



08 February 2010

Our ref: ICAEW Rep 17/10

Your ref:

Amanda Newton
Statutory Consultation Project Manager
Tenant Services Authority
4th Floor, One Piccadilly Gardens
Manchester M1 1RG

Email: statutoryconsultation@tsa.gsx.gov.uk

Dear Ms Newton

A NEW REGULATORY FRAMEWORK FOR SOCIAL HOUSING IN ENGLAND

INTRODUCTION

1. The Institute of Chartered Accountants in England and Wales (the ICAEW) welcomes the opportunity to comment on the consultation paper *A new regulatory framework for social housing in England* published by the Tenant Services Authority in November 2009. We welcome the consultation process and support the general direction of the themes within the report. We particularly welcome the emphasis on proportional regulation, the focus on outcomes, and the agreement of standards with tenants.

WHO WE ARE

2. The Institute operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, the Institute provides leadership and practical support to over 132,000 members in more than 160 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. The Institute is a founding member of the Global Accounting Alliance with over 775,000 members worldwide.
3. Our members provide financial knowledge and guidance based on the highest technical and ethical standards. They are trained to challenge people and organisations to think and act differently, to provide clarity and rigour, and so help create and sustain prosperity. The Institute ensures these skills are constantly developed, recognised and valued.
4. The Institute's Social Housing Committee (the committee) is responsible for co-ordinating the technical considerations of the social housing sector with respect to Chartered Accountants working

in or for registered social landlords, the interests of practitioners, their clients and Chartered Accountants employed in financial roles within the housing association sector.

GENERAL POINTS

5. Although the proposed framework has a single starting date of 1 April 2010, this can mean very different implementation timetables to Registered Providers depending on their year end dates. We recommend that TSA align the period ends to which future pronouncements apply, as this will be fairer as well as less confusing to all stakeholders.
6. We note that, under the current legislation, a non-stockholding parent cannot be a Registered Provider. This means that, where, say, local authority stock is transferred to a new housing association, the latter will not be registered until it has received the property, which means that it is not eligible to receive grant funding.
7. We are also concerned that a property developed for shared ownership sale only might also not be recognised as qualifying for Registered Provider grant funding and would welcome clarification on this point.

ANSWERS TO KEY CONSULTATION QUESTIONS

1. *Does our approach to co-regulation as expressed through our ten principles seem a reasonable basis on which to develop the new framework from 1 April 2010?*

“Co-regulation” is explained in paragraphs 2.2 to 2.5 (pages 17 to 18) as being “self-regulation by providers involving their tenants, subject to a ‘backbone’ of intervention by the regulator on a ‘by exception’ basis”. The key features are set out in paragraph 2.4. If ‘co-regulation’ itself works, then it seems right to base the approach on stated principles, and the principles themselves seem sensible.

2. *Does our approach to setting national and local standards appear reasonable for the requirements that will apply from 1 April 2010?*

We do not have general comments on this point, but see our comments on 5E and 5F below.

3. *Does it seem reasonable to extend the same approach to those providers owning less than 1,000 properties, taking into account their size and risk profile in a proportionate approach to compliance?*

We consider that it is reasonable to extend the same principles to all registered providers, provided that the approach to compliance really is proportionate.

4. *Do our proposals on how we will approach the regulation of local authorities appear reasonable?*

We have no comment on this point.

5. *Does the proposed text for the following standards:*

- *address priorities for tenants whilst taking into account our duty to have regard to the desirability of registered providers being free to choose how to provide services and conduct their business?*
- *express requirements of providers in a way that is clear, succinct and as outcome focused as possible?*

5A. Involvement and Empowerment

5B. Home

5C. Neighbourhood and Community

5D. Tenancy

5E. Value for Money

5F. Governance and Financial Viability

So far as 5E is concerned, we note that section 10 on pages 63 to 65 requires RPs to “publish as part of their communications with their tenants, information on at least an annual basis that demonstrates how they have allocated and prioritised expenditure on different areas of housing services covered by the national standards and their local standards and other priorities such as investment in the supply of new social housing, and how they have ensured that it has secured value for money in that expenditure, how they have tested this, and the benefits that tenants can expect”.

Section 11 on pages 66 to 69 deals with governance and financial viability (5F). We do not consider that it is clear enough what is expected of RPs with regards to Value for Money. Generally, our concern is that the expectations as they stand are vague so that it could take time for an acceptable level of reporting practice to evolve. Without clear requirements some RPs may provide very nebulous statements (or, in the case of large group RPs, a generic statement covering all properties and tenants) that actually mean very little to the recipient tenants. We are also concerned about how RPs can demonstrate that their VfM assertions have been tested VfM and whether this will need to be externally verified.

6. *Does our approach to monitoring and compliance against the standards and regulatory requirements seem a reasonable basis for ‘how’ we regulate in 2010-11?*

Yes.

7. *Does our approach to dealing with complaints seem reasonable?*

Yes.

8. *Is our general approach to using our formal regulatory and enforcement powers reasonable? [See supplementary consultation document ‘Guidance on the use of powers under the Housing and Regeneration Act 2008’ containing detailed guidance notes and the related question “Do the principles within the detailed Guidance Notes seem a reasonable basis on which we should use our powers?”]*

Section 13, pages 90 to 99 explains that many of the powers are “substantially” similar to those currently held by the TSA: the new enforcement powers are set out towards the end of paragraph 13.11 and don’t appear to raise particular issues for accountants. What may be of interest to auditors are the “factors that may lead to the use of [the TSA’s] regulatory, enforcement and general powers”. Apart from RPs that are unincorporated charities, there is no statutory whistleblowing duty on auditors, but ISA 250 (UK and Ireland) does require auditors to bring information of which the auditor has become aware in the course of the audit to the attention of the regulator if it is relevant to the regulator’s functions etc. – see PN14 shaded box above paragraph 58.

9. *Do our proposals for establishing registration and deregistration criteria seem reasonable?*

Yes.

10. Does our approach to issuing directions on Accounts and the Disposal Proceeds Fund seem reasonable?

Yes.

Please contact me should you wish to discuss any of the points raised in this response.

Yours sincerely



Caron Bradshaw,
Secretary to the Social Housing Committee

T +44 (0)207 9208579

E caron.bradshaw@icaew.com

© The Institute of Chartered Accountants in England and Wales 2009
All rights reserved.

This document may be reproduced without specific permission, in whole or part, free of charge and in any format or medium, subject to the conditions that:

- it is reproduced accurately and not used in a misleading context;
- the source of the extract or document, and the copyright of The Institute of Chartered Accountants in England and Wales, is acknowledged; and
- the title of the document and the reference number (ICAEWRep17/10) are quoted.

Where third-party copyright material has been identified application for permission must be made to the copyright holder.

www.icaew.com