



How to...

*prepare for regulatory reform:
Tenant engagement & scrutiny*



1 A new approach to regulation

The government has announced major changes to the regulation of social housing in England. The Department for Communities and Local Government's (DCLG) [Review of Social Housing Regulation](#) (2010) confirmed that:

- from April 2012 a statutory regulation committee within the Homes and Communities Agency (HCA) will take on the Tenant Services Authority's (TSA) regulatory powers
- the HCA will have a statutory duty to regulate in a manner which minimises interference
- the HCA will be more **proactive** in its approach to **economic regulation** and ensuring value for money in the sector
- the HCA will be more **reactive** in its approach to **consumer protection** and will only act in the event of serious failures.

Co-regulation: involving tenants in standards and performance management

The Housing and Regeneration Act (2008) introduced statutory objectives to empower tenants and ensure that they had the opportunity to shape services and standards. This approach is called **co-regulation**: where landlords, the regulator and tenants together set, monitor and ensure that standards are met

A key outcome of co-regulation has been a move to focus decision making and performance management away from the regulator towards tenants and their locally defined needs and priorities. Co-regulation remains a key component of the approach of the current government, but will be some new emphases:

- responsibility for service delivery will lie primarily with landlords (governing bodies and management) and not the regulator
- landlords will be accountable to their tenants for customer facing standards
- there will be greater emphasis on transparency and accountability to tenants
- tenants will need adequate information and effective influencing structures to hold their landlords to account
- self-assessments should be a key component of performance management approaches
- while the regulator will have a role in setting clear outcome-focused standards, these will be enhanced by more specific local offers agreed between landlords and their tenants
- tenants will have a clear role in scrutinising performance.

The TSA's proposed revised regulatory framework

The Tenant Services Authority (TSA) has published a consultation on a [revised regulatory framework for social housing in England](#). The new framework proposes a clear distinction between economic and consumer standards.

The economic standards: There will be three economic standards covering:

- governance and financial viability
- value for money
- rent (previously part of the tenancy standard).

It is intended that these standards will apply only to private registered providers, not to local authorities. The regulator will adopt a **risk based approach** to enforcing these standards. Governing bodies will be primarily responsible for their organisation's performance and where there are no indications of risk of failure to meet the standards, the involvement of the regulator will be minimal. Providers will still be required to submit financial and statistical data to the regulator. The regulator will intervene where issues of concern are not adequately dealt with by the governing body.

The consumer standards: There are four proposed consumer standards, covering key services provided to tenants:

- tenant involvement and empowerment
- home
- tenancy
- neighbourhood and community.

It is intended that these standards apply to providers of all types.

Under the proposals, the regulator's role in consumer regulation will be limited to setting standards and intervening only when there is a risk of serious harm to tenants. They will have no role in monitoring how providers are performing against these standards. Instead the tenant involvement and empowerment standard will be revised to place greater emphasis on providers involving tenants in the scrutiny of their performance. The regulator will only intervene where these standards are not being met if there is a risk of **serious detriment** to tenants as a result. They will judge whether there is such a risk on a case-by-case basis but the framework does set out some illustrative examples of what might constitute **serious detriment**, such as failures leading to:

- health and safety concerns
- loss of home
- unlawful discrimination
- loss of legal rights
- financial loss.

Tenant Panels and complaint resolution

The Localism Act 2011 has introduced changes to the Housing Ombudsman Service, so that from April 2013, there will be a single ombudsman for housing. The Localism Act 2011 also proposes that more complaints will be resolved at a local level by a **democratic filter**.

This means that in future tenants who have exhausted their landlord's complaints procedure will usually have to go through a **designated person** (the filter) in order to escalate a complaint to the Housing Ombudsman. The designated person is stipulated as either a member of the House of Commons, a local Councillor (from the district in which the property concerned is located) or a local **Tenant Panel**.

The democratic filter is intended to strengthen accountability and process, increase knowledge of local representatives in resolving complaints and to speed up resolution of disputes at the local level. A last minute amendment to the Localism Act 2011 has introduced an eight week time limit for a local representative to either deal with a complaint or refer it to the Housing Ombudsman. After this period, a tenant will be able to approach the Housing Ombudsman directly. Alternatively, tenants can go directly to the Housing Ombudsman if their local representative refuses to handle a complaint, or agrees that it should be referred directly to the Housing Ombudsman by the tenant.

The Housing Minister sees that Tenant Panels have real opportunities to:

- resolve complaints
- scrutinise landlords' performance
- hold landlords to account
- drive up the standard of services.

CIH will shortly be publishing a further briefing on [How to... develop your complaints service](#).

Learning from others

Welwyn Hatfield Community Housing Trust (the Trust), working with the council and other partners has established a borough-wide, cross-landlord Resident Scrutiny Panel. The panel meets every two months to compare and scrutinise services, and is currently developing a complaints review function.

Initially, this will operate as a voluntary alternative to immediate recourse to the Housing Ombudsman, with tenants being offered both options once they have exhausted the Trust's internal complaints process. From April 2013, it is anticipated that it will form part of Welwyn Hatfield's democratic filter.

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What do these changes mean for tenant engagement?

Changes introduced by the Localism Act 2011 and proposals to revise the regulatory framework for social housing in England will have the following implications for the way in which landlords engage with their tenants:

- the principles of co-regulation and greater service user involvement will form an important element of consumer protection for the foreseeable future
- landlords will need to develop an approach to service delivery which positively engages with tenants, formally incorporates tenants' views, and is transparently accountable to tenants
- tenants themselves are the key to driving service improvement and protecting consumer standards
- Tenant Panels will play a key role in complaint resolution
- there will be an enhanced role for tenants to support landlords to deliver the right services and develop a value for money approach.

Learning from others

Vale of Aylesbury Housing Trust has introduced a "you say, we'll listen" van so that residents can have their say at events across the Vale. The van is used most regularly as a roving surgery but was also kitted out as a 'Big Brother' style diary room to enable tenants to express their views

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Tenants in the Leverhulme area of Bolton were given the chance to enjoy a free taxi ride in exchange for sharing their views about their neighbourhood. A special taxi rank was set up where customers could jump in a taxi to anywhere in the borough, and have an informal chat with staff from **Bolton at Home** as they travelled.

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Sadeh Lok Housing Group recently carried out a "Where I Live" consultation week where they went on site with *Play Rangers* from Children's Links, a national childrens' charity. The *Play Rangers* carried out fun activities with the children and the children also drew pictures showing what they liked most about where they live. Housing staff then carried out consultation with residents on service standards and priorities using fun activities.

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"Tenant Talk" is **One Vision Housing's** method of gathering feedback. Every time a member of staff comes into contact with a tenant as part of their daily duties, 3 quick questions are asked:

1. Are you happy with the service we provide?
2. What do we do well?
3. What could we improve on?

The comments are recorded, results analysed and action taken with the outcomes published on One Vision's website.

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Moving from tenant engagement to tenant scrutiny

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Co-regulation is based on the principle that the priorities and views of tenants should be at the heart of an organisations' frameworks for directing, monitoring, assessing and modifying its own activities. As such, engagement and involvement should be aligned to a landlord's organisational strategy and there should be a business case for such activities. Tenant scrutiny extends beyond this. It can lead to service improvements, efficiency savings, enhanced tenant satisfaction and greater staff confidence.

TPAS, CIH and HouseMark identified the following critical success factors for tenant scrutiny in a recent report, [Tenant scrutiny: now and in the future](#):

Clearly defined and real power: for tenant scrutiny to be effective, it must integrate with the strategic and performance management frameworks of a landlord. Scrutiny arrangements must relate to the decision making structure of the organisation, including (and separate from) governance and the executive team. There should be a clear, accepted way in which it influences strategic direction.

Tenant led and independent: the tenant scrutiny role should be independent from governance. Whatever structures are put in place to deliver the scrutiny role, there must be accountability, openness and transparency. There is also a need to evaluate the effectiveness of scrutiny itself and the ability for the wider tenant body to challenge this.

Clear roles and responsibilities with capacity to deliver: roles and responsibilities must be clear and agreed from the beginning. In order to deliver against expectations, it is crucial that those undertaking scrutiny are supported and have the right skills and knowledge, and that there are sufficient capacity and plans in place for succession.

Decisions based on freely available and commissioned information: to make sure the scrutiny role works well in practice and maximises the impact it has on improving services and influencing strategic direction, it needs to be based on evidence-based decisions. This should be supported by tenants having access to a range of information from different sources. Tenants should also be able to influence how and why the organisation collects and analyses key data.

Embedding scrutiny in performance management arrangements: tenant scrutiny should be fully part of the formal structure which forms the operating and assessment framework of an organisation. Being a recognised part of the way in which the organisation and service is run gives tenants the confidence that the activities of tenants involved in scrutiny will be taken into account. It also gives staff confidence about the role and legitimacy of tenant scrutiny.

Accessibility: the scrutiny role should encourage diversity and promote equality. There should be an emphasis on raising the profile of scrutiny and making as many tenants aware as possible of what it is and how to get involved. There should be links between scrutiny and other forms of tenant involvement (tenant scrutiny will be stronger if it can draw on the work of other tenant groups).

Learning from others

Helena Partnerships is the largest social housing provider in St Helens, Merseyside, and one of just 10 TSA Co-Regulatory Champions in the country. Helena's approach to scrutiny has five key elements, one of which is the Customer Excellence Panel (CEP). The CEP is a group of tenants who review Helena's performance, service delivery and value for money arrangements to identify where improvements can be made. The CEP sets its own review programme, commissions mystery shopping and has full access to Helena's performance information. It also has a presence at Helena Board meetings.

The Panel was instrumental in developing Helena's Customer Excellence website (www.excellenceathelena.co.uk) and carried out its first tenant-led peer review in 2011, with more planned for the year ahead. The CEP is working with partner organisations to co-ordinate a CIH qualification in Resident Scrutiny and is set to host a series of webinars to engage with others involved in scrutiny. It also works closely with Helena's Young Inspectors – a group of under 25s who play an active role in testing and challenging services while gaining transferable skills for employment.

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Soha Housing compares its approach to co-regulation to that of the Westminster government. The association is governed by a 12-member Board. Four board members, including the chair, are tenants elected by the Tenants' Forum, which is a group of 21 elected tenant representatives and co-optees that holds the Board to account. The Board is Soha's equivalent of the Cabinet. Members of the Tenants' Forum correspond to Members of Parliament. Each area of Soha's operational areas has two Portfolio holders, who are selected from the Tenants' Forum and are the equivalent to Ministers. Portfolio holders develop an in-depth knowledge of their particular area and they advise managers on service improvements. Portfolio holders may make decisions in consultation with two other forum members. Such decisions must be reported back to the next forum meeting.

Soha's Scrutiny Group has a similar role to that of the parliamentary select committees. The group currently has 12 independently-minded resident members, of which five are members of the Tenants' Forum. None are Board members. Within its terms of reference, the Scrutiny Group chooses its own subjects of inquiry in areas of interest to tenants, and where a review may have an impact in terms of lessons learned or service improvement. Soha's Tenant Inspectors have a key role in gathering evidence of the association's performance. Soha has a number of representative groups that have a similar role to parliamentary lobby groups. Drawing everything together is the Tenants' Forum Liaison Group which consists of the chairs of the Tenants' Forum and Scrutiny Group and representatives from the Tenant Inspectors and each representative group.

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Quality Assured Scrutiny

Quality Assured Scrutiny (QAS) is the framework of standards and new tenant scrutiny accreditation service from TPAS, HouseMark and CIH, three leading sector organisations championing co-regulation.

You can find out more by visiting: QAS@tpas.org.uk



Useful resources and information

TPAS, HouseMark and CIH (2010) Tenant scrutiny: now and in the future
www.cih.org/publication-free/display/vpathDCR//templatedata/cih/publication-free/data/Tenant_scrutiny_now_and_in_the_future

TSA (2011) Statutory consultation on revisions to the regulatory framework,
<http://www.tenantservicesauthority.org/server/show/conWebDoc.21636>

DCLG (2010) Review of social housing regulation
<http://www.communities.gov.uk/publications/housing/socialhousingregulation>

TSA (2010) Making voices count: reviewing practice in tenant involvement and empowerment (HouseMark)
[www.housemark.co.uk/hmresour.nsf/lookup/Makingvoicescount.pdf/\\$File/Makinvoicescount.pdf](http://www.housemark.co.uk/hmresour.nsf/lookup/Makingvoicescount.pdf/$File/Makinvoicescount.pdf)

CIH (2009) Resident Led Self Regulation: enhancing in-house scrutiny and performance
www.cih.org/publication-free/display/vpathDCR//templatedata/cih/publication-free/data/Resident-led_self_regulation_enhancing_in-house_scrutiny_performance

HouseMark (2009) How to develop and monitor local performance indicators
[www.housemark.co.uk/hmresour.nsf/lookup/PIGuide.pdf/\\$File/PIGuide.pdf](http://www.housemark.co.uk/hmresour.nsf/lookup/PIGuide.pdf/$File/PIGuide.pdf)

CIH (2009) Leading the Way: achieving resident-driven accountability and excellence
www.cih.org/publication-free/display/vpathDCR//templatedata/cih/publication-free/data/Leading_the_way

CIH Active Learning for Residents programme
www.cih.org/ALfR

CIH Award in Resident Scrutiny
www.cih.org/qualification/display/vpathDCR/templatedata/cih/qualification/data/CIH_L3_A_in_Resident_Scrutiny_QCF

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