



Sutton Federation of Tenant and Resident Associations



Mrs J Crossby
Chair
Sutton Federation of Tenant & Resident
Associations (SFTRA)
Ground Floor
Sutton Gate
1 Carshalton Road
Sutton
Surrey SM1 4LE

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

17 January 2010

Dear Ms Newton,

The following is the response of the Sutton Federation of Tenant & Resident Associations (SFTRA) to the Tenant Services Authority's 'A new regulatory framework for social housing in England, A statutory consultation'. However, before we start our response to this consultation we would like to express our dismay that the Tenant Services Authority (TSA) chose to abbreviate the Sutton Federation of Tenant & Resident Associations (SFTRA) to Sutton Fed (SFTRA) in the document 'National Conversation: Phase Two Summary of Responses Received (October 2009)', please may we ask that this is corrected and that in future the full title is used in these types of documents.

The SFTRA was pleased to read that you welcome comments not only on the questions specifically asked but also any other points within the document. We would therefore like to start by making a few comments on the foreword provided by Peter Marsh, Chief Executive. We support the TSA's aim of encouraging landlords to improve their performance where they fail to provide a good service to tenants but feel that another aim of the TSA's that should be spelt out clearly is one of ensuring that the financial requirements of landlords, in particular Council landlords and their managing agents, can be met from local rents without the loss of rental income to the Government or other authority. Cross subsidising should not be taking place whereby one area of the country is deemed to be able to support another. The TSA should aim to ensure that any funding provided is to the level required and that tenants can rely on their rents being spent on the up keep of their properties, however they may be grouped by the landlord.

We note that the TSA is proposing standards on anti-social behaviour and management of the neighbourhood and whilst we would agree that these are important it must not be forgotten that

when funding is limited hard decisions have to be made by both the landlord and residents on how that limited funding is spent. Homes that are weather tight nearly always have to be the priority.

The SFTRA sincerely hope that any enforcement powers that are used by the TSA will not have a negative impact on residents as by trying to get the landlord and or managing agent to improve can often have this affect even if only in the short term. This has been seen with the funding issues for local authority landlords and their ALMOs. If the ALMO failed to make two stars at inspection and therefore did not receive funding the people who really suffered in the short term were the residents. Admittedly, if the ALMO can improve then in the long term things should be better for residents but the short term can have a dramatic effect on the lives of residents.

We note yet again that leaseholders are excluded and as previously raise issue with the fact that it is stated that it is the Government's view that 'leaseholders had a degree of choice to move out of social housing (unlike most tenants in the sector)'. It should be recognised by the TSA that a large proportion of social housing leaseholders were previously the tenants or are leaseholders on low income or pensions so the only choice they may have is to move to another social housing landlord leasehold property if they can afford the associated moving costs. The SFTRA believe it is wrong to exclude leaseholders as it is when tenants and leaseholders work together as one that the biggest improvements are seen as more and different types of information become available to the residents. In Sutton, as residents of a Federation which unites both tenants and leaseholders, we certainly support and promote joint working between different tenures whilst acknowledging the differences that also exist. We believe that when local standards are set here in Sutton both tenants and leaseholders will be involved, as they have been in the past. The inclusion of both tenures is something that we appreciate from both our landlord, the London Borough of Sutton (LBS), and our Arms Length Management Organisation, Sutton Housing Partnership (SHP).

Moving on to the Introduction to the new regulatory framework we would like to raise the question as to how any change in Government could affect the direction of the TSA or whether the 2008 Act protects the TSA from potential political change.

The SFTRA supports the objective of the TSA to ensure that tenants have an appropriate degree of choice and protection and would see any loss in choice of landlord, including that of Council landlord, to minimise choice to tenants and prospective tenants. The TSA should recognise that any rental money which has to be used by the landlord to fund the cost of any regulatory body, regulation and or inspection regime, which often seems to be exceptionally costly, will impact on the landlords ability to use rental income on what matters to residents. We sincerely hope that any costs will be kept to a minimum and that the TSA will be accountable and transparent to all residents on how their money is used.

We note that the TSA is to 'guard against the misuse of public funds', we would argue that the TSA should also guard against the misuse of housing and in particular Housing Revenue Account funds which may be funding services on estates which all residents within the wider local area have access to.

The TSA's enforcement powers cause us concern as the document states that powers include a management tender or transfer with no mention of what the resident may or may not want, what they think is best for them or any consultation. Another concern is that the TSA can direct the HCA not to provide funds to a provider, this raises concern, as mentioned earlier, about the effect that this would have on the residents rather than the provider.

As part of the not for profit sector we have concerns about the registration of for profit providers and would seek reassurance that money will not be allowed to influence the TSA, its standards or the monitoring of these providers.

Being part of the ALMO sector we find it unclear what the situation would be if the ALMO was to become the owner of some stock, would this mean that they were only registered and responsible for meeting regulatory standards for that stock? Would this have any impact of the stock that the ALMO did not own?

The SFTRA recognise that many tenants have limited ability to take direct action if their landlord performs badly however there was no recognition within the text that residents of a local authority landlord have the opportunity to vote every four years which can have the direct effect of changing the landlord.

We fully support the fact that the TSA does not plan to be prescriptive on how outcomes for the standards are achieved. However we do not fully understand what is meant by the fact that all Good Practice Notes issued by the Housing Corporation will basically be scrapped. We have concern that this will mean that there could be basically the 'reinventing of the wheel' taking place as surely just because the regulator changes and perhaps the standards are changed that this does not mean that good practice that has been identified over the years becomes meaningless.

The SFTRA is uncertain of the part mentioning general consents but would not support anything that makes it easier or with less consultation to sell, or dispose of, stock or land whether that stock was inhabited or not.

As the questions come at the end of chapters we have taken the view that the information given in the chapter is relevant to the question(s) being asked. We have therefore started off by listing the question and have then included any comments and views that we may have.

Q1 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?

Yes, however we do have some concerns and issues as set out below.

Co-regulation is a good way of working however we are concerned that co-regulation may not include all stakeholders, we would like confirmation that this will be the case and residents will always be included in the co-regulation.

We note that the TSA has developed three criteria to determine whether the TSA should set a standard. We believe that if the TSA feels that it needs a standard that is not already included under the first two criteria i.e. it is not a priority for tenants and protects them from poor services or is required by the Government then the TSA probably does not need the standard.

There is concern that on one hand the TSA are saying that in e.g. 2.4 they will not be prescriptive about how outcomes should be achieved yet under e.g. 3.3 there is reference made to 'steps set out under the paragraphs headed 'specific requirements' would need to be followed to achieve the 'required outcomes' of the standard.' This seems contradictory to us and raises concern that the TSA may feel that if something is not done their way then it is not the right way, we hope that this impression is unfounded.

If Codes of Practice do prove necessary how will the TSA develop these in a co-regulatory manner and with whom? We believe that Codes of Practice, if required, should be part of the framework and not selective.

The SFTRA thinks that it is important that providers should not only in the first year consult residents on the issues surrounding local standards but in subsequent years consult with residents on how any local standards may need to be changed or targets adjusted to meet the changing needs of residents. Any changes should be published along with the performance against the local standards that have been adopted for the past year.

The SFTRA cannot see the rationale behind the thinking of having slightly different requirements for those providers with more than 1,000 properties and those with less than 1,000. Firstly, on reading the text of the document, any provider with exactly 1,000 properties falls between both sections. Secondly, those providers with the ability to do so could split their properties in some way that allows them to only have to meet the requirements for those providers with less than 1,000 properties. Thirdly, what has led to the 1,000 as being the cut of figure, why not 1,100 or 900 etc, is there really that much difference between a landlord who has 1,001 and that which has 999 properties?

There needs to be a distinction made between worst performing providers and those where tenants are being let down by their provider's performance. If as we hope, all providers will be improving and providing better and better services over the years, there will always be those providers who are at the bottom of any league table regardless of how good they are. As residents we want the focus to be on what we think is acceptable for our local situation and not on what the provider thinks it has to achieve to be in the top part of any league table to avoid it being marked down by the regulator or inspector, although often these will be one and the same, it is the focus of the landlord on meeting residents' needs and expectations which is important.

We hope that if the TSA has to use its more formal regulatory and enforcement powers that it will include and communicate fully with residents of the provider in any action taken as there is no mention of this in 3.19.

The SFTRA agree that the regulatory framework should be reviewed to enable it to be kept up to date but also agree that it should allow a period of certainty. In the past too many times standards have been changed after only a short period, e.g. one year, which means that the performance information collected one year is meaningless the next.

Q2 Does our approach to setting national and local standards appear reasonable for the requirements that will apply from 1 April 2010?

Yes and we agree with the fact that some areas have not had standards set for them as they are better dealt with by other bodies.

The SFTRA believe that the local standards and everything that is mentioned within the consultation document about how the TSA expects providers to consult with tenants on developing these standards should become part of, or at least referenced in, the Tenant Participation Compact for each provider. This should mean that the information is readily available to all residents and that they automatically know where to find this information as well as ensuring the standards are monitored. It is vitally important that each provider publicises the local standards widely and in formats suitable for the local stakeholders to ensure effective consultation.

4.1 starts off again by causing us confusion as previously in the document there was emphasis put on the fact that the TSA had no plans to set codes of practice yet here we read that this section sets out guidance for how the TSA intends to use its powers to do just that.

The SFTRA feels that the bullet pointed list of things that the TSA expects providers to agree with their residents, page 29, is very helpful for residents and could be used by residents to ensure steps are not missed in developing and agreeing local targets. Although we agree that mediation rather than recourse to the regulator in cases where agreement cannot be reached between the provider and the residents is sensible we have concern that there is no mention of who, how or cost of such mediation. If this a mechanism has not been put in place in time this could leave some residents without agreed local standards.

Q3 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?

Earlier in this response we have provided comments on the approach to be taken for those providers owning less than 1,000 properties. Our only additional comment would be how the TSA is funded by different size providers and the split between the funding by for profit and non profit making providers.

National standards should be equally applicable, regardless of stock size, tenure type, or diversity; foundation frameworks should apply to all.

Q4 Do our proposals on how we will approach the regulation of local authorities appear reasonable?

The SFTRA are concerned that both the TSA and the Audit Commission are mentioned when it comes to the regulation of housing services. We agree that duplication should be avoided and that if the Audit Commission is responsible for something, such as scoring use of resources, then the TSA should not expect to do the same thing for local authorities. However as residents of a local authority provider we have concerns about the cost of the different regulators that may be involved in assessing and monitoring the housing service and the cost to us as residents taking away valuable funds from the upkeep of our homes and provision of service. We believe that it is crucial that this is set out clearly and without ambiguity as to which organisation is responsible for what area of monitoring and enforcement and that any information required by one will be acceptable in the same format by the other should they both need to receive that information.

We have concerns that the changes in regulation and standards being set by the TSA, which appear to be moving away from the Key Lines of Enquiry (KLOEs), are of a lower standard than are currently set for local authority providers. What does this mean for local authorities who have ALMOs that have currently reached a two star or higher standard and are in the process of decent homes work? We also feel that currently the standards within two star ALMOs is higher than other registered providers and it is important that they are encouraged to maintain and improve further for the benefit of their stakeholders.

Q5 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 outcomes focused as possible?

As stated in Q4 we feel that these standards are a minimum requirement and do not encourage excellence from providers, residents expect their providers to be aiming high, so although we generally feel that the standards are a start they need developing along the lines of ALMO's current KLOEs.

5A Involvement and Empowerment

Generally we agree with the proposed text.

Some registered providers have yet to fully grasp the concept of resident choice, therefore minimal consultation with their customers occurs. How will this standard change that situation as it could be manipulated by the landlord in the manner in which they select how they consult? If residents do not know about the opportunity to be involved and consulted on local standards how would this ever be highlighted to the TSA?

Within the text the word 'opportunity' is used with involvement and although the SFTRA fully support and want increasing amounts of both involvement and empowerment we recognise that this is not the case for all residents. We would propose that the outcome should be weighted to the opportunity to be involved and not wholly based on numbers involved.

We agree that complaints and feedback from residents and how a provider learns and improves their service from this type of involvement is crucial to a provider meeting the needs of their residents. We also agree that leaseholders and other residents should be involved in the involvement.

The SFTRA supports the point that registered providers will be expected to consult on the number of tenant members there should be on their governing bodies or service delivery committees and should be extended to include other tenures, as appropriate for that provider, such as leaseholders.

There should also be support from the provider to allow residents to be part of and participate in the wider tenant movement, whether that is at a national, regional, or other level.

5B Home

Generally we agree with the proposed text.

The SFTRA was pleased to note that there was recognition within the text that some providers, such as local authority providers, may have differing access to funding which is often beyond their direct control, as we have recently seen with the postponement of the ALMO funding.

We are uncertain that an outcome can be 'registered providers must ensure that all homes are warm, ...', as this is firstly subjective as each resident may consider 'warm' to be different and secondly a provider cannot force a resident to have a warm home. We consider a more appropriate outcome is one related to ensuring residents are not in 'fuel poverty', where a definition taken from the intranet is 'when a household needs to spend more than 10% of their household income on all domestic fuel use including appliances to heat their home to an adequate level of warmth.' Quality of accommodation should include energy efficient equipment and this should be monitored via performance indicators.

We are not sure that the target date of 31 December 2010 is appropriate for meeting the standard in 1.1 due to the change in ALMO funding by the Government and that they recognise that their original target date is not going to be met. What is important is the direction of travel of the number of non decent homes and that once all homes do meet this level that they are maintained at that level.

For the repairs and maintenance service we agree with the points listed that should be achieved but we also believe that each service should be flexible enough to allow development at a local level, e.g. estate level, to ensure the service is delivered to meet the needs of the residents.

We would like to point out that 5C and 5D, Tenancy and Neighbourhood and Community respectively are listed the other way round in the list of questions within the appendix. This has caused considerable confusion amongst residents formulating their responses who took the list of questions from the appendix and then formulated responses from the document.

5C Tenancy

Generally we agree with the proposed text.

Allocations are recognised within the text as being related to sustainable communities and we would strongly agree with this. There needs to be clear decision making in place to not only ensure that prospective tenants are treated fairly but also that current tenants are treated fairly as well. As an example we would highlight an issue where one long standing resident reported that over a number of years the same neighbouring property was provided as a home to several different tenants all of whom had aspects of their behaviour which impacted on the neighbouring tenant, no consideration seemed to be given to the long term affect this had on the current long term tenant.

We recognise the need to ensure that homes are used to their maximum potential but this has to be balanced against tenants, perhaps elderly etc, feeling that they are being forced from their homes by an outcome to address over or under occupation which is implemented as a requirement rather than assisting the tenant with real choice.

The SFTRA having had experience in being involved in rent setting would suggest that, although tenants may have limited ability to influence the actual rent increase, they should be involved by the provider so that both rents and service charges are transparent and provide value for money. This is an area of uncertainty until the report on the housing finance review has been completed and published.

5D Neighbourhood and Community

Generally we agree with the proposed text.

There are many issues relating to neighbourhood and community and as recognised in the text there is a need for joint working between different groups / organisations / authorities. This also means that funding will be an issue and it is important that the housing providers are treated fairly when funding is required to be used in the wider neighbourhood and community. An outcome for the provider should be to ensure that it is not requiring residents to double pay for services, for example those services which should be provided by the local authority through council tax etc. A required outcome could also be that residents are assisted to participate in wider community matters, such as involvement with local authority committees and focus groups etc as appropriate to the area.

We believe that there should be a national standard for communal areas such as lifts and security doors that are in place, as these are a matter of priority for residents for health & safety and antisocial behaviour reasons.

5E Value for Money

Generally we agree with the proposed text.

The SFTRA believe that residents should not only have the opportunity to influence services and related spend on those services that result in a service charge but all services related to the provider in the provision of the housing service.

Where there is a lack of resident empowerment this could result in this standard not being achieved with any form of resident input. How will the regulator ensure meaningful involvement is being utilised through wide and not selective consultation. Due to the different funding arrangements in place and money available for new supply of social housing it is important that providers work together to ensure that not only new housing is provided but also that a choice of housing, including council housing, is maintained. There should be a requirement that any monies from the disposal of current council housing land or stock should be reinvested in new council housing.

5F Does the proposed text for the Governance and Financial Viability standard:

- allow registered providers to choose how to conduct their business whilst ensuring the security of social housing assets for current and future tenants?
- Express requirements of providers in a way that is clear, succinct and as outcome focused as possible?

We have previously mentioned within this response our concerns about local authority providers being under both the TSA and the Audit Commission.

From the text we have not been able to determine why in table 2 it implies there will be a grading proposed for this standard.

Some providers, such as co-providers through regeneration projects, may not have direct dialogue in place between themselves and their stakeholders to ensure that they are accountable to residents.

Q6 Does our approach to monitoring and compliance against the standards and regulatory requirements seem a reasonable basis for 'how' we regulate in 2010-11?

Uncertain and we found this section very confusing.

The SFTRA believes an annual report will be a positive move for any residents who do not already receive this type of information from their provider. We also feel that quarterly reports at a local level would be useful to residents monitoring the services provided.

There needs to be improved stakeholder communication with the regulators. Currently the regulator seems to have 'no teeth'. There is no mention of resident involvement.

Q7 Does our approach to dealing with complaints seem reasonable?

No, the delay in responding to complaints of up to 20 days is too long and this does not reflect good practice. When complaints are at the stage of being reported to the TSA, the complaint may have taken several months to come to the point of being reported and that the complainant will probably have had to go through the provider's local complaints procedure first.

We are uncertain that the hours listed for the telephoning hours to the TSA's Customer Services Team will meet the needs of residents as they are normal working hours. We would propose that, as our ALMO has done, that a survey is carried out to confirm whether the opening hours meet the need of the residents. In Sutton it was found that late night opening for the telephone service was required whereas there was little support for a service on a Saturday morning. Sutton can evidence the service provided back to what residents actually want.

The SFTRA feels that how residents can make complaints and what the resident can then expect from the TSA needs to be set out in a document that can be provided to all residents of registered providers.

Q8 Is our general approach to using our formal regulatory and enforcement powers reasonable?

We feel that a public statement is by no means enforcing action and that if a provider is regularly underperforming then consideration needs to be given to change of the management structure within the registered provider to restore confidence and instil a change of direction within the company.

As residents, who have exercised our choice during the housing options appraisal, we have concerns about the TSA's power to 'direct a tender of management', 'direct a transfer of management' if this is possible without majority resident support and to direct the HCA not to invest.

Q9 Do our proposals for establishing registration and deregistration criteria seem reasonable?

Probably.

If the TSA is not levying any fees for registration until April 2011, at the earliest, how and by who is the TSA being funded? Is this being funded by the Housing Revenue Account until that time? How is the TSA accountable to the public?

Stakeholders need to be assured where registration fees are going and does it cover the providers or residents; ultimately who pays the cost and will it be passed on to the resident as a service charge?

Q10 Does our approach to issuing directions on Accounts and the Disposal Proceeds Fund seem reasonable?

Uncertain but we would request that information on accounts and the disposal proceeds fund is made available to stakeholders.

Finally members still felt that this document was very difficult to read and understand meaning that some who were involved in the consultation felt that they were limited in their ability to contribute to the response. We note that the Plain English Campaign is listed on the back of the document but we feel that plain English has not been used in a way that makes the content understandable and has been written for those in Government office, regulators and providers, not for public. We would strongly request that future consultation documents are written in such away that all residents can understand and contribute and participate fully in the consultation process.

The SFTRA would like to request that any further details that come out of this consultation and the final regulatory framework will be made available to us at the earliest opportunity.

Yours sincerely,

Jean Crosby
Chair
Sutton Federation of Tenant and Resident Associations (SFTRA)