



Regulator of  
Social Housing

# Consumer Regulation Review 2020-21

September 2021

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## Executive summary

This Consumer Regulation Review describes how we approach consumer regulation and identifies the key issues and lessons arising from our casework 2020-21.

Covid-19 meant that social housing providers had to adapt their approach to the delivery of housing services in ways the sector has not seen before. We too changed the way we worked to help providers maintain key operations. Despite the difficult circumstances, we found that most providers effectively managed the crisis. The pandemic highlighted in particular the importance of good quality data to identify the risks to tenant safety from restricted services, and the importance of effective governance in navigating uncertainty.

Also in 2020, the government published its social housing White Paper, *The Charter for Social Housing Residents*<sup>1</sup>. When enacted, the provisions of the White Paper will enable the regulator to take a proactive approach to consumer regulation. We have begun to design a revised regulatory framework that will meet the three tests we have set: to make a meaningful difference to tenants, be deliverable by landlords, and be to be regulated effectively. We will continue to consult with tenants, landlords and other stakeholders as we develop our revised framework. In advance of legislation, and with the sector under greater scrutiny than ever, we expect providers to take action to deliver the aims of the White Paper: ensuring that residents are safe, are listened to, live in good quality homes and have access to redress when things go wrong.

In this report, we set out the details of the case where we found a breach of the standards and serious detriment, as well as those cases where we found significant weaknesses in service delivery. Our casework continues to demonstrate the importance of:

1. meeting health and safety requirements and ensuring tenants' homes are safe
2. effective communication with tenants, taking into account their diverse needs
3. learning from tenant complaints, and the need for registered providers to hear the messages tenants are giving them
4. planning to implement the White Paper, taking steps now to strengthen engagement with tenants and improve the services they receive.

These themes have been highlighted in our previous reports and should remain key priorities for Boards, Councillors and Executives.

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<sup>1</sup> The charter for social housing residents: social housing white paper - Gov.uk ([www.gov.uk](http://www.gov.uk))

## Context and key themes

## 1. Introduction

- 1.1. This report provides a summary of the consumer regulation work undertaken by the regulator for the year 2020-21. Within the report we highlight some of the key issues and lessons arising from our casework during the year which we feel it would be useful to share with the sector.
- 1.2. In 2020-21, we published one regulatory notice where we found a provider had failed to meet a consumer standard. During the year, we also engaged with a number of providers operating a lease-based model. Where we identified issues in relation to the consumer standards, we have reflected that in the regulatory notices and judgements published. This report includes details of those cases. It also includes some anonymised case studies where we did not find a breach of the standards but are included to provide tenants and landlords with information about how we undertake our role.
- 1.3. In November 2020, the government published its social housing White Paper, *The Charter for Social Housing Residents*. The White Paper commits to proactive consumer regulation, transparency on landlord performance, safety in the home, effective handling of complaints, strengthened resident engagement and good quality homes and neighbourhoods. The publication of the White Paper has not changed our current remit, which will require legislation, and it will take time to implement the changes but the direction of travel for the sector is clear. All registered providers should reflect on the White Paper, and how they can best prepare to implement the planned changes.
- 1.4. Our aim is to promote a well-governed, viable and efficient social housing sector and one that is able to deliver homes meeting a range of needs. As the regulator of social housing, parliament has given us both an economic and a consumer regulation objective. The consumer regulation objective is to:
  - support the provision of well-managed and appropriate quality housing
  - ensure tenants are given an appropriate degree of choice and protection
  - ensure tenants have the opportunity to be involved in the management of their homes and to hold their landlords to account
  - encourage registered providers to contribute to the well-being of the areas in which their homes are situated.

- 1.5. To achieve this objective, we have set four consumer standards<sup>2</sup>:
- Home
  - Neighbourhood and Community
  - Tenancy
  - Tenant Involvement and Empowerment
- 1.6. These standards are set so that providers, tenants and other parties know of the outcomes that are expected and so that providers can ensure that their organisations are delivering the right outcomes for their tenants.
- 1.7. We take a co-regulatory approach to achieving our objectives. This means that Board members and Councillors are responsible for ensuring that the organisation is managed effectively and that it complies with all regulatory requirements.
- 1.8. Since April 2012 we have regulated the four consumer standards reactively. This means that we do not proactively monitor the performance of providers or their compliance with the consumer standards, but we consider all information received to determine whether there is evidence of a breach of the consumer standards. We do not have a role in resolving individual disputes between tenants and their landlord, but in each case, we focus on whether there is evidence of a systemic failing by a registered provider and consider the impact (or potential impact) to tenants.
- 1.9. Although we regulate the consumer standards reactively, this does not mean the obligation for all registered providers to comply with the standards is lessened. Where we receive information directly from a tenant or from their elected representative which we consider indicates an individual dispute, we will signpost the Housing Ombudsman Service who do have a remit to support resolution of such disputes and can direct redress in individual cases. Further details on our approach are set out in Annex B of our publication *Regulating the Standards*<sup>3</sup>.

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<sup>2</sup> <https://www.gov.uk/guidance/regulatory-standards>

<sup>3</sup> <https://www.gov.uk/government/publications/regulating-the-standards>

## 2. Key themes arising from our casework

- 2.1. In the course of our consumer regulation work each year, we identify themes and learning points which we consider to be useful to all registered providers and local authorities. We have summarised these themes and feedback messages below.

### Health and safety compliance and managing risk

- 2.2. Meeting statutory health and safety obligations is an essential part of keeping tenants' homes safe. 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.
- 2.3. 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. Holding good quality data enables providers to better assess and manage risks, including those that arose this year as a result of disruption to service delivery. We saw that those 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.

### Communicating with tenants and understanding their needs

- 2.4. 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 everyone has spent more time in their homes, and has underlined the importance of tenants feeling safe at home. It was therefore 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.
- 2.5. Generally registered providers responded well to these engagement challenges. We saw some registered providers making contact with their most vulnerable tenants, ensuring they had access to food, medicines and support. We saw dedicated phone lines for tenants to report issues and speak with housing staff and the use of virtual meetings allowed individual tenants or groups to continue to meet with their landlords.
- 2.6. Our consumer standards set the broad principles for how registered providers should interact with their tenants, but they do not specify what that interaction should look like. That is something for registered providers to determine, by understanding and engaging with their tenants.

- 2.7. Overall, we saw registered providers adapting 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.

### **Continuous learning from complaints**

- 2.8. The primary responsibility for resolving complaints rests with registered providers. All providers should respond to issues or complaints promptly. The pandemic and subsequent restrictions affecting us all may have impacted upon some registered providers' ability to resolve concerns in line with their usual timeframes or processes, but 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.
- 2.9. When services fail, registered providers should not only put matters right for the affected tenants but look to what the complaint may be indicating about wider operations. When considering referrals involving the consumer standards, in line with our remit, we will look to see if there are indications of systemic failings. Registered providers should do the same to ensure that potentially system-wide failings are identified and addressed at the earliest opportunity. 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.

### **Complying with the standards and planning for the future**

- 2.10. In November 2020 the government published its White Paper which set out its vision for social housing in England. The White Paper included proposals to strengthen our consumer regulation to include proactive regulatory engagement between us and 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. Both bills are intended to improve safety in buildings and ensure that tenants living in high-rise and multi-occupancy buildings feel safe in their homes.
- 2.11. Until any legislation affecting the consumer standards is implemented, we continue to regulate within our current remit and mandate. However, a clear direction of travel has been set and we 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. Registered providers should not wait for the White Paper to be implemented to ensure tenants feel safe in their homes, and have a good quality home and neighbourhood to live in, or to ensure tenants feel like they are treated with respect and their views are listened to by their landlord.



## 3. How we regulate the consumer standards

3.1. We do not currently have a mandate to proactively monitor a registered provider's compliance with the consumer standards. However, we will consider all information we receive about any potential non-compliance with the consumer standards and determine if this indicates a systemic or organisational failing, which would be a breach of the standards. We will also consider whether any breach of the standards has caused, or has the potential to cause, serious harm to tenants. We call this the serious detriment test.

### Referrals to the regulator

3.2. Referrals and information about potential breaches of the consumer standards can come to us 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.

3.3. In many cases, and in line with our co-regulatory approach, registered providers and local authorities refer matters to us directly, and providers are expected to tell us of any breach or potential breach of the standards. A key part of a registered provider's commitment to co-regulation is that Boards and Councillors are responsible for ensuring the standards are being met and for being transparent with the regulator when they are not.

3.4. While we do receive referrals from individual tenants about their landlord, as a regulator we do not have a role in resolving individual disputes between tenants and their landlords. We will, wherever possible, provide information and signposting about other routes for tenants seeking to resolve an individual dispute with their landlord.

3.5. In the first instance, tenants should raise their concerns with their landlord. If a complaint is not resolved via the registered provider's complaints procedure, the resident may contact a Designated Person such as an MP, a local authority Councillor or a designated tenants' panel to help with the resolution of the complaint. The Designated Person may help resolve the complaint or may refer the case to the Housing Ombudsman Service for investigation. A resident can also escalate their complaint to the Housing Ombudsman directly. The Housing Ombudsman's role is to resolve individual disputes between tenants and their landlords, and to encourage the resolution of disputes by others. Information about the Housing Ombudsman is available on its website<sup>4</sup>.

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<sup>4</sup> Housing Ombudsman ([housing-ombudsman.org.uk](https://www.housing-ombudsman.org.uk))

## Our consumer regulation process

- 3.6. The process for consumer regulation consists of up to three stages. In all cases we will consider all the information we have received – this is stage 1 of the process. As part of the initial consideration, we will determine whether the matter falls within our remit, if it is covered by the consumer standards and if it could potentially represent a breach of those standards. If these tests are met, the referral will then move to stage 2.
- 3.7. At stage 2, a detailed review of the information will be carried out by our Consumer Regulation Panel to determine whether there is a potential breach of the consumer standards, and whether the serious detriment test is met. If the Consumer Regulation Panel needs further information to make a decision, the referral will move to stage 3 of the process.
- 3.8. At 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 allow us 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 in Annex A or on our website<sup>5</sup>.

## Our response to a breach of the consumer standards

- 3.9. We will always seek to secure the changes and improvements required using the least amount of interference. Where we do find a breach of the standards and serious detriment, the most appropriate way for registered providers to evidence their commitment to remedying any failings is through timely and effective action and we will seek to work with providers as they do so. As well as addressing failings, we expect 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. In addition to publishing a regulatory notice, we have a range of enforcement powers which can be used to compel a provider to take appropriate action.
- 3.10. Where we find a breach of the consumer standards and serious detriment, for private registered providers we will also consider the implications for a registered provider's governance. This is a separate test, and subject to a separate consideration. However, a failure by a registered provider to meet the consumer standards, and having put tenants at risk of harm, often demonstrates weaknesses in the organisation's risk management and internal control assurance framework.

<sup>5</sup> Consumer regulation process - Gov.uk ([www.gov.uk](http://www.gov.uk))

**Detailed findings  
and case studies**

## 4. Our approach to consumer regulation during Covid-19

- 4.1. The events of 2020-21 saw registered providers needing to adapt their approach to the delivery of housing services in ways the sector has never seen before. Covid-19 saw many tenants stay in their homes for long periods of time. Ensuring their homes were safe and of good quality was more important than ever. To help with this, the government developed non-statutory guidance for the social housing sector on health and safety obligations and repairs and inspections, aimed at ensuring landlords understood the requirements. However, landlords were faced with some difficulties including being unable to access tenants' properties, reduced contractor capacity, staff absences due to sickness or self-isolation and shortages of materials and equipment.
- 4.2. To ensure that we had up-to-date information about how providers were coping, we introduced a temporary monthly survey, the Coronavirus Operational Response Survey<sup>6</sup> (CORS), covering key areas on tenant safety. During this time, our consumer regulation processes remained in place allowing us to continue to consider referrals received from tenants and their representatives, and directly from registered providers. Wherever possible we also sought to engage directly with registered providers on an informal basis to encourage continued transparency around challenges to the delivery of services and compliance with the consumer standards. All the information gathered through these mechanisms, demonstrated to us that overall, social housing providers responded well to the unprecedented challenges faced during the year.
- 4.3. Using the information from the CORS responses, we carried out targeted engagement with providers reporting the most difficulties, in particular around completing health and safety checks. We obtained assurance that risks were being appropriately managed, and we saw that a range of mitigating actions were in place. While operational impacts were the most severe in the early stages of the pandemic, by mid-way through the year, providers were largely able to continue to deliver essential services and complete statutory health and safety checks without significant disruption or backlogs developing.
- 4.4. Through our consumer regulation processes in 2020-21, we saw providers overall were meeting the requirements under the consumer standards, taking into account the government-issued guidance in response to Covid-19. We did however see a small number of referrals where providers were implementing a range of service improvements or developing action plans to ensure compliance with the standards. Given the longer-term nature of these programmes, we continued to engage with these providers after our investigations had concluded to ensure that progress continued, and that changes were embedded. Two examples of that are set out below.

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<sup>6</sup> Coronavirus Operational Response Survey reports - Gov.uk ([www.gov.uk](http://www.gov.uk))

### **Case summary 1 – flexing our approach, and engagement to secure improvements**

A local authority notified us that following an external review, it had identified overdue remedial works required for electrical and fire safety. The external review highlighted a number of properties and communal areas without evidence of electrical testing. There were also several overdue fire risk assessments and remedial actions. In liaison with the external reviewer, the local authority developed a comprehensive action plan to improve its compliance position as well as its monitoring and reporting systems and self-referred this matter to the regulator.

The identification of these issues coincided with the beginning of the Covid 19 pandemic, where access to maintenance contractors and individual properties was severely restricted. We took account of the situation as well as the fact that the provider had informed us promptly of the issues. We considered its action plan, which had been on track prior to the lockdown restrictions, and noted that it had continued to progress works in high-risk areas despite the restrictions in place. We concluded that this was not a breach of the consumer standards. However, we continued to engage with the provider over the course of the next six months to ensure it was continuing to address the issues, and until we were satisfied that it had addressed the initial compliance issues.

### **Case summary 2 – flexing our approach**

Concerns were identified from a registered provider's CORS return. The return showed some overdue actions arising from fire risk assessments as well as a number of overdue electrical safety actions. When we asked the provider for further information, it was clear that Covid-19 had impacted on the provider's ability to access properties and it was able to demonstrate attempted customer contact as well as steps to mitigate risks to tenants. In relation to electrical safety, the provider had changed its systems to allow remedial works to be completed at the point of inspection to reduce the number of outstanding actions in the future. In relation to fire safety, Covid-19 had led to supply chain issues and furloughed staff at contractors. Risks were being mitigated through regular risk assessments of the works outstanding and by monthly compliance checks at blocks.

Overall, the evidence showed that the issues had arisen because of access and supply chain issues due to Covid-19, but that the provider was taking steps to manage this, including recording access attempts, putting risk mitigations in place and changing systems where appropriate. The works had also been included on a programme for completion. We therefore considered that it was not a breach of the Home Standard. We continued to receive updates from the provider during this period and were able to gain assurance that the situation was recovered over time, with the relevant actions since being completed.

## 5. The link between consumer regulation and governance

- 5.1. Our approach to regulating our economic standards is different to our regulation of the consumer standards, but the two are closely linked. We proactively seek assurance from registered providers that they are meeting the economic standards including the Governance and Financial Viability Standard<sup>7</sup>.
- 5.2. The Governance and Financial Viability Standard requires providers to have governance arrangements in place which ensure they adhere to all relevant law and have effective risk management and internal controls assurance frameworks. There is a clear correlation between registered providers who are not able to demonstrate they have effective governance arrangements in place, and who cannot demonstrate compliance with the consumer standards. This is particularly the case when we find registered providers have not been meeting all applicable statutory requirements to keep tenants safe in their homes. When a provider has not completed health and safety testing this is usually due to a gap or failure in its governance arrangements.
- 5.3. In 2020-21, the link between governance and consumer regulation has been particularly evident in our engagement with registered providers operating a lease-based model. While often the nature of the contractual arrangements in place mean that providers are not carrying out these checks directly, they are nevertheless responsible for ensuring these checks and safety actions are completed, and that their tenants are safe. During the course of this year, we have seen cases where a small number of providers operating a lease-based model have failed to ensure that they are adequately managing the risks to vulnerable tenants by failing to ensure statutory health and safety requirements are met.
- 5.4. The case below highlights how one lease-based provider failed to ensure that it met the statutory health and safety requirements in its homes. Following our engagement, the provider rectified the issues quickly and we did not find a breach of the consumer standards. We did however consider this failure alongside the other information we received in relation to its governance arrangements and found a breach of the Governance and Financial Viability Standard.

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<sup>7</sup> Governance and Financial Viability Standard and Code of Practice - GOV.UK ([www.gov.uk](http://www.gov.uk))

### **Case summary 3 – Hilldale Housing Association Limited**

Through our engagement with Hilldale, we identified it had failed to carry out a range of statutory health and safety checks and had failed to notify us about that.

New Board members had identified the issue when they joined the organisation and had put in place measures to complete all of the required testing to ensure the provider was meeting its health and safety requirements. The provider continued to update us on its progress until it was able to demonstrate that it met the full range of health and safety requirements.

We found a breach of the Governance and Financial Viability Standard for a range of issues, including that the provider did not have an effective risk management and an internal controls assurance framework. In reaching that conclusion, we took into account the failure to ensure that statutory health and safety requirements were met, which we consider to be a fundamental failure of the governance arrangements in place.

We published a regulatory notice setting out our conclusions, and we continue to engage intensively as this provider seeks to resolve the issues of non-compliance.

- 5.5. 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.
- 5.6. The case below highlights how one lease-based provider failed to ensure that it met the statutory health and safety requirements and kept tenants safe when it was using managing agents. We considered these failings in the round, alongside other evidence about the effectiveness of its governance arrangements.

### **Case summary 4 – Prospect Housing Association Limited**

Prospect was assessed as non-compliant with the Governance and Financial Viability Standard in May 2020. Working with the new leadership of the organisation, we identified a range of further issues.

Under the arrangements in place, the provider used managing agents to provide housing management and support to tenants. Reviews commissioned by the new leadership team into two serious safeguarding incidents identified weaknesses in procedures and controls of the landlord over services delivered by third-party managing agents.

A range of statutory health and safety checks were also overdue, and the provider had difficulty in ensuring those were remedied through the managing agents given the operational arrangements in place.

We found this to be further evidence of the lack of effective governance arrangements. Taking these issues alongside a range of other concerns, in October 2020 we concluded that a further downgrade of its governance grading was appropriate, and we took enforcement action to appoint a number of board members to ensure these serious issues could be remedied with sufficient pace.

We are continuing to work closely with Prospect as it seeks to ensure a smooth transition as part of a solvent wind-down of its operations.



## 6. The Home Standard

### Breach of Home Standard and serious detriment

- 6.1. 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. The majority the referrals we receive relate to assessing whether tenants' homes are safe, and that registered providers meet all applicable health and safety requirements which provide for the safety of tenants in their homes.
- 6.2. The case below shows how one local authority failed to ensure that that it met statutory health and safety requirements in its homes. We concluded that the local authority had breached the Home Standard and risked serious harm to tenants.

#### **Case summary 5 - South Kesteven District Council**

South Kesteven District Council (the Council) self-referred to the regulator issues it had identified with its health and safety compliance obligations. Through our assessment of the information provided, we found that the Council had failed to meet statutory health and safety requirements in relation to fire, electric, asbestos and heating appliances.

We found that over a thousand remedial actions identified in fire risk assessments carried out in 2017 had not been completed. We also found that the Council had failed to ensure solid fuel heating appliances did not pose a risk to tenants. With regard to electrical safety, the Council had not inspected any of its communal areas and just under half of individual properties had overdue inspections. Asbestos surveys for communal areas were also overdue. We concluded that this was a breach of the Home Standard, and that there had been a risk of serious harm to tenants as a result. The Council accepted our findings.

In response, the Council has strengthened its senior capacity, demonstrating appropriate leadership and ownership and has developed an action plan to address the underlying weaknesses in its systems. A programme of work has commenced, and the Council has provided assurance that it has taken immediate and appropriate action to ensure the safety of tenants while the programme was being delivered. We are continuing to work with the Council as the leadership implements the plan to return to compliance through realigned resources, and a cultural change programme.

## Compliance across all areas of health and safety

- 6.3. Health and safety requirements which ensure tenants are safe in their homes 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.
- 6.4. The following case study gives a good example of how a provider responded to an asbestos disturbance. It highlights the importance of being proactive in managing this risk and responding promptly and effectively when things go wrong.

### Case summary 6 – asbestos management

A large registered provider self-referred to us following an investigation by the Health and Safety Executive (HSE) into an asbestos disturbance after a contractor had attended a leak. The contractor had been given a copy of the asbestos survey for the property which identified asbestos containing materials but did not specify the location. There was no tenant exposure to asbestos and the matter was reported to the HSE who determined the incident to be a breach of regulations in relation to the level of information available prior to work commencing.

The registered provider explained to us that it had identified areas for improvement following the incident to prevent a similar incident reoccurring, including arranging for refurbishment and demolition surveys prior to commencement of works, refresher training for all asbestos surveyors and improved procedures for contractors.

Although the HSE determined a breach of health and safety regulations, this was a separate judgement to the regulator. We took into account the conclusions of the HSE, but we did not find a breach of the Home Standard because systems were in place and because appropriate steps had been taken to manage the incident once it occurred.

- 6.5. The case study below highlights the importance of registered providers understanding their statutory responsibilities, including where the legislative requirements may not be prescriptive.

### Case summary 7 – electrical safety requirements

A provider made a self-referral to the regulator and explained that it had been moving to a five-year electrical inspection programme since 2019. Data showed that there were a number of properties which had not had an electrical safety check in the last 10 years. In response to our enquiries, the provider gave assurance in that it had commissioned an electrical audit in 2018, including reviewing the storage of certificates.

The provider had also engaged with industry specialists to provide expert advice. The inspection programme was risk-based, taking into account tenure, the height and age of buildings.

Based on the available information, we could see that the provider was managing electrical safety by implementing a risk-based programme to ensure that all properties had an in date electrical safety check and had developed the testing programme following advice from external specialists. For those reasons, we did not find a breach of the Home Standard.

## 7. Neighbourhood and Community Standard

- 10.1. The Neighbourhood and Community Standard sets out a number of specific expectations of registered providers. The most common of these we considered during our 2020-21 work related to how registered providers managed anti-social behaviour.
- 10.2. The standard sets out how registered providers are required to work collaboratively with other agencies to tackle and prevent 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. Over time, with the implementation of the social housing White Paper, this will continue to be an important issue for tenants and registered providers.
- 10.3. A good example of how a registered provider sought to manage anti-social behaviour is set out below.

### **Case summary 8 – multi-agency approach to tackling anti-social behaviour**

We received a tenant complaint (on behalf of a number of tenants) about persistent and serious criminal and anti-social behaviour in their neighbourhood caused by one household which they said that the provider had failed to address. Due to the seriousness of the issues, the tenant was concerned about the safety of people in the neighbourhood.

We investigated this referral, and in response to our enquiries the provider highlighted the detailed work it had undertaken to try and address the issues. This included promptly contacting the Police and having regular, ongoing engagement with them. The registered provider had also arranged for the Fire Service to visit affected tenants to provide advice and support. It had arranged multi-agency meetings with relevant organisations, including the local authority and had installed CCTV in the area. The registered provider obtained legal advice on its options for managing the household engaged in the anti-social behaviour, including eviction.

At the time of the referral to us, the situation had not yet been resolved for the residents living in that area, but the evidence demonstrated a prompt and proactive approach by the registered provider to managing this issue. We saw that the registered provider was working with other agencies to tackle the anti-social behaviour as required under the Neighbourhood and Community Standard.

## 8. Tenancy Standard

- 8.1. The Tenancy Standard places obligations on registered providers to ensure that their homes are let in a fair, transparent and efficient way. They need to demonstrate how their lettings make best use of available housing and there should be clear application, decision-making and appeals processes. The standard also requires registered providers to enable their tenants to gain access to opportunities to exchange their tenancy with that of another tenant. When letting homes, the Tenancy Standard also requires registered providers to 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.
- 8.2. While we received a number of referrals which we considered against the Tenancy Standard, we did not find any breaches of the standard in 2020-21. However, the example below sets out how providers need to fully consider their letting agreements to ensure that they are fair and transparent and take account of the aspirations of potential tenants.

### **Case summary 9 – regulator intervention sees provider put things right for tenants**

We received a whistleblowing referral relating to concerns that a small registered provider was charging new tenants a ‘refurbishment charge’ as an upfront fee for any work required at the end of a tenancy. We noted that the provider’s tenancy agreements stated that tenants did not pay for damaged classed as ‘fair wear and tear’ and there was no indication that the refurbishment charge was wholly or partly refunded if only fair wear and tear damage was caused during the term of the tenancy. It also appeared that the upfront refurbishment charge could have excluded potential social housing tenants.

We had no clear evidence that tenants had suffered financial loss, and we had received no complaints from tenants about this matter. For these reasons, we were unable to establish that serious detriment had been caused. Nevertheless, given the possible impact on potential tenants, we contacted the registered provider to highlight our concerns with its refurbishment charge. In response, the provider voluntarily removed the requirement for a refurbishment charge for all new tenants and removed reference to this from its tenancy agreements. It also wrote to all existing tenants announcing the change to the tenancy agreements and offering to refund the charges they had previously paid.

- 8.3. This case is also an example of how we work directly with registered providers even where we do not find a breach of the standards. It highlights the importance of registered providers engaging constructively with us and being willing to review the impact of their policies and procedures, especially if they may have unintended consequences.

## 9. Tenant Involvement and Empowerment Standard

- 9.1. 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.
- 9.2. 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. The social housing White Paper continued to emphasise the importance of tenants being listened to and being able to hold their landlord to account. It also placed emphasis on the importance of tenants having access to effective redress mechanisms which aim to resolve concerns promptly and effectively. The example below highlights the importance of registered providers taking prompt action to resolve issues when they arise, and the importance of having mechanisms in place to hear the messages tenants are giving.

### **Case summary 10 – responding effectively to tenants’ concerns**

We received a referral about a housing estate relating to concerns about security issues, anti-social behaviour and general housing conditions. In response to the referral, the provider explained how it had engaged directly with the residents’ association to understand what its concerns were and what steps it had taken to improve the estate and to make tenants feel safer.

The provider sent us details of its complaint processes to demonstrate how individual concerns were managed and how it ensured that they were independently reviewed. This process involved ongoing review by a tenants’ scrutiny panel to ensure that the provider handled complaints appropriately. The provider also set out how it had engaged with local stakeholders, including the Police and local Council. The evidence showed that the provider had been proactive in engaging with tenants and their representative groups about the issues of concern and had followed its policies and processes for responding to the substantive issues raised, as well as the complaints made by individual tenants.

## **Annexes**

## Annex A – Analysis of cases

### Referrals by stage

- 10.1. Our consumer regulation process has up to three stages. We have summarised this below, and a diagram is provided on our website<sup>8</sup>.
- Stage 1 – the Referrals and Regulatory Enquiries (RRE) team manages all referrals to the regulator. The RRE team’s role is to review incoming referrals and determine whether the issues raised are within our remit, and if there appears to have been a breach (or a risk of a breach) of the consumer standards. If so, the RRE team refers the case to the Consumer Regulation Panel.
  - Stage 2 – the Consumer Regulation Panel considers each case to determine whether there is evidence of a breach of the standards and, if so, whether there has been harm, or potential harm (serious detriment), to tenants. It considers two questions:
    - i. if the issues raised were true, is it likely that there has been, or could be, a breach of a consumer standard?
    - ii. if the issues raised were true, would there be any impact on tenants which would cause serious actual harm or serious potential harm?
  - Stage 3 - if the Consumer Regulation Panel considers that there could be a breach of the standards, or if there is a suggestion that tenants are at risk of serious harm, we will carry out an investigation. We will usually seek information from the individual making the referral and the registered provider, as well as any third parties if necessary.
- 10.2. The table below shows the total number of consumer regulation referrals handled by the regulator in 2020-21 and how many of those went on the subsequent stages of our process. The 2019-20 figures are also given for comparison purposes.

	2020-21	2019-20
<b>Stage 1 – All referrals</b>	591	597
<b>Stage 2 – Considered by Consumer Regulation Panel</b>	236	274
<b>Stage 3 – Investigation undertaken</b>	111	143
<b>Published findings of breach and serious detriment</b>	1	15

<sup>8</sup> Consumer regulation process – Gov.uk ([www.gov.uk](http://www.gov.uk))



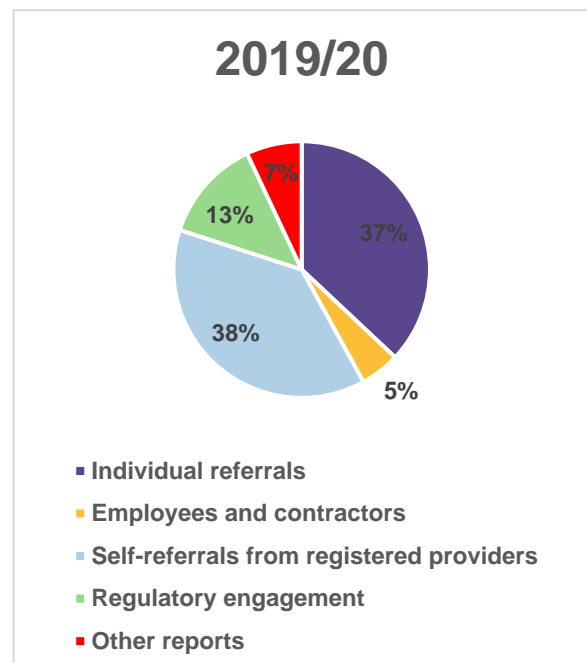
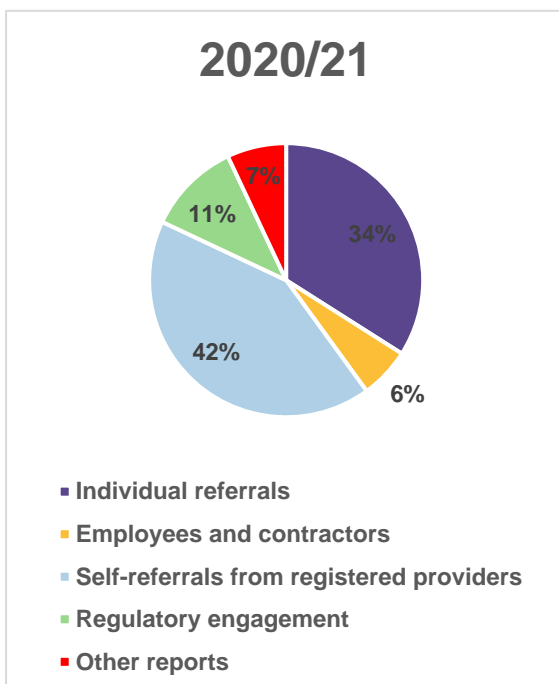
- 10.3. In 2019-20 we received 597 consumer standard referrals which was consistent with the previous year (only 1% lower in 2020-21). Although the numbers of incoming cases remained constant, the numbers proceeding through each stage of the consumer regulation process decreased on the previous year, both in absolute terms, and relative to the total number of referrals received. 236 cases were referred to a stage 2 review by the Consumer Regulation Panel – this was 40% of all incoming referrals (compared to 46% the previous year). Of these, 111 (19%) were investigated further (compared to 24% the previous year).
- 10.4. We found a breach of the consumer standards and serious detriment in one case – significantly lower than the 15 cases from 2019-20. For reasons set out in the substance of this report, we attribute these lower numbers to changes occurring within providers as they responded to the impact of Covid-19, and also due to changes in how we engaged with providers during this period including our monthly Covid-19 survey and taking into account the government-issued guidance in response to Covid-19. We did, however, see a small number of referrals where providers were developing action plans to ensure compliance with the standards and we continued to engage with these providers after our investigations had concluded to ensure that progress continued.
- 10.5. In 2019-20, we reported an increase in consumer standard referrals in relation to local authorities from the previous year. This year (2020-21), the number of referrals about local authorities has remained consistent with the previous year. 10% of all consumer standard referrals received related to local authorities, and 17% of those referrals were direct self-referrals from local authorities. In 2019-20, we noted that there had been a material increase in local authorities reporting their compliance to us. The data for 2020-21 indicates that the change has been maintained by the local authority sector.
- 10.6. For the cases which were not escalated to Consumer Regulation Panel or where the Consumer Regulation Panel concluded not to investigate the matters raised, there are a number of reasons why this may be the case. Often referrals are not within our remit, for example: they were made by homeowners or leaseholders, the issues raised related to private landlords or organisations which were not registered providers, or the issues related to individual complaints tenants had about their landlords. In those cases, we would signpost the tenant to their landlord's complaints process and the Housing Ombudsman Service, where appropriate.

## Sources of referrals

- 10.7. We receive referrals from a range of sources, most commonly from tenants and as self-referrals from registered providers. We also receive information from employees or contractors, and we identify referrals in the course of our planned regulatory engagement with providers.
- 10.8. The charts below show that for all referrals received, the source of these referrals was consistent with the previous year. We received a slight increase in individual referrals and referrals from elected representatives, offset by a small decline in self-referrals and referrals arising from our ongoing regulatory engagement.

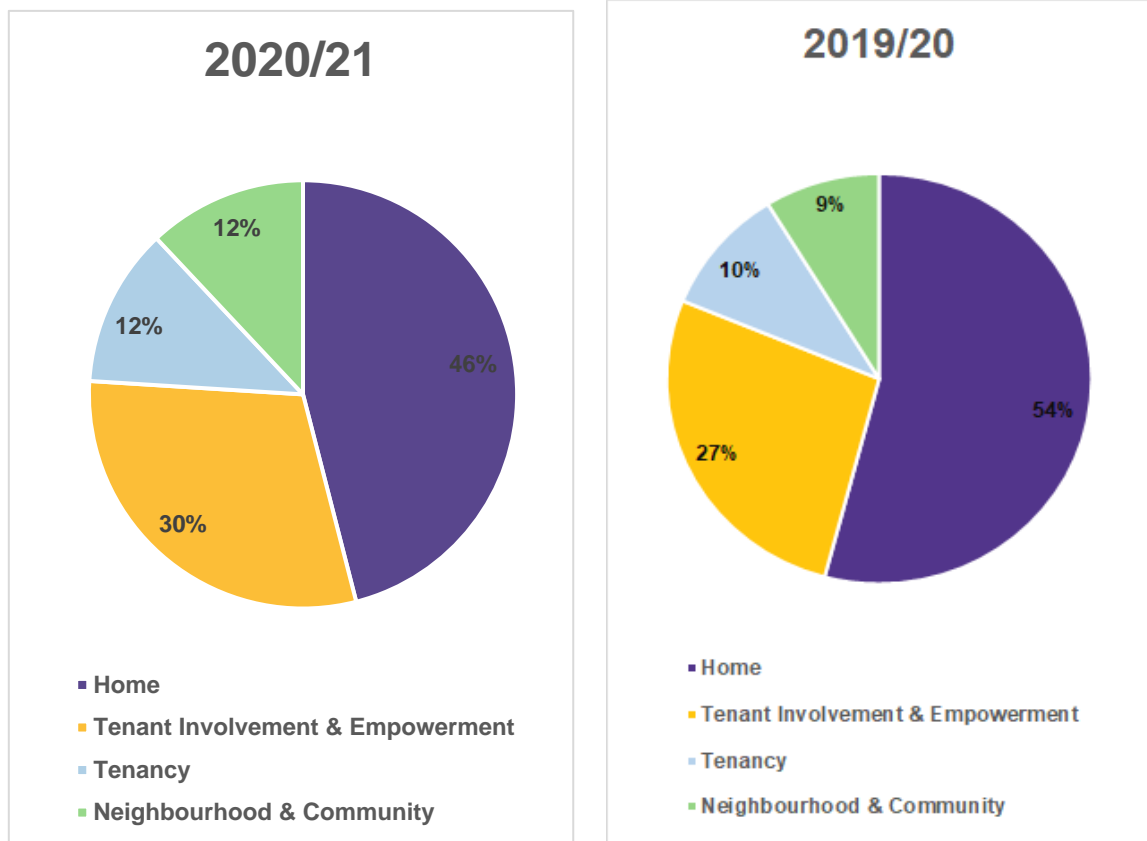
	2020-21 (%)	2019-20 (%)
<b>Referrals from individuals</b>	70	68
<b>Referrals from elected representatives</b>	5	2
<b>Referrals from contractors/employees</b>	3	3
<b>Self-referrals from registered providers</b>	15	18
<b>Referrals identified through regulatory engagement</b>	4	6
<b>Other reports</b>	5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

- 10.9. While the majority of referrals received are from individuals, we do not have a role in resolving individual complaints that tenants have about their landlord. For this reason, a smaller proportion of individual complaints are investigated through stage 3 of our consumer regulation processes. The chart below shows that the proportion of referrals investigated from different sources has remained consistent with last year.



## Referrals by standards

10.10. The proportion of referrals relating to each of the consumer standards remains consistent year-on-year. As in previous years, the Home Standard continues to be the consumer standard that is most often cited in referrals, representing just under half of all referrals considered by the Consumer Regulation Panel. The Tenant Involvement and Empowerment Standard is the next most frequently cited standard, accounting for 30% of cases in the year.



## Annex B – Summary of previous lessons learned

11. 1. This is our ninth annual Consumer Regulation Review and each year our report sets out the key lessons we wish to share with the sector. Full versions of each of the reports are available on our website<sup>9</sup>.

11. 2. We have set out a short summary of these lessons below.

### 2019-20

11. 3. In our last Consumer Regulation Review, we set out the details of 15 cases where we had found a breach of the consumer standards and serious detriment. We said:

- Registered providers and local authorities must understand the legislative and regulatory requirements, as well as their responsibilities in delivering compliance. That includes where housing management services are delivered by a third party such as a managing agent or arms-length management organisation.
- Good governance is critical to a registered provider's ability to manage risks effectively. It is vital that governing bodies have effective oversight of how key risks, including health and safety, are managed.
- When things go wrong, registered providers should respond in a prompt and effective way, and to mitigate risks to tenants as quickly as possible.

### 2018-19

11. 4. In our seventh Consumer Regulation Review, we reiterated the importance of registered providers ensuring the homes where their tenants live were safe. We said:

- Registered providers must meet the full range of statutory health and safety obligations. This requires robust reporting and assurance arrangements, to allow effective oversight by boards and councillors.
- Effective assurance relies on good quality data and effective systems.
- Registered providers should be able to demonstrate compliance across all aspects of the consumer standards, including how they engage with their tenants, how they deal with neighbourhood issues, and how they allocate their properties.
- Transparency with the regulator is essential. Co-regulation requires registered providers to be transparent with us, and a failure to do so can indicate broader governance concerns.

<sup>9</sup> Consumer regulation review - GOV.UK ([www.gov.uk](http://www.gov.uk))

## 2017-18

11. 5. In our 2017-18 Consumer Regulation Review, we set out the details of five cases where we had found a breach of the consumer standards, and serious detriment. We focused on the importance of landlords meeting their statutory health and safety obligations and set out the importance of providers having an effective complaints process, and listening to the messages their tenants give. We said:

- Complying with health and safety obligations remains the most fundamental responsibility for registered providers. Registered providers should be clear about their responsibilities, including for properties that are leased or managed.
- Compliance with the consumer standards, including how tenants are listened to, reflects to the culture of the organisation, and goes to the heart of why registered providers exist and their purpose.
- Providers are responsible for responding to complaints about their service, and getting the culture right on complaints handling affects the level of trust and confidence tenants have in their landlord. Registered providers must ensure they understand the messages that tenants are giving, and should probe where those messages indicate a significant or systemic failure.

## 2016-17

11. 6. In our fifth Consumer Regulation Review, published shortly after the terrible fire at Grenfell Tower, we again reiterated the importance of complying with statutory health and safety obligations, and for registered providers to have clarity over their statutory responsibilities. We also shared our view on the importance of good complaint handling and the need for transparency with the regulator. We said:

- Compliance with health and safety obligations and the consumer standards has always been a key responsibility for governing bodies of registered providers.
- Registered providers must be clear about what stock they own and are the landlord for, and must understand their responsibilities to deliver statutory compliance.
- Registered providers are responsible for ensuring tenants know how to complain, and for responding to complaints effectively. Boards should have access to the messages that tenants are giving them.

## 2015-16

11. 7. In our fourth Consumer Regulation Review, we set out the details of the four regulatory notices we published that year, all in relation to gas safety. One of those cases related to a registered provider who had contracted out delivery of gas safety compliance. We explained that this did not remove the responsibility on the landlord to ensure statutory compliance. We said:

- Meeting health and safety obligations is a primary responsibility for registered providers. Contracting out the delivery of services does not contract out responsibility to meet the requirements of legislation or standards.

## 2014-15

11. 8. In 2014/15, we set out the details of six cases where we had found a breach of the consumer standards and risk of serious detriment. Four of those cases related to compliance with gas safety requirements but, for the first time, two of those cases related to the repairs and maintenance service provided to tenants. In the report, we highlighted that:

- Responsibility for complying with the consumer standards applied to local authorities as well as private registered providers.
- It is important for registered providers to have in place good asset management systems. Where failures occur, we often find those systems are not fit for purpose, or that the board did not probe or challenge the assurance they were given.

## 2013-14

11. 9. In our second Consumer Regulation Review, we set out details of the three cases where we had found a breach of the consumer standards and risk of serious detriment. All three cases related to a failure to meet gas safety requirements. We also reminded registered providers of their duty to be transparent with the regulator. We said:

- Registered providers have a responsibility to communicate with us in a timely way. Where a registered provider becomes aware of a breach of the standard which might cause serious detriment, it must notify us promptly.

## 2012-13

11. 10. In our first annual Consumer Regulation Review, we provided details of one regulatory notice for a failure to meet gas safety requirements. In the report, we said:

- Registered providers are responsible for meeting statutory health and safety requirements. We recognise that, for good reason, registered providers prefer to work with tenants to secure access to properties. However, on occasions registered providers may need to make use of legal mechanisms available to ensure the safety of tenants, and they should do so in a timely manner.



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