

# The Directions on Regulatory Standards

The Secretary of State, in exercise of the powers conferred by section 197 of the Housing and Regeneration Act 2008 (“the 2008 Act”) makes the following Directions:

## **Citation, application and interpretation**

1.—(1) These Directions may be cited as the Directions on Regulatory Standards and apply to registered providers from 1 April 2012.

(2) The Regulatory Standards set by the Regulator of Social Housing (“the Regulator”) pursuant to these Directions apply to low cost rental accommodation of registered providers but do not apply to—

- (a) in relation to a registered local authority, accommodation not accounted for within the local housing authority's Housing Revenue Account; and
- (b) in relation to private registered providers, rental accommodation to which grant has been given on the basis that the accommodation is intermediate rent, or accommodation specified as exempt from the rent influencing regime in the Rent Influencing Regime Guidance.

(3) In these Directions—

“category 1 hazard” has the meaning given by or under section 2 of the Housing Act 2004,

“Decent Homes Guidance” means A Decent Home: Definition and guidance for implementation published by the Department for Communities and Local Government in June 2006 and any guidance issued by the Department or its successors, in relation to that document,

“Housing Revenue Account” means the account a local housing authority is required to keep by virtue of section 74 of the Local Government and Housing Act 1989,

“internet based” means a service which is accessed through the internet,

“let on Affordable Rent terms”, in relation to accommodation, means provided pursuant to a housing supply delivery agreement entered into between a registered provider and the Homes and Communities Agency under the Agency’s 2011-15 Affordable Housing Programme Framework,

a “match” occurs where a property is identified which fulfils the required property details entered and there is a reciprocal match for the tenant of that identified property,

“mutual exchange” means an agreement between tenants to swap homes, whether or not the tenants are tenants of the same registered provider,

“mutual exchange property” means a property the tenants of which have registered an interest in arranging a mutual exchange with a mutual exchange service,

“mutual exchange service” means a service which enables tenants who have registered an interest in arranging a mutual exchange to search for other mutual exchange properties,

“property” means any low cost rental accommodation of a registered provider,

“property details” include the property type (flat, bungalow, house, etc), address and number of bedrooms,

“Rent Influencing Regime Guidance” means the Rent Influencing Regime Guidance published by the Housing Corporation in October 2001, the Rents guidance in the Explanatory Note to Decision Instrument 5 (Revision to the Tenancy Standard: Affordable Rent) published by the Regulator in April 2011 and any other guidance issued by the Housing Corporation, the Regulator or its successors, in relation to those documents,

“Right to Manage” means the exercise of the rights in relation to the management of premises provided for under sections 27 and 27AB of the Housing Act 1985,

“RPI” means the general index of retail prices (for all items) published by the Office for National Statistics or, if that index is not published for any month, any substituted index or index figures published by that Office,

“set” in relation to a standard, includes revise, and cognate expressions are construed accordingly,

“Social Rent Guidance” means the Guide to Social Rent Reforms published by the Department of Environment, Transport and the Regions in March 2001, the Written Ministerial Statement on Affordable Rent made on 9 December 2010 and any guidance issued by the Department or its successors, in relation to that document, and

“tenant” means a tenant of a registered provider of social housing.

(4) Expressions which are used, but not defined, in these Directions have the same meaning as in the 2008 Act.

(5) References in any document referred to by these Directions to—

- (a) registered social landlords, or cognate expressions, are to be treated as references to private registered providers,
- (b) the Housing Corporation are to be treated as references to the Regulator.

## **Tenure**

**2.—**(1) The Regulator must set a standard relating to types of tenure and relating to the content of registered providers’ tenancy policies (“the Tenure Standard”).

(2) The Regulator must set the Tenure Standard with a view to achieving, so far as possible, that registered providers grant tenancies which are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community, and the efficient use of their housing stock.

(3) The Regulator must also set the Tenure Standard with a view to achieving, so far as possible, that registered providers publish clear and accessible policies which outline their approach to tenancy management, including preventing unnecessary evictions and tackling tenancy fraud, and set out—

- (a) the type of tenancies they will grant;
- (b) where they grant tenancies for a fixed term, the length of those terms;
- (c) the circumstances in which they will grant tenancies of a particular type;
- (d) any exceptional circumstances in which they will grant fixed term tenancies for a term of less than five years in general needs housing following any probationary period.

- (e) the circumstances in which they may or may not grant another tenancy on the expiry of the fixed term, in the same property or in a different property;
  - (f) the way in which a tenant or prospective tenant may appeal against or complain about the length of fixed term tenancy offered and the type of tenancy offered, and against a decision not to grant another tenancy on the expiry of the fixed term;
  - (g) their policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness, and households with children, including through the provision of tenancies which provide a reasonable degree of stability;
  - (h) the advice and assistance to tenants on finding alternative accommodation they will give in the event that they decide not to grant another tenancy; and
  - (i) their policy on granting discretionary succession rights, taking account of the needs of vulnerable household members.
- (4) The Regulator must also set the Tenure Standard with a view to achieving, so far as possible, that—
- (a) registered providers grant general needs tenants a periodic secure or assured (excluding assured shorthold) tenancy or a tenancy for a minimum fixed term of five years, or exceptionally a tenancy for a minimum term of no less than two years, in addition to any probationary tenancy period;
  - (b) before a fixed term tenancy ends, registered providers provide notice in writing to the tenant stating either that they propose to grant another tenancy on the expiry of the fixed term or do not propose to do so;
  - (c) where registered providers use probationary tenancies, these are for a maximum of 12 months, or a maximum of 18 months where reasons for extending the probationary period have been given and where the tenant has the opportunity to request a review;
  - (d) registered providers grant those who were social housing tenants on the day on which section 154 of the Localism Act 2011 comes into force, a tenancy with no less security where they choose to move to another social rented home (this requirement does not apply where tenants choose to move to accommodation let on Affordable Rent terms); and
  - (e) registered providers grant tenants who have been moved into alternative accommodation during any redevelopment or other works a tenancy with no less security of tenure on their return to settled accommodation.

### **Mutual exchange**

**3.—** (1) The Regulator must set a standard relating to methods of assisting tenants to exchange tenancies, in particular the provision of access to an internet based mutual exchange service (“the Mutual Exchange Standard”).

(2) The Regulator must set the Mutual Exchange Standard with a view to achieving the following, so far as possible, that—

- (a) registered providers subscribe to an internet based mutual exchange service which allows—
  - (i) a tenant to register an interest in arranging a mutual exchange through the mutual exchange service without payment of a fee;

- (ii) the tenant to enter their current property details and the tenant's requirements for the mutual exchange property they hope to obtain;
- (iii) the tenant to be provided with the property details of those properties where a match occurs;
- (b) registered providers ensure the provider of the internet based mutual exchange service to which they subscribe is a signatory to an agreement, such as Home Swap Direct, under which tenants can access matches across all (or the greatest practicable number of) internet based mutual exchange services;
- (c) registered providers take reasonable steps to publicise the availability of any mutual exchange service(s) to which it subscribes to its tenants; and
- (d) registered providers provide reasonable support to tenants who do not have access to the internet.

### **Tenant involvement and empowerment**

4.—(1) The Regulator must set a standard relating to the involvement by tenants in the management by registered providers of accommodation (“the Tenant Involvement Standard”).

(2) The Regulator must set the Tenant Involvement Standard with a view to achieving the following, so far as possible, that—

- (a) tenants are given a wide range of opportunities to influence and be involved in—
  - (i) the formulation of their landlord's housing related policies and priorities,
  - (ii) the making of decisions about how housing related services are delivered, including the setting of service standards,
  - (iii) the scrutiny of their landlord's performance and the making of recommendations to their landlord about how performance might be improved,
  - (iv) the management of their homes, where applicable, and
  - (v) the management of repair and maintenance services, such as commissioning and undertaking a range of repair tasks, as agreed with landlords, and the sharing in savings made,
- (b) registered providers support their tenants to develop and implement the opportunities in sub-paragraph (2)(a), including by—
  - (i) supporting their tenants to exercise their Right to Manage or otherwise exercise housing management functions, where appropriate;
  - (ii) supporting the formation and activities of tenant panels or equivalent groups and responding in a constructive and timely manner to them; and
  - (iii) the provision of timely and relevant performance information to support effective scrutiny by tenants of their landlord's performance in a form which registered providers seek to agree with their tenants; such provision must include the publication of an annual report which includes information on repair and maintenance budgets.

### **Rent**

5.—(1) The Regulator must set a standard relating to rent (“the Rent Standard”)

- (2) The Rent Standard is to apply to private registered providers only.
- (3) The Rent Standard is to apply in relation to the setting of rents in the financial year beginning on 1 April 2012 and subsequent financial years.
- (4) In setting the Rent Standard, the Regulator must have regard to the Social Rent Guidance.
- (5) Subject to sub-paragraph (8), the Regulator must set the Rent Standard with a view to achieving the following, so far as possible—
- (a) rents conform with pattern produced by the rents formula set out in the Rent Influencing Regime Guidance (“target rents”) with a 5% tolerance on individual rents (10% for supported housing and sheltered housing) (“rent flexibility level”) but subject to the maximum rent levels specified in that Guidance (“rent caps”),
  - (b) weekly rent for accommodation increases each year by an amount which is no more than—  
$$\text{RPI} + 0.5\% + \text{£}2,$$
until it reaches the upper limit of the rent flexibility level or the rent cap, whichever is lower,
  - (c) weekly rent for accommodation which has reached or is above the upper limit of the rent flexibility level increases each year by an amount which is no more than the increase to the target rents,
  - (d) rent caps increase annually by—  
$$\text{RPI} + 1\%,$$
  - (e) target rents increase annually by—  
$$\text{RPI} + 0.5\%.$$
- (6) Sub-paragraphs (4) and (5) do not apply to accommodation let on Affordable Rent terms.
- (7) Subject to sub-paragraph (8), where accommodation is let on Affordable Rent terms the Regulator must set the Rent Standard with a view to achieving the following, so far as possible—
- (a) rent for accommodation (inclusive of service charges) is set at a level which is no more than 80% of the estimated market rent for the accommodation (inclusive of service charges), based on a valuation in accordance with a method recognised by the Royal Institution of Chartered Surveyors,
  - (b) rent for accommodation increases each year by an amount which is no more than—  
$$\text{RPI} + 0.5\%,$$
  - (c) rent for accommodation is re-set, based on a new valuation, each time the accommodation is—
    - (i) let to a new tenant, or
    - (ii) re-let to the same tenant (but where a probationary tenancy comes to an end and the registered provider re-lets the accommodation to the same tenant the provider is not required to re-set the rent).
- (8) Where the application of the Rent Standard would cause providers to be unable to meet other standards, particularly in respect of financial viability including the risk

that a reduction in overall rental income causes them to risk failing to meeting existing commitments such as banking or lending covenants, then the Regulator may allow extensions to the period over which the requirements of the Rent Standard are met.

### **Quality of accommodation**

6.—(1) The Regulator must set a standard relating to the quality of accommodation (“the Quality of Accommodation Standard”).

(2) In setting the Quality of Accommodation Standard, the Regulator must have regard to the Decent Homes Guidance.

(3) The Regulator must set the Quality of Accommodation Standard with a view to achieving the following, so far as possible, that—

(a) accommodation—

(i) contains no category 1 hazard,

(ii) is in a reasonable state of repair,

(iii) has reasonably modern facilities and services, and

(iv) includes facilities or services for the provision of a reasonable level of thermal comfort,

(b) accommodation which is at the standard set out in the Decent Homes Guidance is maintained by the registered provider at that standard.

(4) Where, in relation to a registered provider, the application of the Quality of Accommodation Standard would not be reasonable the Regulator may agree a temporary period with the registered provider during which the requirements of the Quality of Accommodation Standard need not be fully met.

[Name]



For and on behalf of the Secretary of State for Communities and Local Government

[date]

1<sup>st</sup> MARCH 2012