



Quarterly Governance and  
Regulation D-Brief  
Issue 1

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## Welcome

Welcome to the first edition of our new quarterly D-Brief, focussing on governance and regulatory issues pertinent to registered providers of social housing (RPs).

It's certainly been a busy few months in the governance arena, with the draft Social Housing (Regulation) Bill legislative clauses being published in March and a new National Housing Federation Code of Conduct issued earlier this month. Our article on the draft Bill can be found [here](#) and we have included a summary briefing on the new Code of Conduct in this quarterly update.

We are currently supporting a number of our clients in relation to assessing how they are able to certify that they comply with “all relevant law” in line with the requirements of the Governance and Financial Viability Standard, an area which has had increasing focus following on from the changes to auditing requirements at the end of 2020. We have a range of options which can help to meet your needs - if you would like to arrange a call to discuss how we can support you with this, please do get in touch.

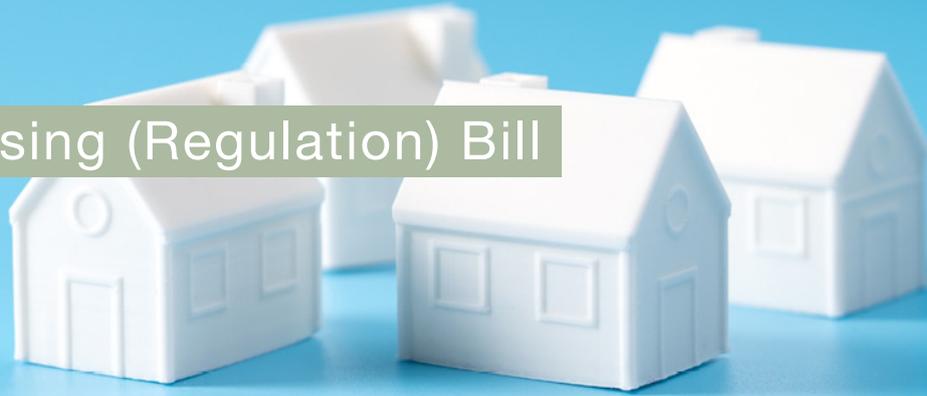
Finally, we are working with a number of our clients to make sure their constitutions are fit for purpose – within this D-Brief we discuss some key areas of change RPs should be considering.

## Upcoming events

We are pleased to be working with Housing Diversity Network (HDN) in supporting their Board Excellence and Board Diversity development programmes, and co-sponsoring the HDN BME Board Members Network. In conjunction with the launch of our new Birmingham office, we are sponsoring the HDN and Women In Social Housing Midlands Networking Mixer on 8 June in Birmingham, with guest speaker Karl George MBE.

To find out more and sign up please click [here](#).

# Social Housing (Regulation) Bill



Sample [draft clauses and explanatory notes](#) of the long-awaited Social Housing (Regulation) Bill were published at the end of March. Whilst the draft legislation is not the full Social Housing (Regulation) Bill, its publication provides the sector with an insight into the legislative changes proposed, including:

- how a ‘proactive’ consumer regulation regime will be implemented;
- details of a new [Social Housing Quality Resident Panel](#);
- proposals for Government powers to ‘name and shame’ failing landlords; and
- a factsheet about the Housing Ombudsman and how it will work alongside the Regulator of Social Housing (the RSH).

The RSH has subsequently written to all RPs reiterating that, where change is needed, that providers should act now and not wait for the proactive consumer regulation regime to be implemented. The letter calls on the sector to embrace “culture change” as a way of meeting some of the new demands.

The Queen’s Speech earlier this month also confirmed the inclusion of the Social Housing Regulation Bill within this year’s parliamentary timetable.

It should be noted that the Housing Select Committee’s inquiry into the quality and regulation of social housing continues, with formal meetings held in April and May to gather evidence in relation to the inquiry’s focus on the ability of the RSH and the Housing Ombudsman to identify and address problems. The inquiry is also focussing on the proposals in the Government’s social housing White Paper aimed at improving the regulatory regime. We await the outcome of the Committee inquiry and how it may further shape regulation in the sector.

To read our detailed article on the draft legislation please see [here](#). The RSH’s full letter to the sector can be found [here](#).

For more information, please contact Rose Klemperer.



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# National Social Housing Quality Resident Panel

As part of a number of measures published at the end of March to improve the regulation of social housing, the Department of Levelling Up, Housing and Communities has confirmed plans to establish a new resident panel titled the “Social Housing Quality Resident Panel” as a means of enhancing tenant engagement.

The panel will be made up of 250 social housing residents across the country so they can directly share their views with the government and ministers on its approach to driving up the quality of social housing.

The Social Housing Quality Resident Panel will be supported by a national survey where around 5,000 residents were asked to share their views about their landlord’s services during March and April 2022. The survey will be used to monitor the impact the reforms will have on social housing residents.

The Social Housing Quality Resident Panel will discuss many of the measures proposed by the Social Housing White Paper, including:

- Reviewing the Decent Homes Standard;
- Ensuring residents know how to raise complaints and have confidence in the system;
- Reviewing the training and qualifications available to social housing staff; and
- Delivering a new access to information scheme for tenants, so that information relating to landlords is easily available.

We understand over 1,000 expressions of interest have been received from residents wishing to join the Panel and further details are expected over the next few months.

For more information, please contact Sharon Thandi.



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## Changes to the Housing Ombudsman's Complaint Handling Code

It's been a busy few months for the Housing Ombudsman, with several new publications and reports following on from the introduction of the [Housing Ombudsman's Complaint Handling Code](#) (the Code) in July 2020.

Following a review one year after its introduction, provisions of the Code have been updated and strengthened - these changes came into force from 1 April 2022.

The Housing Ombudsman has provided an [easy reference guide](#) to show the changes that affect the core requirements of the Code with the main changes being:

- Clarifying that where the Code refers to something landlords “must” do, this is a requirement as opposed to something that landlords “should” do, where discretion can be used.
- Failure to self-assess against the Code annually could result in the Ombudsman issuing a Complaint Handling Failure Order (CHFO). The [guidance](#) on CHFOs has also been updated as of March 2022.
- Use of the Ombudsman's definition of a complaint is now mandatory.
- There is clarity about the channels by which residents are able to submit a complaint and confirmation that landlords must provide more than one route to access the complaints system.
- Provision of contact information for the Ombudsman and early advice about residents' rights to access the Housing Ombudsman Service to residents is now mandatory.
- There is increased clarity about the handling of a complaint once recorded, with landlords having five working days to acknowledge and log a complaint from the date of receipt.
- A landlord must now give reasons for refusing to escalate a complaint.
- Where the problem is a recurring issue, the landlord should consider any older reports as part of the background to the complaint if this will help to resolve the issue for the resident.
- Complaint responses must be sent to the resident when the answer to the complaint is known and should not be delayed until outstanding actions are completed.
- Landlords must justify their decisions to have a stage 3 in the complaints process within the self-assessment. More than three stages is unacceptable.

Landlords will have until 1 October 2022 to be compliant with the revised Code.

The Housing Ombudsman also published its [first annual review of complaints](#) on 9 March 2022 (the Review) in addition to its latest spotlight report on 22 March 2022 which examines landlords' engagement with private freeholders and managing agents ([click here](#) for a quick summary of the findings).

The Review draws insights from the annual landlord performance reports, CHFOs and annual surveys of resident panels and landlords. The Review identified the following strategic and operational issues:

- Cultural challenges remain around resolving complaints, with some landlords refusing to accept the role of complaints as a learning tool.
- A low level of trust that complaining would make a difference to the service provided with more needing to be done to raise awareness of complaints' procedures.
- The underpinning procedural aspects of service provision need to be kept under constant review to ensure that they remain fit for purpose (with uphold rates being particularly high for complaint handling and repairs). Responsive repairs is the highest category of complaint with data indicating that repairs services didn't get things right in the first instance in over 66% of cases.
- Inadequate record keeping is a common finding which impacts a landlord's ability to deal with individual issues effectively and efficiently and can mean organisational oversight of complaint themes and trends will be limited and unreliable.
- Missed or unproductive appointments to deal with reported issues.
- Poor communication and lack of follow up leading to a failure to manage resident expectations.

In the year 2020/21, the Ombudsman investigated 2,185 complaints and made 3,872 findings and found full or partial maladministration in 49% of cases. Analysis of the results show that complaints handling and service delivery need to be improved. The Ombudsman issued 10 CHFOs in the final quarter of 2020-21 and they all related to failures to progress complaints through a landlord's process.

In addition to its recent reports and updated policy documents, the Ombudsman has also published nearly 1,800 individual investigation reports to its online [casebook](#) with the ability to search cases and decisions by reference to landlord type, complaint category, outcome, tenure and order. It is intended to act as a valuable resource dedicated to promoting learning in the sector, increasing transparency and showing the range of issues that the Ombudsman can consider in dealing with complaints.

For more information, please contact Ellen Damlica.



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## Exempt Accommodation – in the spotlight, again



In March, Parliamentary Under-Secretary of State for Housing and Rough Sleeping, Eddie Hughes, launched a new package of measures aimed at strengthening the regulation of exempt accommodation providers.

The announcement has been a long time coming and follows on from a number of high profile investigations by the RSH and rapidly increasing numbers of exempt accommodation, particularly in (but not limited to) the Midlands.

The measures announced include:

- clearer definitions for the level of care providers are expected to provide;
- more power to local authorities to take action against ‘unscrupulous’ providers; and
- changes to housing benefit regulations which will seek to define ‘care, support and supervision’ to improve the quality and value for money of exempt accommodation provision.

The statement confirmed that any measures which require legislative changes will be introduced “when parliamentary time allows” (a phrase the sector is accustomed to). In addition, Mr Hughes announced that £20m of funding has been set aside for a three-year Supported Housing Improvement Programme (the **Programme**) which will be open to bids from all local authorities “and build on the clear successes of the supported housing pilots”. The Programme intends to drive up standards in the sector in some of the worst affected areas whilst the Government develops and implements longer term regulatory changes.

Whilst the statement confirms the Government’s intention to take further legislative steps in an effort to reform the regulation of exempt accommodation providers, the real change will come once legislation is brought forward. Watch this space for any updates.

Read the full statement and package [here](#).

For more information, please contact **Rose Klemperer**.



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# Code of Conduct 2022

We are pleased to have supported the National Housing Federation (NHF) and Campbell Tickell in preparing the new Code of Conduct, which was issued in May 2022.

The Code is structured around four main areas:

- acting in the best interests of the association and its residents;
- behaving with integrity;
- conducting yourself professionally and treating others well; and
- protecting yourself, others and the environment.

Echoing key changes in the NHF Code of Governance 2020, there is a stronger focus in the new Code of Conduct on issues such as equality, diversity and inclusion and being accountable to residents. The new Code of Conduct also more clearly sets out distinctions between the expectations of board members and those of employees, when compared to the previous 2012 version.

It is a requirement of the NHF Code of Governance 2020 that boards adopt and adhere to a code of conduct, and we anticipate that many RPs will quickly move the 2022 Code of Conduct, particularly given its alignment with the requirements of the 2020 Code of Governance.

A copy of the new Code of Conduct can be obtained by NHF members [here](#).

For more information, please contact Gemma Bell.



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## Charities: Updates to look out for this year

We have a round-up of the upcoming developments for charities:

### The Charities Act 2022

The Charities Act 2022 became law at the end of February 2022. It seeks to implement most of the recommendations made by the Law Commission in its 2017 report “Technical Issues in Charity Law”. Implementation of the Act should save charities not only time but also expense. [Click here](#) to read more about the changes that we consider to be of the most practical use to our clients. A breakdown of key implementation dates can be found [here](#).

### Charity Commission Business Plan

The Charity Commission updated its [current business plan](#) at the end of last year and confirmed its key priorities for this year including:

1. To help charities support the country in its recovery from the pandemic;
2. To continue to deliver a step change in its robust approach to regulation;
3. To improve how it uses data; and
4. To create the right environment to enable its people to be more effective and help make the Commission a great place to work.

In order to achieve these priorities the Charity Commission has set out various deliverables including:

- Designing and delivering the initial phase of a charity trustee portal, as the first step in building a more one-to-one relationship with charity trustees.
- Completing the discovery phase for a digital-first

registration system and exploring opportunities for further automation in other processes.

- Redesigning more of its guidance and delivering a programme of charity trustee-facing campaigns on key areas of charity governance.
- Delivering further improvements to the register of charities.

The developments will be welcome as they will make information more easily accessible and processes smoother.

### Charity Governance Code

The Charity Code of Governance underwent a refresh in 2020 and significantly updated provisions around the Diversity and Integrity principles in the Code. The Steering Group responsible for the Charity Governance Code is expected to consult on a more wide-ranging overhaul of the Code in 2023. Watch this space for further updates when the consultation launches.

For more information, please contact Sharon Thandi.

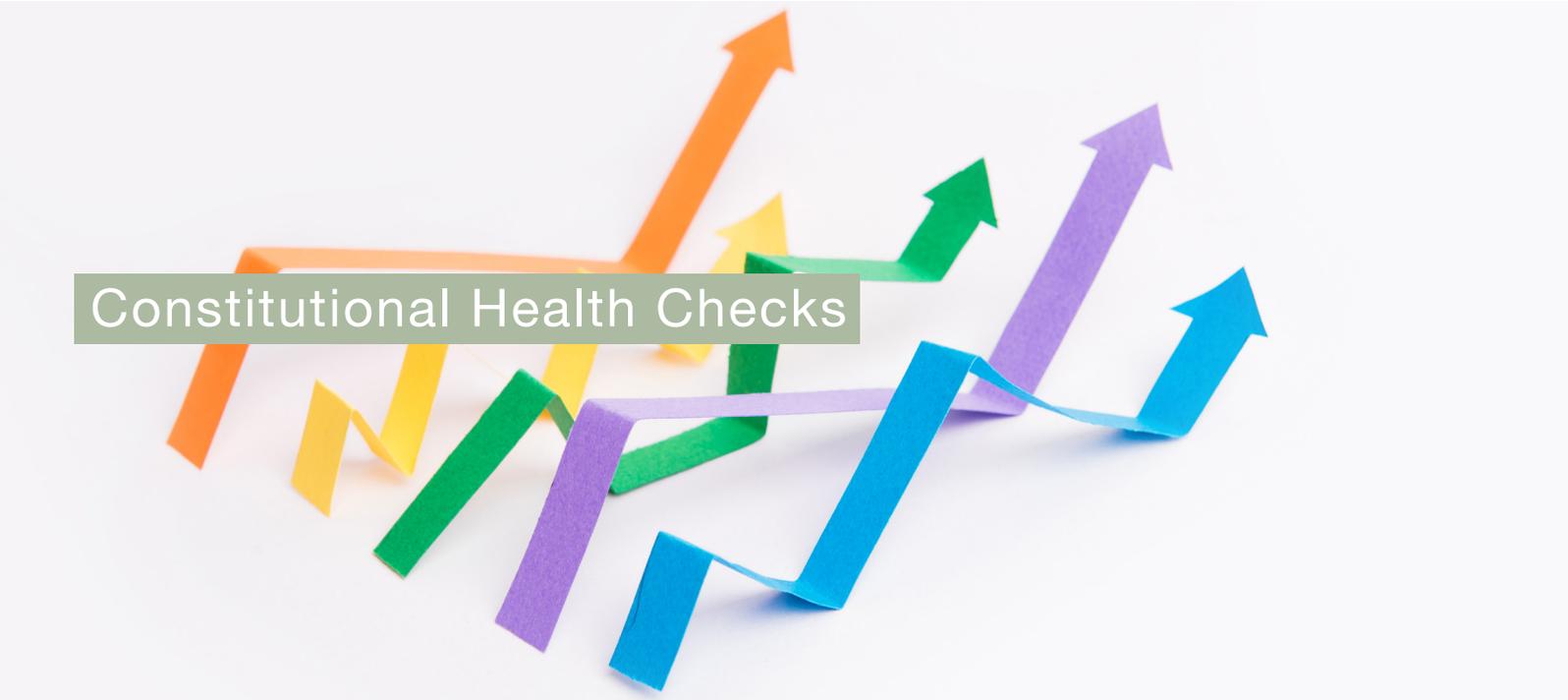


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## Constitutional Health Checks

We have been working with a number of our RP clients to ensure their constitutions remain fit for purpose.

In particular, we have been addressing issues linked to:

- Implementing new resident engagement models;
- Board tenure;
- Including additional flexibilities, particularly around virtual/hybrid meetings and serving notices electronically, following on from the provisions of the Corporate Insolvency and Governance Act 2020 ceasing to have effect; and
- Amending dissolution provisions for charitable community benefit societies (CBSs), following recent conversations with HMRC, to ensure these prevent assets being distributed to any entity which is not legally classed as a charity. While it is not mandatory for charitable RPs using the NHF Model Rules to change their dissolution clause, a number of RP CBSs are taking pre-emptive action now in order to avoid any future difficulties in HMRC recognising them as a charity for tax purposes.

If you would be interested in a constitutional health check, please do contact a member of the team.



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