

A hand holding a magnifying glass over paper house models. The background is a blurred green and white bokeh. A blue diagonal stripe runs across the image from the top left to the bottom right. The left side of the image is an orange gradient.

B4: Regulatory Changes
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11.35 – 12.35

The Plan for Today

- Update on consumer regulation changes
- Tenant Satisfaction measures
- How to achieve robust assurance
- Property compliance update
 - Electrical Safety
 - Carbon Monoxide Alarms
- PEEPs and Evacuation
- Director Liability under BSA 2022

Consumer Regulation

The current state of play

- Reactive regulation of the Consumer Standards
- “Serious detriment” test
- Relatively few findings of serious detriment:

	2020-21	2019-20
Stage 1 – All referrals	591	597
Stage 2 – Considered by Consumer Regulation Panel	236	274
Stage 3 – Investigation undertaken	111	143
Published findings of breach and serious detriment	1	15

Social Housing White Paper

- Key commitments:
 - Being safe in your home
 - Know how your landlord is performing
 - Have complaints dealt with promptly and fairly
 - Be treated fairly and with respect, backed by a strong consumer regulator
 - Have your voice heard
 - Have a good quality neighbourhood to live in
 - Be supported to take your first step to ownership

Some quick points to mention

- Safety – requirement to appoint a H&S lead
- Complaints – strengthened Housing Ombudsman role and revised Complaint Handling Code
- Access to information scheme
- Right to shared ownership
- Review of the Decent Homes Standard

Changes to Consumer Regulation

- Scrapping the “serious detriment” test
- Change to the RSH’s consumer regulation objective
- Revisions to the Consumer Standards
- Appointment of a new Director of Consumer Regulation
- Move to inspections in relation to the Consumer Standards
- Expanded RSH powers



Tenant Satisfaction Measures

- Consultation December 2021 – March 2022
- Over 1,000 responses (around half from tenants)
- New TSM Standard:

“Registered providers must collect and provide information to support effective scrutiny by tenants of their landlord’s performance in managing their homes and neighbourhoods”

Tenant Satisfaction Measures

- 22 TSMs, 6 themes:
 - Overall satisfaction
 - Keeping properties in good repair
 - Maintaining building safety
 - Effective handling of complaints
 - Respectful and helpful engagement
 - Responsible neighbourhood management
- Number of TSMs linked to perception surveys
- Implications for management arrangements?

Tenant Satisfaction Measures

- Decision statement issued 21 September 2022
- From 1 April 2023, required to collect and publish information
- Some changes to TSMs from consultation
- Technical requirements
 - Consistency
 - Flexibility

Where are we now?

- Parliamentary inquiries
 - Levelling Up and Regeneration Bill
 - The Regulation of Social Housing
 - Exempt accommodation
- Social Housing (Regulation) Bill – introduced 8 June 2022
- Consultation required on new Consumer Standards
- Proposed timetable for implementation – Spring 2024

The holy grail.....robust assurance!

- Current position – reactive regulation – RSH expects to see data assurance
- Changing position – proactive regulation – RSH will expect to see data assurance
- How do we achieve it?:
 - Board control – ask questions
 - Dashboard system for reporting – ask questions
 - Clear lines of responsibility – Board, Exec Team, Heads of Department
 - Control outsourcing – know your contracts and utilise its terms
 - Audit, audit, and audit again!

Electrical Safety / Carbon Monoxide Alarms

Electrical Safety & Smoke and Carbon Monoxide Alarms

- Consultation on EICRs and RPs closed 21 August 2022
 - Mandatory checks on electrical safety inspections and testing every 5 years
 - Mandatory PAT testing
 - Mandatory checks on electrical installations at least every 5 years (to ensure whole building is safe)
- Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022
 - Came into force 1 October 2022
 - Apply to private and social landlords
 - From 1 October you must:
 - One smoke alarm installed in each storey
 - Carbon monoxide alarms in rooms used as living accommodation where combustion appliance installed (excluding gas cookers)
 - Repair/replace faulty alarms
 - Local Authority to enforce
 - £5,000 fines where fails to comply with remedial notice
 - Do you need to notify the RSH if not compliant?

Director Liability – Section 161 Building Safety Act 2022

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Liability of officers of body corporate etc

“(1)Where an offence under [Part 2](#) or [4](#) committed by a body corporate—

(a) is committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, or

(b) is attributable to any neglect on the part of any such person,

that person as well as the body corporate commits the offence and is liable to be proceeded against and punished accordingly.”

NB: Parts 2 and 4 – not yet in force!

Director Liability – Who is caught?

- Board members (with overall responsibility)
- Executive Directors (delegated authority from Board)
- Company Secretary (where fails to challenge the Board to consider question of compliance)
- Anyone who has responsibility for discharging obligations under the BSA (Heads of Dept)

Director Liability – What will constitute an Offence?

- Part 2 BSA – relevant to all properties
 - Intentional obstruction of someone “exercising a relevant building function”
 - False or misleading information is provided to the Building Safety Regulator
- Part 4 BSA – HRB regime
 - Allowing occupation of a HRB without completion certificate
 - Allowing occupation of a HRB without registration
 - Outgoing accountable person fails to provide prescribed information and documents to incoming accountable person

Director Liability – Mitigating risk

- Aim – ensure key responsibilities under the BSA are addressed diligently and effectively
- What can you do?
 - Prepare now!
 - Identify the obligations under the BSA
 - Identify who should carry them out and how
 - Introduce processes to secure compliance
 - Manage the processes and timelines to achieve compliance
 - Monitor completion and adequacy of the processes
 - Document and record = evidence them
 - Speak to your insurance Broker – D&O Policy Cover?

Evacuation Consultation & PEEPs

Evacuation Policy

- Who has the obligation to evacuate residents who cannot evacuate themselves?
- Grenfell Inquiry recommendations on PEEPs not implemented though the Fire Safety (England) Regulations 2022
- PEEPs Consultation – highlighted “*substantial difficulties of mandating PEEPs in high risk residential buildings*”
- Government intends to deal with PEEPs and HRB evacuation as one issue
- Proposals to be implemented in secondary legislation late 2022 / early 2023

Q&A