Tenant Scrutiny:
now and in the future
Tenant Participation Advisory Service (TPAS) is a leading national tenant and landlord membership organisation. With a membership of over 1650 tenant and resident groups and 250 registered providers, we act as the vital hub between tenants, landlords and government helping create successful relationships. TPAS promotes excellence in resident involvement and empowerment through training, advice and accreditation. We support tenants to challenge, influence and control how their housing services are delivered, and help landlords operate more effectively and efficiently.

HouseMark is the UK’s leading provider of support to social housing organisations for performance and service improvement. With over 880 members, we work in a variety of ways with most of the country’s social landlords to improve their focus on value for money, performance management, service delivery and efficiency. HouseMark is jointly owned by the Chartered Institute of Housing (CIH) and the National Housing Federation (NHF), two not-for-profit organisations which reinvest their surpluses into the social housing sector.

Chartered Institute of Housing (CIH) is the professional body for people involved in housing and communities, with over 22,000 members across the UK and Asian Pacific. We are a registered charity and not-for-profit organisation. Our mission is to maximise the contribution that our members make to the wellbeing of communities. Our vision is to be the first point of contact for – and the credible voice of – anyone involved or interested in housing. Through our consultancy and training services we provide practical support to organisations on all aspects of housing operations, strategy, finance and health and services to those who are vulnerable.

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This briefing is the start of a partnership between our organisations to provide a clear message about what tenant scrutiny is and what it is not. Our aim is to work with you to shape what the future will be, make sure we help you to rise to the challenge and fill the regulatory vacuum caused by changes to ‘consumer regulation’.

In the absence of a regulatory role in identifying good and bad practice, we will be working over the next few months to establish a comprehensive framework of standards that will support Quality Assured Scrutiny: our new accreditation scheme for tenant scrutiny. In this joint briefing we share our knowledge and experience of working on tenant scrutiny with tenants and landlords to explore the successes and challenges.

We have an opportunity as a sector to design our own excellence and stamp our mark on how we intend to work in partnership to provide excellent services, promote empowerment; and protect the most vulnerable people. This partnership truly reflects the principles of co-regulation.

An enhanced role for tenants in scrutinising their landlords has always been part of our collective vision for the future of the housing sector. Our support for the principles upon which co-regulation is based is stronger than ever.

Now, however, so much more responsibility potentially rests on tenants, working with their landlords, being able to deliver robust scrutiny and ensure high quality services are delivered.

With a move away from any form of proactive regulation for service issues, the challenge of consistently having in place the right arrangements to protect tenants, especially those most vulnerable, as well as preventing poor performance, is significant.

Within this context, we also recognise that for local authorities the added opportunities and challenges associated with the move to self-financing housing revenue accounts creates the need, in some cases, for transformational change.

CIH and TPAS will continue to work with and, where appropriate, lobby government to secure the best outcomes for tenants and landlords. Our three organisations are also committed to working with the sector to develop, identify and share good practice as well as provide practical support, training and advice.

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Executive summary

The social housing sector is in the middle of radical and fast moving change. We need to continue to put our efforts into trying to make sense of the new ideas and policy directions coming from government. We also seek to influence through our understanding of what some of the unintended consequences might be, and to suggest alternatives.

This briefing provides an overview of the current state of regulation and the role tenant scrutiny plays in a rapidly changing policy and external operating environment.

It is clear that what is also needed at this point is to reflect on the work that has already happened in the sector to develop and embed tenant scrutiny as an integral part of successful co-regulation. This briefing considers the readiness of the sector for the new regulatory arrangements at a time of radical social housing reform, and the challenges that still need to be met in order to make effective tenant scrutiny a reality for all landlords.

This briefing has a further purpose - to stimulate more debate about what needs to happen and to reflect on how fit for purpose current approaches to tenant scrutiny are. It is also an opportunity for our partnership (TPAS, HouseMark and CIH) to develop the support that we will offer to the sector in future, and tailor this to a changed environment where the regulator simply will not step in as before. In looking at this, the following key messages have come through:

- The changes in regulation bring the importance and role of tenant scrutiny into sharp focus.
- Where tenant scrutiny has been successful there is clarity of roles and outcomes from the start.
- There is added complexity in arrangements for tenant scrutiny of council housing, but also opportunities in the move to self-financing and wider changes to local government.
- Embedding effective tenant scrutiny is an essential part of being ‘fit for future’ for housing services and organisations.

Overview

Tenant scrutiny aims to give tenants more power in holding their landlords to account for their decisions, performance and conduct. Changes to regulation in England from April 2012 will require landlords to be more proactive in self-regulation and in involving tenants in the scrutiny process. In addition, the localism agenda envisages a greater role for service users at a local level to influence and scrutinise service delivery.

This briefing includes:
- a summary of the changing policy and regulatory context relating to tenant scrutiny
- the key principles of and business case for tenant scrutiny illustrated by current and developing practice including critical success factors
- a consideration of the barriers to tenant scrutiny in practice and how to overcome them
- what will be required in future from organisations working with their tenants.
1. Changing policy and regulatory framework

The foundations for a regulatory system, for both housing associations and local authorities, that formally incorporated tenants’ views and concerns were set in the Housing and Regeneration Act 2008. The Act gave the (then) new regulator, the Tenant Services Authority (TSA), statutory objectives to empower tenants and ensure they had the opportunity to shape services and standards.

TSA established a regulatory system which worked on a co-regulatory basis: where landlords, the regulator and tenants would work together to set, monitor and enforce standards. Co-regulation aimed 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 service users and locally defined needs and priorities (localism).

The principle of this new approach was an incremental shift towards self-regulation with the relationship between landlords and tenants forming the primary relationship. Developing tenant scrutiny within individual landlords was seen as key to this as the level of direct, central monitoring of landlords’ performance reduced over time. 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.

The role of the regulator was to step in where this relationship was not working (although it was always envisaged that governance and financial viability (economic regulation) would be actively regulated). 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).

Proposed changes to regulation

The coalition government has effectively accelerated this process. It has also changed the role of the regulator to focus on protecting consumers. This means that the regulator 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.

The review of regulation carried out in 2010 recommended the retention of the principle of co-regulation but stressed the following core elements:

- responsibility for service delivery lies with landlords, not the regulatory system nor the regulator
- landlords are accountable to their tenants, not to the regulator, for customer facing (service delivery) standards

Fig 1: a simple model of co-regulation

Landlords: management and governance
• 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-focused standards, these should be enhanced by more specific local offers agreed between landlords and their tenants
• there should be a clearer role for tenants in scrutinising performance
• 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.

All of this means that effective tenant scrutiny is of even greater importance to ensure the success of the co-regulatory approach, the protection of consumer standards and to drive continuous service improvement.

The forthcoming Localism Act and consultation on draft directions to the social housing regulator sets out an enhanced role for tenants in relation to scrutiny. This will provide new challenges for landlords to ensure they have the right mechanisms and internal drivers in place. In addition, the enhanced role for tenants may require investment in skills and capacity building. Later on in this briefing we set out the critical success factors that will need to be in place to deliver this enhanced scrutiny role to meet new requirements.

The enhanced role for tenants in relation to scrutiny will provide additional new challenges for landlords (and their governing bodies) in ensuring that they meet the requirement that landlords support the formation and activities of tenant panels or equivalent groups, and provide them with the right level and type of support and information. A significant part of the changes to regulation is an increased focus on value for money. There is little detail on how this will work in practice but previously there has been consensus about the central role tenants should play in ensuring that value for money focuses not just on financial efficiencies but also on service delivery, investment and quality.

The annual report to tenants

In England, social landlords are 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 and the emphasis in future is likely to be on using it as a key tool in allowing tenants to hold their landlord to account, therefore contributing to the scrutiny function.
2. Proposed changes for dealing with complaints

Under current proposals¹, from April 2013, the Housing Ombudsman Service will absorb the Local Government Ombudsman so that it becomes a single Ombudsman covering the whole sector. The government’s intention is that more complaints will be resolved at a local level by a ‘democratic filter’ so that ‘only complaints worthy of the Ombudsman will go to the Ombudsman’. This so called ‘democratic filter’ could include: councillors, MPs and tenant panels. This briefing does not look at the detail of the new complaints arrangements.

3. The principles of and business case for tenant scrutiny

Tenant scrutiny is an approach rather than a process. It is flexible in terms of context and application. There will be differences from one organisation to the next in the composition, administration and resourcing of scrutiny arrangements. It is important that local conditions are taken into account when deciding on reporting structures or the location of groups within the corporate structure of an organisation, relationships with other tenant involvement activities; and the scrutiny activities to be undertaken. In addition, capability and capacity to undertake tenant scrutiny activities will vary from one organisation to another.

But in all instances, tenant scrutiny is based on the specific principle that the priorities and views of tenants should be at the heart of a housing organisation’s framework for directing, monitoring, assessing and modifying its own activities. Successful organisations in any sector have a common theme – they know, understand and respond to their current and future customers. They do this by engaging with and involving service users, because this is aligned to their organisational strategy and there is a business case for involvement and engagement.

Tenant scrutiny clearly goes beyond this and, where it works well, the benefits include service improvements, efficiency savings, enhanced tenant satisfaction and staff confidence, tenant input into self-assessments; and a high level of challenge as to how landlords operate. Tenant scrutiny is intrinsically linked to the delivery of value for money services that meet local needs with transparency about how investment is made.

¹ The Localism Act will amend the way in which a social tenant can make a complaint about their landlord. It will introduce the concept of a democratic filter. This means that in future, in most circumstances, 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 either a member of the House of Commons, a local Councillor (from the district in which the property concerned is located) or a local tenant panel. A recent amendment means that in certain circumstances tenant’s may still be able to approach the Ombudsman directly. The democratic filter is intended to strengthen accountability, increase knowledge of local representatives in resolving complaints and to speed up resolution of disputes at the local level.
There are a number of key business drivers for tenant scrutiny:

- tenant scrutiny provides a mechanism for landlords to deliver the services tenants want, which means they can tailor their services to reflect local needs and priorities
- tenant scrutiny enables landlords to determine how resources can be targeted where needs, wants and preferences are identified: this can lead to services which are better value for money
- the new regulatory framework, with its enhanced and proactive approach to economic regulation, requires landlords to demonstrate better value for money services: involving tenants in this process will support this
- where tenant scrutiny results in perceptible changes in the service experience of tenants, this can lead to higher levels of customer satisfaction
- tenant scrutiny can lead to improved organisational performance.

**Wherry Housing Association**

Wherry’s Independent Scrutiny Panel (WISP) scrutinise the service by looking at performance information, speaking to staff and residents, then comparing the service with other organisations. They then make recommendations which are considered by the Wherry Board and the recommendations are usually adopted.

An external consultant was appointed to mentor and support members of WISP and the Executive of ‘Way Ahead with Wherry’, the landlord-wide residents’ group. ‘Way Ahead with Wherry’ listens to residents at Patch Panels and other forums to find out what the big issues are, and then they suggest areas for scrutiny. Groups of Wherry residents (such as Residents Associations or Patch Panels) can also ask the Scrutiny Panel to scrutinise services by raising a ‘Request for a Scrutiny Review.’ To date, the Panel has looked at Wherry’s anti-social behaviour service and its complaints service and made the following suggestions which have been adopted:

- Wherry to hold some focus groups with residents who have made a formal complaint. Following these focus groups Wherry has reduced the timescales for handling complaints so residents get a much quicker response.
- Remind staff about how residents can raise an ‘Expression of Dissatisfaction’.
- Wherry to hold some focus groups with residents who have been involved with ASB cases to help identify ways to improve the service.
- Anti-social behaviour satisfaction surveys are now handled by an external organisation, rather than Wherry.
Critical success factors: what makes tenant scrutiny work

As a partnership TPAS, HouseMark and CIH have developed the following critical success factors for effective tenant scrutiny. They will form the basis of Quality Assured Scrutiny: our joint accreditation in tenant scrutiny.

Clearly defined and real power
What is important here is how scrutiny relates to the decision making structure of the organisation, including its relationship with (and separation from) governance and the executive team. There should be a clear and accepted way in which it influences the setting of strategic direction. For tenant scrutiny to be effective, it must integrate with the strategic and performance management frameworks of a landlord.

Tenant led and independent
The tenant scrutiny role should be independent from governance. Whatever structures are put in place to deliver the scrutiny role, there must be accountability, openness and transparency. There is also a need for an evaluation of the effectiveness of scrutiny itself and the ability for the wider tenant body to challenge this.

Clear roles and responsibilities with capacity to deliver
Roles and responsibilities must be clear and agreed from the beginning. In order to deliver against expectations, it is crucial that those undertaking scrutiny are supported and have the right skills and knowledge; and that there is sufficient capacity and plans in place for succession.

Decisions based on freely available and commissioned information
To make sure the scrutiny role works well in practice and maximises the impact it has on improving services and influencing strategic direction, it needs to be based on the principle of evidence-based decisions. This is supported by tenants having access to a range of information from different sources but also being able to influence how and why the organisation collects and analyses key data.

Embedding scrutiny in performance management arrangements
Tenant scrutiny should be fully part of the formal structure which forms the operating and assessment framework of an organisation. Being a recognised part of the way in which the organisation and service is run gives tenants the confidence that activities of tenants involved in scrutiny will be taken into account. It also gives staff confidence about the role and legitimacy of tenant scrutiny.

Accessible
The scrutiny role should encourage diversity and promote equality. There should be an emphasis on raising the profile of scrutiny and making as many tenants aware as possible of what it is and how to get involved. There should be links between scrutiny and other forms of tenant involvement (tenant scrutiny will be stronger if it can draw on the work and views of other tenant groups within the organisation).
How tenant scrutiny might work

What can feed into the tenant scrutiny process:

The scrutiny panel will draw on established tenant involvement and scrutiny activities such as:

- tenant surveys
- complaints, compliments and comments
- estate inspections or walk-abouts
- service review panels
- complaints review groups
- contractor review and appointment panels
- performance indicator monitoring and review
- mystery shopping
- citizens’ juries

Tenants, residents and service users

Senior management

Tenant scrutiny

Governing body

Self regulation of governance
- review of governing body performance
- scrutiny of organisational structures
- annual self assessment

Self regulation of business and strategy
- performance evaluation
- setting priorities and targets
- input into business planning
- resource allocation

Self regulation of services
- housing and community services (such as allocations, repairs and planned maintenance)
- policies
- complaints
- development and design
- corporate priorities and targets (including what they are and whether they are met)

What a tenant scrutiny group can look at
Practice examples: resident scrutiny at East Durham Homes and Salix Homes
What makes tenant scrutiny successful?

From our experience of working with tenants and landlords, tenant scrutiny includes:

- having the right culture - a very clear understanding and acceptance of tenant scrutiny by the staff, governing body and wider tenant membership
- agreeing a clear purpose, remit and roles with tenants themselves taking the lead in designing these elements
- having a fit-for-purpose recruitment process: recruitment should aim to create a strong, capable scrutiny group, offer opportunities for members to build on their potential, be transparent and fair; and provide balance between interview and election
- having a fairly stable membership to keep knowledge and capacity in a scrutiny group
- having some turnover of different tenants involved in scrutiny to keep perspectives and challenges fresh
- avoiding appointment cycles for scrutiny groups that result in the whole membership changing at once
- having relationships clearly defined and where necessary formalised between scrutiny and tenant involvement and governance structures
- ensuring demands on tenants involved in the scrutiny role are not too great
- having safeguards such as terms of reference and an enforceable code of conduct for scrutiny panels that strengthen the credibility of the group and the confidence of others, such as the governing body
- having a mix of skill and knowledge (to ensure capacity but support development)
- recognition that scrutiny (the act of examining something closely) is closely related to but significantly distinct from monitoring (maintaining regular surveillance)
- tenants driving the scrutiny role by making their own decisions about what is scrutinised and where there is a scrutiny group it sets its own agenda
- a diverse range of tenants involved in scrutiny and an understanding of those undertaking scrutiny of the diversity of the wider body of tenants
- having the right information in accessible and appropriate formats
- being supported appropriately by the landlord.

3. Overcoming challenges to tenant scrutiny in practice

Whilst we have been involved with the successful experiences of those tenants who, with their landlord, have a real role in scrutiny; barriers still exist in some organisations. Set out here are a number of the challenges that need to be addressed when establishing effective tenant scrutiny.

Clearly some of these issues are easier to resolve than others. Some are more pertinent to local authorities than housing associations because of the added complexity of local democratic arrangements and the need to be clear about the role of tenant scrutiny as opposed to the overview and scrutiny role of elected members.
The move to a self-financing business plan and changes to the housing revenue subsidy system offers wider opportunities for enhanced tenant scrutiny for local authority landlords. We will continue to work with local authorities as well as other housing organisations to develop, identify and share good practice.

The following table identifies what some of the challenges to effective scrutiny might be. It also offers some suggestions from practice on how they can be addressed:

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<th>Possible challenges</th>
<th>Addressing challenges</th>
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<td><strong>Ensuring equal engagement:</strong> helping tenant scrutiny panel members understand the housing world, housing jargon, business and finance.</td>
<td>Sovereign Housing Group’s scrutiny panel members received externally provided training on strategic involvement and resident inspections. An annual review of training needs has also been identified.</td>
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<td><strong>Meeting expectations:</strong> ensuring tenants don’t over-expect and/or landlords under-deliver.</td>
<td>The scrutiny group at Aldwyck monitors performance from a tenant’s perspective across 11 performance indicators: for example, maintenance, repairs, and health and safety. These relate to service delivery only and not to strategy or finance. The scrutiny group has the power to scrutinise staff and call Heads of Service to account for service delivery.</td>
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<td><strong>Failing scrutiny group:</strong> what happens if the scrutiny group is failing in terms of its remit?</td>
<td>The scrutiny group at Salix Homes (the Senate) is itself open to independent scrutiny by the Salix Homes’ governing body should it be perceived to be failing.</td>
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<td><strong>Continuity and commitment:</strong> ensuring scrutiny group members commit to the group and process.</td>
<td>Sovereign Housing Group’s scrutiny panel members are asked to commit six days per year. To give additional flexibility, members decide themselves the date, time and location of meetings.</td>
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<td><strong>Ensuring representation:</strong> ensuring a scrutiny group is representative of the tenant body in terms of equality and diversity.</td>
<td>If scrutiny group members fit a narrow demographic profile, organisations should assess the risk of poor representation of the wider tenant body and perception of this. In addition organisations should examine whether there are real or perceived barriers to certain groups or individuals becoming involved with the group. Action should be taken if any of these factors are identified. Teign Housing Association has set up community events as a means of engaging young people.</td>
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<td><strong>Remit and boundary of the scrutiny panel:</strong> ensuring the scrutiny group, the governing body and the executive are clear about the remit and limits of the scrutiny group.</td>
<td>Sovereign Housing Group’s scrutiny panel has a clear remit: • Purpose: to scrutinise and challenge Sovereign’s work to ensure continuous improvement in service delivery for residents, subject to appropriate regulatory and financial constraints. • Role: to ensure that residents are involved at the highest level of decision-making and that the group’s strategic direction in service delivery reflects the needs and aspirations of its customers. • Aim: to strengthen the links between current resident involvement activity and governance structures, to ensure that residents are able to influence the group’s decision-making process, complementing existing structures.</td>
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<td><strong>Avoiding replication between tenant scrutiny and council scrutiny:</strong> developing distinctive and complimentary roles.</td>
<td>Lancaster City Council is scrutinised by both its tenant-led District Wide Tenants Forum and its Councillor-led Overview and Scrutiny Committee. Referral arrangements allow for issues to be passed between these two separate mechanisms whilst the Cabinet Member for Housing attends the tenant forum meetings.</td>
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<td><strong>Demonstrating validity and celebrating success:</strong> ensuring the governing body, staff and the wider tenant body can see that tenant scrutiny works in terms of driving up performance and delivering better services.</td>
<td>Aldwyck Housing Association have identified benefits of their scrutiny work including: • contractor replacement based on tenant-led assessment of performance • increased resident involvement opportunities. Aldwyck’s customer scrutiny panel gives a short summary of its meetings with the Aldwyck board in the quarterly residents’ magazine to ensure other tenants are aware of the activities of the panel.</td>
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5. Conclusion: looking to the future

The principles of co-regulation and tenant scrutiny are here to stay. Landlords should be developing an approach to service delivery which formally incorporates tenants’ views and is transparently accountable to tenants. This makes good business sense and helps to ensure value for money.

However we do not underestimate that for some organisations and their tenants this is a considerable challenge. More work will need to be undertaken to identify local barriers and drivers and to identify solutions that are acceptable to different organisations. Tenants need to be actively involved in setting priorities and evaluating performance. This may involve a shift from consultation to effective empowerment. In many situations this will represent a significant culture change and may present challenges in practice.

There are, undoubtedly, risks in not having effective scrutiny arrangements in place. Ineffective tenant scrutiny threatens the viability of co-regulation itself, and could lead to a slide in standards – because the regulatory response to consumer protection is limited. The risks associated with failure include reputation (failure reflects badly on landlords and tenants, suggesting they are not able to meet the challenge) and, potentially, a return to top-down regulation and prescription.

How can TPAS, HouseMark and CIH help?

Our partnership is based on our mutual interest in playing a role in making co-regulation based on tenant scrutiny a success for the housing sector. As part of this we are working together to develop a new framework of standards and Quality Assured Scrutiny: our accreditation scheme for tenant scrutiny. Where we are commissioned, we will also deliver practical and tailored support to individual organisations. We are engaged in dialogue with many of you in the sector as the changes in regulation, social housing policy and finance unfold. We will continue to support the development of self-regulation and enhanced tenant scrutiny by translating policy into effective practice tools.

To find out more about Quality Assured Scrutiny, please contact Chris Walker, Project Officer at TPAS: telephone 0161 868 3523 or email chris.walker@tpas.org.uk
Where to find out more


HouseMark (2009) How to develop and monitor local performance indicators, Coventry, HouseMark

CIH (2009) Leading the Way: Achieving resident-driven accountability and excellence

The annual report to tenants – HouseMark toolkit

CIH Active Learning for Residents programme

CIH Award in Resident Scrutiny

All the documents listed above can be downloaded from http://bit.ly/unZyV9