

CABINET

21st September 2011

REPORT OF THE PORTFOLIO HOLDER QUALITY OF LIFE

TITLE OF REPORT

Reform of Social Housing Regulation – Landlord Services co-regulation and role of the Tenants Services Authority (TSA)

EXEMPT INFORMATION

None

PURPOSE

- ❖ To update Cabinet on the interim arrangements for landlord regulation in relation to the TSA (1/7/11-31/3/12)
- ❖ To set out the proposed changes within the Localism bill to Landlord Regulation from April 2012
- ❖ To set out Landlord Services response to the above changes and ensure that tenants are at the heart of influencing, shaping and scrutinising services in line with legislative and best practice requirements

RECOMMENDATIONS

1. To endorse the interim position regarding the TSA from 1st July 2011 – 31st March 2012
2. To delegate authority to the Portfolio Holder of Quality of Life and Deputy Director of Housing and Health to agree consultation responses to the changes to the regulatory framework for tenants'
3. To agree that the Tenant Regulatory & Improvement Team within Landlord Services will oversee compliance with the regulatory requirements within the TSA's code ensuring tenants' shape, influence and scrutinise service improvement

RESOURCE & FINANCIAL IMPLICATIONS

There are no direct financial implications arising from this report. Approval and preparations are already well advanced in terms of modernising the tenant participation team, extending the remit from one of tenant capacity building and information giving to ensuring tenants have meaningful engagement, opportunities for participatory budgeting and scrutinising service delivery. Appointments and Staffing Committee have already approved management changes to the Landlord Management Structure and the new Tenant Regulatory and Improvement Team has been modernised to ensure that it can respond to the above challenges.

LEGAL/RISK IMPLICATIONS BACKGROUND

Failure to adhere to the Regulatory framework, set out by the TSA, could still result in a short notice inspection if it is assessed as a serious failing. Going forward there will be consultation on a revised regulatory framework for landlords and in the context of localism tenants will be expected to inform, challenge and scrutinise their landlord services. Failure to demonstrate this will be evidence of non-compliance and could trigger HCA inspections, even when the TSA is abolished.

SUSTAINABILITY IMPLICATIONS

Responding to localism will put customers at the heart of influencing service delivery. Ownership of community based solutions will help build balanced and sustainable communities.

BACKGROUND INFORMATION

The Localism Bill was published in December 2010. This set out the proposals with the potential to shift power from Central Government to local people. The Bill includes wide ranging freedoms and flexibilities for local government; new rights and powers for communities and opportunities for wider reform to housing, planning and democratic processes. The detail of this is currently being assessed by the Deputy Director of Communities and Partnerships, this report is therefore concerned with the changes to social housing regulation which is just one of the areas within the Localism Bill, set to take effect from April 2012. In response to the Coalition Government's proposals to abolish the TSA and move the regulatory function to the Homes & Communities Agency (HCA) they have issued an interim paper, following a period of consultation, on the inspection arrangements pending formal commencement of the Localism Act.

MATTERS FOR CONSIDERATION

Interim Arrangements for the TSA (1/7/11 – 31/3/12)

Investigating regulatory concerns: inspecting TSA standards was published in July 2011 and is attached. Essentially the key points to note, whilst section 201-203 of the Housing & Regeneration Act 2008 remain in force, are:-

- ❖ There will not be a programme of inspections. Inspections will be generally commissioned on a short notice basis and the Audit Commission will continue to be the TSA's first choice
- ❖ The principal test for an inspection will be whether the landlord is failing to meet the TSA's standards and will therefore not be routine. The purpose will be to assess whether there is a "serious failure and/or detriment" to the tenants as opposed to sharing comparative practices and information.
- ❖ Inspections that are commissioned will focus on specific areas, agreed with the organisation prior and only where a clear brief that addresses the specific concern has been identified.
- ❖ The regulatory framework setting out the national standards, on which the local offers were based remains in force and is likely to be supported going forward. However the HCA will consult on a new regulatory framework later in 2011 depending on the progress of the Localism Bill, it is recommended that the Portfolio Holder can agree Landlord Services response to consultation in due course.

Localism Impact for Social Housing Regulation

The bill will reform the way social housing is regulated. *The Plain English Guide to the Localism Bill* published by the CLG in June 2011 confirmed that it will be a legislative requirement for tenants to have clear powers to hold their landlords to account. Landlords will be expected to support tenant panels in order to demonstrate that they influence, shape and scrutinise services.

As part of the Annual Report in 2009/10, Cabinet approved the co-regulatory framework for tenants to achieve this level of engagement. This is now well established and Tamworth's Landlord Services have a good basis by which to demonstrate that tenants have this opportunity. In order to comply with the spirit of Localism in relation to this particular aspect, it will be necessary to re-enforce this approach and ensure that it is reviewed and tenants have an opportunity to inform the democratic decision making process.

The bill will abolish the TSA and transfer the remaining functions to the HCA. It is envisaged that the HCA will intervene on issues of "serious detriment" potentially around economic or consumer failings of the landlord. On the basis that this will not be routine the expectation is that under localism tenants and customers will fill the gap that regulators previously filled. The detail to this is yet to be confirmed but Landlord Services will respond to consultation and it is recommended that this is delegated to the Portfolio Holder, in conjunction with the DD Housing & Health, to agree.

Role of the Tenant Regulatory and Improvement Team

The definition of “serious detriment” or failing is yet to be clarified. But it is reported in the professional press that failing to ensure tenants are empowered and engaged could be an example especially if raised through collective tenants and/or members *call to action* - or triggered by the Independent Housing Ombudsman. It is therefore crucial that the Landlord team responsible for tenant involvement oversee and respond to these regulatory requirements and ensure that the existing co-regulatory model continues to be developed and enhanced to ensure it meets statutory and regulatory requirements.

On the basis that an inspection is likely to be seen as an indicator of failing going forward, it is crucial that Tamworth Landlord Services maintains and improves on tenant engagement. Cabinet have already approved the production of an Annual Report for 2010/11, which is set to be distributed in September, and this will continue to reflect the importance of this work

The team are already working with national tenant organisations (Tenants and Residents of England (TAROE); National Tenants Voice (NTV) and TPAS) to research and implement best practice in relation to regulatory models. The TSA commissioned these groups earlier in the year to report best practice in relation to the annual reports and learning from ‘best in class’ will ensure the service is not only compliant but really does give effect to localism and putting tenants at the heart of what it seeks to achieve.

It is therefore recommended that the work required continues to be undertaken to ensure the council’s service is not put at risk.

REPORT AUTHOR

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LIST OF BACKGROUND PAPERS

APPENDICES

Investigating Regulatory Concerns July 2011 TSA A Plain English Guide to the Localism Bill June 2011 CLG
