

Cabinet report December 2021

Appendix 1

Briefing note from Consumer Regulation Review

Summary

The Regular published a Consumer Regulation Review on 7th September 2021. This report describes how they approached the consumer regulation and identified the key issues and lessons arising from casework in 2020-21, including the effects of Covid-19 pandemic and the publication of the [Social Housing White Paper](#), The Charter for Social Housing Residents. The full review can be found [here](#), however below are the key highlights separated by key themes and each of the consumer standards

- [Home](#)
- [Neighbourhood and Community](#)
- [Tenancy](#)
- [Tenant Involvement and Empowerment](#)

1. KEY THEMES

1.1 Health and Safety Compliance and managing risk

The events of 2020-21 emphasised just how important it is to ensure checks and inspections are up to date and that remedial actions are completed in a timely manner. With risks around health and safety effectively managed, registered providers are in a better position to deal with unexpected or unforeseen challenges.

The ability to meet statutory health and safety requirements relies on providers having good quality data about their tenants and their stock and being able to demonstrate that the data is accurate. Providers with good records and a good understanding of their properties could better identify the risks arising from reduced or restricted services and implement mitigations where necessary to help ensure tenant safety.

1.2 Communicating with tenants and understanding their needs

Engaging with tenants and understanding their diverse needs is a clear requirement under the consumer standards, and an important part of how registered providers deliver their services. The impact of Covid-19 meant that it was crucial that registered providers had mechanisms in place to ensure that all tenants, particularly those most vulnerable, could continue to communicate with their landlords and that landlords were able to understand and respond to tenants' needs.

Overall, registered providers adapted positively to the significant challenges over the year, introducing a range of communication methods to ensure tenant engagement was effective throughout. Registered providers should consider how best they can ensure tenant voices are heard, as this speaks to their culture and the purpose of the organisation.

1.3 Continuous learning from complaints

All providers should respond to issues or complaints promptly and the importance of learning from complaints should not be overlooked. Complaints provide rich insight for Boards and Councillors about the performance of services and are often an early indicator when things are going wrong.

Identifying trends, themes or wider issues relies on Boards and Councillors to be receptive to the messages that tenants are giving them. This continues to be a fundamental element of compliance.

1.4. Complying with the standards and planning for the future

The White Paper included proposals to strengthen consumer regulation to include proactive regulatory engagement between the Regulator, registered providers and local authorities in relation to the consumer standards. In 2020, the Fire Safety Bill and the Building Safety Bill were also introduced.

Registered providers should not wait for the White Paper to be implemented, as a clear direction of travel has been set and the Regulator continue to encourage all providers to consider what steps they can take now to prepare to implement the changes set out in the White Paper.

2. REFERRALS TO THE REGULATOR

Referrals and information about potential breaches of the consumer standards can go to the Regulator from a range of different sources. These include referrals from tenants, statutory referrals (for example from Members of Parliament or the Housing Ombudsman) or directly from registered providers.

In many cases, and in line with the co-regulatory approach, registered providers and local authorities refer matters directly, and providers are expected to tell the Regulator of any breach or potential breach of the standards

2.1 Sources of referrals

The charts below show that for all referrals received, the source of these referrals was consistent with the previous year. There was a slight increase in individual referrals and referrals from elected representatives, offset by a small decline in self-referrals and referrals arising from ongoing regulatory engagement.

	2020-21 (%)	2019-20 (%)
Referrals from individuals	70	68
Referrals from elected representatives	5	2
Referrals from contractors/employees	3	3
Self-referrals from registered providers	15	18
Referrals identified through regulatory engagement	4	6
Other reports	5	2

2.2 Consumer regulation process

The process for consumer regulation consists of up to three stages. In all cases the Regulator consider all the information received

Stage 1 As part of the initial consideration, there is a determination whether the matter falls within remit, if it is covered by the consumer standards and if it could potentially represent a breach of those standards.

Stage 2 A detailed review of the information will be carried out by the Regulators Consumer Regulation Panel to determine whether there is a potential breach of the consumer standards, and whether the serious detriment test is met.

Stage 3 Further enquiries will be made with the provider, the referrer and/ or any relevant third-party organisations (such as local authorities or the Housing Ombudsman), to reach a decision about whether the consumer standards have been breached and there has been serious detriment.

You can find a full explanation of the process on the [website](#).

2.3 Response to a breach of the consumer standards

The Regulator will always seek to secure the changes and improvements required using the least amount of interference. The most appropriate way for registered providers to evidence their commitment to remedying any failings is through timely and effective action. It is expected to see providers securing sustainable and long-term improvements and to put in place arrangements so that tenants are not at risk of harm while improvements are being delivered.

2.4 Referrals by standards

There seems to be a consistent breakdown year on year, with Home Standard most often cited in referrals. The table below gives the breakdown.

Standard	2020-21 (%)	2019-20 (%)
Home	46	54
Tenant Involvement and Empowerment	30	27
Tenancy	12	10
Neighbourhood and Community	12	9

3. THE LINK BETWEEN CONSUMER REGULATION AND GOVERNANCE

The approach to regulating economic standards is different to the regulation of the consumer standards, but the two are closely linked. The Regulator proactively seeks assurance from registered providers that they are meeting the economic standards including the Governance and Financial Viability Standard.

Strong governance arrangements to ensure compliance with consumer standards are particularly important when services are provided by third parties such as managing agents or contractors. It is crucial that the governance arrangements give assurance to the registered provider that it is meeting the consumer standards and keeping its tenants safe, even when it is not delivering all of the services itself.

4. THE HOME STANDARD

4.1 Breach of Home Standard and serious detriment

The Home Standard requires registered providers to provide homes of a decent quality, and to have an effective repairs and maintenance service which responds to the needs of tenants.

Case summary is available for South Kesteven District Council in the full review however, key points are:

- Self Referral
- Over a thousand remedial actions identified in fire risk assessments carried out in 2017 had not been completed.
- Not inspected any of its communal areas and just under half of individual properties had overdue inspections.
- Asbestos surveys for communal areas were over due
- Failed to ensure solid fuel heating appliances did not pose a risk to tenants

Conclusion that this was a breach of the Home Standard and there had been a risk of serious harm to tenants as a result.

4.2 Compliance across all areas of health and safety

Health and safety requirements are not always prescriptive, but providers need to demonstrate that they understand their responsibilities and what it takes to ensure tenants are safe in their homes.

There are two case studies in the report – one for electrical safety and one for asbestos management. The key points raised in both are:

- Self referrals
- Lack of appropriate information available at reasonable times
- Significant outside advice sought to rectify issues and find long term solutions

5. NEIGHBOURHOOD AND COMMUNITY STANDARD

The Neighbourhood and Community Standard sets out a number of specific expectations of registered providers. The most common of these considered during 2020-21 related to how registered providers managed anti-social behaviour.

An effective approach to managing anti-social behaviour is important in ensuring tenants feel safe in the communities in which they live, and that is an issue which has become more important as tenants have lived with additional restrictions as a result of Covid-19.

There is a good example case study in the report, but the key findings are below

- Tenant complaint (on behalf of a number of tenants)
- Persistent and serious criminal and anti-social behaviour in their neighbourhood caused by one household
- Detailed records of actions taken by the landlord to address the issues
- Evidence of multi-agency working
- Legal advice sought
- Although the situation hadn't been resolved, clear, accurate evidence demonstrated that there was no breach as the provider was working with other agencies to tackle the ASB as required under the Neighbourhood and Community Standard.

6. TENANCY STANDARD

The Tenancy Standard places obligations on registered providers to ensure that

- their homes are let in a fair, transparent and efficient way.
- their lettings make best use of available housing and

- be clear application, decision-making and appeals processes.
- enable their tenants to gain access to opportunities to exchange their tenancy with that of another tenant.
- take into account the housing needs and aspirations of tenants and potential tenants. This is particularly important where tenants have access needs due to disability.

There were no breaches under this standard in 20/21, however there is a case study in the review regarding intervention prior to breach. The key points are

- Whistleblowing referral
- Small provider charging new tenants an upfront “refurbishment charge” for potential works at the end of tenancy
- Fair wear and tear repairs are not rechargeable according to the tenant agreement
- No monies were ever fully or partially refunded
- As no tenant had complained, there was no breach but because of the potential impact on tenants, the regulator is concerned.
- The provider voluntarily removed the charge, announced the change to the tenancy agreements and refunded the charges tenants had previously paid

It highlights the importance of registered providers engaging constructively with the Regulator and being willing to review the impact of their policies and procedures, especially if they may have unintended consequences.

7. TENANT INVOLVEMENT AND EMPOWERMENT STANDARD

The Tenant Involvement and Empowerment Standard requires registered providers to take account of the diverse needs of tenants; treat all tenants with fairness and respect; and demonstrate they understand the different needs of their tenants, including in relation to the equality strands and tenants with additional support needs.

How a registered provider interacts with its tenants, and how it put things right when they have gone wrong, provides evidence and assurance about the culture of the organisation, and how its systems and processes operate in practice.

It also placed emphasis on the importance of tenants having access to effective redress mechanisms which aim to resolve concerns promptly and effectively.

The case example in the review highlighted the following:

- Referral from tenant regarding the conditions and implications of those to an entire housing estate
- Policies and processes were robust, in place and followed to demonstrate how individual concerns were managed and independently reviewed
- Evidence of proactiveness, multi-agency working, and working closely with tenants and representative groups.

8. CONCLUSION

Although work is ongoing with compliance against the Standards, it is worth noting these highlights from this review and how Ashfield District Council Housing and Asset Services can evidence we are confidently and appropriately achieving the following:

- We have good quality data about our tenants and stock and are able to demonstrate that the data is accurate and accessible to the relevant service areas,
- Consider how best we can ensure tenant voices are heard, both formally and informally, as this speaks our culture and the purpose of the organisation.
- Continue to identify trends, themes or wider issues and Boards and Councillors to be receptive to the messages that tenants are giving them. This continues to be a fundamental element of compliance.
- We should not wait for the White Paper to be implemented, as a clear direction of travel has been set and proactive work needs to commence to ensure compliance.
- Take into account the housing needs and aspirations of tenants and potential tenants. This is particularly important where tenants have access needs due to disability.
- We can demonstrate we know and understand the different needs of their tenants, including in relation to the equality strands and tenants with additional support needs.