authorities the ability to manipulate standards to meet their requirements rather than that of tenants.

Inevitably if you offer the choice on local indicators then you cannot consider cross sector performance and this will make the TSA's intent to publish meaningful comparable data very difficult.

There may be significant differences in the aspirations of tenants locally which may prove difficult in setting standards. We believe that national standards will take precedence but that strong governance will help to ensure that local standards are delivered.

**Q6: How do you think the tensions should be managed with regard to whether local standards are within or outside of the regulator's intervention and enforcement powers?**

We believe that the local standards should be outside the regulators intervention and enforcement powers. The local standards can be developed with tenants and governed by local boards and tenant groups. We believe that this will result in best practice being delivered and higher satisfaction with landlords. It will also allow landlords to be creative and push boundaries. If this becomes regulated there is a risk that landlords will 'play safe' with the setting of local standards.

**Q7: What objectives should we have in mind in shaping the national standards that relate to the service offer to tenants?**

The objectives that you should have in mind when shaping the standards should be based on addressing the priorities highlighted by tenants during the national conversation. This includes repairs, choice and generally overall service followed by high quality estate management, security and dealing with anti-social behaviour. This should be a priority rather than standards that simply highlight the need for tenants to have a louder voice or more choice beyond these. Any national standards should be weighted accordingly. Too many standards will detract from the most important issues.

Again we must be aware of vulnerable tenants and ensure that they are not excluded from the new framework and that there is flexibility built in so that they can play a part within it.

We believe that clarity and more recognition is required on what is and what is not applicable to leaseholders and shared owners. Our experience is that choice is very high on the agenda of leaseholders, but there could be a greater recognition of potential cost implications for them.

**Q8: What objectives should we have in mind in shaping the national standards that relate to tenant empowerment and involvement?**

The national conversation highlights that although choice is something that is important to tenants, it is certainly not top of the list. We believe that their views on this should be taken into account and that any framework should not force tenants to get involved.

It might be sensible to incorporate a standard on getting tenants involved, however being prescriptive about how they become involved which would be unwelcomed and potentially difficult.

Any professional housing provider (and indeed any organisation) should already take the views, demands and wishes of their customers into consideration but we believe that this can be done in different ways outside the regulatory standards.

We also need to be clear about the parameters of tenant choice. It has to be recognised that landlords across the whole spectrum of affordable housing will have defined budgets and tenant choice will be constrained and limited within these budgets. Landlords that are able to drive best value and value for money will ultimately deliver the higher levels of satisfaction.

Landlords should be able to determine how we define tenants' choice. This will be an area that becomes complicated if over prescriptive. It will not be uncommon for these requirements to conflict with that of tenants, particularly for example, around the allocation of homes.

Something that standards do not properly cover is a landlord's duty to future tenants or potential future tenants. Landlords have a duty to continue to develop and to increase the level of social housing within the country. The ideas, views and input from future tenants and potential future tenants need to be thought about as well as learning lessons from developments that have gone in the past.

**Q9: What objectives should we have in mind in shaping the national standards that relate to the tenancy agreement?**

When considering the tenancy agreement standard there needs to be a view for how landlords can best deliver the service to the majority of their tenants. This may mean reviewing tenancies that offer the most security to tenants but, instead, provide flexibility to registered providers to offer tenancies that support cohesion in the wider community (e.g starter tenancies, assured short-hold tenancies and other forms of tenancies.)

A second element would be around how social housing is allocated. Historically allocations have been offered up to local authorities as they hold the waiting list. There is a potential conflict between giving tenants choice and listening to the views of existing tenants versus meeting the needs of the wider community.

We believe that registered providers should be given the right / encouraged and supported to only put a percentage of allocations per annum through a choice based letting system or being offered up to a local authority. The remaining allocations should be offered up to existing tenants (of their own housing stock and other social landlords housing stock across the country) through mobility and transfer schemes. This would enable far more mobility and movement by tenants, meeting their needs and aspirations and, therefore, resulting in far more sustainable communities and satisfied tenants.

**Q10: What objectives should we have in mind in shaping the national standard that relates to governance? What are your views on the options presented?**

Regulation should be concentrated on those organisations that fall below the national standard. It therefore needs to be clear, simple and open to checking, thereby enabling the TSA to intervene where necessary and appropriate.

We believe that co-regulation is the way to move forward in terms of the future framework around governance. This needs to combine flexibility in terms of high performing landlords being left to monitor and review their own performance far more, with less intrusive audits and monitoring inspection in the TSA.

Landlords should be mindful that the views of lenders are critical. Lenders must be satisfied that a robust structure is in place for RP and the sector as a whole. Good governance is critical to the future of the sector.

As the conversation has suggested, not all tenants want to be involved. However there needs to be a role for tenants at both a strategic and local level. From the options that have been presented, option one seems very similar to that set out in the current RP sector. There must, however, be cross-domain governance including local authorities and ALMOs.

**Q11: What objectives should we have in mind in shaping the national standard that relates to viability?**

Viability is a critical issue for all landlords. Historically the Housing Corporation only really looked at long-term viability and this has proven to be an error. Viability must be looked at in terms of short-term (including

cash flow) and long term. As in answer 10, above, we believe the views of lenders must not be ignored. They will always want an independent assessment of landlords' viability and we believe that this must be appropriate within the sector.

Viability must be based on a risk assessment approach and, therefore, can be proportionate to the activities and performance / financial strength of the landlords involved. The ability and strength of both the senior management team / the executive and the boards will be critical.

Finally, with viability, we would like to again highlight that the TSA and the HCA working closely together is vital. Development is one of the biggest viability risks for any landlord. As well as leading them to provide poor service, decisions around development can easily lead to landlords becoming unviable if they are made in an uncoordinated way. As the TSA no longer controls the "purse strings" of where money is invested going forward, we believe the TSA and HCA should join up when allocating funds to housing providers. We believe that before the HCA makes a grant housing providers must demonstrate that they are high performing, financially viable and have a good governance structure. If funds are allocated to poor performing landlords this sends out poor signals to the sector and risks rewarding failure.

**Q12: What objectives should we have in mind in shaping the national standard that relates to value for money?**

We believe that value for money should not be a separate standard, but should be running through everything landlords across all domains, deliver for tenants. A focus on value for money is the product of rationing through price central. Value for money should be best demonstrated by the surplus that a landlord can achieve.

**Q13**

**Does our approach to monitoring information appear a reasonable basis on which to proceed?**

With monitoring information, again the key issue is about ensuring that it is kept to a minimum unless a housing provider is failing. We believe that the current housing ombudsman system works and that there is no need to change this element of monitoring.

There must be a whole domain approach to regulation and we do not believe that allowing local authorities and one or two others to be outside of this framework is helpful, pragmatic or appropriate.

We require more clarity on the rigour of information gathered, how it will be assessed and the extra cost this is likely to fall onto the landlords. We need to ensure that any framework provides value for money itself and is efficient and effective. Adding additional costs to landlords in this economic climate does not seem sensible. We would question the cost of introducing any additional measures such as kite marks.

Where possible, data collection needs to be simple and consistent as far as reasonably possible. Tenants should be able to collect data which is meaningful and timely and via the media they prefer.

Through co-regulation the role of the boards will clearly be critical. The ability for RPs to pay boards at a rate comparable with other sectors such as the NHS, would allow landlords to compete for the best candidates in the marketplace.

**Q14**

**What are your views on the potential options for a grading system for assessing relative performance of landlords?**

We believe that a national standard, with a simple measure of pass or fail is all that is needed to determine where regulation is required. Excellent performance should be reported and rewarded with incentives for these organisations.

However, there is as always an issue around how data is assessed, collected and analysed and we must ensure we are comparing "apples with apples" within any assessment system. It would be useful to have a judgement on the 14 standards to highlight areas needing attention, but with an overall judgement of 'pass or fail' on the landlord's performance, annually.

**Q15**

**What are the best ways we might incentivise good landlord performance and encourage best practice?**

We believe that incentives to reward good landlord performance is essential. We would suggest it needs to be based around financial reward to deliver larger maintenance programmes, developing new homes or other forms of financial incentive such as lower fees, more flexibility to change service offering (or perhaps price), less regulation and/or the acquisitions of failing associations in a productive manner.

Where performance continues to be low (despite initial assistance / intervention), landlords need to be aware that there are consequences. The removal of senior executives and boards still needs to be in the power of the TSA and enforced mergers need to be far stronger to ensure that the poor performers are moved into arenas / RPs / landlords or groups that are high performers.

The issue of stock rationalisation also needs to be viewed in a much more robust manner. There are landlords with stock scattered over a very wide and diverse geographical area. There needs to be the ability to look for the stock to be rationalised to more local landlords where performance is poor.

We also believe that there is a need to look at consolidation of housing associations in the sector in the future to deliver efficiencies.

#### **Q16**

##### **What are your views on our high level approach to dealing with landlord failure (or risk of failure)?**

There is a requirement to deal with poor performers by offering help and advice and then if improvements are not made action is taken as mentioned above.

#### **Q17**

##### **What approach should we adopt to reviewing the criteria for registration under the new regulatory framework?**

Registration should broadly be the same for all organisations regardless of size or profit-making status. The TSA has a role to protect the interests of all residents regardless of who their landlord is, and for the protection of members' reputation.

#### **Q18**

##### **Do you have any views on how we ought to review the system for landlord permissions under the new regulatory framework?**

We believe there is a real case for Schedule 1 being replaced by individual board setting and monitoring the detailed benefits that are or not allowed within each landlord. A more flexible and pragmatic approach would be helpful, however, this needs to be balanced with the view of the sector in terms of how schedule 1 has kept its reputation at a high level externally.

The systems and standards for assuring good governance and risk management should provide sufficient scope for Registered Providers to seek permission for disposal of assets provided the majority or residents affected are in agreement.

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