



Overview & Scrutiny Committee
21 March 2013

**Report from the Director of
Regeneration and Major Projects**

Wards Affected:
ALL

Registered Provider Performance

1. Introduction

- 1.1 This report provides information on the performance of the main Registered Providers (RPs) operating in Brent, covering the organisations that are part of the council's joint commissioning arrangement. It should be read alongside the separate report on the performance of Brent Housing Partnership (BHP), which also provides some comparative information on performance against other local authorities, Arms Length Management Organisations (ALMOs) and RPs.
- 1.2 The period covered runs from April 2011 to March 2012, the most recent for which complete information is available.

2. Recommendations

- 2.1 Members are asked to note the content of this report.
- 2.2 Members are asked to agree the approach to future reports summarised in paragraphs 4.4.4 to 4.4.5.

3. Background

3.1 Regulation

- 3.1.1 Since its election in 2010, the coalition government has made significant changes to the way in which housing providers, both local authorities and RPs are regulated. Some of these reflect changes that were put in train by the previous government, albeit with some important differences of approach, while others reflect the government's overall approach to localism, regulation and the reduction of what it describes as "red tape". This means that the type

of information that must be provided and the way it is reported is very different to the approach that was in place up to 2010/11.

- 3.1.2 The National Indicator Set, through which local authority performance against a range of indicators was reported on an annual basis, has been abolished. Although some of the indicators that were collected through this system are still in place, sometimes in a revised form, and others have been retained at the local level, there is increasing freedom for housing providers to adopt their own approaches to the way performance information is treated. This makes it increasingly difficult to make meaningful comparisons between organisations, although an approach that includes benchmarking has been sustained as far as possible.
- 3.1.3 For RPs, the position has changed more significantly than for local authorities in some respects. The government has abolished the Tenant Services Authority, which had been set up as the main regulatory body for RPs. Its role has been taken on by the Homes and Communities Agency (HCA) but with a very different emphasis. The HCA is concerned primarily with the economic and financial viability of RPs and its focus is very strongly on their role as developers and providers of new homes and the way in which they manage their loans and other financial commitments. With regard to other aspects of service and performance, the HCA's approach is one of light touch regulation, with intervention seen very much as a last resort in the event of "serious detriment" to tenants.
- 3.1.4 The HCA has retained the TSA's principle of "co-regulation", through which the regulator, RPs and their tenants all take a role in overseeing performance. This includes a set of consumer standards, which apply to all providers including local authorities and ALMOs, and a set of economic standards, which apply only to RPs. The HCA's guidance on regulation states that: *"The co-regulatory principles underpin the regulatory approach. Registered providers are required to meet the relevant standards. Boards and councillors who govern providers' service delivery are responsible for meeting the standards and being transparent and accountable for their organisation's delivery of its social housing objectives. It is for providers to support tenants both to shape and scrutinise service delivery and to hold boards and councillors to account. In cases where breach or potential breach of a consumer standard leads to risk of serious detriment to tenants, the regulator may intervene (in addition to its proactive role in the economic standards for non local authority providers)"*
- 3.1.5 Elected members therefore have a direct role in overseeing the performance of housing services provided by the local authority, either directly or through an ALMO. They also have a role as a conduit through which concerns about RPs can be raised with the regulator and this is considered further below.

3.1.6 In setting standards, the regulator must have regard to the desirability of registered providers being free to choose how to provide services and conduct business⁹. Standards are set largely with a focus on outcomes, avoiding detailed prescription wherever possible.

3.1.7 The seven core standards are:

- Customer standards
 - . Tenant involvement and empowerment
 - . Home
 - . Tenancy
 - Rent (introduced from April 2012)
 - Neighbourhood and community
- Economic standards
 - . Value for money
 - . Governance and financial viability

3.1.8 This report is concerned with the first five. It should be stressed that while the standards set out the matters on which RPs must keep their tenants informed and involved, they are not prescriptive about the exact way in which performance indicators should be set up and reported, leaving this detail to agreement between each organisation and its tenants. There are therefore differences between the ways in which organisations report their performance in some areas, making direct comparison difficult in some cases. It should also be noted that, although the TSA had adopted this approach prior to April 2012, it was not until then that the current guidance came into effect. 2011/12 is therefore a transitional year to some extent, bridging the initial introduction of a new regime and its implementation in its final form. It may therefore be expected that there will be further changes in approach for reports covering the current financial year, which will begin to be published in the summer.

3.1.9 There is an expectation that RPs and local authorities will publish an annual report to tenants and residents setting out how they have performed and their objectives for the future. Again, there is no prescription about the format of these reports other than that they should address the core standards.

3.1.10 An extract from the guidance on standards is provided for information at Appendix 1.

3.2 Housing Reform

3.2.1 Since 2010, the government has introduced a range of reforms to the housing and welfare systems that will have wide-ranging impacts and, in future, will need to be incorporated into the council's approach to its

relationships with RPs and the ways in which their performance is monitored.

3.2.2 The development programme for the period 2011-15 is governed by the Affordable Rent regime. This has reduced the subsidy available for the building of new social housing from around 50% of total cost to around 20%, with the rest financed through borrowing. In order to support a programme that aims to deliver the same number of new homes planned under the previous funding regime, RPs are able to charge rents of up to 80% of market levels for new homes and a proportion of existing homes at the point at which they are re-let. At the same time, RPs and local authorities have the ability to let on fixed term tenancies.

3.2.3 The council's response to these reforms is set out in its Tenancy Strategy, which was approved by the Executive in 2012. The Strategy commits the council to keeping its approach under review and a key element of this will be to monitor the impact of rent and tenure reforms and the approaches being taken by different providers, including the impact on their overall performance. Officers are currently reviewing the future approach to performance monitoring and the areas where a different focus will be required but key areas are likely to include:

- Rent levels and affordability in Brent compared to other boroughs and between providers to ensure that the objectives set out in the Tenancy Strategy are met
- Access to housing and, in particular, which tenants are moving into properties at Affordable Rents, levels of refusals of such properties etc.
- Numbers of properties let on fixed terms, including re-lets.
- In the longer term, numbers of fixed-term tenancies that are renewed
- Impact of higher rents on rent arrears

3.2.4 At present, there is no certainty that the current Affordable Rent programme will continue beyond 2015. However, it should not be assumed that the low level of subsidy is a temporary measure and that it will increase after 2015; although it is difficult to make any precise prediction, it seems more likely at this stage that subsidy will, at best, remain at current levels or even decrease further.

3.3 Welfare Reform

3.3.1 The government has introduced a range of changes to the welfare system, some of which are already in place while others are planned for introduction during this year. The key changes for the purposes of this report are outlined in the following paragraphs.

3.3.2 From April 2013 the under-occupation penalty (better known as the bedroom tax) will be introduced. This will apply reductions in Housing

Benefit for most households in social housing below pensionable age who have one or more spare bedrooms. Households that do not opt to move to smaller accommodation will need to make up the difference from their other benefit income and it is expected that this will lead to hardship and increased rent arrears.

- 3.3.3 The government had planned to introduce the overall benefit cap, which will set a limit on benefit payment of £350 for a single person and £500 for a family, from April 2013. This has now been postponed but a pilot scheme involving four London boroughs will run from the original date with full implementation planned for later in the summer, probably between July and September although no definite date has been announced. While the worst impact of the change will be on households claiming benefit and renting in the private sector, it will also impact on households in social housing, especially those paying Affordable Rents, and is also expected to lead to an increase in rent arrears.
- 3.3.4 The localised Council Tax regime will also result in many households that have never paid Council Tax having to make a contribution to their bills from April. Again, an impact on rent arrears is anticipated.
- 3.3.5 Finally, Universal Credit will be introduced on a rolling basis from October 2013. A key aspect of the system is that claimants will be paid monthly, including for any housing costs, and will then be expected to meet their bills from the overall payment. Evidence from the pilot programme indicates that, in the majority of cases, this has resulted in increased rent arrears.
- 3.3.6 One outcome of the changes outlined above is likely to be increasing pressure on the ability of housing providers to collect rent. Most obviously, this will impact on performance against targets in this area but more seriously it will affect the income streams that support borrowing for both RPs and, under the self-financing Housing Revenue Account, for local authorities. This could have an impact on the resources available for planning and delivering repairs, maintenance and improvement programmes as well as for building new homes and could therefore have an impact on performance beyond rent arrears indicators.
- 3.3.7 It will therefore be necessary to consider how the impact of these changes can be monitored and officers are, as noted above, considering the options and emerging best practice in this area.

3.4 The Wider Provider Role

- 3.4.1 Providers of social housing have, for many years, run a range of programmes that go beyond their traditional role as developers and managers of homes. In particular, this has included work around employment and training and tackling poverty, for example through

provision of welfare advice and implementation of measures to tackle fuel poverty.

- 3.4.2 While there has been some monitoring of providers in areas such as tackling anti-social behaviour, where they play a significant role in keeping neighbourhoods safe and attractive, there has been less focus on their role in the other areas noted above. The implementation of housing and welfare reform in the context of overall economic conditions suggests that future consideration of provider performance should have a stronger focus on the contribution providers can make to social and economic regeneration and supporting tenants to mitigate the impact of change.

4. Performance Summary

- 4.1 As noted earlier, the changes to the performance regime mean that it is difficult to provide meaningful comparative information as each provider makes its own interpretation of the guidance provided by the HCA standards concerning the information to be provided to tenants. In particular, approaches will vary according to the kinds of information and methods of presentation that tenants have requested. Individual approaches will continue to develop as tenants give feedback on reports each year. BHP have collected benchmarking information that provides comparison with a range of local authorities, ALMOs and RPs but this is mainly concerned with the costs of service provision rather than traditional performance indicators. Similarly, most RPs make some comparison with other organisations, for example those in the G15 group of larger providers, but approaches are not consistent and generally exclude comparison with local authorities and ALMOs.
- 4.2 The rest of this section summarises key indicators for the council's main RP partners. It does not seek to present every indicator that appears in annual reports to tenants since many of these are unique to specific providers and of limited wider value. While there are some common indicators which can provide some comparative data, it should be stressed that there may be some differences in what is being measured and how. Many providers have also changed the way in which they report and what they report on, so that comparison with previous years is not always possible and targets have not always been set.
- 4.3 While the majority of providers have retained some key indicators that were part of the National Indicator Set – for example on rent arrears and the time taken to re-let void properties – the majority are also moving towards measures that are more concerned with the impact of performance on tenants. While most have some basic satisfaction indicators, many are moving to development more qualitative indicators that look at tenant views on the delivery of services rather than numbers; for example, not whether a repair was completed within a particular time, but was the tenant happy with the result. Given the

overall thrust of the guidance set out by the standards, it seems likely that this approach will continue to develop.

A2 Dominion			
Indicator	Target	Outcome	Comparison with 2010/11
Overall satisfaction with repairs and maintenance	85%	92%	Same
% emergency repairs completed on time	100%	99.9%	Better
% residents satisfied with complaints handling	100%	99.6%	Better
% residents satisfied with service provided by the Customer Service Centre	55%	52%	Better
% category 1 extreme ASB incidents responded to within 1 working day	100%	78%	Worse
% category 2 serious ASB incidents responded to within 5 working days	100%	79%	Better
Void turn round time in days	23	20	Better

Catalyst*				
Indicator	Target	Outcome April 11 to March 12	Outcome April 12 to August 12	Comparison with 2010/11
Emergency repairs completed on time	N/A	96.4%	99.2%	Better
Complaints responded to within 10 working days	N/A	88%	95.2%	Better
Rent arrears as a percentage of rent due – shared ownership	N/A	5.1%	3.9%	Better
Rent arrears as a percentage of rent due – social rented	N/A	7.2%	7.5%	Worse
Void turn round time in days	N/A	39	28	Better

*Note that Catalyst made significant changes to their systems and procedures during the year and opted to give both full year and half year results in their report to tenants. These are reproduced here as they provide a more accurate snapshot of performance.

Family Mosaic			
Indicator	Target	Outcome	Comparison with 2010/11
Satisfaction with overall service	N/A	81.8%	N/A
% emergency repairs completed within target	N/A	99.4%	Better
% urgent repairs completed within target	N/A	99%	Better
% routine repairs completed within target	N/A	98.9	Better
Void turn round time	N/A	27 days	Better
Rents arrears as a % of rent due	N/A	4.6%	Better
ASB – satisfaction with case outcome	N/A	62%	Better
ASB – satisfaction with overall case handling	N/A	68%	Better

Genesis			
Indicator	Target	Outcome	Comparison with 2010/11
Satisfaction with quality of repairs	80%	75%	Better
Repairs right first time	70%	65%	Better
Appointments made and kept	70%	87%	Better
Contact centre calls resolved at first point of contact	65%	50%	Better
Contact centre calls abandoned	6%	4.3%	Better
Complaints dealt with fairly and helpfully	60%	45%	Better

L&Q			
Indicator	Target	Outcome	Comparison with 2010/11
Overall resident satisfaction	N/A	82.9%	N/A
Enquiries dealt with to resident's satisfaction	62%	83%	N/A
Taking complaints seriously and dealing with them promptly	92%	95%	N/A
Satisfaction with opportunities for involvement	62%	68%	N/A
Repairs carried out to satisfaction of residents	85%	87%	N/A

Void turn round time (weeks)	4.3	4.7	N/A
Support offered to residents in rent arrears (referral for financial advice)	15%	12%	N/A
Rent arrears as a % of rent due	N/A	3.35%	N/A
Satisfaction with neighbourhood	80%	81.2%	N/A
Treat reports of ASB confidentially and offer anonymity to witnesses	65%	67%	N/A
Keep residents informed about progress on ASB cases	65%	54%	N/A

ASRA Housing Group			
Indicator	Target	Outcome	Comparison with 2010/11
Overall satisfaction with service	90%	69.1%	N/A
Satisfaction with repairs	84%	55%	N/A
Satisfaction with neighbourhood	85%	69.6%	N/A
Satisfaction with quality of home	88%	66.9%	N/A
Satisfaction with complaints handling	N/A	47%	N/A
Rent arrears as a % of rent due	6.2%	6.0%	N/A
Void turn round (days)	N/A	64 days	N/A
Satisfaction with ASB case handling	N/A	81.3%	N/A
Satisfaction with ASB case outcomes	N/A	87.1%	N/A
% emergency repairs completed on time	99%	97.1%	N/A
% urgent repairs completed on time	93%	94.1%	N/A
% routine repairs completed on time	93%	93.6%	N/A

Metropolitan			
Indicator	Target	Outcome	Comparison with 2010/11
Overall satisfaction with service	N/A	65%	N/A
Satisfaction with keeping customers informed	N/A	72%	N/A
Complaints responded to within 10 working days	N/A	78%	N/A
Satisfaction with opportunities for resident feedback	N/A	55%	N/A
Satisfaction with quality of home	N/A	74%	N/A
Satisfaction with repairs and	N/A	66%	N/A

maintenance			
Satisfaction with neighbourhood	N/A	80%	N/A
Emergency repairs attended to within 24 hours	N/A	99.4%	N/A
Repairs completed on first visit	N/A	69%	N/A
Void turn round (days)	N/A	37	N/A
Response to serious ASB within 1 day	N/A	95%	N/A
Response to other ASB within 10 working days	N/A	785	N/A

Network (Stadium and Willow)*			
Indicator	Outcome Stadium	Outcome Willow	Comparison with 2010/11
Satisfaction with landlord services	67.3%	93%	N/A
Satisfaction with repairs and maintenance	61.3%	86%	N/A
Satisfied that views are taken into account	48.6%	77%	N/A
Reactive repairs completed in target time	96.7%	97.5%	N/A
Current rent arrears	7.6%	4.4%	N/A
Void turn round (days)	33	34.5	N/A
Complaints upheld	37.3%	33.3%	N/A

*Note that these figures are for Stadium and Willow – the parts of the Network Group that manage homes in Brent – only. Performance of the group overall amalgamates figures from other parts that have no stock in Brent.

Notting Hill			
Indicator	Target	Outcome	Comparison with 2010/11
Satisfaction with overall service	N/A	76%	Better
% of residents in contact satisfied with final outcome of their query	75%	66%	Better
% finding response to complaint was positive	75%	77%	Better
% satisfied with repairs	75%	63%	Worse
Stage 1 complaints resolved within 10 working days	85%	81%	Better
Stage 2 complaints resolved within 15 working days	85%	59%	Better
Satisfaction with response to tenant views	85%	59%	Better
% day to day repairs completed on time	96%	92%	N/A

Octavia			
Indicator	Target	Outcome	Comparison with 2010/11
Emergency repairs completed on time	N/A	99.6%	Worse
Urgent repairs completed on time	N/A	99.3%	Better
Routine repairs completed on time	N/A	99.3%	Better
Void turn round (days)	N/A	37	Worse
Rent arrears as a % of rent due	N/A	5.6%	Worse
Complaints resolved within target time	N/A	93%	Better
% satisfaction with handling of ASB cases	N/A	83%	Better
% satisfaction with outcome of ASB report	N/A	72%	Better

Hyde – Hillside*			
Indicator	Target	Outcome	Comparison with 2010/11
Satisfaction with complaint handling	80%	93%	Better
Stage 1 complaints responded to within 10 days	90%	65%	N/A
Satisfaction with repairs service	87%	86%	Better
Emergency repairs completed within target	98.6%	100%	N/A
Urgent repairs completed within target	98.6%	100%	N/A
Routine repairs completed within target	97%	100%	N/A
Void turn round (days)	34	34	
Rent arrears as a % of rent due	4.2	6.6%	Better
ASB cases per 1000 homes	N/A	38	Worse

*As with Network above, these figures represent only the part of the wider Hyde group with stock in Brent

4.4 Commentary and Future Reporting Arrangements

4.4.1 Overall performance against key indicators is generally good and there are no significant concerns arising at this stage. On the whole, the direction of travel is positive, with most organisations achieving an improvement of 2010/11 performance, where this has been reported, even though targets for 2011/12 have not been met in all cases. Satisfaction levels are generally good and measurement of tenant views is becoming more sophisticated and qualitative.

4.4.2 As yet, there is no real indication that rent arrears are rising, but the impact of welfare reform will only begin to be felt for most social housing

tenants during the current financial year and it will not be until 2014 that any meaningful change is likely to be noticed.

4.4.3 As noted above, while there is some consistency in the use of indicators, there is increasing divergence in the ways in which providers choose to measure and report information to tenants. Coupled with the wider changes outlined in section 3 above, it is suggested that a revised approach to performance monitoring should be considered.

4.4.4 RPs will publish reports to tenants covering the period to 31st March 2013 during the summer. As timetables for reporting vary, it is likely that final versions for all relevant organisations will be available by September 2013, in which case it is proposed that the next report to Overview and Scrutiny should be planned for October.

4.4.5 In terms of content, it is proposed that the report should cover:

- Performance against a selected range of standard performance indicators covering rent collection and arrears, void turn round, repairs, complaints handling and anti-social behaviour
- Tenant satisfaction with overall service
- Progress on tenant involvement and engagement
- Progress on contributing to wider social and economic regeneration objectives, including:
 - Employment and training
 - Tackling crime and anti-social behaviour
 - Financial inclusion
 - Fuel poverty

5.0 Financial Implications

5.1 There are no immediate financial implications arising from this report.

6.0 Legal Implications

6.1 There are no immediate legal implications arising from this report

7.0 Diversity Implications

7.1 While there are no immediate issues relating to diversity, there are one or two points to note. First, some ethnic groups are over-represented in social housing while others are under-represented and there is therefore some potential for differential impact from poor performance. In addition, Brent will be reviewing the way in which performance indicators are recorded and reported in order to ensure compliance with expectations within the new equalities standard that the impact on a range of equalities groups will be measurable.

8.0 Staffing/Accommodation Implications (if appropriate)

8.1 None

9.0 Background Papers

9.1 None

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Appendix 1: Consumer standards – Extract from HCA Guidance

These standards apply to all registered providers. Providers' boards and councillors are responsible for ensuring their organisation meets the consumer standards. The regulator's role is limited to setting the consumer standards and intervening only where failure of the standard could lead to risk of serious harm to tenants (the 'serious detriment test').

Tenant Involvement and Empowerment Standard

Required outcomes

1 Customer service, choice and complaints

Registered providers shall:

- provide choices, information and communication that is appropriate to the diverse needs of their tenants in the delivery of all standards
- have an approach to complaints that is clear, simple and accessible that ensures that complaints are resolved promptly, politely and fairly

2 Involvement and empowerment

Registered providers shall ensure that tenants are given a wide range of opportunities to influence and be involved in:

- the formulation of their landlord's housing related policies and strategic priorities
- the making of decisions about how housing related services are delivered, including the setting of service standards
- the scrutiny of their landlord's performance and the making of recommendations to their landlord about how performance might be improved
- the management of their homes, where applicable
- 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, and
- agreeing local offers for service delivery

3 Understanding and responding to the diverse needs of tenants

Registered providers shall:

- treat all tenants with fairness and respect
- demonstrate that they understand the different needs of their tenants, including in relation to the equality strands and tenants with additional support needs

Specific expectations

1 Customer service, choice and complaints

Registered providers shall provide tenants with accessible, relevant and timely information about:

- how tenants can access services
- the standards of housing services their tenants can expect
- how they are performing against those standards
- the service choices available to tenants, including any additional
- costs that are relevant to specific choices
- progress of any repairs work
- how tenants can communicate with them and provide feedback
- the responsibilities of the tenant and provider
- arrangements for tenant involvement and scrutiny

Providers shall offer a range of ways for tenants to express a complaint and set out clear service standards for responding to complaints, including complaints about performance against the standards, and details of what to do if they are unhappy with the outcome of a complaint. Providers shall inform tenants how they use complaints to improve their services. Registered providers shall publish information about complaints each year, including their number and nature, and the outcome of the complaints. Providers shall accept complaints made by advocates authorised to act on a tenant's/tenants' behalf.

2 Involvement and empowerment

Registered providers shall support their tenants to develop and implement opportunities for involvement and empowerment, including by:

- supporting their tenants to exercise their Right to Manage or otherwise exercise housing management functions, where appropriate
- supporting the formation and activities of tenant panels or equivalent groups and responding in a constructive and timely manner to them
- 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 should include information on repair and maintenance budgets, and
- providing support to tenants to build their capacity to be more effectively involved

Registered providers shall consult with tenants on the scope of local offers for service delivery. This shall include how performance will be monitored, reported to and scrutinised by tenants and arrangements for reviewing these on a periodic basis.

Registered providers shall consult with tenants, setting out clearly the costs and benefits of relevant options, if they are proposing to change their landlord or when proposing a significant change in their management arrangements.

Registered providers shall consult tenants at least once every three years on the best way of involving tenants in the governance and scrutiny of the organisation's housing management service.

3. Understanding and responding to diverse needs

Registered providers shall demonstrate how they respond to tenants' needs in the way they provide services and communicate with tenants.

Home standard

Required outcomes

Quality of accommodation

Registered providers shall:

- ensure that tenants' homes meet the standard set out in section five of the Government's Decent Homes Guidance¹⁴ and continue to maintain their homes to at least this standard
- meet the standards of design and quality that applied when the home was built, and were required as a condition of publicly funded financial assistance¹⁵, if these standards are higher than the Decent Homes Standard
- in agreeing a local offer, ensure that it is set at a level not less than these standards and have regard to section six of the Government's Decent Homes Guidance

Repairs and maintenance

Registered providers shall:

- provide a cost-effective repairs and maintenance service to homes and communal areas that responds to the needs of, and offers choices to, tenants, and has the objective of completing repairs and improvements right first time
- meet all applicable statutory requirements that provide for the health and safety of the occupants in their homes

Specific expectations

1 Quality of accommodation

Registered providers may agree with the regulator a period of noncompliance with the Decent Homes Standard, where this is reasonable. Providers shall ensure their tenants are aware of the reasons for any period of non-compliance, their plan to achieve compliance and then report on progress delivering this plan.

2. Repairs and maintenance

Registered providers shall ensure a prudent, planned approach to repairs and maintenance of homes and communal areas. This should demonstrate an appropriate balance of planned and responsive repairs and value for money. The approach should include: responsive and cyclical repairs, planned and capital work, work on empty properties and adaptations.

Tenancy standard

Required outcomes

1 Allocations and mutual exchange

Registered providers shall let their homes in a fair, transparent and efficient way. They shall take into account the housing needs and aspirations of tenants and potential tenants. They shall demonstrate how their lettings:

- make the best use of available housing
- are compatible with the purpose of the housing
- contribute to local authorities' strategic housing function and sustainable communities

There should be clear application, decision-making and appeals processes.

Registered providers shall enable their tenants to gain access to opportunities to exchange their tenancy with that of another tenant, by way of internet-based mutual exchange services.

2 Tenure

Registered providers shall offer tenancies or terms of occupation 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.

They shall meet all applicable statutory and legal requirements in relation to the form and use of tenancy agreements or terms of occupation.

Specific expectations

1 Allocations and mutual exchange

Registered providers shall co-operate with local authorities' strategic housing function, and their duties to meet identified local housing needs. This includes assistance with local authorities' homelessness duties, and through meeting obligations in nominations agreements.

Registered providers shall develop and deliver services to address under-occupation and overcrowding in their homes, within the resources available to them. These services should be focused on the needs of their tenants, and will offer choices to them.

Registered providers' published policies shall include how they have made use of common housing registers, common allocations policies and local letting policies. Registered providers shall clearly set out, and be able to give reasons for, the criteria they use for excluding actual and potential tenants from consideration for allocations, mobility or mutual exchange schemes.

Registered providers shall develop and deliver allocations processes in a way which supports their effective use by the full range of actual and potential tenants, including those with support needs, those who do not speak English as a first language and others who have difficulties with written English.

Registered providers shall minimise the time that properties are empty between each letting. When doing this, they shall take into account the circumstances of the tenants who have been offered the properties.

Registered providers shall record all lettings and sales as required by the Continuous Recording of Lettings (CORE) system.

Registered providers shall provide tenants wishing to move with access to clear and relevant advice about their housing options.

Registered providers shall subscribe to an internet based mutual exchange service (or pay the subscriptions of individual tenants who wish to exchange), allowing:

- a tenant to register an interest in arranging a mutual exchange through the mutual exchange service without payment of a fee
- the tenant to enter their current property details and the tenant's requirements for the mutual exchange property they hope to obtain
- the tenant to be provided with the property details of those

properties where a match occurs

Registered providers shall ensure the provider of the internet based mutual exchange service to which they subscribe is a signatory to an agreement, such as *HomeSwap* Direct, under which tenants can access matches across all (or the greatest practicable number of) internet based mutual exchange services.

Registered providers shall take reasonable steps to publicise the availability of any mutual exchange service(s) to which it subscribes to its tenants.

Registered providers shall provide reasonable support in using the service to tenants who do not have access to the internet.

2 Tenure

Registered providers shall publish clear and accessible policies which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions, and tackling tenancy fraud, and set out:

- The type of tenancies they will grant.
- Where they grant tenancies for a fixed term, the length of those terms.
- The circumstances in which they will grant tenancies of a particular type.
- 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.
- 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.
- 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.
- 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.
- The advice and assistance they will give to tenants on finding alternative accommodation in the event that they decide not to grant another tenancy.
- Their policy on granting discretionary succession rights, taking account of the needs of vulnerable household members.

Registered providers must grant general needs tenants a periodic secure or assured (excluding periodic assured shorthold) tenancy, or a

tenancy for a minimum fixed term of five years, or exceptionally, a tenancy for a minimum fixed term of no less than two years, in addition to any probationary tenancy period.

Before a fixed term tenancy ends, registered providers shall provide notice in writing to the tenant stating either that they propose to grant another tenancy on the expiry of the existing fixed term or that they propose to end the tenancy.

Where registered providers use probationary tenancies, these shall be 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.

Where registered providers choose to let homes on fixed term tenancies (including under Affordable Rent terms), they shall offer reasonable advice and assistance to those tenants where that tenancy ends.

Registered providers shall make sure that the home continues to be occupied by the tenant they let the home to in accordance with the requirements of the relevant tenancy agreement, for the duration of the tenancy, allowing for regulatory requirements about participation in mutual exchange schemes.

Registered providers shall develop and provide services that will support tenants to maintain their tenancy and prevent unnecessary evictions.

Registered providers shall grant those who were social housing tenants on the day on which section 154 of the Localism Act 2011 comes into force, and have remained social housing tenants since that date, a tenancy with no less security where they choose to move to another social rented home, whether with the same or another landlord. (This requirement does not apply where tenants choose to move to accommodation let on Affordable Rent terms).

Registered providers shall 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.

Neighbourhood and Community standard

Required outcomes

1 Neighbourhood management

Registered providers shall keep the neighbourhood and communal

areas associated with the homes that they own clean and safe. They shall work in partnership with their tenants and other providers and public bodies where it is effective to do so.

2 Local area co-operation

Registered providers shall co-operate with relevant partners to help promote social, environmental and economic wellbeing in the areas where they own properties.

3 Anti-social behaviour

Registered providers shall work in partnership with other agencies to prevent and tackle anti-social behaviour in the neighbourhoods where they own homes.

Specific expectations

1 Neighbourhood management

Registered providers shall consult with tenants in developing a published policy for maintaining and improving the neighbourhoods associated with their homes. This applies where the registered provider has a responsibility (either exclusively or in part) for the condition of that neighbourhood. The policy shall include any communal areas associated with the registered provider's homes.

2 Local area co-operation

Registered providers, having taken account of their presence and impact within the areas where they own properties, shall:

- identify and publish the roles they are able to play within the areas where they have properties
- co-operate with local partnership arrangements and strategic housing functions of local authorities where they are able to assist them in achieving their objectives

3 Anti-social behaviour

Registered providers shall publish a policy on how they work with relevant partners to prevent and tackle anti-social behaviour (ASB) in areas where they own properties.

In their work to prevent and address ASB, registered providers shall demonstrate:

- that tenants are made aware of their responsibilities and rights in relation to ASB
- strong leadership, commitment and accountability on preventing

and tackling ASB that reflects a shared understanding of responsibilities with other local agencies

- a strong focus exists on preventative measures tailored towards the needs of tenants and their families
- prompt, appropriate and decisive action is taken to deal with ASB before it escalates, which focuses on resolving the problem having regard to the full range of tools and legal powers available
- all tenants and residents can easily report ASB, are kept informed about the status of their case where responsibility rests with the organisation and are appropriately signposted where it does not
- provision of support to victims and witnesses

How the standards are applied

Each standard is defined in terms of required outcomes and some specific expectations. The standards have regard to the desirability of providers being free to choose how they conduct business and deliver services. For the consumer standards, the specific expectations are not intended to describe entirely how to meet or comply with the outcomes. The consumer standards are subject to 'backstop' regulation only, in circumstances where there is evidence of or risk of serious detriment as detailed in chapter five of this regulatory framework.

The regulator can issue a Code of Practice which relates to any matter addressed by an economic standard or amplifies an economic standard. These Codes of Practice can be taken into account in considering whether economic standards have been met. No Codes of Practice have been issued since the previous standards framework was introduced in April 2010.

Regulating the consumer standards

The Localism Act specifies the regulator's role in, and its approach to, regulating the consumer standards. The regulator's responsibilities are limited to setting standards and intervening when there is, or is a risk of, serious detriment to tenants (called the 'serious detriment test' which is explained in detail in this chapter).

Setting consumer standards

In this regulatory framework the regulator has set clear service standards on:

- a. Tenant Involvement and Empowerment
- b. Home
- c. Tenancy
- d. Neighbourhood and Community

The regulator sets consumer standards so that tenants, landlords and

stakeholders know the outcomes that are expected. This is crucial if tenants are to be able to hold landlords to account effectively. These standards therefore support co-regulation. Where necessary, they reflect directions issued to the regulator by Government.

Boards and councillors that govern providers' services are responsible for ensuring that their organisation meets the consumer standards. Performance issues should be resolved by providers through their complaints procedures, scrutiny arrangements and/or local routes to resolution and without reference to the regulator.

The regulator has no role in monitoring providers' performance or routine compliance with the consumer standards. Government policy on which the Localism Act is founded advocates a localist approach to the resolution of service delivery problems, and an enhanced role in the complaints process for designated tenant panels, MPs and elected councillors. Further information about what it means for users of these local mechanisms will be provided by DCLG.

In relation to the Home standard, there is a provision established by the direction from Government that the regulator may agree temporary periods of non-compliance where providers do not meet the Decent Homes standard (DHS). The regulator's normal expectations are that, where providers do not meet DHS, they should have regard to their coregulatory accountabilities as reflected in the Tenant Involvement & Empowerment standard. They should consult with tenants on the approach that they propose to take to meeting the Home standard, particularly with tenants who may be directly affected, and to communicate clearly to them the timescale and approach that they will adopt to meet the standard. Where this is done, a formal temporary DHS exemption from the regulator will not be required

As the regulator does not actively monitor compliance with the Home standard, nor DHS compliance, it will not routinely discuss temporary exemptions with providers where they do not meet the standard. The regulator's approach will be to consider formal temporary exemptions where there is a particular reason to do so. We envisage that this will be an exceptional requirement and may arise in relation to conditions attached to funding, whether public or private, or where it arises as a result of the regulator finding serious detriment and where a temporary exemption may be part of a strategy agreed with providers following resolution of the matters giving rise to serious detriment.

In respect of the consumer standards more generally, the regulator's regulatory and enforcement powers will only be used where it is necessary to address failures against these standards that give rise to actual or potential serious detriment to tenants (or potential tenants). Any action by the regulator will be reactive in nature in response to referrals or other information received. The regulator's judgement about the need for further intervention will be based on the approach to

intervention and enforcement set out in chapter six of this regulatory framework and in guidance notes on the use of powers in Annex B.

The remainder of this chapter sets out the regulatory arrangements that reflect the serious detriment test in the Localism Act. It comprises the regulator's guidance on the submission of information to it about the performance of registered providers, as required by section 215(1) (a) of the 2008 Act as amended by the Localism Act.

The serious detriment test

The Localism Act places a restriction on the regulator's ability to use its powers in relation to a provider failing to meet a consumer standard. The regulatory and enforcement powers may be used if the regulator thinks that a standard has been failed and there are reasonable grounds to suspect that:

- The failure has resulted in a serious detriment to the provider's tenants (or potential tenants), or
- There is a significant risk that, if no action is taken by the regulator, the failure will result in a serious detriment to the provider's tenants (or potential tenants)

This is the basis of what is called the 'serious detriment test'. Regulatory powers in Chapter 6 of the 2008 Act can be used to investigate where the regulator thinks that there is risk of failing a standard, and has reasonable grounds to suspect that - if the failure occurs - the failure will or may result in serious detriment to tenants (or potential tenants).

The regulator is required to issue guidance about how it applies and intends to apply the 'serious detriment test', as follows.

In defining serious detriment, it is clear that the threshold for regulatory intervention is intended to be significantly higher than that in relation to the economic standards. Failure to meet one or more of the consumer standards does not in itself lead directly to a judgement of serious detriment by the regulator. The regulator considers that the meaning of serious detriment is when there is risk of, or actual, serious harm to tenants.

The regulator will judge whether actual or potential serious detriment exists depending on the circumstances of each case based on an evaluation of the harm or potential harm to tenants. It is not feasible or desirable for the regulator to attempt to produce a prescriptive list of issues that would constitute this. Such a list would inevitably fail to cover all current or potential eventualities and would need frequent updating to reflect changes in the policy and operational environment of providers. In addition, the same issue might have very different implications in different circumstances, leading to the risk of a

disproportionate regulatory response. In order to ensure its uses its powers proportionately, the regulator must take the circumstances of each case into consideration.

Assessing serious detriment

The regulator's assessment of serious detriment is based on the degree of harm or potential harm that may be caused to tenants by a breach of standards. The judgement will be formed on the regulator's opinion of the actual or potential impact on tenants, irrespective of the nature of the issue that gives rise to the concern.

In assessing whether to consider if there could be serious detriment or reasonable grounds to suspect this may be the case, the regulator will consider four initial questions. They are:

- Does the issue raised relate to a matter within the regulator's remit?
- If the issue raised were true, is it likely that there has been, or could be, a breach of a consumer standard?
- If the issues raised were true would there be any impact on tenants which would cause actual harm or potential harm?
- If the issues raised are true is the actual harm or potential harm likely to be serious?

If the regulator is satisfied that there could be serious detriment or that there are reasonable grounds to suspect this, it will then seek to determine whether this is the case through examining the evidence and the nature and extent of the impact or potential impact on tenants. In reaching this assessment, the regulator will require evidence of harm or potential harm, in particular but not exclusively in relation to:

- health and safety
- loss of home
- unlawful discrimination
- loss of legal rights
- financial loss

Irrespective of from where and how information is received, the regulator is ultimately responsible and accountable for the decisions it takes. Therefore, the regulator retains the right to conduct, or agree that the provider commissions, appropriate investigations in order to determine whether there is evidence of a breach of standard and serious detriment.

Ultimately, decisions on serious detriment are a matter of judgement by the regulator, based on the evidence available and its published approach. It is also possible that issues under one consumer standard may result in problems under one or more of the other standards, indicating a systemic failure.

Intervention and enforcement in cases of serious detriment

The circumstances of each case will inform the regulator's response. In some cases, the regulator may need to intervene directly to address the problem(s) identified. The regulator's approach to intervention and enforcement and the specific implications in relation to the threshold for serious detriment are set out in chapter six of this regulatory framework. The regulator's approach to the use of its regulatory, enforcement and general powers is set out in separate guidance notes in Annex B to this framework.

Where the regulator believes the serious detriment threshold has been crossed in relation to consumer standards, or may be crossed if effective remedial action is not taken, for private registered providers the regulator will also assess the implications of the issue against the economic standards (particularly the governance element of the Governance and Financial Viability standard) in accordance with its published approach. The regulator will implement a strategy for investigating the issues, determining what assurances on governance may be required of the provider's board, and whether any further regulatory action is required.

In the case of serious detriment being identified in a local authority housing service the regulator may still use relevant powers. The economic standards do not apply to local authorities however the investigation of a case of serious detriment may raise concerns about governance issues. In these circumstances, as well as taking any necessary action to deal with the presenting serious detriment problem, it may also be necessary for the regulator to refer concerns about governance to the authority's monitoring officer and others where relevant, such as its auditors, chief executive and lead councillor, and DCLG.

It is possible in some cases of serious detriment that other agencies or regulators will have responsibility for dealing with the presenting issue. The (social housing) regulator may refer the issue directly to the relevant authority if this has not already been done. However, in such cases the regulator may also act in anticipation of, or at the same time as, other agencies, with particular reference to implications for the provider's governance that may arise from the problem.

The regulator will give reasons for its decisions to intervene or investigate, or for not taking any action. Where a referral does not, in the regulator's opinion, constitute serious detriment, the regulator will advise the referring party of alternative routes to take, if applicable. If the referral appears to the regulator to be a misdirected complaint, it will advise the referring party of the options that should be available to them. If the referring party has explored this route but without a response, the regulator will signpost them to agencies that may be able

to provide appropriate advice.

As with the regulator's existing procedures, for those cases that the regulator decides to follow up, it will give the referring party an indication of its anticipated timetable. The regulator will, in general terms, keep the referring party informed of the action that is being taken and the outcomes.

The regulator will publish information relating to its findings of serious detriment. It will set out how it will do this as part of a wider approach to publicising its intervention and enforcement actions, in due course.

Referrals on serious detriment: what the regulator will and won't consider

The main sources of intelligence about potential cases of serious detriment will be information referred to the regulator by third parties.

In considering whether failure of a consumer standard has or may lead to serious detriment, the regulator is obliged to have regard to information received from a number of authorities, representative bodies and individuals that are specified in the Localism Act. These include the housing ombudsman, tenant representative bodies, MPs, local authority councillors, the Health and Safety Executive or a fire and rescue authority. Information received in this context from these specified bodies are known as statutory referrals.

Additionally, the regulator will consider relevant information it receives from all sources, including during the course of routine regulatory activity in connection with its economic regulation remit. Such information will be assessed in the same way as information received through the statutory referral routes.

The regulator does not have a statutory mandate to deal with individual complainants and cannot mediate in disputes between landlords and tenants. The regulator has no locus in the contractual relationship between a provider and its employees and cannot become involved in disputes between them or in any other contractual disputes.

Providers have principal responsibility for dealing with, and being accountable for, complaints about their service, and the Tenant Involvement and Empowerment standard requires that they have clear and effective mechanisms for responding to tenant complaints. A tenant with a complaint against their landlord should raise it with their landlord in the first instance and, should the complaint remain unresolved consider contacting the relevant Ombudsman via the route(s) available at that time. ²⁵

The authorities who are able to make statutory referrals to the regulator include parties who may be or could become involved in local

complaints resolution processes. Where the regulator receives a referral from one of these specified authorities (or any other party), the regulator's role will not be to seek redress for an individual complainant. Rather, the regulator will assess whether, in its judgement, the serious detriment test has been met in accordance with the approach set out above.

Although the regulator will not become involved in the resolution of individual complaints, it does not exclude the possibility that assessments of serious detriment might originally stem from an individual tenant complaint which indicated a more far-reaching problem causing harm or potential harm to tenants.