

Meeting of the

OVERVIEW & SCRUTINY COMMITTEE

Tuesday, 4 June 2013 at 7.00 p.m.

SUPPLEMENTARY AGENDA

VENUE

Room C1, 1st Floor, Town Hall, Mulberry Place, 5
Clove Crescent, London, E14 2BG

Members:	Deputies (if any):
Chair: Councillor Motin Uz-Zaman Vice-Chair:	
Councillor Rachael Saunders Councillor Stephanie Eaton Councillor Fozol Miah Councillor Amy Whitelock Councillor Helal Uddin Councillor Abdal Ullah Councillor David Snowdon 1 Vacancy	Councillor Tim Archer, (Designated Deputy representing Councillor David Snowdon) □ Councillor Khaled Uddin Ahmed, (Designated Deputy representing Councillors Motin Uz-Zaman, Rachael Saunders, Helal Uddin, Abdal Ullah and Amy Whitelock) □ Councillor Harun Miah, (Designated Deputy representing Councillor Fozol Miah) □ Councillor Peter Golds, (Designated Deputy representing Councillor David Snowdon) □ Councillor Helal Abbas, (Designated Deputy representing Councillors Motin Uz-Zaman, Rachael Saunders, Helal Uddin, Abdal Ullah and Amy Whitelock) □ Councillor Judith Gardiner, (Designated Deputy representing Councillors Motin Uz-Zaman, Rachael Saunders, Helal Uddin, Abdal Ullah and Amy Whitelock)
[Note: The quorum for this body is 3 voting Members].	

Co-opted Members:	
Memory Kampiyawo	– (Parent Governor Representative)
Nozrul Mustafa	– (Parent Governor Representative)
Rev James Olanipekun	– (Parent Governor Representative)
Mr Mushfique Uddin	– (Muslim Community Representative)
Dr Phillip Rice	– (Church of England Diocese Representative)
1 Vacancy	– (Roman Catholic Diocese of Westminster Representative)

Committee Services Contact:

Angus Taylor, Democratic Services,
Tel: 020 7364 4333 E-mail: angus.taylor@towerhamlets.gov.uk

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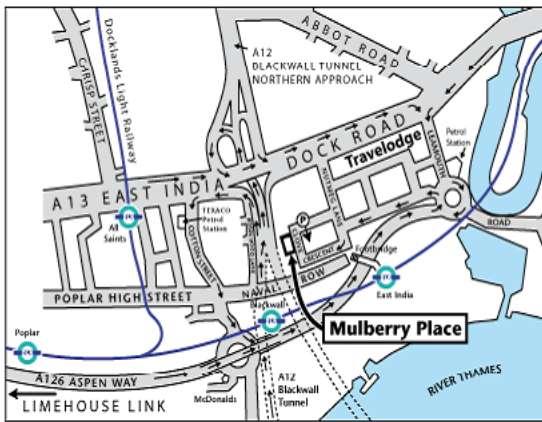
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LONDON BOROUGH OF TOWER HAMLETS
OVERVIEW & SCRUTINY COMMITTEE

Tuesday, 4 June 2013

7.00 p.m.

- 8.2 Co regulation and the Accountability of Registered Housing Providers (RPs) -
Report of the Scrutiny Working Group (To Follow) (Pages 1 - 38)**

To agree the report and recommendations arising from the Scrutiny Review.

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Agenda Item 8.2

Committee	Date	Classification	Report No.	Agenda Item No.
Overview and Scrutiny Committee	4 th June 2013	Unrestricted		
Report of: Service Head, Corporate Strategy & Equality Originating Officer(s): Shibbir Ahmed, Strategy, Policy & Performance Officer	Title: Co-regulation and accountability of Registered Housing Providers (RP's) Ward(s) affected: All			

1. Summary

- 1.1 This report submits the report and recommendations of the review on co-regulation and accountability of Registered Housing Providers (RP's) for consideration by the Overview and Scrutiny Committee.

2. Recommendations

It is recommended that Overview and Scrutiny Committee:

- 2.1 Agree the draft report and the recommendations contained in it.
- 2.2 Authorise the Service Head for Strategy & Equality to amend the draft report before submission to Cabinet, after consultation with the scrutiny review group.

LOCAL GOVERNMENT ACT, 1972 (AS AMENDED) SECTION 100D LIST OF "BACKGROUND PAPERS" USED IN THE PREPARATION OF THIS REPORT	
Background paper	Name and telephone number of and address where open to inspection
None	

N/A

3. Background

- 3.1 The Localism Act 2011 significantly amends parts of the Housing and Regeneration Act 2008 which established the objectives and certain powers of the social housing regulator. The provisions of the Localism Act that make these changes came into effect on 1st April 2012.
- 3.2 The new framework retains the 6 main headings that spearheaded the performance standards that Registered Providers (RPs) were obliged to meet under the original 2010 framework, and new “economic” and “consumer” standards have been created.
- 3.3 The Tenant Involvement and Empowerment standard falls within the scope of the new Consumer standard. This where one of the more significant changes within the Localism Act are outlined.
- 3.4 With effect from April 2013 the role of the Independent Housing Ombudsman will be extended to include complaints from Local Authority tenants, formally the jurisdiction of the Local Government Ombudsman.
- 3.5 An additional stage has been incorporated in the formal complaints escalation process to include referrals to a “designated person” BEFORE a complaint can be considered by the Housing Ombudsman.
- 3.6 This additional requirement places new responsibilities on Councillors that will impact on the way they handle some complaints received from social housing tenants in future.
- 3.5 The report with recommendations is attached at Appendix A.
- 3.6 Once agreed, the Working Groups report will be submitted to Cabinet for a response to the recommendations.

4. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)

- 4.1 The Council is required by section 9F of the Local Government Act 2000 to have an Overview and Scrutiny Committee and to have executive arrangements that ensure the committee has specified powers. Consistent with this obligation, Article 6 of the Council’s Constitution provides that the Overview and Scrutiny Committee may consider any matter affecting the area or its inhabitants and may make reports and recommendations to the Full Council or the Executive in connection with the discharge of any functions. It is consistent with the Constitution and the statutory framework for the Executive to provide a response.
- 4.2 The Tower Hamlets Community Plan contains the Council’s sustainable community strategy within the meaning of section 4 of the Local Government Act 2000. The Partnership seeks to tackle inequality and promote inclusion under the theme of One Tower

Hamlets. It also makes affordable housing and housing quality priorities under the theme of A Great Place to Live. A number of the recommendations arising from the review are for the Council to work with its registered provider partners to promote management standards and co-regulation. Provided that the limits of the Council's powers are respected, the recommendations may be capable of being carried out within the Council's statutory functions.

- 4.3 Section 51 and Schedule 2 of the Housing Act 1996 prescribe a framework for the handling of housing complaints from the social rented sector. Amendments made by the Localism Act 2011 took effect from 1 April 2013, shifting responsibility for local authority housing complaints to the Housing Ombudsman (registered provider complaints had already been going to the Housing Ombudsman).
- 4.4 Tenants and other individuals may have complaints against social landlords investigated by a housing ombudsman pursuant to a scheme approved by the Secretary of State. Under an approved housing complaints scheme, it is the duty of the relevant housing ombudsman to investigate any complaint duly made and not withdrawn. The housing ombudsman must determine a complaint by reference to what the ombudsman considers fair in all the circumstances of the case.
- 4.5 A complaint against a social landlord will not generally be "duly made" to a housing ombudsman under an approved scheme unless it is referred on to the ombudsman in writing by a designated person. This requirement has been referred to as the "democratic filter". A designated person who can refer a housing complaint to the housing ombudsman is –
- a member of the House of Commons,
 - a member of the local housing authority for the area, or
 - a designated tenant panel.
- 4.6 A designated tenant panel is a group of tenants which is recognized by a social landlord for the purpose of referring complaints against the social landlord. The social landlord is required to keep its housing ombudsman informed of any tenant panels which it recognizes. The Council may work to support the establishment of one or more tenant panels to deal with complaints against the Council as landlord.

5. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 5.1 This report describes the outcome of the report and recommendations of the review on co-regulation and accountability of Registered Housing Providers (RP's) by the Overview and Scrutiny Committee.
- 5.3 There are no specific financial implications emanating from this report but in the event that the Council agrees further action in response to this report's recommendations then officers will be obliged to seek the appropriate financial approval before further financial commitments are made.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 Co-regulatory principles and localism underpin the regulatory approach with tenants at the heart of the decision making processes.
- 6.2 The new frameworks seeks to capture the need to be as inclusive as possible by providing the opportunity for all tenants to play a role in ensuring that RPs manage to the highest possible standard in Tower Hamlets.
- 6.3 More than a quarter of all affordable housing stock in the borough is managed by Registered Providers (RPs) hence they are absolutely key to the successful implementation of the Council's housing strategy.
- 6.4 This report aims to highlight the close partnership that is needed between the Council and RP's and puts forward a set of recommendations to ensure the success of the co-regulatory approach; the protection of consumer standards; and the drive for continuous service improvement.

7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 7.1 There are no direct environmental implications arising from the report or recommendations.

8. RISK MANAGEMENT IMPLICATIONS

- 8.1 There are no direct risk management implications arising from the report or recommendations.

9. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 9.1 There are no direct crime and disorder reduction implications arising from the report or recommendations.

Scrutiny Working Group Report

**Co-regulation and Accountability of
Registered Housing Providers (RPs)**



London Borough of Tower Hamlets

May 2013

Acknowledgements

The working group would like to thank all the officers and partners that supported this Review.

Working Group Chair:
Councillor Sirajul Islam

Working Group Member:
Councillor Marc Francis
Councillor John Pierce

Development and Renewal Directorate:
Tracey St-Hill - Principle Registered Provider Officer (Strategic Housing)

Chief Executive's Directorate:
Shibbir Ahmed - Strategy, Policy and Performance

External:

- § Sandra Fawcett – Swan Housing (CEO) and Chair of Tower Hamlets Housing Forum (THHF)
- § Linda Collier - Head of Service User Relations (Housing Ombudsman Service)
- § Andre Jeoffroy - Member of Gateway's and the LBTH Resident Scrutiny Panel (Didn't come to the session)
- § Phil Sadler Sedler & Jenny Fisher -Tower Hamlets Tenants Federation
- § Emma Wallington - Tenant Participation Advisory Service (TPAS)
- § Fokrul Hoque - Strategic Engagement Manager (Tower Hamlets Homes)¹
- § Neha Sawjani - Head of Performance, Improvement & Policy (One Housing Group)
- § Mina Bance - Performance, Improvement & Policy Co-ordinator (One Housing Group)

¹ Please note that Tower Hamlets Homes (THH) is not an RP rather they are an ALMO (Arms Length Management Organisation) a not-for-profit company set up to deliver high quality housing services for residents living in 22,000 Tower Hamlets Council homes. The Council owns the homes, and THH manage the tenancies and leases on behalf of the Council.

Chair's Forward

The make-up of social housing has changed considerably in the last 10 years. In 2003 the council used to own and manage 28% of all housing stock in the borough, it now manages only 12%. The private rented sector is now the fastest growing housing sector in the borough; it has risen from 18.3% of the stock in 2003 to around 23% of the stock in 2011. More than a quarter of all affordable housing stock in the borough is managed by Registered Providers (RPs) and this proportion is increasing year on year. At the moment we have 53 Registered Providers managing 27,632 homes within Tower Hamlets, with 24 whom we have regularly engagement with and from which we have 16 on the Executive Committee of the Tower Hamlets Housing Forum (THHF).²

RP's are absolutely key to the successful implementation of our housing strategy. We firmly believe that only thorough close partnership working can this Authority ensure decent performance and drive improvements for our residents. This is why we have decided to carry out this review and increase our understanding how RPs are currently held to account and performance managed.

As a Panel we were impressed by the positive and constructive approach taken by our RP partners towards the Review. All our witnesses were refreshingly open and honest with us about those things that were not working as well as they should. But rather than dwell on the negative, all were able to give examples of good practice and suggest ways in which matters could be improved.

I would like to thank my fellow Panel members, Cllr Marc Francis and Cllr John Pierce, who contributed their time and ideas. I very much enjoyed working with them and believe this report has been the stronger as a result of the team approach we took.

On behalf of the Panel I would like to extend very special thanks to our Scrutiny Officer, Shibbir Ahmed for his hard work, professional skills and his enthusiasm for supporting us with the review.

Councillor Sirajul Islam
Chair of Working Group, Scrutiny Lead, Resources

² M:\Policy and Strategy\Directorate Policy Support\Housing Strategy\MAB12_12_12_Strategic_Housing_issues_draft_1.doc

1.0 Summary

Key Findings

- § The Chartered Institute of Housing (CIH) defines co-regulation (commonly referred to as resident-led self-regulation / tenant scrutiny) as: *“an approach where housing organisations’ frameworks for directing, accounting for, monitoring, assessing and modifying their own behaviour and performance are based on residents’ priorities, views, and engagement with relevant processes.*
- § Co-regulation has the potential to build knowledge and capacity of both tenants and organisations which can in turn lead to real improvements that is clearly recognised by tenants. However this requires a significant level of investment of time and resources if co-regulation and tenant scrutiny is to be adopted fully (both in practice and in spirit).
- § The main gap and potential weakness of the co-regulation framework is that it is voluntary. The abolition of the Tenants Services Authority and the introduction of new national regulatory standards shift responsibility for monitoring of Registered Providers (RPs) from the national regulator to local tenants. This means it is difficult to know how well co-regulation is functioning in different RPs in the borough.
- § Co-regulation arrangements have been adopted by all the Register Housing Providers (RPs) that we spoke to or received submissions from.
- § The level of implementation is varied - some excellent practice was highlighted but also some areas of particular concern which need further work.
- § Most of the RPs we spoke to were positive about the real opportunities that are available through the new co-regulation process and were keen to work together to strengthen their practice in this area. Specific suggestions included ‘peer’ reviews, shared mystery shopping and area based scrutiny across several landlords.
- § Joint working between RPs can help pool resources and provide much better value for money on initiatives that could see real choice and influence for residents.
- § There appeared to be a genuine desire and appetite amongst the RPs that we spoke to for developing sector-led local quality assurance standards and local partnership approaches to performance management which involve tenants, housing officers and councillors working together to improve services and empower residents in the borough.
- § There are opportunities for landlords to focus resources on services and outputs that residents want and design more meaningful quality assurance methods with tenants.

- § There is also the possibility of incorporating self-assessment methodologies – such as that endorsed through “house mark” - and more business to business opportunity learning rather than one size fits all approach to meeting standards.
- § The Council wants, and is expected by residents, to play a role in ensuring that RPs manage to the highest possible standard in Tower Hamlets. However this expectation may need to be carefully managed as the local authority does not actually have any formal powers and its influence on RPs is limited and varies amongst providers.
- § There is a need for local monitoring of performance to drive up standards.
- § Improvements need to be tenant focused and RP / housing sector led rather than imposed from outside.
- § It was clear throughout the review that many stakeholders felt that the abolition of the Tenants Services Authority represented a weakening of the structures for ensuring high quality housing management services and supported the re-establishment of the TSA or similar body by a future government.

Report Recommendations

Tenant Scrutiny and involvement.

R1. LBTH should work with the Tower Hamlets Housing Forum (THHF) to produce and publish annually a summary of resident engagement and scrutiny work within each RP and Tower Hamlets Homes.

R2. Through the THHF, LBTH should publish a report annually detailing the number of complaints recorded by each RP, the number/percentage resolved at each stage of the organisation’s internal complaints process.

R3. LBTH should work together with RPs through the THHF to develop a local set of quality standards for tenant scrutiny and encourage all RPs in the borough to formally adopt these standards

R4. LBTH should play a leading role in working with RPs to ensure resident Board members and scrutiny panel members of local RPs are able to robustly hold those organisations to account, for example through independently-led seminars and good practice sessions sponsored by the THHF.

R5. LBTH should work proactively with RPs to support the provision of adequate training, information and support for tenants, staff and the governing body in order to make tenant scrutiny as effective as possible.

R6. The preferred option for dispute resolution advocated by the review group is to have an independent complaint panel to review the complaint with the tenant in attendance.

R7. LBTH should encourage THHF to establish a cross-RP Tenant Panel to consider complaints from residents of member organisations.

2.0 Background and Methodology

2.1 Over recent years successive governments have sought to encourage greater resident involvement and engagement in the delivery of housing services and the policies which relate to them. The abolition of the Tenant Service Authority (TSA) and the introduction of new national regulatory standards shift responsibility for monitoring of Registered Providers (RPs) from the national regulator to local tenants. The Regulatory Standard for Tenant Involvement and Empowerment forms one of the new 'Consumer Standards' within this regulatory framework.³

2.2 The Localism Act 2011 further promotes resident involvement in the scrutiny of landlords and the way housing services are developed and delivered. The Act also affects the handling of complaints by the Local Government Ombudsman and the Housing Ombudsman (the current Ombudsman service for private sector residents). From April 2013, all 'housing' complaints need to pass through local dispute resolution before it can be referred onto the Housing Ombudsman. Whether complaints are from the public or private sector they shall now be dealt with by the Housing Ombudsman and not the Local Government Ombudsman.⁴

2.3 In 2012 the regulation of social landlords moved from the Tenant Services Authority to a Regulatory Committee within the Homes and Community Agency, bringing some minor amendments to the standards, for example social landlords will now be required to produce an annual report for tenants. The report needs to contain a self-assessment of performance and tenant scrutiny should play a role in shaping this. There is no longer a requirement to send a copy of the annual report to the regulator. The emphasis now is on using the annual report as a key tool in allowing tenants to hold their landlord to account, therefore contributing to the scrutiny function.⁵

2.4 Whilst members of the Scrutiny Panel welcomed moves to give tenants a strong voice in the scrutiny of RPs, they were concerned about the abolition of the Tenants Services Authority (TSA) which has the risk of removing tenants voice and representation in this process and potentially leave them without adequate protection they need against poorly performing landlords.

³ <http://www.homesandcommunities.co.uk/ourwork/standards>

⁴ <http://www.housing-ombudsman.org.uk/>

⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6260/1742903.pdf

3.0 The Context

THE FRAMEWORK FOR 'CO-REGULATION'

3.1 The foundations for a regulatory system that formally incorporates tenants' views and concerns were set out in the Housing and Regeneration Act 2008. The Act applied equally to local authorities and housing associations. The Act gave the then Tenant Services Authority (TSA) statutory objectives to empower tenants and to ensure they had the opportunity to shape services and standards. A regulatory system was created which worked on a 'co-regulatory' basis where landlords, the regulator, and the tenants would work together to set, monitor, and enforce standards. Co-regulation aims to move the focus of decision-making and performance management for housing services away from the regulator, and a one-size-fits-all approach, towards one focussed on service users and locally defined needs and priorities.⁶

3.2 This approach represented a shift towards self-regulation, with the relationship between landlords and tenants forming the primary relationship. It was also anticipated that there would be an increasing use of external challenge, accreditation schemes and peer reviews, as well as sharing good practice, research and advice.

3.3 Under the principle of 'co-regulation', the role of the regulator was to step in where this relationship was not working. Over time, it was expected that the tenant scrutiny role would become increasingly robust, enabling the regulator to withdraw from regulating service delivery (consumer regulation).

CONSUMER REGULATION IN HOUSING

3.4 In 2012, the Coalition Government effectively changed the role of the housing regulator so that it will continue to set national standards, but only intervene under its consumer regulation role where it can be demonstrated that failures against these standards are having, or are likely to have, a "serious detrimental impact" on tenants.⁷

3.5 The new regulatory standards, introduced in April 2012, retained the principle of co-regulation but stressed the following key elements as well:

- § Responsibility for service delivery lies with the landlord, not the regulatory system nor the regulator.
- § Landlords are accountable to their tenants (not to the regulator) for customer facing service delivery standards.
- § To hold their landlords to account and to shape service delivery, tenants need adequate information and effective influencing structures.
- § Landlords should make honest and robust self-assessments of their own performance: this can include drawing on external validation (e.g. peer review or benchmarking)
- § While the regulator has a role in setting clear outcome focussed standards, these should be enhanced by more specific local offers agreed between landlords and their tenants.

⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6052/1829690.pdf

⁷ <http://www.homesandcommunities.co.uk/ourwork/regulatory-framework>

§ There should be a clearer role for tenants in scrutinising performance.⁸

3.6 With regards to customer facing service delivery standards the regulator's intervention activities will be focused only where there is serious detriment (or a risk of such) to tenants.

3.7 In real terms, effective tenant scrutiny is of even greater importance now in order to ensure the success of the co-regulatory approach; the protection of consumer standards; and the drive for continuous service improvement.

3.8 The Localism Act 2011 and the new regulatory standard for Resident Involvement and Empowerment both anticipate an enhanced role for tenants in relation to scrutiny. These regulatory and statutory changes provide new challenges for the Council, as it seeks to have the right mechanisms, support, information and internal drivers in place for effective tenant scrutiny in the borough. The anticipated enhanced role for tenants requires substantial investment in skills and capacity building, matched with an increased focus on value for money. There is a general consensus that tenant involvement in scrutinising value for money should not just focus on financial efficiencies, but also on service delivery, investment, and quality.

COMPLAINTS HANDLING: LOCALISM ACT 2011

3.9 From April 2013, the Ombudsman service for housing will change. From that date, there will be a single Ombudsman sector covering the whole sector i.e. for both local authority and housing association tenants. The Government's intention is that more complaints will be resolved at a local level so that 'only complaints worthy of the Ombudsman will go to the Ombudsman'.⁹

3.10 The Localism Act amends the way in which a social tenant can make a complaint about the landlord and introduces the concept of a 'democratic filter'. This means that, in future, tenants who have exhausted their landlord's complaints procedure will have to go through a designated person (the filter) in order to escalate a complaint to the Housing Ombudsman. The designated person is stipulated as being either a member of the House of Commons, a local Councillor (from the borough in which the property concerned is located) or a local tenant panel. Under the changes, a tenant will still be able to approach the Ombudsman directly after 8 weeks have elapsed from the date of referral to the democratic filter. The democratic filter is intended to strengthen accountability; increase knowledge of local representatives in resolving complaints; and to speed up the resolution of disputes at the local level.

3.11 With the new legislation for 'democratic filters' coming into effect in April 2013, the Council, as a social landlord, needs to decide upon its future arrangements for processing resident complaints.

⁸ <http://www.homesandcommunities.co.uk/ourwork/regulatory-framework>

⁹ Ibid

4.0 The Reason For Enquiry

Given the significant regulatory changes in this area and the high proportion of social housing in the borough, this is a key issue.

The review sought to:

- § Understand how RPs are currently held to account and performance managed.
- § Assess how well developed arrangements for co-regulation and new tenant scrutiny arrangements are in the borough.
- § Explore the requirement in Localism Act for a local 'democratic filter' to resolve tenant complaints and options for implementing this for council managed housing stock as well as stock managed by Register Providers in the borough.

4.1 Core Questions of the Scrutiny Review

- 1. How is co-regulation working across RP's and what are the current strengths, gaps, challenges and opportunities?**
- 2. How can elected members work effectively with tenant scrutiny members in holding housing providers to account?**
- 3. What is the appropriate role of councillors in the new co-regulation framework particularly in relations to dealing with tenant complaints as set out in the Localism Act?**

4.2 What has not be included

This scrutiny review was clear from the outset that it would not include:

- § Monitoring the compliance of Housing Providers with consumer standards
- § Specifying how local tenant scrutiny mechanisms should work
- § Tenant feedback or satisfaction with Council Decent Home Programme
- § Dealing with individual tenant complaints

5.0 The Work of the Review

- § The Review Panel was chaired by Cllr Sirajul Islam who is the scrutiny lead for (resources), Cllr Marc Francis, and Cllr John Pierce were the other members of the panel.
- § The Aim, Scope and Terms of Reference of the Review were agreed by the Council's Overview and Scrutiny Committee at its meeting on 30th October 2012.
- § We took detailed evidence about the way RP's put into the practice the new co-regulation framework and developed tenant scrutiny.

The overall aim of the Review was to get a clearer understanding of how RPs are held to account and performance managed through co-regulation and how members can support this framework.

In working towards achieving this aim, we held a series of evidence gathering meetings, both formal and informal, with a range of witnesses. These included:

- § We invited the RPs represented in the Tower Hamlets Housing Forum to contribute to the review
- § Senior officers from five of our partner RP's who generously responded to our invitation to participate.
- § We heard evidence from Tracey St Hill who is the principal RSL Partnerships Officer.
- § We took evidence from the Linda Collier from the Housing Ombudsman Services and Sam Goodwin from Tenant Participation Advice Service (TPAS).
- § To accompany this, the lead scrutiny officer went and observed a full tenant scrutiny panel meeting organised by Tower Hamlets Homes. **A full list of witnesses and sources appears in the appendices to this report.**
- § We were, of course, keen to hear evidence directly from tenants, with their opinions and experiences of RP's, however due to the lack of time and resources this was not possible and so had to take into account the views and concerns highlighted by the Tenants Federation that advocate on behalf of local tenants.

6.0 Local Approaches to Co-regulation of Housing

6.1 Background:

The Chartered Institute of Housing (CIH) defines co-regulation (commonly referred to as resident-led self-regulation) as:

“An approach where housing organisations’ frameworks for directing, accounting for, monitoring, assessing and modifying their own behaviour and performance are based on residents’ priorities, views, and engagement with relevant processes.”¹⁰

6.2 Although tenant involvement and scrutiny is a crucial element of the co-regulatory approach, it is one of many. Because it is an ‘*approach rather than a rigid model, resident-led self-regulation can work in any kind of housing organisation – local authority, housing association or ALMO.*’¹¹ It can also be applied across all aspects of a housing business, not just service delivery, but also business, governance and constitutional issues.

6.3 The government wants to see the principle of co-regulation retained and enhanced and is seeking to ensure that providers recognise that:

- § Fundamental responsibility for effective service delivery lies with landlords, not the regulatory system;
- § Landlords are accountable to their tenants, not to the regulator;
- § Tenants must have the information and opportunities they need to hold landlords to account and to shape service delivery.¹²

6.4 According to the Regulatory Framework for Social Housing in England (published in April 2012)¹³ all registered providers and local authorities are subject to the regulatory framework and must all meet the applicable regulatory standards.

Standards are classified as either:

- § Standards relating to economic matters, or
- § Standards relating to consumer matters

6.5 Economic standards apply only to private registered providers. For profit-making providers, the economic standards apply to the management of their affairs only so far as they relate to the provision of social housing. The regulator has a proactive role on these standards, and will engage with providers to obtain assurance that these standards are being met.¹⁴

6.6 Consumer standards apply to all registered providers, including local authorities. Boards and councillors are responsible for ensuring the standards are met, and others, such as tenant panels, MPs and elected representatives have a role in scrutinising that this is delivered. The regulator sets the consumer standards so that tenants, landlords and stakeholders know the outcomes that are expected. In this way, co-regulation is supported by the standards. The regulator does not have a proactive

¹⁰http://www.cih.co.uk/resources/PDF/Policy%20free%20download%20pdfs/How_to_prepare_for_regulatory_ref orm.pdf

¹¹ [http://www.housemark.co.uk/hmresour.nsf/lookup/TenantScrutiny_lowres.pdf/\\$File/TenantScrutiny_lowres.pdf](http://www.housemark.co.uk/hmresour.nsf/lookup/TenantScrutiny_lowres.pdf/$File/TenantScrutiny_lowres.pdf)

¹² Ibid

¹³ <http://www.homesandcommunities.co.uk/ourwork/regulatory-framework>

¹⁴ Ibid

role in monitoring compliance with these standards, and will only intervene in cases of serious detriment.¹⁵

6.7 What characterises good co-regulation?

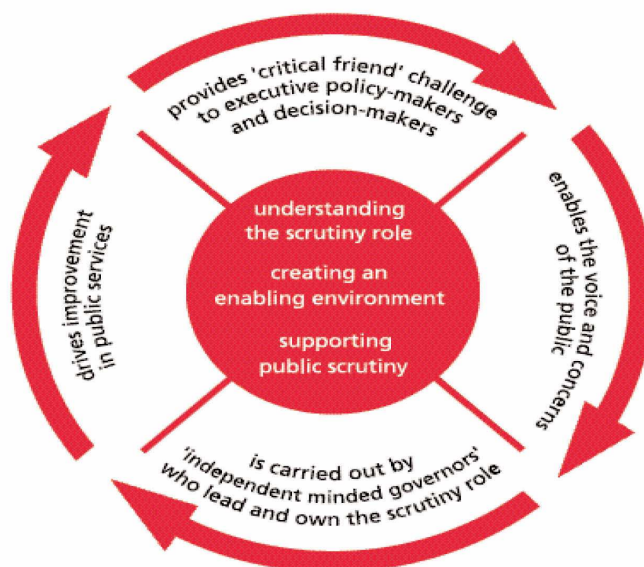
In order to understand how RPs are currently held to account and performance managed it is important to begin by exploring what characterises effective co-regulation. The Review Group considered standards against which the performance of local RPs can be assessed.

6.8 According to housing sector experts, tenant involvement and empowerment are regarded as two of the main characteristics of good co-regulation. Tenant scrutiny is more than just another tenant participation activity. It is a way of giving tenants greater influence and ability to hold their landlords to account, by exercising more power over the business decisions, governance and performance of their landlord.¹⁶

6.9 Tenant scrutiny gives tenants an active stake in the running of their landlord's business rather than being the passive recipient of services. It enables staff and tenants to work in partnership to achieve better performance and improved outcomes.¹⁷

Figure.1¹⁸

the good scrutiny
cycle



According national housing organisational experts and agencies, successful scrutiny panels have been found to include within their remit:

- § **Acting as a “critical friend”;**
- § **Acting as a voice for tenants;**
- § **Being tenant-led and independent;**

¹⁵ <http://www.homesandcommunities.co.uk/ourwork/regulatory-framework>

¹⁶ http://www.tis.org.uk/content/files/tis_tenants_scrutiny_guide_june_20121.pdf

¹⁷ Ibid

¹⁸ Ibid

§ **Focusing on improving services.**¹⁹

- § Tenant scrutiny panel should have a clear purpose, remit and protocols that clearly state its powers and responsibilities.
- § The purpose and remit of tenant scrutiny panels must be to improve services. This will give all stakeholders a clear understanding of their responsibilities and value within the organisation. In order for this to succeed there should be clear procedural guidelines about how the panel will make recommendations for service improvements and also how senior officers and governing board members will consider and react to these recommendations.
- § Time should be allowed for staff and tenants to develop a positive working relationship within the new structures.
- § Feedback mechanisms are established between the scrutiny panels and the other tenant participation activities so that members of the panels can take account of the views of active tenants across the organisation.
- § There needs to be monitoring processes in place to track what happens following the recommended findings of the tenant scrutiny panel.

It is recommended that regular reviews of the tenant scrutiny panels should take place. There should be checks made on²⁰:

- § How effectively they are meeting their roles and responsibilities;
- § The effectiveness of recruitment procedures for new tenants;
- § The working relationships between tenants and staff if individuals in either group change;
- § The diversity of the tenants involved;
- § How the scrutiny panels are gaining feedback from other active tenants' organisations;
- § The relevance and impact of the recommendations they make.

6.5 Customer service, choice and complaints

According to guidance and good practice guide from national housing agencies registered providers are expected to provide tenants with accessible, relevant and timely information about.²¹

- How tenants can access services
- The standards of housing services their tenants can expect
- How they are performing against those standards
- The service choices available to tenants, including any additional costs that are relevant to specific choices
- Progress of any repairs work how tenants can communicate with them and provide feedback the responsibilities of the tenant and provider
- Arrangements for tenant involvement and scrutiny
- Have an approach to complaints that is clear, simple and accessible that ensures that complaints are resolved promptly, politely and fairly.

¹⁹ http://www.tis.org.uk/content/files/tis_tenants_scrutiny_guide_june_20121.pdf

²⁰ http://www.tis.org.uk/content/files/tis_tenants_scrutiny_guide_june_20121.pdf

²¹ Ibid

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

6.6 Involvement and empowerment

It is considered good practice by housing experts for registered providers to ensure that tenants are given a wide range of opportunities to influence and be involved in:

- the formulation of their landlord's housing related policies and strategic priorities
- the making of decisions about how housing related services are delivered, including the setting of service standards
- the scrutiny of their landlord's performance and the making of recommendations to their landlord about how performance might be improved
- the management of their homes, where applicable
- the management of repair and maintenance services, such as commissioning and undertaking a range of repair tasks, as agreed with landlords, and the sharing in savings made, and agreeing local offers for service delivery.²²

6.7 Understanding and responding to the diverse needs of tenants

According to national housing experts and agencies registered providers are expected to support their tenants to develop and implement opportunities for involvement and empowerment, including by²³:

- Treating all tenants with fairness and respect
- Demonstrate that they understand the different needs of their tenants, including in relation to the equality strands and tenants with additional support needs.
- Supporting their tenants to exercise their Right to manage or otherwise exercise housing management functions, where appropriate
- Supporting the formation and activities of tenant panels or equivalent groups and responding in a constructive and timely manner to them
- The provision of timely and relevant performance information to support effective scrutiny by tenants of their landlord's performance in a form which registered providers seek to agree with their tenants. Such provision must include the publication of an annual report which should include information on repair and maintenance budgets, and
- Providing support to tenants to build their capacity to be more effectively involved
- Registered providers shall consult with tenants on the scope of local offers for service delivery. This shall include how performance will be monitored, reported to and scrutinised by tenants and arrangements for reviewing these on a periodic basis.
- Registered providers shall consult with tenants, setting out clearly the costs and benefits of relevant options, if they are proposing to change their landlord or when proposing a significant change in their management arrangements.

²² <http://www.homesandcommunities.co.uk/ourwork/standards>

²³ <http://www.homesandcommunities.co.uk/ourwork/standards>

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

6.8 ‘Good practice guide’ for the recruitment of tenants to scrutiny activities:

It is considered good practice by the Homes and Communities Agency for registered providers to support the recruitment and involvement of tenants by: ²⁴

- § Using different kinds of publicity and marketing to attract newly active tenants into scrutiny activities;
- § Promoting the new skills that tenants will gain that could be transferred to new employment opportunities;
- § Emphasising that tenant scrutiny is a different opportunity – tenants will have real power and independence, and the ways of being involved will be different;
- § Introducing clear guidance and terms of reference for scrutiny panel members about their involvement in other participation activities to prevent conflicts of interest arising in future;
- § Using effective recruitment procedures focussing on skills and experience;
- § Using different ways to communicate e.g. email, texting, social networking;
- § Using tenant profile information to target underrepresented groups;
- § Tenants giving their time freely or if they should receive incentives in return for their time and contribution;
- § Holding “taster” days where experienced tenants can share their experiences with newly interested tenants;
- § Training more experienced tenants to mentor new tenants getting involved;
- § Promoting a ladder of opportunities to give people the confidence to start to get involved in activities like mystery shopping;
- § Publicising successes to demonstrate the impact tenants are having

²⁴ <http://www.homesandcommunities.co.uk/ourwork/standards>

7.0 Assessing Local Performance

7.1 How is co-regulation working across RP's in Tower Hamlets and what are the current strengths, gaps, challenges and opportunities?

This section of the report sets out the findings of the Scrutiny Review Group on current practice of RPs' in Tower Hamlets.

7.2 Current strengths:

The submissions we received from the RPs who took part in the review and a desktop review of their current policies and practises suggests that these housing providers have tenant scrutiny representatives or panels in place, albeit with different levels of development and capacity.

7.3 The strength of the co-regulation framework is that it offers opportunities to tailor local services and performance to reflect local needs. The framework is seen as flexible and more scope is available to RPs to work openly and intuitively with residents to identify an appropriate model of working for them. Tenants and staff are able to negotiate and agree strategies, standards and performance measures rather than just being confined to a set of basic regulatory standards that was in place previously. RPs argue that this self-determining culture enables them to deliver more meaningfully and encourages them to take a more realistic and proactive approach to co-regulation rather than the regulator's reactive one.

7.4 The new co-regulation framework is said to treat residents as experts who have a real influence and a right to scrutinise, monitor, challenge and make recommendations on policy and specific areas of service provision. It offers partnership working with RP Boards, residents and external stakeholders. The Review Group acknowledged that when the new framework is adopted fully (both in practice and in spirit) it can provide a real asset to housing providers in terms of inbuilt checks and balances and enable greater accountability. It can build knowledge and capacity of both tenants and organisations which can in turn lead to real improvements that is clearly recognised and celebrated by tenants.

7.5 Gaps & challenges:

The main gap and inherent weakness of this approach highlighted by this review, and acknowledged by all the RPs, is that the new co-regulation framework is completely voluntary and not underpinned by the statutory regulations that were in place before. It is widely recognised that social housing customers generally have limited choice of landlord. With the removal of the Audit Commission's inspection framework and pro-active regulation by HCA, the clear onus is now on RPs to have an effective framework in place. However, there is little external scrutiny whether it happens in practice or is actually effective in championing tenants' voices. As the HCA will not intervene unless serious detriment can be evidenced, there is very little scope within the new arrangement to make RPs put things right if resident involvement and scrutiny is poor or known to be ineffective.

7.6 Another key challenge acknowledged by the RPs we spoke to is how the new framework is understood and practically implemented by both housing providers and tenants. With so many different bodies involved in governance and scrutiny of co-regulation, it could make it difficult to co-ordinate methodically, particularly for RP's that work in more than one borough and have a large housing stock to manage. The flexibility of

approaches may also lead to confusion for residents and a post-code lottery style situation which offers no clear service standards or expectations for residents in the borough.

7.7 The Tenant Federation in Tower Hamlets (TFTH) also expressed concerns that co-regulation could further weaken tenant voice and view the new framework as a 'tokenistic model' with no real representations and links with wider members of the community. There were concerns about how tenant scrutiny panel members would report back to wider other residents. The Scrutiny Review Group recognises that this could prove a challenge for resident board members who are seeking to be accountable to other residents while playing a constructive role with the RP.

7.8 TFTH also highlighted some examples of poor communications and inadequate tenant scrutiny policies and practices. It noted a risk that residents' engagement and involvement operates in parallel to the running of the organisation making it potentially less effective. Even where there is good level of representation, it was noted that some tenant representatives receive little training and development to empower tenants to robustly challenge and effectively scrutinise an RP's performance. Furthermore there is currently no central place where residents can obtain independent bench marking information on the performance of local RPs.

7.9 Some of the RPs mentioned that at a basic day to day level there is sometimes confusion amongst resident panel members about their role and expectations particularly around corporate strategic management and local operational engagement. Many of the RPs that we spoke to mentioned how they are constantly grappling with the challenge of bringing in new members from diverse backgrounds. Some mentioned that the selection of Board and resident scrutiny panel members can prove difficult and at times controversial.

7.10 According to the THTF, the expectation and demand on resident / tenant members time is often unrealistic and the language and level of discussion can be at times inaccessible. This 'committee speak' discourages a lot of residents, especially young people, from getting involved. Some RPs mentioned that the tenant scrutiny process takes a long time to develop and mature which can be challenging in an environment of limited resources or when senior management want quick fixes to deep-rooted negative perceptions among residents.

7.11 We believe that this scrutiny review has been helpful in taking the first steps towards bringing information about the resident involvement and scrutiny together in one place, but recognise that further work could enable residents of different RPs to compare their own landlord's offer with those of its competitors. It would also be helpful for data on complaints to be centrally compiled and made available to the public.

Recommendation 1

LBTH should work with the Tower Hamlets Housing Forum (THHF) to produce and publish annually a summary of resident engagement and scrutiny work within each RP and Tower Hamlets Homes.

Recommendation 2

Through the THHF, LBTH should publish a report annually detailing the number of complaints recorded by each RP, the number/percentage resolved at each stage of the organisation's internal complaints process.

8.0 Opportunities to Strength Co-regulation

8.1 How can elected members work effectively with tenant scrutiny members in holding housing providers to account?

In this section of the report we assesses the remit, challenges and opportunities of how elected members can work with RP's to strengthen the co-regulation process in Tower Hamlets.

8.2 Ensuring the independence of the scrutiny model

It is important that elected members work effectively with tenant scrutiny members and RPs in ensuring that that tenant scrutiny structures in Tower Hamlets are independent from other tenants' organisations operating within the landlord's structure. The Chartered Institute for Housing (CIH) states that there are three key characteristics of genuine Resident Lead Scrutiny Reviews (RLSR), which are:

- § Independence from other governance and management structures;
- § Formality in operation;
- § Power for residents to challenge and effect change.²⁵

8.3 Independence means that the people who control the scrutiny activities of RLSR are not the same people involved in managing or governing the organisation. Formality gives the residents confidence that they are entitled to ask for information and that their activities will be taken into account and fit into other business processes. Power makes RLSR an equal partnership between tenants and senior staff.

8.4 For the different roles undertaken, there should be clear guidelines and protocols drawn up for tenant's representatives to enable them to develop capacity in tenant scrutiny activities out with their normal tenant participation activities.

8.5 Local charter on standards

One of the ways of improving standards and driving up performance is to take into consideration the local charter on standards developed by the LBTH Tenants Federation. It is a charter of basic principles which Tower Hamlets Tenants and Residents have called on all Registered Providers of Social Housing to adopt.

²⁵ <http://www.cih.co.uk/resources/PDF/Policy%20free%20download%20pdfs/Leading%20The%20Way.pdf>

Consultation:

- § Consult Tenants Federation (TF) before important decisions are made that affect their homes.
- § Explain how RP's have taken tenant views into account.

Accountability:

- § Make RP's structures and accounts transparent to all residents.
- § All Board and Estate Board meetings and their minutes should be open and accessible to the public (with the exception of confidential items only where necessary)

Recognition:

- § Recognise, encourage and support properly constituted, independent Tenant and Resident Associations.

Development:

- § Discuss strategic planning issues and the disposal of public assets with residents in public.
- § Take TF views into account before implementing new proposals.
- § Build to "Lifetime Home" standards into all tenancy agreements.

Standards:

- § Grant and retain secure and lifelong tenancies into all tenancy agreements so as to ensure equality and consistency of approach in Tower Hamlets.
- § Keeping rents low and genuinely affordable.
- § No "fast-track" evictions should take place under Ground 8 of the Housing Act 1988.
- § Work with residents to deliver high standards of repairs and maintenance

8.6 Develop a Local Quality Assured Scrutiny Framework of Standards

There are opportunities for LBTH to work with landlords to focus resources on services and outputs that residents want and design more meaningful quality assurance methods with tenants. There is also the possibility of incorporating self-assessment methodologies – such as that endorsed through House Mark and more business to business opportunity learning rather than one size fits all approach to meeting standards.

8.7 RPs argued that if the quality assurance framework is sector-led and mutually developed (and not imposed) it is more likely to be adopted and could make it more open & transparent and allow RPs to be innovative, more reflective and overall achieve better outcomes.

Recommendation 3

LBTH should work together with RPs through the THHF to develop a local set of quality standards for tenant scrutiny and encourage all RPs in the borough to formally adopt these standards

8.8 Working with Tenant Participation Advisory Service (TPAS)

There is an opportunity to work with the Tenant Participation Advisory Service (TPAS) to develop a local Quality Assured Scrutiny framework of standards and new tenant scrutiny accreditation service from leading housing sector organisations championing co-regulation.

8.9 Grant funding of almost £1.2 million has been made available by the Government to the Tenant Participation Advisory Service to deliver a training and support programme. The tenant empowerment programme is designed to inspire tenants to lead change in their

communities by having the skills and confidence to scrutinise, influence and control local services through tenant panels and other scrutiny mechanisms.²⁶

8.10 The assessment framework for the Quality Assured Scrutiny accreditation can be developed with the expertise and experience TPAS and other organisations in consultation with a range of local tenants and landlords from across the sector.

8.11 A local approach to Quality Assured Scrutiny that is delivered by TPAS, House Mark and CIH could prove very valuable because their approach is:

- § Independent and use tenant assessors as part of the assessment and moderation process;
- § They understand and take account of RPs resources and organisational capacity throughout the evidence gathering stages to minimise the requirement;
- § They have expertise and proven experience in working with a range of stakeholders, from elected members to hard-to-reach tenants and client groups.²⁷

8.12 Joint monitoring, mystery shopping and peer reviews

Despite the challenges, all of the RP's that we spoke to were positive about the real opportunities that are available through the new co-regulation process. They mentioned the opportunities to improve joint-working between LBTH and landlords, peer reviews, shared mystery shopping and area based scrutiny across landlords. Joint working can help pool resource together and provide much better value for money on initiatives that could see real choice and influence for residents.

8.13 There appeared to be a genuine desire and appetite amongst the RP's that we spoke to for developing local quality assurance standards and local partnership approaches to performance management which involve tenants, housing officer and councillors, to work together to improve services and empower residents in the borough.

8.14 What kind of governance support can LBTH provide to RP's through THHF?

Although there is no statutory obligation or expectations from RP's to receive support from local authorities, we felt it was nonetheless worth exploring the possibility of Tower Hamlets Council taking a more proactive and supportive approach in developing the governance and scrutiny process for local tenants. Listed below are some key examples of support that Tower Hamlets Council can provide to RP's through the Tower Hamlets Housing Forum:

- § Recruitment, retention and development of Board members
- § Offer training to strengthen risk management and internal control arrangements
- § Develop effective governance arrangements that are embedded across all levels of the organisation, improving working relations between the Board, the Executive, staff and tenants
- § Ensure the correct policies and procedures, systems and processes are in place
- § Develop capacity and address capability through training and mentoring, to increase the level and quality of involvement
- § Develop effective co-regulation structures and initiatives with residents, e.g. in setting up resident scrutiny panels arrangements that are open, transparent, accessible and effective

²⁶ <https://www.gov.uk/government/news/support-for-social-tenants-to-have-their-say-on-local-services>

²⁷ <http://www.tpas.org.uk/>

Recommendation 4

LBTH should play a leading role in working with RPs to ensure resident Board members and scrutiny panel members of local RPs are able to robustly hold those organisations to account, for example through independently-led seminars and good practice sessions sponsored by the THHF.

Recommendation 5

LBTH should work proactively with RPs to support the provision of adequate training, information and support for tenants, staff and the governing body in order to make tenant scrutiny as effective as possible.

There are many examples of good practice developed by RP's in the borough and this report includes some of these examples developed by Poplar HARCA. See *Appendix 1 for more details.*

9.0 Dispute Resolution

9.1 What is the appropriate role of councillors in the new co-regulation framework particularly in relations to dealing with tenant complaints as set out in the Localism Act?

9.2 In this section of the report, the review group considered the role and remit of councillors and challenges that need to be addressed in relation to local tenant dispute resolution.

9.3 From April 2013, there is now a single Housing Ombudsman service which covers the whole sector including local authority, Arm's Length Management Organisations and housing association tenants. Tenants of local housing authorities and Arm's Length Management Organisations previously had the right to refer complaints about housing to the Local Government Ombudsman. The Government's intention is that more complaints will now be resolved at a local level so that 'only complaints worthy of the Ombudsman will go to the Ombudsman'²⁸.

9.4 The Housing Ombudsman considers early and local resolution as the best possible outcome to a complaint. It encourages positive relationships between landlords and tenants and the designated persons to achieve this. It also provides information and advice to support designated persons in improving the methods and approaches they might use to resolve a dispute. Whilst the Housing Ombudsman will not comment on designated persons' decisions it will give feedback on referrals from designated persons to improve complaints handling at all levels²⁹.

9.5 The Housing Ombudsman can only consider complaints that have been referred by a 'designated person' (MP, councillor or recognised tenant panel), or by the tenant themselves if 8 weeks have passed from the completion of the landlords internal complaint process. This provision does not apply to complaints made to the Local Government Ombudsman. These complaints can still be referred directly.³⁰

9.6 From April 2013, when they receive a complaint they will always ask if it has been referred to a designated person and if not they will clarify the reasons for this. They will either then refer the matter to a designated person or if a tenant is clear that they do not want to make use of that opportunity for local resolution, (if it is more than eight weeks from the end of the landlords complaint process) they will consider the case.³¹

9.7 Although they can advise designated persons on good practice in complaint handling, the Ombudsman has no jurisdiction over designated persons and has no authority to regulate or produce guidance for their selection, activity or conduct.³²

9.8 The Ombudsman will be required to maintain a register of recognised Tenant Panels. However, they do not oversee the involvement of panels or any other designated person in the local resolution of complaints.³³

²⁸ <http://www.housing-ombudsman.org.uk/advice-faqs/factsheets/tenant-panel/>

²⁹ Ibid

³⁰ <http://www.housing-ombudsman.org.uk/advice-faqs/factsheets/tenant-panel/>

³¹ Ibid

³² Ibid

³³ Ibid

- § The Housing and Local Government Ombudsman services are able to conduct joint investigations and are putting in hand liaison arrangements to ensure that there is early discussion of cases which engage both jurisdictions.³⁴

9.9 What are the implications for the Council and elected members?

With the new legislation for 'democratic filters' that came into effect from April 2013, the Council, as a social landlord, needs to decide upon its future arrangements for processing resident complaints and to decide which tenant representative body is best placed to act as the democratic filter for complaints by Council tenants and leaseholders.

9.10 In exploring the options available for the Council the review group noted some key issues and concerns regarding the role of the 'democratic filter' in general and the role and responsibilities of Councillors in particular.

9.11 Issues concerning the role of the designated Member Panel:

The Review Group felt that there were significant questions about defining the role Councillors should have in relation to housing providers as there appears to be some confusion and lack of consistent approach and understanding. Throughout the Group's discussions there was a concern that members could not simultaneously champion residents and find solutions to their problems.

9.12 The Review Group felt that all councillors are advocates for their communities and individual constituents when advice or support is requested. A common role for all councillors however, irrespective of any formal position or membership of a committee is that of 'community leadership'. For the individual councillor, being a community leader can mean a number of things. Acting as an advocate for the best interests of one's ward; lobbying for local concerns; influencing partner organisations to work to a common vision; resolving conflict amongst community organisations; encouraging community organisations to develop solutions in their own communities; balancing competing demands for resources when making decisions in the best interests of the whole authority area.³⁵

9.13 The independence of Councillors with links to RP's

Further difficulties may arise when councillors are asked to deal with tenant complaint or championing a resident cause which may conflict with their role as a board member of that particular housing association. Members may also find it challenging to balance local concerns with the political demands of the group manifesto or position they hold. There is also a potential political risk in taking tenant complaint that is not resolved adequately to the tenant satisfaction which could result in some local fall out or damages the image of the local Councillors in very competitive and sensitive constituency areas. This is perhaps why there is a lot anxiety amongst some councillors as to their new expected role of being the designated person / democratic filter in tenant complaint / dispute resolutions.

9.14 Lack of authority and jurisdiction

This anxiety is further re-enforced by the fact the housing management landscape in Tower Hamlets has been radically altered over the last decade with large scale housing stock transfer where there is no longer the power, authority and influence that elected members previously used have to have over the management and governance arrangement of housing providers. Some Members may feel that in the current arrangement they have little

³⁴ Ibid

³⁵ <http://www.jrf.org.uk/sites/files/jrf/2150.pdf>

or no say in how local landlords operated or performed so could perhaps be more reluctant to get too involved with housing management issues or complaints from their local constituents.

9.15 Another issue and challenge that would need to be addressed is the jurisdiction of tenant panels. For example, there needs to be clear understanding that any tenants / members complaints panel that is not recognised and supported by RPs will not have the jurisdiction to handle such work / responsibility. There may be more than one approved tenant's panel. This point is particularly relevant to the representative bodies such as the Tenants Federation who feel they ought to play a more leading role in championing tenant rights and safe guarding their interests. Regardless of the politics and personalities involved, there is a real need to have a good working relationship between RP's, Tenant Scrutiny Panels and the Tenant Federations,. This suggests THTF should be involved or have its views represented in the Tower Hamlets Housing Forum meetings and steering groups.

9.16 General and practical challenges

In addition to the key issues and challenges discussed above, there are some general day to day practical difficulties that need addressing such as:

- § Organisational capacity of RPs is also a major issue that would need to be addressed in finding an appropriate way of handling complaints. There needs to be recognition that level of tenant scrutiny and approach to complaint handling will be different and vary from one RP to another.
- § Lack of consistency in approach by the designated persons/panels could mean there are potentially different perspectives on complaint handling. Any councillor can be approached by our tenants to act as a designated person or alternatively any elected MP in Tower Hamlets and not just the ward member.
- § Addressing multiple complaints made to a number of designated persons/panels could be difficult to administer.
- § Conflict of interest may arise within the designated persons/panel.
- § Confidentiality – it will have to be clearly spelt out that tenants on the panels must not share personal details with third parties.
- § An approach to data protection and freedom of information requests regarding the operation of the designated persons/tenant panel may have to be considered.

9.17 What are the possible ways forward?

It is widely recognised that registration of interests is perhaps the only way of ensuring transparency and accountability of elected members. As it is well known and accepted that the public has a right to expect councillors to act in a transparent and open manner, particularly in respect of actual or potential conflicts. Councillors are expected to ensure that they follow the advice and guidance on doing so set out in the current code of local government conduct.³⁶

9.18 What are the other options available?

9.20 Panel of Elected Members

The Panel of Elected Members may investigate the complaints from social housing tenants and recommend to the authority the way that the dispute should be settled. This could include the recommendation that compensation is paid. It will, however, be at the discretion of the local authority whether it agrees to accept the recommendations.

³⁶ This was provided for by the Localism Act 2011: <http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>

9.21 Tenants' Champions

Tower Hamlets Council could also consider the approach taken by Richmond Council which has created a new role of Tenants' Champion from its pool of elected members. The Tenants' Champion is one of the 'democratic filter' before a dispute / complaint is taken to the Housing Ombudsman Service. If tenants have been through the housing association's complaints procedure and are still not satisfied then they have the option to take their complaint to this service³⁷.

9.22 Tenants who experience problems with the RPs' / housing association are asked to get in touch with them and try to work out a solution. Initially this might be done informally, but might need to go through a more formal complaints process. If things don't get resolved to tenants satisfaction then the next step is for them to contact their Councillor. However, some issues may be more complex, or be something that keeps occurring, or may affect many people - and it is here that the Tenants' Champion can help.³⁸

9.23 How does it work in practice?

- § *If a complaint is more appropriate for a local ward councillor to handle the problem then they will be asked to select one Councillor to act for them. The Tenants' Champion will be sent a copy of all enquiries submitted via this process.*
- § *If it is more appropriate for the Tenants' Champion to support tenant, they will be contacted within 7 working days. Having contacted the housing association the champion expects to be back in touch with a response after a further 14 working days. Complex issues are likely to take more time to investigate. Response times after this will depend on the complexity of the issue raised. The same timescales apply where a Councillor is involved.*
- § *There may be times when timescales cannot be met, for example, if a Councillor is on holiday or is sick and unable to work. In asking a Councillor to investigate an issue on tenant's behalf, they will be acting as their representative and have the authority in law to discuss your situation without you needing to give them specific permission.*
- § *The TC role has been developed with political support from all parties and although the role is carried out by a Member, it is non-partisan and is performed in addition to other roles and duties. Once appointed as the TC held a series of briefings and engagement events with councillors across all parties to publicise, gain support to develop and refine the role. The role is both a channel to 'listen' to the concerns of tenants in rented accommodation and also as a 'voice' to ensure that these concerns are heard by the local authority and the RPs.*
- § *At the officer level, council officers engaged with RPs on the TC role to secure their participation and engagement. This involved writing to the Chief Executives of all the RPs operating in Richmond and then followed with a series of individual meetings with senior managers and local RP officers working in Richmond. These meetings focussed on the benefits to RPs of participating in the scheme, for example, shared learning.³⁹*

9.24 Complaint Panel Made Up of Independent People:

A third option is available for Tower Hamlets is to have an independent complaint panel to review the complaint with the tenant in attendance. The panel can be made up of members

³⁷ http://www.richmond.gov.uk/tenants_champion

³⁸ Ibid

³⁹ http://www.richmond.gov.uk/tenants_champion

RP's Boards and Committees who are independent of staff including a resident representative and local Council representative / member. The review can be heard in writing or in person, with a friend or advocate. This is very commonly used complaint model and procedure by many of the leading RP's and ALMO's.

9.25 Enhanced role of the Tower Hamlets Housing Forum (THHF)

A fourth option could be enhancing the role of the Tower Hamlets Housing Forum to handle complaints from member RP's. Tower Hamlets Housing Forum (THHF) could use its partnership between housing associations (registered providers) and the council to develop a designated tenant complaint panel / forum. The housing associations and RPs are more likely to sign up to this and able to work collectively in the forum to help handle difficult and sensitive complaints. They can do this as a sub-group / forum that's feed into Local Area Partnerships through community plan development group.

9.26 Preferred option for dispute resolution

Having considered the various dispute resolution options and mechanisms available through the co-regulation framework, the review group felt that the most appropriate option was to have an independent tenant led complaint panel that required limited involvement of local elected councillors and one that is supported and resourced by RP's working in partnership. The review group were not in favour of involving MPs and councillors in the complaints process of RPs without giving them any resources to investigate such disputes or power to impose resolutions.

Recommendation 6

The preferred option for dispute resolution advocated by the review group is to have an independent complaint panel to review the complaint with the tenant in attendance.

Recommendation 7

LBTH should encourage THHF to establish a cross-RP Tenant Panel to consider complaints from residents of member organisations.

10.0 Conclusion

10.1 The principles of co-regulation and tenant scrutiny are here for the foreseeable future and so Tower Hamlets Council needs to respond positively to these important changes. That means developing an approach to service delivery which formally incorporates tenants' views and which is transparently accountable to tenants. This makes good business sense because it helps to ensure value for money for housing services. However, this kind of fundamental change in the model for resident engagement will no doubt provide a considerable challenge to the Council and Registered Providers, and our tenants. It is clear that a great deal of work will need to be undertaken to identify solutions that will be acceptable to all.

10.2 The new regulatory framework for tenant empowerment has been set, and tenants will need to be actively involved in setting priorities and evaluating performance for housing services, both for the Council and across the Borough as a whole. This will involve a shift from effective resident consultation to effective resident empowerment. In many situations, this will represent a significant culture change and may present challenges in practice. However, the benefits to the Council of having an informed, involved and empowered residents' voice within the Borough include significantly increased accountability, and an improvement in the quality of housing services for all tenants and leaseholders.⁴⁰

10.3 Tenant involvement in scrutiny activities should be regarded as integral to the continuous improvement and development of landlord organisations and not regarded as simply another housing management function.

10.4 Tenant scrutiny may require a change of culture within organisations to recognise the right of tenant scrutiny members to request information, challenge information and to identify where services being delivered to tenants can be improved.

10.5 Tenant scrutiny improves the accountability of staff and members of governing bodies to tenants and provides a new independence to self-assessment and business improvement activities of the organisation.

10.6 Tenants Participation Advisory Service (TPAS) can provide services to tenants' representatives and landlord staff to develop tenant scrutiny activities in their organisations. This may include training and support to get started and understand what is required when developing the process of tenant scrutiny to meet the requirements of the housing co-regulation framework. TPAS can provide support throughout the process ensuring that tenants are developing their capacity to scrutinise particular housing services by ensuring they are developing their knowledge and skills about different aspects of the landlord. Staff can also benefit from TPAS advice about developing communication and enhanced working relationships with their tenants' representatives.

10.7 The new housing co-regulation framework sets out an exciting, challenging and revitalised agenda for the social housing sector in Tower Hamlets. It provides a new environment for tenants, tenants' organisations and local landlords to develop partnership working to meet the requirements of the new regulatory framework. The next few years will provide an opportunity for organisations to develop good practice and share experiences about how they are achieving its successful implementation and how it is influencing their business decisions.

⁴⁰ [http://www.housemark.co.uk/hmresour.nsf/lookup/CoregulationBriefing.pdf/\\$File/CoregulationBriefing.pdf](http://www.housemark.co.uk/hmresour.nsf/lookup/CoregulationBriefing.pdf/$File/CoregulationBriefing.pdf)

10.0 Appendices

Appendix 1



Resident participation – A Good Practice Guide by Poplar Harca:

What they aim to:

- build an honest, trusting and respectful relationship with residents;
- get as many residents as possible involved in what they do;
- listen to resident views and comments to improve what they do;
- give residents any help they need to get involved;
- show residents that they are committed to getting them involved;
- show how they will involve residents in improving their services;
- work with the Government to find new ways to get residents involved; and
- give residents clear information that is easy to understand.

What they promise to do for residents:

- give clear information about how residents can get involved;
- make sure residents are involved in what they are interested in at a level that suits them;
- involve 12 of residents to help lead their organisation by joining their boards;
- make sure everyone is able to get involved equally;
- make sure decision-making groups meet at least four times a year;
- have a specialist team of officers who will give any support residents need and encourage them to get involved;
- involve more than 150 of residents in decision-making groups;
- provide at least 10 different ways for residents to get involved, such as estate inspections (where they go round and chat to residents informally), mystery shopping, or estate boards;
- provide transport, childcare, information and training to help them get involved;
- provide a resident involvement statement once a year which tells residents how they will involve them;
- produce a residents handbook that explains how residents can get involved, and review this with you every year;
- offer residents and their staff training and workshops to give them the skills to get them involved usefully;
- provide at least 20 training sessions a year to support them;
- use resident feedback to improve their services;
- hold a residents conference once a year, where residents can speak to senior managers and staff, raise issues and ask questions; and
- let residents know what their community has achieved in HARCA Life, their residents newsletter, at least once a year.



Resident participation – A Good Practice Guide by Poplar Harca:

How residents can get involved

Estate boards: Each estate has a board made up of local residents to deal with local issues. The boards meet four times a year and they also invite staff to help make decisions about housing conditions, services and the facilities in the community. They agree local estate plans with residents and concentrate on improving the area in line with overseeing neighbourhood plans.

Estate board subgroups: Estate boards set up subgroups to focus on a particular area of service. Service delivery subgroups concentrate on housing and estates and technical subgroups concentrate on improving buildings and any building work.

The Joint Estate Panel (JEP): The JEP is a group that represents tenants and leaseholders across Poplar. The JEP meets every three months. Three residents from each of the estate boards are chosen to be on the panel. They talk about issues that affect you such as the standards of our services, resources and how much rent you pay. The group also chooses people to be resident directors for the main board.

Policy advisory groups: Each of the estate boards puts forward a resident director to be on their main board, which meets four times a year to decide on policies, strategy and the direction of the organisation. Residents can become a resident director by being selected by their estate board and then by being tested by the JEP. As a resident director they will be part of the group that is responsible for supporting and running the organisation. As well as going to the board meetings they will also be expected to join the subgroups and go to planning days and events. If anyone becomes a resident director they will be involved in choosing applicants for the corporate management team and will be able to interview staff who will work with them.

Residents can also get involved more directly within their community through a range of community activities and training, including:

- volunteering at local neighbourhood centres;
- young advisors and leaders;
- sports programmes;
- outreach service for vulnerable residents;
- fun days and events;
- community safety;
- focus groups;
- surveys;
- yearly conferences;
- housing surgeries;
- estate inspections; and
- mystery shopping.

Appendix 2

The role of designated tenant panels in resolving complaints⁴¹

Why have designated persons?

Designated persons were introduced by the Government to improve the chances of complaints about housing being resolved locally. The democratic filter is intended to strengthen accountability; increase knowledge of local representatives in resolving complaints; and to speed up the resolution of disputes at the local level. The idea behind 'localism' is that local people know best how to decide on local issues. The introduction of designated persons is intended to involve local politicians and local people in resolving local housing issues. It follows from this that there is to be no central control or regulation of the development of local resolution mechanisms. It is important to note that the Housing Ombudsman is not a regulator and cannot define the expected role or processes for designated persons as that would be contrary to the purpose of localism.

Who can be a designated person?

The designated person can be either a member of the House of Commons (MP), a local Councillor (from the Borough in which the property concerned is located) or a local tenant panel. Landlords do not have to set up tenant panels but they are expected to support their formation and activities if their tenants want them. To be effective the tenant panel must be 'recognised' by the landlord. Under the changes, a tenant will still be able to approach the Ombudsman directly after 8 weeks have elapsed from the date of referral to the democratic filter.

What does the designated person do?

- A designated person will help resolve the complaint in one of two ways; they can try and resolve the complaint themselves or they can refer the complaint straight to the Ombudsman. If they refuse to do either the tenant can contact the Ombudsman directly.
- The designated person can try to put things right in whichever way they think may work best. If the problem is still not resolved following the intervention of the designated person either they or the tenant can refer the complaint to the Ombudsman.
- Complaints to the Ombudsman do not have to be referred by a designated person, but if they are not there must be at least 8 weeks from the end of the landlord's complaint process before the Ombudsman can consider the case.
- The law says that when the designated person refers a complaint to the Ombudsman, it must be in writing.

What is the impact of designated persons on complaints procedures?

Designated persons have no direct impact on a landlord's internal complaints procedure. MPs and local councillors have always been involved in complaints procedures as advocates for tenants. They will continue to have that role. Their specific role as designated persons is different as they play a more specific part in the procedure. The detail of that role is not spelt out in the Localism Act, but a part of it is to refer complaints to the Ombudsman.

In practice this means that if a complaint is not resolved at the end of the landlord's complaints procedure, the tenant can:

- refer the matter to a designated person OR
- wait 8 weeks and refer the matter directly to the Ombudsman.

A designated person has no legal authority over a landlord's policy or procedure.

⁴¹ <http://www.housing-ombudsman.org.uk/advice-faqs/factsheets/tenant-panel/>

Appendix 3

The role of designated tenant panels in resolving complaints⁴²

What is a designated tenant panel?

As of 1st April 2013 tenants of housing associations, local authorities, and ALMO's can ask for their complaints to be considered by a 'designated person' when their landlord's internal complaints procedure is finished. One of these 'designated persons' is a group of tenants acting as a designated tenant panel.

How are they different from other tenant panels?

There are many different types of tenant panel involved in their landlord's decision making and accountability processes as well as monitoring and scrutinising their activity and performance. The designated tenant panel is a new type of body with a specific function in the complaint process. In order to be recognised as a 'designated tenant panel' it must be recognised by the landlord.

What does a designated tenant panel do?

The designated tenant panel can help to resolve the complaint in two ways; it can try to resolve the complaint itself or it can refer the complaint straight to the Ombudsman. The tenant panel can try to put things right in which ever it thinks will work best. This could be for example, by acting as an advocate for the complainant, by giving advice, providing a review of the way the complaint has been handled or being more proactive and suggesting a solution.

If the complaint is not resolved by the tenant panel, it can refer the complaint to the Housing Ombudsman. The law says that this referral has to be in writing.

Who is responsible for setting them up?

Landlords do not have to set up a designated tenant panel. They can work with their tenants to establish a panel, or tenants can form a panel themselves. For a designated tenant panel to be effective in the role it is essential that landlord and tenant work together to establish one that will work for them both. If the panel does not meet the needs of tenants, they will not take their complaints to it, if it does not meet the needs of the landlord it will not work with it to resolve complaints. Either way the panel will not play an effective role in helping to resolve complaints or improve service.

Is there any training or support available for tenant panels?

Landlords must find a balance between providing support to tenant panels and enabling them to consider matters independently. Unless a tenant panel is facilitated and encouraged to think independently it is unlikely to be able to make a useful contribution. Support to tenant panels needs to be provided in a way that enables them to take an independent view.

When agreeing how to set up tenant panels, landlords and tenants should discuss the support needs of the panel. It makes business sense for landlords to support tenant panels as that will help them to play a genuine and useful role in reviewing landlords' procedures and improving its service delivery.

What is registration?

The Localism Act requires the Housing Ombudsman to keep a register of tenant panels. It is a landlord's responsibility to register a panel with the Ombudsman once it has been recognised and to inform him of any subsequent changes. This will help the Ombudsman identify whether a complaint is referred by a designated tenant panel.

Only designated tenant panels acting in the capacity of designated persons (dealing with individual complaints) should be registered with the Ombudsman.

⁴² <http://www.housing-ombudsman.org.uk/advice-faqs/factsheets/tenant-panel/>

Appendix 4: Scrutiny Review Action Plan – Housing Co-regulation

Recommendation	Response / Comments / Action	Responsibility	Date
R1. LBTH should work with the Tower Hamlets Housing Forum (THHF) to produce and publish annually a summary of resident engagement and scrutiny work within each RP and Tower Hamlets Homes.			
R2. LBTH should publish a report annually detailing the number of complaints recorded by each Registered Provider, the number/percentage resolved at each stage of the organisation's internal complaints process.			
R3. LBTH should work together with RPs through the THHF to develop a local set of quality standards for tenant scrutiny and encourage all RPs in the borough to formally adopt these standards			
R4. LBTH should play a leading role in working with RPs to ensure resident Board members and scrutiny panel members of local RPs are able to robustly hold those organisations to account, for example through independently-led seminars and good practice sessions sponsored by the THHF.			
R5. LBTH should work proactively with RPs to support the provision of adequate training, information and support for tenants, staff and the governing body in order to make tenant scrutiny as effective as possible.			
R6. The preferred option for dispute resolution advocated by the review group is to have an independent complaint panel to review the complaint with the tenant in attendance.			
R7. LBTH should encourage THHF to establish a cross-RP Tenant Panel to consider complaints from residents of member organisations.			

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