

SENTINEL HOUSING ASSOCIATION

Comments on draft proposals for new regulatory standards as outlined in 'Building a new regulatory framework (June 2009)'

SEPTEMBER 2009

Sentinel Housing Association Limited owns and manages over 7,000 homes in North Hampshire. Sentinel was originally formed through the transfer of the Council housing from Hart District Council and half of Basingstoke and Deane Borough Council, and has become a major housing association for neighbourhood development and regeneration and new homes throughout the area.

We would like to thank the Tenant Services Authority for offering the opportunity to respond to the discussion document, 'Building a new regulatory framework. Our response deals with the range of standards, excluding the proposal on governance, which we have commented on separately and forwarded to the TSA.

We have also developed our response in consultation with our residents and in partnership with the residents of all the other key registered providers operating across Hampshire. This was achieved through a meeting of the Hampshire & District's Residents Forum which was attended by 102 tenant representatives from the 14 key registered providers in Hampshire.

Given the emerging related consultation documents, expanding on the initial draft framework publication, we have sought to focus on the key emerging themes of the documents.

Overview

Sentinel welcomes the thrust of the new regulatory framework with its focus on –

- Development of national and local standards
- A range of tenant focused standards
- The amplification of co regulation, building a partnership between tenants and the landlord in the regulatory process
- The primacy of the Board in good governance and self regulation
- A desire to look at outcomes rather than the processes
- Viability

National and local standards

Scope of standards – We consider that the six themes are consistent with our view on what is important for the future regulation of the sector, and the priorities for residents. We recognise, however, that there are some real challenges for how the standards may be best regulated, given the likely differences in focus between national and local standards, and the differing operating environments of housing associations and local authorities.

In development of the National Standards, we recognise that there needs to be a balance between creating and setting minimum thresholds, against development of a compliance mindset that could undermine innovation, service improvement and delivery for tenants.

To offset this effect, it would be helpful if the TSA could desist from being overly prescriptive in how providers should meet the National Standards. We support development of Codes of Practice based around outcomes that do not restrict 'the how' of service delivery for providers, whilst better supporting the objective of greater self-regulation. The Codes are likely to be best developed through a partnership between the key sector organisations such as the National Housing Federation/ Chartered Institute of Housing, sector benchmarking organisations and tenant bodies

which are better placed to inform best practice. This type approach is more likely to produce additional benefits in respect of removing possible burdensome and inefficient practices linked with traditional service delivery compliance requirements.

The consultation documents rightly highlight some of the considerations in relation to how the TSA may seek to collect information/data to support the new National Standards. For example –

- The differing data requirements from register providers and LAs
- Defining what data is important for tenants, and how that may be best communicated
- Delays in data availability to measure performance of new standards.

We consider that the monitoring information/data required to support the new standards should be defined as a matter of urgency to enable providers to clearly understand how to best align their information collection capability in advance of April 1 2010. Additionally, within the self regulatory emphasis of the proposals, it is imperative that providers, customers and Boards have clarity and visibility on how progress will be monitored and reported.

Paralleling the development of the information and data requirements for co regulation will require an overview of how the inspection process will be developed to support the regulatory role, and what should be its focus. This may create confusion for providers inspected under the current system and how they best drive improvement plans to suit in the interim.

Local Standards

The differing financial and governance structures, and operating contexts, across the range of housing providers will lead to challenges in terms of choreographing service development and service priorities for local standards. It is important that the setting of local standards do not become overwhelmed or unduly influenced by host local authority policies and priorities, which may not be consistent with the best outcome for the other providers' tenants.

This needs to be recognised and communicated as part of local standards development to effectively manage the expectations of tenant groups and all stakeholders. To this end, the commencement date of 1st April 2010 for implementation of the new standards appears extremely challenging.

We share the concern that local standards should not be burdened by a national regulatory regime that could undermine the commitment from providers to develop innovative local service solutions. However, we would welcome the development of pilots that could explore grading options for local standards. Supporting this approach, Sentinel HA has put forward proposals for development of a local standard for tenant empowerment, on behalf of, and in partnership with all the providers and their tenant bodies that make up the Hampshire & Districts Residents Forum.

Feedback from our consultation, through the Hampshire & Districts Residents Forum, has highlighted differences in service experiences of customers across the county. Accordingly, there is strong support from tenants for the creation of local standards in the areas of -

- Anti-social behaviour
- Customer service
- Estate management

- Tenant empowerment

Support for these areas is particularly marked where there are a range of providers working within the same neighbourhood or community. This invites the question whether it would be better to embed the separate standard on local area co-operation within the proposed estate management and anti-social behaviour standards. This has more meaning for tenants, as successful remedy invariably depends on multi-agency working.

A key omission from the standards is any reference to the role and contributions of leaseholders, as a key stakeholder within customer groupings. Whilst we recognise the TSA's reasoning for the focus on tenants; delivering sustainable communities requires the input of all residents. This is particularly relevant in the setting of standards relating to estate management, anti-social behaviour, local area co operation, empowerment, the service offer to tenants and value for money.

Service Offer Standards

We consider that local standards should be determined, developed, monitored and regulated through a partnership with the provider and its tenants, reflecting the specific cultural, demographic and service needs/expectations of the locality. The Board of the respective housing provider is best placed to regulate, balanced with development of effective tenant scrutiny bodies.

Empowerment & Involvement

In respect of the outcomes for empowerment and involvement, the key objective should be that involvement makes a difference to the lives and services of tenants. It should not be measured against specific structures or numbers involved, but rather on its effectiveness - that is, tenants being able to -

- Understand exactly how they can influence and shape their service offer
- See clearly how their contributions effect change
- Ensure that all customer interest groups are reflected in the make-up of the service.
- Know that the approach and change outcome is value for money for both tenant and provider

In the proposals, it states that *landlords* should clearly set out how tenants should be involved. This position appears to run contrary to the central aim of placing tenants at the heart of the regulatory process, and comes across as rather paternalistic to tenants.

Tenant satisfaction is a bottom line indicator of whether services are meeting needs. The current dependence on the Status Survey as a single methodology to collect and contrast tenant satisfaction performance levels is limited for involvement and all other service elements. We would support commissioning of works to understand how providers can develop a more rounded approach for evaluating and reporting satisfaction performance.

Complaints

Complaints are a central measure of customer satisfaction, and are an invaluable way for tenants to become involved. As set out above, this should be clearly promoted as one means in which tenants can effect service changes.

In this respect, we feel that the proposed standard for complaints should be seen as a key element of the involvement standard. Equally, as complaints are already covered by the Housing Ombudsman, it is unclear why this should be an additional standard covered by the TSA.

Viability

Broadly, we consider that the existing regulatory regime in this area has served the sector very well. How best to regulate viability needs to be finely balanced between the creation of a true co regulatory approach where the Board and its management have clear responsibilities and flexibility to manage the business, coupled with a system that gives confidence to regulators and all stakeholders of a viable and sustainable business. We appreciate that development of confidence in a period of unprecedented financial turmoil will require regulatory actions on a 'by exception' basis, and welcome the approach adopted to this over the past 12 months.

We have responded to all the key questions as set out in the consultation document on viability, as set out below-

Q 1 What key elements of the existing regime should be carried forward?

We feel that the key ratios under the present system are useful indicators to the financial health of providers. That said the present system needs to be more focused rather than a wide reaching sweep of data.

Q2 – Is a discrete standard for viability the most appropriate approach?

Yes- but it will require clarity to ensure that providers and their self regulatory approach is transparent. We recognise the differing operating context of registered providers and local authorities, but nonetheless feel that the viability standard should seek, where possible, to create consistency in order that tenants of the respective providers can more fully contrast and compare the financial well-being and frameworks for service delivery. This has obviously overlap with the proposals on governance.

Q3 - What key elements do you think should be reflected in a viability standard to ensure clarity on what performance standard is required?

These should be risk based and forward looking.

Measures could include:-

- loan headroom against committed development programme,
- security available,
- size of development programme,
- financial performance against covenants demonstrating clear contingency for unforeseen issues.

Qualitative measures might include:-

- assessment of non-core activities as proportion of overall business,
- how the Board assesses all significant new ventures,
- how are the strategic risks assessed and how resilient is the financial position to 1 or perhaps 2 significant issues?

Q5 - Do you agree we should continue with an independent assessment of viability based on appropriate financial information returns, and an informed assessment of risk exposure?

Yes- with an emphasis on the 'informed' aspect

Q7 - What are your views on the additional 'banding options' for assessing RPs compliance with the viability assessment?

We would support a system based around Option C: pass, pass with closer regulator monitoring, fail. However, we suggest that the bandings be more explicitly based on risk- in particular that 'pass with closer regulator monitoring' should not necessarily imply that risks are not being managed, but rather that a greater level of potential risk is present. There should be a clear understanding that this does not imply regulatory intervention from a loan agreement viewpoint.

Q8 – Annuality of regulation or more flexible approach?

We consider that the current annual returns are fine, although we would support the submission of additional information on a more frequent basis where major event or change in circumstances is planned or occurs. In line with co-regulation we do consider that additional requests should be proportionate and balanced so as not to create additional burden.

Q9 - What are your views on the period over which the TSA should focus its assessment of viability?

We agree that the focus should remain over a five year span, with longer term plans to demonstrate long-term capacity to meet lending and business plan objectives.

Q10 - Should an assessment differentiate between solvency and liquidity issues over the short term and viability over the medium to longer term?

Yes - however, we do suggest that the TSA should not seek to over prescribe how best to regulate solvency (as opposed to viability) as that is a management/board responsibility.

Q11 - What is your view on the capacity model as a means of collecting financial forecast information and in analysing that information? What alternatives are there?

In principle it's OK but the complexity adds little to its effectiveness. Yes a standard plan but with much simpler analysis.

Q13 - Should the provision of covenant information be part of financial information submitted to the TSA across the sector or on an exceptional basis?

We do not consider it is practicable to provide meaningful information on detailed covenants. We would suggest that the TSA relies on more general self-certification by RPs that they have systems in place to monitor all loan covenants and other requirements, and that financial projections demonstrate that covenants are met (or if not, provide explanation).

Q14 - What is your view on the development of a suite of financial health indicators which are common across the non LA part of sector? What are your suggestions?

We strongly support the development of a limited and relevant set of indicators, which should be made available for benchmarking purposes. In our view the existing set of indicators that is currently used has served the sector well, but we would also support the development of key indicators that from experience over past issues or failures, could better signpost arising financial difficulties.

Q15 - Should the TSA set specific requirements in relation to treasury management and if so what might they be, particularly by reference to Circular 01/07?

Yes the focus should be on:-

- the approach to hedging. Is it risk management or speculation?
- What knowledge does the Board have on Treasury? If none on the Board is independent advice regularly sought?
- There should be a simple annual report on Treasury shared with the TSA within 60 days of the year end..

Q18 - What cost information might be most useful and what are the key challenges to obtaining robust comparative information?

We consider that the current information collected through the FVA provides limited but useful top level cost indicator information, However the problem of how overheads are apportioned needs to be better addressed through the clear identification of overhead against general needs renting and all other business segments. We would strongly discourage a movement back towards the development of comparative cost information, linked around previous proposals around the Operation Cost Index which fail to sufficiently recognise the differing operating contexts of housing providers.