

Briefing paper for the Highbury Group
Social Housing (Regulation) Act by Roger Jarman
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1. The Act received Royal Assent in July. Subsequently there has been a range of developments which anticipate the start of the new regulatory framework in April 2024. This includes the publication of draft '*consumer standards*' and an associated draft '*code of practice*'. These have been subject to consultation and a decision statement on the final set of standards and the code of practice will be published in the new year. The regulator is proposing to introduce four standards based around: **safety and quality; transparency, influence and accountability; neighbourhood and community; and tenancy**. These build on the standards that were first introduced in 2012.
2. The regulator is also consulting on the use of its '*enforcement powers*'. This is subject to consultation until mid-January. There has been a focus on the lifting of the cap £5,000 at which penalties/fines can levied on providers that persistently underperform/do not meet the required standards. Also it is worth noting that, under these powers, the regulator can carry out an investigation and an extraordinary audit of a local authority's housing accounts. This rather flies in the face of the previous position that the regulator has no remit over the governance or financial affairs of local housing authorities. Furthermore the regulator has powers to force local authorities to put out its management service to tender and additionally force a transfer of management services to another provider (where deemed necessary).
3. The regulator is also gearing up to undertake statutory housing inspections from April next year. Pilot inspections of a wide range of housing associations and local authorities have helped the regulator design its inspection methodology. Disappointingly though there have not been any published papers to date that have set out the regulator's ideas on the inspection methods it will use. We do know however that there will be regular four yearly inspections of all providers with over 1,000 units. We also know that a so-called '*inspection plan*' needs to be published by the regulator in the new year that will set out the organisations that will be subject to inspection and why they have been selected for such a review of their performance/service delivery. A senior official at the regulator has indicated that providers will receive six weeks' notice before an inspection begins on site. At the Audit Commission it became increasingly common to give providers just a week's notice before inspections took place. But it seems that 'short notice inspections' will not be used by the regulator.
4. We also know that the inspection reports will be based on those that are currently produced by the regulator following an IDA (in depth assessment). These are summary documents and do not set out in detail what has been learned following an IDA. There is currently some debate as to whether there will be gradings of providers following the inspection of their services against the consumer standards. At the moment you have such gradings - V1 to V4 and G1 to G4 - when the regulator assesses housing associations against the economic standards. (V = financial viability; G = governance)
5. The legislation calls for a '*memorandum of understanding*' between the housing ombudsman service and the regulator to ensure that the two agencies work collaboratively in the interests of the tenants. This is absolutely critical as the ombudsman continues to expand his services and increasingly seems to be taking on the role of regulator. The legislation will also put the '*complaint handling code*' on a statutory footing. A consultation exercise on the code has just been completed. Furthermore, reflecting the increasing influence of the ombudsman, ministers have indicated that they would like the housing ombudsman in the social rented sector to take on the role of ombudsman in the private rented sector.
6. Other things to look out for:
 - a. consultation on '*prescribed hazards*' under the so-called Awaab's Law with a prescribed timetable for dealing with those hazards
 - b. consultation on the much-delayed and revised '*decent home standard*' which will apply across both the social rented and private rented sectors
 - c. consultation on the '*competence and conduct*' sections of the legislation which will set out the qualifications needed by executive and managerial staff working in housing management
 - d. a doubling of providers' fees paid for regulation – up to £10 per unit per annum.