

In a nutshell: the new framework for consumer regulation

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March 2024

So almost 14 years since the coalition government affectively ditched any meaningful consumer regulation, we see the return of a regulatory framework for social housing similar to that which was in place in the first decade of the century.

The chain of events that culminated in this *volte face* began in June 2017 with the tragic fire at Grenfell Tower in West London. Since then the government has published a green paper in 2018, a white paper in 2020 and a bill in 2022 – all focused on re-introducing a proactive approach to regulating the housing management services delivered by all registered providers – including ‘for profits’ and local authorities. The bill became law in July last year with the passage of the Social Housing (Regulation) Act 2023.

Since last summer the RSH has been busy developing the framework by which it will regulate registered providers. This concluded with the publication of a huge wodge of documents last Thursday (29th February) that set out in some detail the standards that providers will have to meet under the new regime.

Many of the features of the new regulatory framework were trailed in consultation exercises undertaken since last summer. Consultation on the draft consumer standards and the associated code of practice took place from July to October last year. Revised and new enforcement/regulatory powers of the regulator were subject to consultation from November last year to January. In essence the relevant proposals from the respective consultation exercises largely remain intact although some minor changes have been made to the original proposals.

The decision statement on the consumer standards and the associated code of practice is 32 pages long and both summarises and evaluates the 1,125 responses to the consultation on the regulator’s draft proposals. The statement also includes the regulatory and equality impact assessments linked to the implementation of the revised consumer standards https://assets.publishing.service.gov.uk/media/65df0a16cf7eb16adff57f10/1_Consumer_Standards_Consultation_Decision_Statement_FINAL_2.pdf

The final consumer standards themselves are tucked away in an annex within a set of documents that summarises the consultation exercise. For ease of reference, the 20 page document can be accessed here https://assets.publishing.service.gov.uk/media/65defb37f1cab30011fc4838/4_Annex_3_-_Consumer_Standards_-_FINAL.pdf

The final version of the associated code of practice can be found here https://assets.publishing.service.gov.uk/media/65e0530acf7eb1b0e5f57efe/Annex_4_-_Code_of_Practice_-_FINAL.pdf

The decision statement which summarises the consultation responses on the revised enforcement/regulatory powers can be found here https://assets.publishing.service.gov.uk/media/65df5fa6cf7eb16adff57f8b/20240227_Decision_Statement_s215_guidance.pdf The statement is 111 pages long but it does helpfully incorporate the 19 revised enforcement/regulatory powers.

Although the sector had a good idea what to expect with the publication of the papers linked to the recent consultation exercises, some notable policy statements were set out for the first time. In particular the long-awaited inspection plan (as required under the 2023 Act) was only available for scrutiny after its publication on 29th February. Overall this is a thin document but there are supplementary papers giving a bit more detail about the methods by which providers will be inspected by the regulator <https://www.gov.uk/guidance/inspection-plan> (also see below).

On the back of changes in consumer regulation linked to the new legislation, the RSH has also taken the opportunity to update its *'Regulating the Standards'* document. This was last revised in 2019. The document covers the regulator's oversight of providers delivering services against both the RSH's economic and consumer standards.

Now under the umbrella term *'How we regulate'*, the key documents that providers should refer to are set out below.

- Our role and approach to regulating landlords <https://www.gov.uk/guidance/our-role-and-approach-to-regulating-landlords>
- Our approach to inspections <https://www.gov.uk/guidance/our-approach-to-inspections>
- Responsive engagement with landlords <https://www.gov.uk/guidance/responsive-engagement-with-landlords>
- How we approach regulatory judgments and gradings <https://www.gov.uk/guidance/how-we-approach-regulatory-judgements-and-gradings>
- Regular reviews between programmed inspections <https://www.gov.uk/guidance/regular-reviews-between-programmed-inspections>
- Factors for assessing regulatory issues <https://www.gov.uk/guidance/factors-for-assessing-regulatory-issues>
- Investigating and taking action on serious failures in landlords <https://www.gov.uk/guidance/investigating-and-taking-action-on-serious-failures-in-landlords>
- Requirements and approach for different types of landlords <https://www.gov.uk/guidance/requirements-and-approach-for-different-types-of-landlords>
- Regulate regulating the standards glossary of terms <https://www.gov.uk/guidance/regulating-the-standards-glossary-of-terms>

The regulator has now finalised the framework by which it will regulate landlords against the consumer standards. But this does not mark the end of the changes that confront providers as they grapple with challenges to 'up their game' in response to pressure from government, tenants, the media (in its broadest sense) and others.

Building safety is a prominent concern – particularly for providers with high rise flats. The health and safety of tenants more broadly has also come to the fore. Apart from the wider regulatory changes, the imminent implementation of Awaab's law <https://www.gov.uk/government/consultations/awaabs-law-consultation-on-timescales-for-repairs-in-the-social-rented-sector/awaabs-law-consultation-on-timescales-for-repairs-in-the-social-rented-sector> will necessitate significant revision to the operation of the repairs services delivered by providers. Providers will also need to ensure that their senior executives and managers meet the government's ambition to improve professional standards in the social housing sector

<https://www.gov.uk/government/consultations/competence-and-conduct-standard-for-social-housing-consultation/consultation-on-a-direction-to-the-regulator-of-social-housing-to-set-a-competence-and-conduct-standard-for-social-housing> Although the process of reviewing the decent homes standard has stalled, at some stage in the future landlords will need to implement whatever the government determines will be the decent homes standards for the late 2020s and beyond.

Ultimately the RSH will be responsible for regulating providers against the new standards that will emerge from these government initiatives.

And that is not all. The 2023 Act has given the housing ombudsman new powers and it is guaranteed that he will use those to the full. The legislation stipulates that HOS and the RSH produce a statutory memorandum of understanding to clarify the respective roles of the two agencies. This will be eagerly scrutinised by providers (in particular) as they seek to work out the different roles that the two organisations play in overseeing their housing management activities.

Providers will need to keep up to speed as the new regulatory regime comes into force from April. Service delivery will once more be under the spotlight as it was from 2000 to 2010 with, in particular, the inspection of housing providers by the Audit Commission. There will be no excuses. After all, the changes have been signalled ever since the catastrophic fire in a block of flats in West London in the summer of 2017 where 72 people lost their lives.