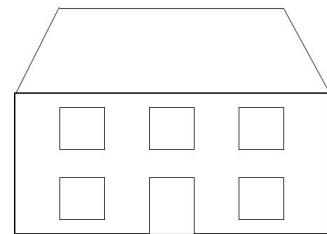


Consumer Regulation and the Tenant Satisfaction Measures

A Guide for Registered Providers and
their Boards



Chisnall House

February 2023

Contents

1. Introduction and Background	3
2. Consumer Regulation Currently	4
3. The New Regime	5
4. The Tenant Satisfaction Measures	9
5. Questions for Execs and Boards	12
6. What Comes Next	16
Appendices	
1. Regulatory and Provider Timeline	18
2. Notes for Small Providers	19
3. Further Information	20

1. Introduction and Background

*What I am concerned about is that there would not be an effective safety net for groups of tenants whose levels of provision fell below a satisfactory standard.*¹

Prof Martin Cave on the proposed abolition of the Tenant Services Authority, March 2010.

*The regulator is not really going to be playing a role in consumer regulation.*²

Spokesperson, Homes and Communities Agency, April 2012.

The slow movement towards the start the Regulator of Social Housing's (RSH) new Consumer Regulation regime marks the biggest change to the focus of regulation since the abolition of the Tenant Standards Authority in 2012 and the biggest change to the practice of regulation since the 2015 adoption of the new In Depth Assessment framework following the failure of Cosmopolitan H.A.

The abolition of the Tenant Services Authority in 2012 as part of the Coalition Government's "bonfire of the quangos" left the Homes and Community Agency (HCA) as the social housing sector's primary regulator. Its brief focused on ensuring the financial viability of providers, their governance arrangements, encouraging reflection about their value for money, and ensure they were charging appropriate rents. The HCA published Consumer Standards, but these were not proactively regulated. Action was taken by the regulator only where it judged that tenants had suffered "serious detriment", a test which excluded the vast majority of tenant problems reviewed by the regulator.

The tragic fire at Grenfell Tower in June 2017 and the eventual loss of the lives of 72 people led to a new focus on social housing and generated a flurry of activity. Whilst many have been frustrated by the time it has taken to result in tangible action, at the time of writing the Social Housing Regulation Bill (SHRB) is making its way through parliamentary process and is expected to receive Royal Assent later this year. This will fundamentally change the role and powers of the regulator.

Significant bad publicity for the sector followed an ITV investigative news report in March 2021 which looked at both the bad conditions of properties owned by Croydon Council and also its failure to resolve these problems over a two year period. Many similar stories followed. Further publicity for the plight of tenants in poor housing came from Clarion tenant activist Kwajo Tweneboa.

The November 2022 inquest verdict into the tragic death of a young tenant of a Rochdale Boroughwide Homes property which had been subject to long running damp and mould problems led to a renewed focus on these issues for the sector, and to public intervention by the Secretary of State, Michael Gove.

The RSH has already consulted on and published the final version of the new Tenant Satisfaction Measures (see section 4), the Housing Ombudsman expects providers to have been compliant with its Complaint Handling Code since 1st October 2022, and the direction of travel for other elements of the future regime appear clear and are articulated in both the draft SHRB and in RSH publications.

This guide has been written to summarise the current state of consumer regulation and to provide practical help for social housing providers to prepare for the new regime. It is likely to be useful to all registered providers, whatever their size or status, and additional information is provided for smaller providers (Appendix 2).

¹ [Inside Housing - News - Tories: we will scrap the TSA](#)

² [Inside Housing - News - HCA panel rejects all calls for consumer regulation](#)

2. Consumer Regulation Currently

*for too long in our country, under Governments of both colours, we simply have not given enough attention to social housing*³

Prime Minister Theresa May following the Grenfell Tower fire, June 2017

Until recently, consumer regulation was a low key affair. The regulator had published four Consumer Standards covering the following areas: Home, Tenancy, Neighbourhood and Community and Tenant Involvement and Empowerment. The regulator did not regulate these proactively and only had powers where a provider put its tenants at risk of “serious detriment”, which meant that the majority of referrals to it resulted in no action by the regulator (other than an internal RSH review). Whilst the regulator declined to define serious detriment, in practice findings related primarily to health and safety issues, with provider failures around gas safety a recurring theme. Post Grenfell there was an increase in consumer regulation activity, with more referrals to the regulator and an increase in findings of serious detriment. However despite 650 referrals to the regulator in 2021-22, serious detriment was found in only 8 cases.

The current expectation is that providers should comply with the requirements of all the Consumer Standards (regardless of size or whether the provider is a housing association or a local authority). Good practice is for Boards to review compliance against the standards on an annual basis, with periodic third party assurance of some of the requirements of the Standard (typically provided to Audit Committee in the form of report from an auditor or a suitably accredited other party).

The Housing Ombudsman published a Complaints Handling Code in 2020 and gave social landlords until 1st October 2022 to be compliant with it. The Code sets out detailed requirements for providers, some of which are mandatory. As well as prescribing how the provider should deal with complaints from tenants and transparency requirements for a range of policies, it sets out expectations about how complaints and complaint trends should be reviewed internally within providers and how these should be scrutinised by Boards.

The regulator has now published the final Tenant Satisfaction Measures Standard alongside detailed technical guidance both relating to the definition of the TSMs and also on how data should be collected and reported on. Providers must be in a position to collect TSM data from 1st April 2023. The TSMs are discussed in more detail in Section 4.

Whilst the new Consumer Standards have not yet been published and there is still the potential that some clauses of the SHR Bill will be amended during its passage through parliament, many of the features of the new regime are clear. The RSH has been consistent in its message that providers should be well on the road to taking action now. “Our new approach to proactive consumer regulation is coming, and we urge all registered providers to act now so you are ready to meet the new regulatory requirements. Now is the time to act so you are assured you are meeting the existing standards and are ready for the changes.”⁴

³ [The Regulation of Social Housing - Levelling Up, Housing and Communities Committee \(parliament.uk\)](https://www.parliament.uk/business/committees/committees-a-z/commons-select/housing-and-communities-committee/publications/2017/the-regulation-of-social-housing-levelling-up-housing-and-communities-committee/)

⁴ [Consumer Regulation Review 2021-22 \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/614443/consumer-regulation-review-2021-22.pdf) Fiona McGregor, p3.

3. The New Regime

it's about a culture shift that improves and strengthens the relationship between landlords and their tenants, focuses on the quality of homes and landlord services, and builds trust through professional and customer-friendly interaction. ⁵

Kate Dodsworth, Director of Consumer Regulation, RSH, May 2022

The primary feature of the new consumer regulation regime is a renewed emphasis on tenants, their experience, their perception and the safety of their homes.

There are a number of different elements of the new approach shown in the graphic below:

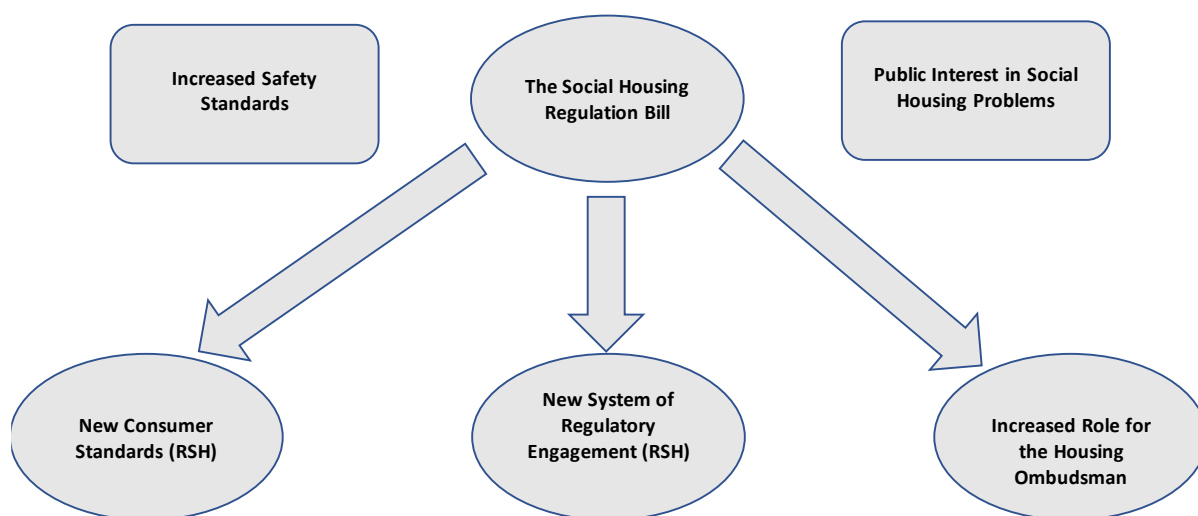


Fig 1: The New Consumer Regulation Regime

Taking each of these in turn:

The Social Housing Regulation Bill

At the time of writing this is still making its way through Parliament, but is expected to receive Royal Assent by Spring 2023. The following is based on the November 2022 text of the Bill (and may be amended before becoming an Act).

The Bill follows the Green and White papers which were published by government following the Grenfell Tower fire. The primary changes introduced by the Bill are:

Significant changes for the RSH, including a change to its fundamental objectives “to ensure that registered providers act in a transparent manner in relation to their tenants of social housing”; additional powers to arrange short notice property inspections; the power to put right repairs problems where the landlord has failed to do this (and charge the landlord subsequently); the power to set standards around the competence and conduct of social housing staff; the power to impose a performance improvement plan on providers which are not meeting standards and the power to

⁵ [Inside Housing - Comment - If proactive consumer regulation were to start tomorrow, how would your culture stand up?](#)

remove senior staff where standards are not met; and the ability to levy unlimited fines on landlords. The “serious detriment” test will be abolished to facilitate the RSH’s change in role to being a proactive consumer regulator.

It requires providers to designate a named member of staff as “health and safety lead” with prescribed responsibilities. It also imposes new electrical safety obligations on social landlords.

It puts the relationship between the RSH and the Housing Ombudsman on a statutory footing and requires the latter to publish a code of practice and monitor providers’ compliance with the code.

New Consumer Standards from the RSH

The RSH has announced that the current four consumer standards (Home, Tenancy, Neighbourhood and Community and Tenant Involvement and Empowerment) will be replaced by the Tenant Satisfaction Measures Standard and new, as yet unpublished, standards covering six themes (Safety, Quality, Neighbourhood, Transparency, Engagement and Accountability, and Tenancy).

The Consumer Standards (and a Code of Practice) will be published in draft form following the passage of the Social Housing Regulation Bill into law. The Bill is expected to be passed in Spring 2023 and consultation on the draft Standards to begin shortly afterwards in summer. The RSH hopes to finalise and publish the new Standards by March 2024.

The Standards will apply to all providers of social housing, including both large and small (owning or managing fewer than 1,000 homes), local authority providers, and for profits.

In speeches and articles, the RSH have made it clear that the main comments from social housing tenants with whom they have engaged were around repairs and communication, and these are likely to feature heavily in the new consumer standards.

A new system of regulatory engagement from the RSH

The RSH will proactively monitor providers’ compliance against the Consumer Standards, in similar ways to its current monitoring against the Economic Standards. Some elements of the system are still being developed by the RSH but it is expected that large providers (those owning more than 1,000 social homes) will be subject to four yearly inspections, probably undertaken as part of an In Depth Assessment. The RSH may undertake ad hoc inspections where there are matters of concern about potential non compliance with the Consumer Standards. At the time of writing, the RSH was trialling the inspection process with seven providers which had volunteered for that role.

Providers will submit their TSMs to the RSH annually. These will be reviewed by the RSH and may give rise to questions to providers.

Where there is a suggestion that the requirements of the Consumer Standards are not being met, the RSH can require a provider to submit a performance improvement plan (PIP) within a designated timescale. In the event of significant failures to meet either the requirements of the Standards or to implement an agreed PIP, the RSH ultimately has the power to remove and replace senior staff of the provider.

The RSH is currently reviewing its approach to smaller providers. They will not be subject to four-yearly consumer inspections, but they may be required to submit some TSM data to the RSH. As with all other providers, they are required to publish TSMs for tenants.

An increased role for the Housing Ombudsman

The relationship between the Housing Ombudsman (HO) and the RSH will be put on a statutory footing and the HO will be required to publish and monitor compliance with a Code of Practice for housing providers. The HO and the RSH will also share more information than at present. It is possible that information provided by the HO may trigger an ad hoc RSH consumer inspection for a provider which appears to have systemic problems.

The HO published a Complaints Handling Code in 2020 with the expectation that landlords would be fully compliant by October 2022. One of the requirements is that landlords publish an annual self assessment against the code and this is likely to be an important piece of evidence used by the RSH during consumer inspections. Providers which have not yet undertaken self-assessments or implemented the requirements of the Code (such as formally appointing a “complaints handler”) are likely to have difficulties complying with the new Consumer Standards.

The HO and the RSH have a memorandum of understanding (MOU) which sets out their respective roles and relationship, including the circumstances in which they will share information and what sorts of information they will share. The current MOU will be updated when the SHR Bill passes into law.⁶

Increased safety standards post Grenfell

A range of new statutory and other safety standards have, perhaps rather slowly, been introduced as part of the reflection and work following the Grenfell Tower fire.

These include the Fire Safety Act 2021, the Building Safety Act 2022 and the Fire Safety (England) Regulations 2022.

As well as the statutory safety standards noted above, the Government has concluded a consultation into a new Decent Homes Standard (Decent Homes 2). The Decent Homes Standard (DHS) has been a key factor in helping ensure the quality of social homes and also driving investment programmes over the course of the last two decades. Whilst the consultation suggested that major changes to the DHS were unnecessary, a recent focus on damp and mould and other social housing problems may have an impact on the final version of the new standard.

Public interest in social housing problems

Most people working in social housing would think of themselves as “good guys” and if asked about their reasons for working in the sector would include social purpose as part of their answer.

The Chair of one Board was on record as asking herself “would I feel happy if my mother lived here” whenever she visited a social housing property or neighbourhood.

The Grenfell Tower fire was followed by a series of news items and documentaries which showed that some social housing was not fit for human habitation – it dramatically failed the “happy mother test”. What was worse was the evidence that tenants’ attempts to have problems remedied had fallen on deaf ears and in some cases tenants were left to live in appalling conditions for years. In the case of two year old Awaab Ishak, his prolonged exposure to damp and mould in the Rochdale Boroughwide Homes (RBH) flat in which he lived was the cause of his death. His father’s repeated efforts to have the problems resolved and interventions from health professionals and solicitors had not resulted in

⁶ www.housing-ombudsman.org.uk

RBH taking appropriate action. The intervention of Michael Gove, Secretary of State of DLUHC, ultimately led to the sacking of the Chief Executive of RBH.

The news items will continue, adding to the pressure on Boards to ensure they get things right and where they get things wrong, are honest and transparent and quickly set out their plans to resolve matters. Both the RSH and the Housing Ombudsman will continue to publish high profile cases where providers have failed to provide safe and decent homes for their tenants.

4. The Tenant Satisfaction Measures

The central aims of the TSMs are to provide tenants with greater transparency about their landlord's performance and inform the regulator about how a landlord is complying with consumer standards. ⁷

Regulator of Social Housing, Jan 2023

The RSH consulted on the initial TSM proposals and published the final version, alongside detailed technical guidance regarding the calculation and collection of the TSMs in January 2023. The RSH requires providers to collect TSM data from April 2023. They are required to publish this data annually for their tenants and also (if they own more than 1,000 homes) submit it to the RSH. The RSH will collate, analyse and publish this data, probably in a similar format to the annual Global Accounts datasets. Alongside these minimum requirements, providers can collect and publish additional information or publish their TSM data at more frequent intervals (perhaps in a similar format to the quarterly performance reports currently published by many providers).

For providers which are members of group structures, the TSMs must be published at group rather than individual provider level. Where the accommodation is not owned by the provider, the reporting must be done by the ultimate owner (e.g in the cases of Arms Length Management Organisation, Tenant Management Organisation or under a Private Finance Initiative). The data must relate to the period 1st April to 31st March unless the provider owns fewer than 1,000 homes, in which case it may use its own year end.

TSMs must be reported for either or both of the following stock types: Low Cost Rental Accommodation (LCRA) and Low Cost Home Ownership (LCHO).

Whilst Boards may think they already collect most or all of the TSMs, the RSH detailed technical guidance document must be used to calculate the reported TSMs and may differ from current calculations by providers. The incorrect calculation of TSMs may give rise to queries and where discovered by the RSH is likely to colour the regulator's judgement about both the quality of a provider's data and governance. The guidance specifically says that Boards (and councils) are responsible for ensuring "that reported TSMs have been calculated accurately and in accordance with statutory requirements". ⁸

There are two primary collection methods: tenant perception surveys (TPS) and management information (MI).

The RSH has been particularly prescriptive about the requirements for TPS: the form of words of questions and responses must follow a prescribed format; some of the sequencing of questions is set out; providers are required to explain the purpose of the survey to tenants in advance of the questions; surveys must be carried out in accordance with the Market Research Society Code of Conduct ⁹. The RSH leaves the choice of survey methodology to individual landlords, but requires large providers to make a detailed assessment of the representativeness of the sample and prescribes minimum statistical confidence levels to be achieved together with the publication of minimum levels of supporting quantitative data.

⁷ [Annex 4 TSM Technical Requirements \(publishing.service.gov.uk\)](#)

⁸ [Annex 4 TSM Technical Requirements \(publishing.service.gov.uk\)](#), p9.

⁹ [MRS-Code-of-Conduct-2019.pdf](#)

Initial work suggests that transactional surveys (typically undertaken after a service request from a tenant, such as a repairs call) delivers significantly higher scores than the perception survey required by the TSM Technical Guidance (requiring a sample of tenants to be approached “out of the blue”). A difference of 15 percentage points was observed by Housemark for some of its clients.¹⁰ The RSH has set out very detailed technical guidance about how Tenant Perception surveys should be conducted and has also included a requirement that the publication of the data includes a detailed assessment of the representativeness of the sample.

The collection and publication of the TSMs has been the focus of the RSH’s work and publications to date. The more challenging work (for providers and their Boards) is in contextualising the TSMs and using them in practice. Many providers have already analysed their existing data and reconfigured this into the TSM format to give them a baseline of their current performance for 2022 or 2023. Providers will want to set targets for themselves for the TSMs – with input from their tenant engagement processes. There will be a great deal of activity in comparing TSM performance with their peers. Whilst Housemark has already established some mean and median performance levels for a significant number of providers¹¹, benchmarking with individual providers can start in earnest following the RSH publication of the first year’s dataset in autumn 2024 alongside other benchmarking initiatives by Housemark and others. Many providers already publish performance measures which can be used as proxies for the TSMs and be used now for “soft” benchmarking (but with the large caveat that “these are not calculated in accordance with the RSH TSM technical guidance”).

The typical best practice reporting format for the Value for Money metrics may inform the publication of the TSM results for some providers. A typical line of TSM reporting using this format might therefore look something like this:

%	Actual 2022	Actual 2023	Target 2023	Peer Median 2022	Target 2024	Target 2025	Target 2026
TP01 – Overall satisfaction							
LCRA	76	74	79	79	82	84	86
LCHO	50	48	56	56	58	60	62

Fig. 2 – Possible Future TSM reporting format

Alongside the publication of the TSM figures, the RSH requires providers to publish a “summary of approach” report in respect of the Tenant Perception Survey.¹² Detailed reporting requirements are set out in the RSH guidance which cover significant detail about the survey itself, together with detailed information about the sample, and weightings used to generate the published TSMs. The most challenging part of the summary is likely to be the assessment of the representativeness of the sample

The RSH will use the TSM results as an important source of regulatory intelligence. On an annual basis the RSH reviews the FVA and FFR (Annual Accounts and 30 year business plan respectively) of providers to inform its assessment of their compliance with the Governance and Financial Viability Standard. The TSM data will be used similarly to inform its assessment of providers’ compliance with the new Consumer Standards. TSM data may be used also to inform RSH decision making about

¹⁰ [Inside Housing - News - Majority of large social landlords using tenant survey that yields more positive results, research shows](#)

¹¹ [PowerPoint Presentation \(bloom-digital.s3.eu-west-2.amazonaws.com\)](#)

¹² [Annex 5: Tenant Survey Requirements \(publishing.service.gov.uk\)](#)

exercising a statutory power. Inaccurately calculated TSMs will frustrate the RSH and may colour its view about the quality of a providers' controls and governance.

Providers should expect routine questions from the RSH following their annual TSM submission. Where TSM data suggests poor performance, Boards should be asking questions about this well in advance of the RSH seeing the data. They should be able to articulate plans to improve performance by the time the Annual Report is published.

Finally it is important to say that some providers may not like their TSM results. It will cause heartache for some Board members and Execs. There may be a temptation to "explain away" performance that falls short of expectations rather than to understand where real problems lie and to put in place plans to resolve them. This is a temptation best avoided.

5. Questions for Execs and Boards

Boards, councillors and management teams should be asking themselves what gaps they need to fill and taking the necessary steps now. ¹³

Kate Dodsworth, Director of Consumer Regulation, RSH, May 2022

any provider found wanting when we begin to proactively test such questions will regret the wasted time. ¹⁴

Fiona McGregor, Chief Executive, RSH, Dec 2021

In this section, “Board” relates to either the Board of a housing association, the Council of a local authority which owns stock (including ones with ALMOs) or the governing body of the ultimate owner of social housing for other corporate entities.

A. Board Update

As Board members, are you up to date with the journey to the new consumer regulation regime, do you know what else is coming and when?

B. Board Training

As well as being up to date with what is going to happen and when, has Board received training about its changed role and what it can do with the potentially significant additional data likely to come its way and the increased assurance requirements arising from the new regime?

C. TSM Preparation

Is Board satisfied that the provider is ready to start collecting and calculating the new TSMs in the correct format from the 1st April? Are there any systems changes necessary to collect and calculate these in the format required by the RSH? Do you have in place plans for the Tenant Perception Survey? When will this be done? If this is being done by a third party, do you have assurance that they can meet the contractual requirements? In the event that your Tenant Perception Survey respondents are not sufficiently representative of your tenants, do you have back up plans to ensure that your final TSMs are truly representative?

D. TSM Operationalisation

Collecting and looking at the TSMs by themselves will usually tell Boards and stakeholders very little. Operationalising them will require consideration alongside other data (the well established VFM metrics reporting expectations potentially providing a good framework) such as prior period performance, target and actual for the reporting period, future periods' targets and an appropriate peer comparison. Have you set targets and put in place the framework for these to be monitored?

¹³ [Inside Housing - Comment - If proactive consumer regulation were to start tomorrow, how would your culture stand up?](#)

¹⁴ [Inside Housing - Comment - Prepare for changes to consumer regulation by asking yourself the right questions](#)

E. TSM Baselineing

Have you converted existing tenant survey and other data into the new TSM format? Do you know your baseline and have an understanding of what your performance is likely to look like?

F. Internal Reporting Preparation

Are plans in place to report the emerging results of the TSMs internally to operational managers, to the Executive and to Board? Is it clear how much information the Board will receive and the roles of any e.g. operational and audit committees in the new regime?

G. External Reporting Preparation

Are plans in place to report the TSMs to tenants? Do these plans accord with the spirit of maximum transparency which is part of the new regime (i.e. reporting monthly or quarterly is likely to become sector good practice, whereas just reporting annually may not optimise transparency)? Are you prepared for the new “summary of approach” report for inclusion in your annual report alongside the TSMs? Have you identified peer providers against which to benchmark your TSM performance? Have you arranged for data sharing with them, either on a one to one basis or through a benchmarking service such as Housemark?

H. Tenant Profiling

The RSH has stressed the importance of responding to the diverse needs of tenants and ensuring that providers understand the diversity of their tenants, and tenant demographics will be an important feature of the TSM regime. Most providers have dedicated resources to profiling their tenants over the last decade or so. How comprehensive is your tenant profiling? Do you have systems in place to capture changes for individual tenants in e.g. the protected characteristics? Where you identify gaps in profiling, do you have plans in place to address these in time to ensure your data is comprehensive before you publish your first TSMs?

I. (Current) Consumer Standards Review

Most providers annually assess their compliance against the current consumer standards, and most conclude they are fully compliant (until something goes wrong). Have you had a third party or critical friend assessment of compliance? This could potentially identify any blind spots or improvement opportunities in your current approach. This review will also be useful foundation work for the item listed below.

J. (Draft New) Consumer Standards Review

The RSH has announced its intention to publish the draft new Consumer Standards for consultation during summer 2023. Even though there may be some changes between the release of the draft and the finalisation of the standards in March 2024, these are usually relatively minor. An early assessment of where your organisation stands against the new standards will give you much more time to prepare to make any changes to ensure compliance.

K. Repairs Review

The RSH has stressed that most of their recent engagement with tenants focuses on two issues, with repairs being one of them. Have you reviewed your repairs processes and arrangements to ensure it is optimising tenant satisfaction? Do you understand what currently goes wrong for tenants and do you have plans to address this? Have you made the most of tenant feedback (including complaints) to enhance the repairs service?

L. Tenant Communication Review

The RSH has stressed that most of their recent engagement with tenants focuses on two issues, with tenant communications being one of them. Have you reviewed your tenant communications arrangements – both at a global level and at an individual tenant transactional level to ensure it is meeting tenant needs? Do you have a range of communication channels for tenants to use, depending on their needs and preferences? Do front line staff have appropriate training and authority to respond flexibly to tenant communications, or are they restricted by overly rigid policies and procedures?

M. Assurance Integration

Have you considered how Board will receive assurance that the requirements of the new consumer regulation regime are being met? Have plans been in place to ensure those requirements are being met (e.g. amends to the Board assurance reporting framework, new items on the Audit Plan).

N. Strategy

Are you planning any strategic changes as a result of the new regime? Will any of the TSMs feature in strategic targets? Is there a requirement to move the allocation of resources to deliver the new regime or any strategic changes related to it? Does this give rise to any opportunity costs?

O. Transparency

Transparency will be a key feature of the new regime. Does this require any changes to information-sharing, to publications, to processes or to interactions with individual tenants? Have you considered the risks that enhanced transparency might generate? Have you put in place plans to mitigate these?

P. Roles and Recruitment

Do you have the right skills and focus at both Board and Exec level to meet the requirements of the new regime? Is it clear who is going to do what in the new regime? Do you need to recruit to any additional roles? Have staff been trained to enable them to undertake their new duties? Have you nominated members of staff as Complaints Officer (Housing Ombudsman Complaint Handling Code) and Health and Safety Lead (Social Housing Regulation Bill).

Q. Culture

The RSH stresses the importance of culture in the new regime. Culture comes from the top. Is Board sending out the right messages to stress the importance of tenants? Do Execs have a strong tenant-centric focus? Are staff in tenant facing roles remunerated appropriately? Do they have the right tools and resources (i.e. time, IT, appropriate systems) to do the job? Has their experience, knowledge and voice fed into the process of preparing for the new regime? Do your publications reflect the importance of tenants and their experience? Do tenants who participate in your formal engagement activities feel valued?

R. Internal Horizon Scanning

Have you used existing internal data to identify any issues which should be addressed or which may grow to become problems? Does the data suggest your systems, policies and procedures are delivering for tenants? If not, are there changes that can be made now? Are there areas where performance appears weak? What can be done to improve these?

S. Diversity Issues

How do you know that you hear from the full range of your tenants? If perception surveys have a low response rate, how do you know that they are truly representative of tenant experience? Do your routes to service meet the diverse needs of your tenants? As well as demographic diversity, are you ensuring that systems collect the views of tenants across the range of tenures you provide?

T. Tenant Engagement

Have you benchmarked your Tenant Engagement work against external standards such as the TPAS National Tenant Engagement Standards?¹⁵ Have tenants had the opportunity to feed into work in preparation for the new regime? Are tenants aware of the coming changes? Do they know the increased importance of expressing their views and the different routes they can use to do this? Do your current tenant participation and engagement arrangements ensure you hear the voices of a representative cross-sample of your tenants, or do you find some groups hard to reach? If so, do you have plans to address this?

U. Risk Integration

Have you considered the risks arising from the changing regime and integrated these into your existing risk framework? Additional risks may arise when the SHR Bill becomes law and also when the final Consumer Standards are published.

V. Continuous review

Will any major events or plans impact on the TSMs, e.g. a merger where the other provider has significantly different TSMs; the acquisition of an estate requiring significant regeneration may skew TSMs downwards. Does this require changes to targets, and if so have you been transparent about the reason for these changes and their scale with tenants and other stakeholders?

¹⁵ [Tpas :: The National Tenant Engagement Standards](#)

6. What Comes Next?

Landlords should be under no illusion as to our resolve to take forward our new remit and powers. ¹⁶

The Regulator of Social Housing, Jan 2023

The secretary is absolutely clear: he will not stand for poor housing conditions in 21st century Britain ¹⁷

DLUHC reporting the view of Michael Gove, Secretary of State for DLUHC, November 2022

Providers' Approaches

Providers' approaches will, inevitably, vary. Some providers will have faith (well-placed or otherwise) in their existing approach and will do relatively little. For others, preparation for Consumer Regulation will be the main focus of their work for a protracted period and will absorb much of their strategic and managerial time. Most providers, of course, will be somewhere between the two.

It's difficult to pre-empt what providers will do in response to the new Consumer Standards, although this will become much clearer when the draft Standards are published in summer 2023. More straightforward is projecting what impact the TSMs may have on providers' priorities, on the principle summarised in the much-maligned old adage "what gets measured, gets done".

The 2024 Annual Reports are likely to be heavily focused on complying with the new TSM reporting requirements. Tucked away in Annex 5 of the RSH's new guidance are additional very detailed reporting requirements which may cause providers difficulties in the first year of reporting. The first wave of publications will help establish sector best practice and in future years, providers may well feel freer to focus on the strategic significance of the TSMs and the actions they are taking to improve performance, where appropriate.

Work by Housemark ¹⁸ and others shows that median TSMs in the sector are likely to be particularly low in the following four areas: complaints handling, providers' listening and acting on tenant views, neighbourhood management and in general for Low Cost Home Ownership Tenants. It's not a great leap to expect Boards to want to understand why tenant satisfaction is low for these areas and to focus effort (and potentially resources) in trying to increase satisfaction levels.

If the strategic focus on these areas is matched by Boards shifting resources, in the context of the sub-inflationary rent increase for the coming year (and probably future ones too), there is a possibility that provider business plans will be balanced by reducing ambition around the delivery of new homes.

A little further along the line, it isn't hard to imagine some people movement as providers seek to bring new skills into Boards and Exec teams (as well as at an operational level), to better understand and serve their customers. The January 2023 appointment of the former CEO of a debt advice charity as the new CEO of Orbit may be one of the first moves in this new trend. ¹⁹

¹⁶ [Reshaping consumer regulation: our implementation plan - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/reshaping-consumer-regulation-our-implementation-plan)

¹⁷ [Inside Housing - News - Gove 'names and shames' six housing associations that 'let tenants down'](https://www.insidehousing.co.uk/news/gove-names-and-shames-six-housing-associations-that-let-tenants-down/)

¹⁸ [Tenant Satisfaction Measures, January 2023](https://www.insidehousing.co.uk/news/tenant-satisfaction-measures-january-2023/)

¹⁹ [Inside Housing - News - Large landlord appoints new chief executive from debt advice charity](https://www.insidehousing.co.uk/news/large-landlord-appoints-new-chief-executive-from-debt-advice-charity/)

Some long-serving staff in the sector may find a distinct “back to the past” feel about some of the changes, with one of the recommendations of the Better Social Housing Review being “Every housing association ... should refocus on their core purpose and deliver against it.”²⁰

Perhaps even further into the future, some providers may ask themselves if the relentless trend to merge and consolidate in the sector to create regional or national mega-providers meets the needs of tenants and optimises their satisfaction. There may be a renaissance of smaller, local providers.

The Regulator’s Approach

For over a year, both Fiona McGregor (CEO of the RSH) and Kate Dodsworth (Director of Consumer Regulation of the RSH) have repeatedly said and written that providers should ensure they are doing their best for tenants long before the introduction of the new Consumer Regulation regime. They have also stressed the importance of assurance that providers are doing everything they are supposed to do and warned against complacency. The RSH usually communicates in much more muted tones, so these strident and often repeated messages underline the importance of the new regime to the RSH.

There may be lessons to be drawn from the recent history of the regulation of Value for Money to give providers an insight into how the RSH may regulate in practice.

The publication of the 2018 VFM Standard resulted in major changes to the VFM regime. Some providers struggled to calculate the metrics correctly, many didn’t meet all the reporting requirements of the Standard, and some struggled to evidence compliance with other elements of the Standard. The RSH approach was largely to use informal means to push providers towards compliance: gentle letters to providers, additional published guidance and individual clarification feedback. At the time of writing, VFM issues have been cited as a reason for a regulatory downgrade only when other governance issues were identified. It would be a significant risk if providers assumed this will be the approach taken to the regulation of the new regime.

A more likely pattern to note is the experience of the regulation of the 2012 VFM Standard. The Standard followed a long history of the regulator trying to design a system to encourage or measure efficiency and effectiveness on the part of providers. The HCA (regulator at the time and predecessor of the current RSH) reviewed the first year’s VFM Self Assessments which the Standard required providers to publish annually and found them largely disappointing. It went on record to say that approximately 180 of them did not meet expectations (approximately three quarters of large providers at the time). It wrote a stern letter to the Chairs of most of these providers and went on to downgrade the governance grading of 14 providers for failing to meet the Standard.

It may be that the latter example is closer to what we should expect than the former one, but with three significant additional factors to consider. The first is that nothing is more important than the safety and wellbeing of tenants – drafting a weak VFM report pales into insignificance where people’s lives are in the balance. The second is that the RSH will have extra powers as part of the new regime and it has warned providers that it won’t hesitate to use them where it thinks this is justified. The third is a climate of change that is intolerant of poor performance by providers: evidenced by television documentaries and news items about appalling conditions and ignored tenants, an increasingly assertive Housing Ombudsman and even the strident intervention of politicians.

Its fair to say that providers who are complacent, or who don’t meet the requirements of the new Standard are likely to be in for a rough ride.

²⁰ [BSHR Report FINAL embargoed until Tues13thDec.pdf \(pcdn.co\)](#), p6.

Appendix 1 – Regulatory and Provider Timelines

Regulatory Timeline	Quarter Ending	Provider Timeline
Passage of Social Housing Regulation Act	Mar 2023	Preparation for new regime (see Chapter 4).
Consultation on draft version of new Consumer Standards and Code of Practice	Jun 2023	Live collection of Transactional and Management Information TSM measures. Review issues arising and current compliance with the draft Consumer Standards.
Publication of Consumer Regulation Review 2023 (insight into RSH current thinking)	Sep 2023	Review of first quarter's data. External publication of first quarter's data.
	Dec 2023	Business Planning - any data or initiatives required arising from the first months data collection, or to meet the requirements of the new Consumer Standards?
Publication of final version of new Consumer Standards and Code of Practice	Mar 2024	
Proactive Consumer Regulation Begins. First "live" Consumer Standard inspections begin. Landlords submit TSM data returns to RSH	Jun 2024	Finalise and submit annual TSM data return to RSH. Baseline review against new Consumer Standards. Business Planning - any data or initiatives required arising from the first months data collection, or to meet the requirements of the new Consumer Standards?
RSH publish first year's TSM data set.	Sep 2024	Data set publication will allow detailed benchmarking against customised peer groups. It will help highlight if any of the TSMs suggest a problem that needs addressing.
	Dec 2024	Ensure business planning and strategy work reflects any work arising from the first publication of TSMs.

Appendix 2 – Notes for Small Providers

There are some exemptions from, or proportionate adjustments to, the new regime for those providers which own fewer than 1,000 social homes. Small providers (SPs) are bound by the requirements of the Tenant Satisfaction Measures Standard but the following notes some exemptions (the references in brackets notes the location of the exemption in the RSH published guidance). (NB TPS means Tenant Perception Survey).

1. SPs may be exempt from the requirement to submit TSMs annually to the RSH (the RSH is currently consulting on this. SPs must publish their TSM information for tenants though). (Imp Plan p 7).
2. SPs will not be subject to regular proactive consumer inspections (in the same way they are not normally subject to In Depth Assessments). In exceptional cases, the RSH may undertake a reactive inspection of an SP (Imp Plan p 15).
3. SPs may use their own year end as the period for the calculation of the TSMs if this is not the 31st March. (Annex 4, para 21 and Annex 5, para 28).
4. SPs have the option to publish either separate tenant perception TSMs for Low Cost Rental Accommodation (LCRA) Low Cost Home Ownership (LCHO) or a single set of TSMs which includes both types of tenure (Annex 5, para 19).
5. SPs have the option of carrying out tenant perception surveys every two years (rather than annually) (Annex 5, para 27). BUT they must publish TPS TSMs in respect of their first year end after 1st April 2023 (Annex 5, footnote 14).
6. SPs may use less sophisticated survey methodologies than larger providers (Annex 5, para 30).
7. Where there is a risk that publication of the TSMs and supporting information may compromise the confidentiality of individual tenants, SPs may either not publish one or more TSMs OR be proportionate in their publication of analytical information (Annex 5, para 34).
8. SPs are exempt from publishing detailed numbers relating to tenant responses and tenant characteristics in their statement of representativeness (of the TPS results) (Annex 5, para 37).
9. SPs are required only to achieve statistical accuracy of 5% at 95% confidence in their TPS results (Annex 5, para 71).
10. SPs are only required to do a high level assessment of the representativeness of the TPS respondent (Annex 5, para 53).
11. SPs are not normally required to weight TPS responses (Annex 5, para 56).

Appendix 3 – Further Information

UK Government

[Social Housing Regulation Bill](#) (the link is to the latest version of the Bill at the time of writing. Further amendments may be made to the Bill prior to it becoming an Act).

Regulator of Social Housing

[Reshaping Consumer Regulation: Our Principles and Approach, Nov 2021](#)

[Reshaping Consumer Regulation: Our Implementation Plan, Jan 2023](#)

[Tenant Satisfaction Measures Standard from April 2023](#)

[Annex 4: Tenant Satisfaction Measures: Technical Requirements, April 2023](#)

[Annex 5: Tenant Satisfaction Measures: Tenant Survey Requirements, April 2023](#)

[Annex 6: Tenant Satisfaction Measures: Guidance on the Submission of Data to the Regulator, April 2023](#)

Housing Ombudsman

[Complaint Handling Code, March 2022](#)

Other

[Tenant Satisfaction Measures, January 2023](#), Housemark

www.housing-ombudsman.org.uk, Memorandum of Understanding between the Housing Ombudsman and the RSH, Sept 2020.

[BSHR Report FINAL embargoed until Tues13thDec.pdf \(pcdn.co\)](#), The Better Social Housing Review, 2022.

[Tpas :: The National Tenant Engagement Standards](#), TPAS, 2021

[MRS-Code-of-Conduct-2019.pdf](#), The Market Research Society Code of Conduct, 2019 (which must be used when undertaking the tenant perception survey).

Further Help

Chisnall House can provide assistance to providers in understanding and preparing for the new consumer regulation regime.

Contact info@chisnallhouse.co.uk to arrange a discussion.