



Adrian Waite (Independent Consultancy Services) Limited

5th November 2018

Social Housing Team,
Ministry of Housing, Communities and Local Government,
3rd Floor, Fry Building,
2 Marsham Street,
London.
SW1P 4DF.

Sent by email to: SocialHousingGreenPaper@communities.gsi.gov.uk

Dear Sir,

Social Housing Green Paper: Consultation

Introduction

I am Managing Director of AWICS Limited, a Management Consultancy and Training organisation that principally supports housing associations and local authority housing services. I am also a former housing association board member and Chair. I would like to respond to your consultation as follows. I have organised this letter under the same headings that are used in the green paper and refer to the specific questions that I would like to address.

Ensuring Homes are Safe and Decent

I assume that this section of the green paper is prompted by the tragedy of Grenfell Tower. This underlined the need to ensure that all social tenants (and people in other tenures) have homes that are safe and decent. To achieve this, it is clearly important to have an appropriate decent homes standard and appropriate safety standards.

However, I think there are other important issues to consider.

First, I think there is a 'cultural' issue in social housing organisations that can probably also be found in other public and private organisations. They work in a world where there are a lot of statutory and regulatory requirements and while 'Best Value' has come to an end there are still a lot of performance indicators. This obliges organisations at both governance and management levels to focus on meeting these requirements and achieving satisfactory performance indicators. This can lead to a 'tick box' approach and a tendency not to see the wood for the trees. I remember chairing a housing association board meeting, where I said that there was a need to meet legal and regulatory requirements and received a response from one of the board members that what we really needed to do was what was right. Obviously, housing organisations need to do both, but my understanding of the situation in Kensington & Chelsea that led to the Grenfell Tower fire was that there was a tendency to focus on 'ticking the boxes' including buying materials cheaply rather than a focus on the big issue that was doing what was right and ensuring the safety of tenants.

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Second, there is evidence that the concerns of tenants of Grenfell Tower about fire safety were largely ignored by the Council and its arms' length management organisation and that generally communication between the landlord and the tenants was poor. I think this is probably a problem that can be found in many housing organisations and I therefore welcome your first question:

1. How can residents best be supported in this important role of working with landlords to ensure homes are safe?

Before answering this question, I think we need to ask another, and that is:

"What are tenants? Are they customers or stakeholders?"

Traditionally, housing organisations have had a paternalistic attitude towards their tenants, but most housing associations and local authorities now see tenants as customers who are entitled to a good service in return for their rent. This is obviously a step forward, but I think we now need to take a further step forward and see tenants as stakeholders. Stakeholders are entitled to more than customers. They have a stake in the organisation and are entitled to have their voices heard as well as receive a good service. Saying this, though, is the easy thing. Bringing about the required change in 'culture' in housing organisations and among tenants is the difficult thing.

One option would be for all housing associations to become tenant-owned as some already are; and to develop a similar model for local authority tenants.

Effective Resolution of Complaints

I think there are three main points about complaints:

- People who complain usually want a prompt resolution to their problem. This is best achieved when the person who delivers the service responds promptly.
- Complaints should be useful feedback that helps the organisation to understand how it is performing, to learn lessons and to improve services. Complaints should therefore be encouraged.
- The main outcome of a successful complaints process should be that the organisation addresses the issues that cause recurring complaints about the same matters with the result that complaints about those matters become fewer.

I think these things can only be achieved if managers on the 'front line' have a constructive attitude and are suitably empowered. I therefore think that the role of government and the regulator should be to facilitate this while the role of the ombudsman should be to resolve those issues that cannot be resolved by the housing organisation in question. I would suggest that the regulator develop a code of good practice and monitor how effectively it is used by housing organisations.

6. Should we reduce the eight-week waiting period to four weeks, or should we remove the requirement for the "democratic filter" stage altogether?

I am not sure that the 'democratic filter' has worked well and I understand that its main effect has been to cause a delay in tenants receiving redress from the ombudsman. I would suggest removing the 'democratic filter' stage altogether.

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Empowering Residents and Strengthening the Regulator

You will be aware that Impact Housing Association was downgraded for governance and viability by the regulator in 2017 and has now agreed to merge with the Riverside Group. I think this is an interesting case study that illustrates the need for a change in the approach to regulation.

I was on the Board of Impact from 2009 to 2015 and was Chair from 2011 to 2015. After 2015 I continued as a shareholding member and in that capacity had the opportunity to follow the series of events that led from the in-depth assessment through to the merger being agreed. In my view the process was not satisfactory, and I would like to share with you my thoughts and to make some suggestions for a changed approach to regulation, accountability and mergers in future.

Regulation

When Impact was downgraded in May 2017, I was surprised that the regulator made very little information available about their reasons. Impact also chose not to divulge any information. This left shareholding members, tenants and other stakeholders ignorant of the reasons for the downgrade. In my view this approach lacks transparency and so my first suggestion is that:

- a) When the regulator downgrades a registered provider to an unacceptable grade (G3 or V3) a report should be made publicly available making clear the principal reasons for the downgrade so that shareholding members, tenants and other stakeholders are fully aware of the situation.

The regulator decided to downgrade Impact for governance and made clear that they considered that the Board was not 'fit for purpose'. In view of this I do not think that it was appropriate for the Board to avoid reporting the regulatory judgment to shareholding members, to continue in office and to take strategic decisions including making a voluntary undertaking to merge with another organisation. My second suggestion is that:

- b) When the regulator downgrades a registered provider to an unacceptable grade (G3 or V3) the Board should be obliged to call a general meeting of shareholding members that would consider the report of the regulator and the response of the Board; and at the same time all board members would have to submit themselves for re-election.

Accountability

After the downgrade, the Board of Impact did not appear to be accountable to anyone. In May 2017, the Board brought forward the date of the annual general meeting to the week before the regulatory judgment was to be announced and provided the meeting with information about the downgrade and about the financial circumstances of the association that I found misleading (for example, stating that the finances were 'strong and stable' when in fact the regulator was about to downgrade the organisation from V1 to V3 and the organisation was heading for a £2million loss for the year). Following that there was no further formal engagement with the shareholding members until the annual general meeting in June 2018 when they were presented with a merger with the Riverside Group as a 'fait accompli'.

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When I was Chair, it was Impact's policy to maintain a membership of sixty people who would be representative of the local community, but the present board allowed this number to decline to thirty. Of those, only eleven attended the annual general meeting in June 2018. Some board members even failed to attend.

In my view these arrangements did not provide adequate accountability for the board. It also appears to me that many registered providers could be in a similar position. The question: "To whom should housing-association boards be accountable?" is one that I think needs to be asked and answered.

My third suggestion is that:

- c) There needs to be a review of the accountability of registered providers. In my view this should involve the meaningful accountability of boards to tenants, other stakeholders and to the wider communities in which registered providers work. In the past I have suggested that any tenant who has held a tenancy for five years and who has not been in serious breach of their tenancy agreement should become a member of their registered provider. However, there may be other ways of ensuring that boards are genuinely accountable to members who are representative of tenants and communities and can carry out that role effectively.

Mergers

I was surprised that a Board that the regulator had decided was not 'fit for purpose' could enter a voluntary undertaking to merge without seeking the consent of the shareholding members.

I was surprised at the lack of information that was made available to shareholding members, tenants, stakeholders and the wider community about the merger. For example,

- Board members sought expressions of interest from a select group of registered providers but were not prepared to identify which associations they were or the criteria that were used to select them.
- Board members were not prepared to state what the criteria were that were used to select the preferred merger partner.
- The offer from the successful partner included many vague statements but very few specific commitments.
- Shareholding members were not shown the Business Case, Heads of Terms or Inter-Group Agreement.
- In my view, the consultation with tenants was flawed in that it lacked objectivity and balance and contained misleading statements such as one that the merger would not result in a change of landlord.

My final suggestions are therefore as follows:

- d) The making of a voluntary undertaking to merge should be a decision for all shareholding members and not just the board.
- e) Before a merger goes ahead that involves one housing association being absorbed into another, there should be a ballot of all tenants. For the merger to proceed it would be necessary for most of those voting to vote in favour of the merger. I believe this is already the case in Scotland.

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- f) Registered providers that propose to merge should be obliged to produce a full prospectus, like the offer documents that a registered provider must produce if it is involved in a stock transfer from a local authority, prior to the ballot taking place.
- g) The Regulator, or another independent person, should be responsible for ensuring that any information provided to tenants is accurate, objective and balanced. Ideally, an Independent Tenants' Advisor should also be appointed.

Performance Indicators

I am not convinced of the effectiveness of top-down performance indicators. In my view, housing organisations should be focused on their relationship with their tenants and the communities that they serve, identifying tenants' and communities' needs and aspirations and designing and delivering quality services that meet them. A focus on top-down performance indicators can distract attention from this critical relationship. I therefore think that there should be few performance indicators and they should be part of a 'strategic' approach to regulation rather than a detailed one. I think the most important indicator of the performance of a housing organisation is the level of satisfaction of their tenants.

Affordable Homes Programme

19. Should we introduce a new criterion to the Affordable Homes Programme that reflects residents' experience of their landlord? What other ways could we incentivise best practice and deter the worst, including for those providers that do not use Government funding to build?

I think this is an interesting proposal. Making a high level of tenant satisfaction a criterion for the awarding of grants could help to focus housing organisations' attention on achieving higher levels of tenant satisfaction.

Tenant Representation

21. Is there a need for a stronger representation for residents at a national level? If so, how should this best be achieved?

I think there is a case for establishing a national body that is representative of tenants. However, to be effective it would have to be part of a national network of tenant associations that were genuinely representative of tenants and 'fit for purpose'. This would require significant resources, capacity building for 'active' tenants and a change of culture in housing organisations.

Stock Transfer

22. Would there be interest in a programme to promote the transfer of local authority housing, particularly to community-based housing associations? What would it need to make it work?

The main reason why most stock transfers have taken place is to access additional resources. However, with the introduction of self-financing there is no longer any financial incentive for stock transfer. Unless additional resources are made available the only advantage that could be gained from stock transfer would be the creation of a community-based housing association in which tenants and communities would be controlling stakeholders.

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However, very few recent stock transfers have been to stand-alone community-based housing associations. Most have been to subsidiaries of large established housing associations. Furthermore, it is very common for smaller housing associations to be taken over by larger housing associations, and for larger associations to collapse their group structures. The trend apparently encouraged by the government and the regulator is towards establishing large 'monolithic' housing associations that have economies of scale but are not community-based.

So, I think the first thing that would be required for community-based housing associations to work would be a change of approach from government and the regulator towards valuing the contribution made by community-based housing associations and supporting and protecting them rather than encouraging them to merge with larger providers.

I would welcome this as I think community-based housing associations have the potential to achieve a great deal in terms of place-shaping and community and resident engagement.

Alongside a programme to encourage local authorities to transfer their stock to community-based housing associations, I would welcome a programme to encourage large housing associations to transfer their stock to community-based housing associations.

Tackling Stigma and Celebrating Thriving Communities

I think it is very important to tackle stigma and celebrate thriving communities.

Most housing providers are tackling stigma and creating and celebrating thriving communities, including by creating mixed-tenure communities, place-shaping and providing services that go beyond just providing houses towards supporting and empowering tenants.

However, I think that if more progress is to be made, clearer leadership is needed. For too long, national and local political leaders have not done enough to tackle negative stereotyping of social tenants and neighbourhoods where there is a significant proportion of social housing. This needs to change. Commitments to change this from political leaders are welcome but what is required is action rather than words.

Also, more resources are needed to tackle economic and social problems that exist in some communities so that residents can be empowered to thrive.

Expanding Supply and Supporting Home-Ownership

45. Recognising the need for fiscal responsibility, this Green Paper seeks views on whether the Government's current arrangements strike the right balance between providing grant funding for housing associations and Housing Revenue Account borrowing for local authorities.

I am not sure that there is a need to strike a balance between providing grant funding for housing associations and Housing Revenue Account borrowing for local authorities. All affordable housing providers, whether they are housing associations or local authorities rely on a mix of grant, borrowing and other resources to fund new development.

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The amount of borrowing in housing associations usually depends on how much borrowing is affordable given the surplus that remains after the rent has been used to pay for management, maintenance and major repairs; and now that the 'borrowing cap' has been lifted from local authorities the prudential borrowing rules should enable local authorities to borrow on a similar basis. Grants are available to housing associations and local authorities on a similar basis but reductions in grant rates, especially since 2010 have led to providers having to find additional resources to fund new development and has obliged them to provide 'affordable housing' and shared-ownership housing rather than 'social' housing. If more 'social' housing is to be built, then this will require either increased grant rates or greater flexibility around the use of other resources and probably both.

There appears to be general agreement that there is a need to build between 300,000 and 350,000 new homes a year in England across all tenures to meet existing and projected need. This level of new build has not been achieved since the 1970s so a 'step change' is required. A closer examination of house-building since 1950 shows that the number of new homes delivered by the private sector has been remarkably steady at around 150,000 to 200,000 new homes a year since about 1960 suggesting that there is a need for housing associations and local authorities to build about 150,000 homes a year. Housing associations have never been able to build on this scale, but when house-building on this scale was achieved between 1954 and 1979 it was because local authorities were building these numbers. This suggests that if we are to build the number of new homes that everyone agrees are needed, there will need to be an expanded role for local authorities.

The government's decision to remove the housing revenue account 'borrowing cap' is therefore to be welcomed, as are the proposals to introduce more flexibility to the management of capital receipts. However, I think that the government's proposals on capital receipts do not go far enough and would suggest that:

- Councils should be allowed to retain 100% of capital receipts.
- Capital receipts arising from the sale of council homes and other housing revenue account assets should be ring-fenced to the housing revenue account.
- Councils should have the power to suspend the 'right to buy' in specific areas, for specific types of property or generally.

I also think that it would be appropriate for the government to revisit the tenanted market valuations that under-pinned the self-financing settlement of 2012 to reflect the following:

- Prior to introducing self-financing the government commissioned research by the Building Research Establishment that considered how much should be included in the valuation for the cost of major repairs. It was concluded that the 'allowance' for major repairs should be increased by 43% when compared to the previous major repairs allowance that was included in the former housing subsidy calculation. However, in the self-financing settlement, these allowances were only increased by 29%. It is possible that this under-provision for major repairs has contributed to the pressure on budgets that led to cost-cutting instances such as Grenfell Tower. In my view a revised calculation should include an increased allowance for major repairs.
- The self-financing settlement assumed that rents would increase by the rate of increase in the consumer prices index plus 1% each year and that rent convergence would continue. In practice, this has not occurred with rent convergence being abandoned and the Welfare Reform & Work Act 2016 legislating for real reductions in rents for the four years 2016 to 2019. In my view a revised calculation should include an updated projection of rent income.

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- When self-financing was initially proposed it was intended that the settlement would include 'headroom' for funding new development. However, this 'headroom' was not included in the actual settlement. Given the government's renewed commitment to building council housing, it would be appropriate in my view to revise the self-financing settlement to include some 'headroom' to fund development of new homes.

The effect of a revision of the self-financing settlement on this basis would be the writing-off of a significant proportion of local authority housing debt that would provide resources for an appropriate level of major repairs and an enhanced level of new development, both of which would be appropriate.

It is generally agreed that government and housing providers should support home ownership. However, at present the government devotes 80% of its budget to supporting people into home ownership and only 20% on providing social and affordable rented housing and tackling homelessness. In my view the balance of funding should be shifted towards providing social and affordable rented housing and tackling homelessness and government statements that this may happen should be welcomed. If house-building could be increased to the 300,000 to 350,000 a year that the government has suggested that would benefit those who aspire to own a home as well as those who aspire to rent a social or affordable home.

Conclusions

In summary, I would suggest that:

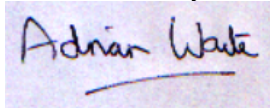
- The role of tenants in the management of local authority and housing association housing should be enhanced. They should be stakeholders rather than customers with a meaningful role in decision-making.
- Complaints processes should be focused on empowering front-line staff to resolve both complaints and the underlying issues that cause repeat complaints.
- Regulation should become more transparent.
- Housing Association Boards should become more accountable.
- Procedures should be put in place to ensure that housing association mergers follow a more transparent process with meaningful tenant engagement.
- Performance Indicators should focus on tenant satisfaction.
- Community-based housing associations should be encouraged to take over the ownership and management of existing local authority and housing association stock as appropriate.
- The balance of government funding for housing should be changed to provide more support for below-market rented housing and grants to support new social housing should be increased.
- Local authorities should be given more flexibility over the management of 'right to buy' and 'right to buy' receipts should be localised.
- The self-financing settlement should be revisited to take account of reduced rents, the need to spend more on major repairs and to provide 'headroom' to fund new development.

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I hope that you find these observations helpful.

Yours sincerely,

A handwritten signature in blue ink that reads "Adrian Waite". The signature is written in a cursive style and is underlined with a single horizontal line.

Adrian Waite
Managing Director

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