



Board

28 July 2009

The Tenant Services Authority (TSA)

Report by Chief Executive

For Decision	Area Implications	All
Executive Summary	This report is about the TSA's proposals for the new regulatory framework for social housing. It provides a summary of the consultation carried out so far by the TSA, outlines the proposed objectives for national standards and the TSA's approach to monitoring the standards.	
Recommendations	Board is asked to <ul style="list-style-type: none"> • receive the information and consider their response to the consultation questions detailed in Section 7 • agree the application for a local standards pilot outlined in Section 3.3. 	

Business Implications	
YHN Mission and Strategic Objectives	The new framework will be expected to have an affect on all strategic objectives.
Value for Money/Efficiencies	One of the themed areas proposed for the national standards is Value for Money. Ensuring compliance with this standard will be expected to have a positive impact on YHN's approach to Value for Money.
Resources (financial, property, technological or human)	There are no resource implications at this stage.
Impact on Services/Performance	The TSA's proposals are designed to have a positive impact on the quality of services YHN provide.
Outcomes for tenants/leaseholders	It is proposed that the standards framework focuses on measuring outcomes for tenants.

	This means that tenants should benefit positively in terms of outcomes in all areas of service.
Risk (reputation, relationship)	Once finalised and adopted, the standards are likely to have a very high profile in the sector. Poor performance or compliance would carry significant risks to our reputation and to our relationship with stakeholders. The TSA will have powers to intervene in organisations that perform poorly. Conversely there are proposed incentives for high performers.
Environmental	There are no environmental implications.
Legal Implications	The TSA has been created by the Housing and Regeneration Act 2008, which sets the statutory framework for what TSA is, and what it does. The TSA is independent of government but the Secretary of State is able to direct the TSA in relation to the standards affecting rents, the quality of accommodation and tenant engagement.
Equality and Diversity	The theme of equalities and diversity will be threaded through all the national standards. This is intended to ensure that we take account of equality and diversity issues when delivering all services.
Stakeholder Involvement/Consultation (planned or already carried out)	Tenants are being given the opportunity to have their say on the proposed standards through a series of events being held over the Summer, including one organised by The Tenants' and Residents' Organisations of England (TAROE). In addition, tenants can opt to host their own 'Local Conversation'.
Background papers	'Building a new regulatory framework' (Tenant Services Authority).
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The Tenant Services Authority (TSA)

1. Introduction

- 1.1 This report provides information about the TSA and the draft standards being developed for the regulation of social housing providers.

2. Background

- 2.1 The TSA became operational on 1st December 2008 as a result of the Housing and Regeneration Act 2008. It is responsible for the regulation of Housing Associations, Local Authorities who manage their own stock, and ALMOs. Some of the TSA's powers are already in effect but the full range of powers will come into effect on 1st April 2010. There are 10 main objectives that form the basis of what they do. These objectives are set out in the Housing and Regeneration Act 2008.

During 2009 the TSA is developing the framework which will define regulation nationally. Consultation on this is being delivered through a 'National Conversation' which is targeted at landlords and tenants. Phase one of this consultation took place from January to April 2009. This included surveys for tenants, discussion events, and surveys to landlords. There were also opportunities for tenants to hold their own 'local conversations'.

The focus of phase one of the consultation, was to get feedback from tenants on their views about their current housing provider, and their priorities for the TSA. The findings show that 76% of tenants are satisfied with their landlord. They also show that satisfaction is directly linked to levels of choice, levels of involvement, and where tenants can see that involvement is clearly making a difference.

Tenants' top priorities for the TSA are

- Repairs & maintenance
- Safety and security
- Reasonable, affordable rents
- The quality of accommodation.

Findings from the consultation with landlords indicate strongly that there is a desire for the national standards to be supported by local standards which take account of the different circumstances that providers operate in. Landlords are also concerned that the development of new standards should be aligned with existing national performance frameworks and requirements for performance information.

Phase 2 of the consultation is to gain feedback from tenants and

providers on the draft standards framework. The closing date for feedback on this phase of the consultation is 8 September 2009.

3. The proposed standards

3.1 The aim of the TSA is to have a set of national standards which will be supported by local standards which would be agreed locally between landlords and tenants.

The TSA are proposing that the national standards will cover the following areas:

<ul style="list-style-type: none"> • Quality of accommodation (decent homes) 	<ul style="list-style-type: none"> • Local area cooperation
<ul style="list-style-type: none"> • Tenant choice and customer service 	<ul style="list-style-type: none"> • Rents
<ul style="list-style-type: none"> • Repairs and maintenance 	<ul style="list-style-type: none"> • Tenure
<ul style="list-style-type: none"> • Neighbourhood and estate management 	<ul style="list-style-type: none"> • Allocations
<ul style="list-style-type: none"> • Anti social behaviour and security 	<ul style="list-style-type: none"> • Governance
<ul style="list-style-type: none"> • Empowerment 	<ul style="list-style-type: none"> • Viability
<ul style="list-style-type: none"> • Complaints 	<ul style="list-style-type: none"> • Value for money

After consideration, the TSA has decided not to propose separate standards for the following areas:

- Diversity
- Tenants with care and support needs

Instead these will be mainstreamed into the other standards.

3.2 Proposed objectives of the standards

3.2.1 Quality of accommodation

- There is a proposal that the government's decent homes guidance will form the basis of this standard. Homes should meet this by 2010 and be maintained at this level.
- There may be a code of practice based on decent homes guidance.
- It is stated that the standard should be supported by locally agreed standards on the quality of homes beyond this level.

3.2.2 Tenant choice and customer service

TSA documentation proposes

“Landlords know and understand their tenants. Across the planning and delivery of all areas of housing services, an offer involving choice is made to tenants, either collectively or individually based on engagement with tenants as specified in the standard on empowerment. The evaluation and development of services is focused on outcomes for customers.”

This means

- Tenants should receive good quality customer service and receive some choices in the services a landlord provides.
- Landlords must consult with their customers to provide choice, deliver services and gain feedback about those services. This must all be done with tenants' views and opinions in mind.
- Tenants should help determine what actual services and service levels are provided by their landlord.
- Tenants should expect good customer service in line with that provided by most other businesses. An option may be to consider customer service standards already used by other businesses.
- The government's Customer Service Excellence standard could be one way landlords could choose to demonstrate that the TSA's standard has been met.

3.2.3 Repairs and Maintenance

“Landlords should design and deliver systems for repairing their tenants' homes and maintaining them in good repair, so as to

- Ensure that repairs are done to a good standard in times that reflect the seriousness of the disrepair and its significance to the occupier
- Minimise waste and inconvenience in the completion of the repair or maintenance work both to tenant and to landlord
- Enable a prudent, planned approach to asset management which permits reasonable certainty in managing financial resources, particularly in the balance between planned and responsive maintenance.”

Local standards could be an option but there would need to be some consideration about how services are procured to make sure they remain efficient and cost effective. However there are some concerns that having local standards might mean that tenants couldn't compare services between landlords, which is felt to be a potentially important feature of the new framework.

3.2.4 Neighbourhood and estate management

“Landlords should manage their estates to standards agreed with tenants at a local level, and which support the provision of a safe and

clean neighbourhood for the tenants that live there.”

The TSA is proposing that this should include anti-social behaviour related issues, such as vandalism, graffiti and fly-tipping, and the consequences of these for tenants.

3.2.5 Anti-social behaviour and security

“Providers should take a comprehensive approach to tackling and preventing anti-social behaviour and that tenants feel that their landlords are taking action to deal with persistent nuisance.”

- Landlords would need to agree locally with their tenants what level and type of service would be provided.
- The standard should ensure that tenants feel their landlord is dealing with persistent nuisance.
- Achieving this standard will be linked to the neighbourhood and estate management standard.
- Tenants can be the cause of nuisance as well as the victims. Landlords should be tackling anti-social behaviour in these cases too.

3.2.6 Tenant Empowerment

“Tenants are given a wide range of opportunities to influence:

- The formulation of their housing related policies
- The delivery of their housing related services
- That tenants are supported to develop and implement this empowerment”
- Landlords should set out clearly how tenants should be involved in influencing and monitoring the range of services received from their landlords.
- Landlords should engage meaningfully with tenants to empower them.
- Tenants should be clear about how they can be involved in the management of their homes.

Landlords are expected to

- Have a clear approach, agreed with tenants, as to how they will involve them in influencing and monitoring service delivery at a local level.
- Put in place arrangements for seeking the views of tenants, and demonstrate how services have been modified and improved in response to those views.
- Work with tenants to agree how and when local standards will be agreed and monitored.
- Provide local level information (Local Authority wide as a minimum), to tenants to enable them to see how well their

landlord is performing against standards, and against other landlords.

3.2.7 Complaints

“Complaints from tenants are managed in a courteous and prompt way to agreed and well-communicated standards that encourage and enable staff responsible for service delivery to put problems right where there is a service failure that is the fault of the landlord.”

- Complaints should be taken seriously and seen as useful customer feedback to improve services that may be failing.
- Landlords should ensure that complaints from tenants are managed in a courteous and prompt way to agreed and well-communicated standards. Staff should focus on putting problems right where the service has failed for the tenant.
- Processes should also provide for an effective appeal process to be used when a tenant is unhappy about how a complaint has been dealt with.

3.2.8 Local area co-operation

“Reinforces the specific statutory provision in the 2008 act so that there is a clear requirement for landlords on a proportionate basis, to co-operate with other landlords and with local authorities in their strategic place-shaping role, so that the communities and neighbourhoods where their tenants live are able to benefit (to the best extent) from opportunities to live in safe and desirable places.”

- Landlords are required to co-operate with other landlords and local authorities to help make communities and neighbourhoods safer and more desirable places to live.
- The level of co-operation could differ depending on how many homes a landlord has in that area, while making sure that tenants of landlords with fewer homes in an area are not at a disadvantage.
- The Audit Commission’s work on Comprehensive Area Assessment may be an area that TSA learns from, in developing this standard.

3.2.9 Rent

“Landlords should charge a reasonable rent for the properties that they own that appropriately balances the need to ensure rents are affordable, landlords are able to provide effective services to existing tenants, and where appropriate help fund the development of new homes for potential tenants. There should be transparency in the setting of rents and tenants should be able to see clearly how rents are being used to meet the objectives of their landlord.”

- The government is to continue the existing rent restructuring

policy. The TSA's standard would then be focused on implementing this policy, which in effect continues the current rent setting arrangements. These aim to ensure that all landlords charge a similar level of affordable rent, based on the type of property and its location.

- The existing policy will not be changed to allow any landlord to set rents outside the existing rent restructuring policy.

3.2.10 Tenure

“Providers must issue the most appropriate form of tenancy for the type of accommodation which confers the greatest security of tenure consistent with balancing the needs of potential as well as existing tenants.”

- The practical effect of this is that most tenants will have either a secure or an assured tenancy.
- The standard could also address the TSA's expectations on how landlords should manage terms of tenancies with regard to issues such as eviction.
- A code of practice would be developed to give guidance on the appropriate use of less secure tenancy types.

3.2.11 Allocations

“Landlords should let their homes in a fair and clear way that:

- Responds to the housing needs, aspirations and ambitions of tenants and potential tenants
- Maximises choice and tenure and geographic mobility
- Makes best use of the available housing
- Contributes to sustainable communities
- Has a strong decision-making and appeals process
- Meets applicable legal requirements”
- Landlords and local authorities should work together to decide how accommodation should be allocated.
- Any local standards should take account of the needs and views of conflicting groups.
- A national standard would have an impact on local authorities and choice based lettings systems.

3.2.12 Governance

In order to provide clear requirements for landlords (other than local authorities) to ensure that governance structures will secure the proper leadership and management of their businesses, the TSA are proposing 3 options:

Option 1

Definition: “registered providers must be properly governed.”

Features are

- Based on a broad requirement for registered providers to be well governed.
- This option builds on an existing code and other widely recognised relevant codes of governance.
- Clear codes of practice would set out roles of the board, the chair, the CEO and management team, and would also cover risk management and probity.

Option 2

Definition: “registered providers must have the appropriate structures, systems and processes to deliver their aims and objectives in an effective, transparent and accountable manner.”

This option is less prescriptive than Option 1 and would allow more flexibility for providers to determine a structure that meets the standard.

Option 3

This is based heavily on the ‘Good Governance Standard for Public Services’ and sets out six core principles for governance.

Definition:

“Registered providers must demonstrate good governance by:

- Focusing on the organisation’s purpose and outcomes for residents, potential residents and interested parties.
- Performing effectively in clearly defined functions and roles.
- Promoting values for the whole organisations and demonstrating values of good governance through good behaviour.
- Taking informed, transparent decisions and managing risk”

We already adopt the principles of the Good Governance Standard for Public Services (Option 3) in our governance arrangements although this code of governance has not been formally adopted by Board.

3.2.13 Viability

This standard is only applicable to housing associations. The objective for this standard is “providers manage their resources effectively to ensure their viability is maintained. Financial planning is based on a robust business plan that demonstrates current and future financial obligations can be met.”

- Providers must manage their resources effectively to make sure they continue to operate as a viable organisation.
- Financial planning is based on a strong business plan that shows current and future financial obligations can be met.
- The TSA would undertake independent assessment of viability to ensure that a landlord’s assumptions for the future are achievable, and as a result that tenants’ interests are protected. ,

3.2.14 Value for money

The expectation is that “landlords provide value for money in the delivery of services, and manage their financial resources effectively to provide quality services and homes to meet the needs of current and future tenants.”

- Achieving value for money for different services will look different for each landlord depending on priorities, but the principles should be the same
- The TSA may provide cost comparison data to enable landlords to compare and contrast costs of the services they provide.
- For Local Authorities, The TSA will want to understand how value for money is achieved across all the housing services provided in the context of their funding system.

3.3 Local Standards Pilot

3.3.1 The TSA recently announced a pilot scheme to establish a number of local standards. This pilot will help to inform the regulatory framework from April 2010. The aim of this pilot is to ensure that standards developed locally with tenants, contribute to a better quality of service than would be set out in the national standards framework. Housing providers are being invited to apply to take part in the pilot.

Officers from YHN have met to discuss possible applications for the pilot based on the criteria set out by the TSA. It is proposed that YHN should submit an application to take part in the pilot under the category ‘tenant choice and customer service’. The application would be to agree local standards with sheltered housing residents to cover a range of service areas. These will be determined by the tenants but could include

- Extra help with moving and settling in
- An enhanced empty property standard
- A tailored welcome pack for new tenants
- Influencing the use of budgets for improvements to communal areas.

This would allow us to build on our approach to support and care by exploring the possibilities for bespoke standards, where extra needs exist.

If the application is successful, YHN will be required to develop the standards by April 2010 and report back to the TSA by the end of 2010 detailing the impact they have made to service provision.

4. Monitoring the standards

4.1 The TSA is proposing that compliance with the national standards will

form the basis to assess the performance of housing providers.

They are proposing co-regulation as the key method for assessing compliance. This is in order to limit their direct involvement with providers. Co-regulation will include a combination of

- Direct regulation; where national standards are set and performance is assessed by the regulator.
- Self regulation; assessment of performance and locally set standards are assessed by boards or committees and independently verified.

In terms of evidencing whether the national standards are being met, the TSA proposes evidence will be expected in relation to

- Effective tenant scrutiny activity.
- The landlord's own scrutiny such as self assessment.
- Performance reports validated by impartial professionals (for example through audits, quality awards or accreditation).
- Peer review and benchmarking.

The Audit Commission will remain the inspectorate of choice. However it is likely that their focus will shift towards inspecting services that are poorly performing; based on the performance measurement information.

4.2 Measuring compliance against the standards

The TSA is proposing to use a 'grading system' for providers. There are three options for how the grading could be calculated. These are to

1. Use a view of performance across all measures
2. Assess performance against each of the 14 standards
3. Assess performance based on each of the six themes.

It is intended that performance measurement will be outcome-based wherever possible. The TSA will then share information on landlord performance. Tenants should have access to information about their landlord's performance and be able to compare it with other similar landlords.

4.3 Use of incentives within the framework

Based on the success of linking decent homes funding to high performance, the TSA is proposing to introduce new incentives.

The proposals for incentives include:

- Linking performance to accessing grant funding from the Homes and Communities Agency.
- Offering the option for high performing providers to buy stock from poorer performing providers.
- Linking funding to Housing Association mergers.

4.4 **Dealing with failure**

If a provider is found to be failing against the standard, the TSA can bring into force a range of powers which are set out in the 2008 Act. These include enforcement powers, and other more general interventions. As yet, detailed guidance on the use of these powers has not been published.

5. **Implications**

5.1 Business implications are highlighted on the cover sheet

6. **Consultation**

6.1 We realise this is a complicated and extensive piece of work. This report explains the basis of the proposals. Management Team will be preparing a technical response that we will share with Board by email and written communication (as appropriate).

6.2 Given the views expressed by the TSA on governance, Board may wish to express a view, particularly on Section 3.2.12. We anticipate that Board might not have comments today and might wish to have a facilitated session in August which we will arrange. Alternatively comments can be fed to Louise Dixon, Lead Tenant Involvement Officer for collation.

6.3 Tenants are being given the opportunity to have their say on the proposed standard through a series of sessions being held over the summer, including an event organised by TAROE. In addition, tenants can opt to host their own 'Local Conversation'.

6.4 The closing date for submission of responses to the TSA is 9 September 2009.

7. **Recommendations**

7.1 Board is recommended to receive the information in the report and consider their views on the following consultation questions:

- Does the approach to regulation proposed seem like the best approach for achieving improvements for tenants and ownership from landlords?
- Is the initial list of areas of national standards the approach to diversity and tenants with care and support needs appropriate?
- What are your views on the options presented in relation to governance?
- What are your views on the options for a grading system for providers?

- Do you have any other comments about any of the proposals?

Board is also recommended to agree the application for a local standards pilot outlined in Section 3.3.

Board is also asked to decide whether they wish to hold a facilitated session in August to consider their response to the consultation or to feed views individually to Louise Dixon.

8. Next Steps

- 8.1 Feedback from Board together with our technical response will be sent to the TSA as a formal joint response from YHN to this stage of the consultation.