



## Report to:

Northwards Housing Board

9 March 2010

## Item No:

# 7e

**Title:** Tenant Services Authority Response

**Date:** 24 February 2010

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**Confidential:** no

<b>For:</b> (Please tick action required)	<b>NOTING</b> ✓	<b>DISCUSSION</b>	<b>APPROVAL</b>
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### PURPOSE OF REPORT

To advise the Board of Northwards and National Federation of ALMO's response to the TSA Statutory Consultation on their new regulatory framework for social housing in England.

### RECOMMENDATION

The Board are requested to the note the responses.

### IMPLICATIONS

<b>Equality &amp; Diversity:</b>	None directly
<b>Financial:</b>	None directly
<b>Staffing:</b>	None directly
<b>Decency Target:</b>	None directly
<b>Governance:</b>	The introduction of a Regulatory Body will require the Board to monitor the standards set by the TSA.
<b>Risk Assessment:</b>	None directly

### Equality Impact Assessment

When a new policy, procedure or initiative is being submitted for approval an Equality Impact Assessment must have been completed. Please give details below.

Function being assessed	
Section	
Date of assessment	
Person Responsible for assessment	

Is this a new or existing policy?	
If there are significant implications in terms of equality please append a summary report.	

**Consultation/Consideration:**

	Yes, No or N/A:	Name:	Date:
<b>Sub-Committee:</b>			
<b>Area Panel:</b>	Yes	All Area Panels	15 July 09
<b>Task Groups:</b>			
<b>Ward Councillors:</b>			

**1. Introduction**

The Board had delegated the formulation and sending of the response to the TSA from Northwards to Robin Lawler.

The Board and Area Panels had also discussed the draft standards and this is also incorporated into the final response.

The TSA required responses to be returned by 5 February 2010 which will inform the formation of the final standards to be implemented on 1 April 2010 that will apply to all Registered Providers (RP).

**2. Northwards response to the TSA Statutory Consultation on their new regulatory framework for social housing in England.**

(Email sent to TSA on 5 February from Robin Lawler)

Please accept this email as Northwards Housing's response to the statutory consultation on the new regulatory framework for social housing in England.

We welcome the new regulatory framework & for cross domain regulation based on a co-regulatory approach. We are pleased that the focus of the new framework will be outcomes for tenants & prospective tenants which will increase the **accountability of social landlords**.

We agree with the **ten principles which will shape accreditation**. However, this needs to understand the role of **LA Scrutiny** (principle V.)

**Q 4:** We recognise the limits upon regulation imposed by legislation, but are disappointed that ALMOs will not be directly regulated by the TSA. We believe therefore that the **protocol for LAs, ALMOs & the TSA** is crucial in developing effective working relationships which support ALMO accountability to tenants whose homes they manage. We look forward to receiving the draft protocol upon which we will comment.

**Q 5C:** The **difference in the status of current tenants & potential tenants** is unclear in the proposed national standards & this would not assist people seeking housing to understand the TSA's role. For instance, **Allocations is within the Tenancy Standard**

which is counter-intuitive as potential tenants do not have a tenancy. Perhaps this should read **Lettings rather than Allocations**.

**Q 5D: Allocations** could best be a separate test within the **Neighbourhood & Community Standard**, since this concerns how RPs work with LAs to meet local housing need.

**Q 6:** In developing the new framework the TSA could & should use recognised & appropriate **accreditations** (such as Customer Service Excellence & the Equality Standard for Local Government) to judge the performance of RPs. Tenants can take confidence from RPs being assessed against recognised & robust accreditations. We agree with TSA that awards from peers are not a guarantee of standards of service. Appropriate accreditations can be used to support local standards. This will assist sector-led improvement.

I trust these comments are helpful. Please contact me if you require clarification of any comments.

### **3. National Federation of ALMO's (NFA) response**

Attached is the response from the NFA to the TSA

### **4. Recommendation**

The Board are requested to the note the responses.

## **NFA response to *A new regulatory framework for social housing in England* statutory consultation**

### **Summary**

The NFA is committed to the concept of cross domain regulation that gives all tenants in the social housing sector the opportunity to be directly involved in the management of their homes and that will deliver tenant led, excellent services. We agree with the concept of co-regulation and we consider the proposals in the consultation paper represent a good start.

The NFA recognises that developing national standards that is equitable to both tenants and a wide variety of landlords and managers, with differing client needs, stock sizes and resources is not an easy task. We believe the development of local standards is absolutely critical to driving forward excellence. However, we are concerned that some opportunities to install real aspiration for improvement across the whole social housing sector are in danger of being lost and that this could impact on the credibility of the regulator from the tenants' perspective. In particular:

- The proposed standards in the main represent average, rather than good or excellent services
- There should be greater consideration of national incentives to inspire excellence and support to help struggling organisations rather than penalties which may adversely impact further on tenant services
- Concentration on poor performers means there is a danger that developing good practice will not be identified and shared with other providers
- Governance and viability are essential elements in the ability of organisations to deliver excellent services but ALMOs (and local authorities) are excluded from these standards although in practice the local government performance framework is unlikely to address them either
- Further detail is needed on how the interface between councils, ALMOs and the TSA will work in practice
- There are potential conflicts in the timing of ALMO inspections in 2010-11 and the development of local standards under the new regime which will be confusing to tenants and cause additional work and duplication for ALMOs
- The exclusion of leaseholders from the standards remains a key problem, especially since leaseholders are still included in ALMO inspections
- The KLOEs have been a helpful performance management tool for landlords while the Audit Commission star rating system provides a useful signpost for tenants. It would be a pity to completely lose these benefits
- ALMOs that have already pre-qualified for access to social housing grant or who already own homes in their own right should be passported through to become registered providers rather than repeat the qualification process all over again
- ALMOs that have not yet received all their decent homes funding will be unable to meet the decent homes standard if this is not forthcoming while those that have reached the standard will be unable to sustain it until the problems of the HRA subsidy system are resolved and an adequate and more stable financial regime put in place
- It would be better to produce annual reports in September rather than July as this would enable audited accounts and other relevant information to be included.

## ***NFA response to TSA questions***

### **1. Does our approach to co-regulation as expressed through our ten principles seem a reasonable basis on which to develop the new framework from 1 April 2010?**

The NFA welcomes the broad principles, which represent a reasonable approach, and the emphasis on tenant empowerment, but with the following caveats:

- Although the TSA is unable to regulate leaseholders under the legislation nevertheless their views should at least be taken into account since they are, in effect, simply long tenants and since leasehold management is such a significant part of the stock in areas like London
- In ALMO managed stock the conversation with tenants will generally be through the ALMO rather than directly with the council
- We question how the TSA will identify poor performers in the local authority sector when it only has access to very limited information in terms of performance indicators and when no housing management inspection of authorities without ALMOs has taken place for many years
- Although we recognise the rationale in tackling poor performers first nevertheless we consider the unambitious average to be a greater threat to ensuring all tenants receive good services. Poor performers may often have particular problems, which have usually these developed over a long period of time, and need support while the average are more likely to simply not have their tenants' best interests at heart.

### **2. Does our approach to setting national and local standards appear reasonable for the requirements that will apply from 1 April 2010?**

- We believe that the development of local standards is critical to ensuring excellent standards but are concerned that in those organisations without a history of tenant engagement and empowerment such standards could easily become worthless or totally lacking in ambition
- Equally the paper appears to allow housing associations with widely dispersed stock to determine their own definitions of "local" which could mean, in effect, imposing the same standards on all their tenants regardless of location
- A large number of ALMOs will be coming up for inspection or re-inspection during the autumn period. It will be confusing for tenants as well as involving additional work for the ALMOs to be complying with decent homes inspections on one hand while at the same time consulting with tenants on the development of local standards under a very different regime.

### **3. Does it seem reasonable to extend the same approach to those providers owning less than 1,000 properties, taking into account their size and risk profile in a proportionate approach to compliance?**

- It is not unreasonable to have a degree of proportionality in compliance for very small organisations, especially as many of these will be specialist. However, all tenants, regardless of the size of their landlord or manager, should have the right to expect a good service.

#### **4. Do our proposals on how we will approach the regulation of local authorities appear reasonable?**

- While we understand the rationale behind avoiding duplicate regulation we are concerned that the TSA should have an interest in the governance and viability of ALMOs since these can have a major impact on the ALMOs performance and the service that tenants receive
- The Housing Revenue Account (HRA) remains within the ownership of the local authority and how it makes use of that account is critical to the delivery of the service. Although the HRA supposedly is ringfenced to the management and maintenance of the council housing stock the reality is often different and the proportion of the HRA that councils make available to ALMOs to carry out these functions vary enormously. Despite rent increases ALMOs in many cases have had to accept year on year management fee freezes or cuts and, despite producing the majority of local authority housing efficiencies, this can only go so far before there is an impact on service delivery. The local government performance framework does not consider the detail of how the HRA is used and whether sufficient resources are being made available by the council. The TSA should make a clear statement to local authorities that should it suspect that the HRA is not being used properly to fund the housing service then it would ask the Audit Commission to investigate the use of corporate resources
- Similarly, the council's overall approach to the ALMO is critical to its success or failure. The ALMO has to keep a delicate balance. It is owned by the council which has ultimate control and it must deliver the council's aims and objectives in order to earn its management fee. But at the same time it is supposed to be operationally at arms length of the council. An overcontrolling or disinterested council can affect the efficient governance of the organisation, which has a Board structure similar to LSVT housing associations. While the majority of councils and their ALMOs work well together tensions may occur from time to time. In the main these are issues which the respective parties need to work out together. However, if the relationship becomes so adversely affected as to lead to a deterioration in the service to the tenants then the TSA should have a view as to how it would address the problem
- It is also important that the TSA deals directly with ALMOs, even if they are not the landlords, since they are the ones which have direct access to tenants on the ground as well as being the deliverer of the service. We recognise that the council should also have a role but that this should normally be at arms length unless there are problems with the service.

#### **5. Does the proposed text for the following standards:**

- **address priorities for tenants whilst taking into account our duty to have regard to the desirability of registered providers being free to choose how to provide services and conduct their business?**
- **express requirements of providers in a way that is clear, succinct and as outcome focused as possible?**

The NFA recognises the difficulty of setting national standards that are fair to both providers and tenants in a very large and diverse sector and that does not limit innovation. The standards are in themselves unexceptionable, clearly presented and represent the minimum that any provider should offer. However, while we welcome the emphasis on tenant involvement we are not convinced of its enforceability in practice. Nor do we see any real aspiration or attempt to incentivise providers to do

better. While we see local standards as the potential tool for achieving this we are unclear how effective these will be where tenant engagement is underdeveloped or weak.

As the TSA is aware a significant number of ALMOs have either not yet received their promised decent homes funding or their programme have been reprofiled beyond 2010 at CLG's request. Furthermore, a number of ALMOs that have achieved, or are soon to achieve, decent homes will nevertheless fall back out of decency unless the major repairs allowance is significantly increased or an alternative to the current subsidy system implemented very speedily. It is probable that a significant proportion of the ALMO sector will be unable to achieve the decent homes standard until both the capital backlog and the revenue needs for the future are addressed.

In our view value for money is subjective rather than easily measured as a standard and this would be better embedded as an element in all standards rather than a separate element.

We have earlier made the point that we believe the TSA should look at governance and viability for ALMOs since this is not effectively contained under other regulation and all other regulators would consider these issues critical to identifying risk of service failure.

**6. Does our approach to monitoring and compliance against the standards and regulatory requirements seem a reasonable basis for 'how' we regulate in 2010-11?**

- Bearing in mind the diversity of the sector and the difficulty in comparing different information systems this seems a reasonable approach. The NFA encourages ALMOs to contribute to the HouseMark ALMO Performance Improvement Club which collects similar data to those the housing associations collect. This enables cross sector comparison as well as comparisons within the ALMO sector to be made
- ALMOs have also found the KLOEs to be a useful tool in measuring their own performance. The development of a toolkit in similar vein would be helpful rather than losing the value of this altogether
- Similarly, from the tenants' perspective star ratings do offer an easy to follow signposting of good practice which mere narrative fails to deliver
- The production of annual reports at a later date in the year, such as September, would be preferable to July since full information, such as audited accounts, could then be included.

**7. Does our approach to dealing with complaints seem reasonable?**

- How an organisation deals with complaints is clearly an important measure of its competency but the TSA needs to ensure that such issues are dealt with proportionately since not all complainants are necessarily representative of the views of tenants as a whole. There is also much scope for confusion over the potential different routes for applicants to complain. In ALMO-managed housing the first course of recourse would be the ALMO itself, then the council landlord then either the local government ombudsman or TSA. If the TSA receives

complaints which it will not investigate itself then it must be able to direct the caller to the appropriate contact, including the correct ombudsman.

**8. Is our general approach to using our formal regulatory and enforcement powers reasonable?**

- Overall the approach is reasonable but we believe help and support, especially from peers, is always more effective than intervention and penalties – even though the interests of tenants may require this at times
- We believe the TSA should consider developing a support team in much the same way as DWP developed the Housing Benefit Help Team some years ago, which was instrumental in helping authorities improve the administration of housing benefit.

**9. Do our proposals for establishing registration and deregistration criteria seem reasonable?**

- Since local authorities and ALMOs are not subject to the Governance and Financial Viability standard it seems somewhat bizarre that ALMOs should be required to meet this standard to become registered providers
- Many ALMOs have already gone through a very extensive pre-qualification process for access to social housing grant which effectively meets the registration requirements anyway and a significant number have either built, are building or own properties in their own right. These ALMOs should be automatically passported through as registered providers rather than have to go through the whole process again or their new build developments could be jeopardised.