

THE CHARTER FOR SOCIAL HOUSING RESIDENTS:

Social Housing White Paper – at a glance



Foreword

The Social Housing White Paper looks to reset the relationship between social landlords, residents and the Regulator of Social Housing. The changes highlighted in the paper are intended by government to make a measurable difference to the experiences of those living in England's four million social homes in the years ahead.

In the light of the challenges for social housing highlighted by Grenfell and Covid-19, this Social Housing White Paper will be recognised by the market as necessary. The overall consensus is that residents need to be protected, heard and respected; social housing landlords need to be accountable – but they also need to be supported to do their job in challenging social and economic circumstances.

Our housing experts react here to the notable proposals and themes coming out of the chapters of the White Paper.



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Chapter 1: To be safe in your home

With the Grenfell Tower Phase 2 Inquiry ongoing and England in its second lockdown, it is perhaps pertinent and appropriate that the first chapter of the White Paper addresses building safety and the need for residents to be safe, and feel safe, in their homes.

The White Paper sets out what the Government has already achieved (primarily under its building safety and fire safety legislative regime proposals) but includes a few social-housing specific additions. These are designed to ensure that the regulatory regime for social housing providers puts residents at its heart and reflects the general change of emphasis that the White Paper encapsulates.

Specific proposals include:

- The Regulator of Social Housing will include safety specifically in its consumer regulations. This means that the Regulator of Social Housing will hold landlords to account for meeting defined health and safety requirements and strengthen the oversight it has over the steps that landlords take to ensure the safety of their residents. This will mean that building safety is also part of the Tenant Satisfaction Measures and at the heart of how a landlord's success will be measured, rated and compared.
- There will be a new obligation for each landlord to appoint a “nominated person” at a sufficiently senior level in the organisation to “drive a culture of safety”, prioritise and deliver health and safety requirements, ensure robust health and safety systems are in place and providing assurance that health and safety risks are being managed effectively. This appointment will need to be considered alongside those of the “Accountable Person” pursuant to the building safety regime and the “Responsible Person” pursuant to the fire safety regime. At present the draft Building Safety Bill requires the Accountable Person and the Responsible Person to co-ordinate and co-operate: a third person will need to be added to that list.
- The sharing of information between the Regulator of Social Housing and the Building Safety Regulator will be set out in a Memorandum of Information between the parties. A significant amount of information and data is needed to underpin the new building safety regime and a culture of transparency under both the regulatory and building safety regime is being promoted. Landlords will need to be cognisant of this information sharing agreement with the potential for the same information to be used in different ways by the two regulatory bodies.
- Two new consultations will be undertaken – on the requirements for smoke alarms and carbon monoxide detectors (launched alongside the White Paper) and on electrical safety (consultation to follow) to bring these requirements in line with private-sector rented homes.



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Chapter 2: To know how your landlord is performing

The accountability of social landlords to their residents sits at the core of the White Paper. When set against the background of the Grenfell Inquiry and the government's Call for Evidence, this is not a surprise. The White Paper proposes a combination of measures to achieve that accountability.

Specific proposals include:

- Tenant satisfaction metrics - the creation of a system of publishable metrics against a standardised set of tenant satisfaction measures – the KPIs/league tables heralded in the original Green Paper. The system, to be created and implemented by the Regulator of Social Housing, will apply to all social landlords and cover a range of consumer and financial matters (including executive remuneration). A series of performance measures are outlined in the White Paper as a basis for further consultation with stakeholders. Performance against the resulting measures will be published so that residents can assess their landlord's performance relative to others. The data will also be used by the Regulator of Social Housing to inform its regulatory engagement with individual landlords. As with any metric and data reporting exercise, the challenge will be to ensure that the results can be properly and fairly interpreted.
- Access to information scheme – the government has stopped short of extending the full statutory Freedom of Information regime to private social landlords, opting instead for a more limited regulation-based scheme to allow residents and their representatives' access to information about the management of their homes. The detail is awaited, but like the Freedom of Information regime, the scheme will include prescribed response times as well as exemptions from disclosure. Interestingly, the proposals also extend to information held by sub-contractors. In the absence of a statutory requirement, landlords will need to ensure that future sub-contracts impose suitable obligations on sub-contractors to provide such information.
- Information of the use of funds – all social landlords will be required to publish information on how their funds are spent. Ostensibly, this is to give residents the opportunity to challenge whether those funds are being spent on matters that are important to them. Given the complexity of modern day social landlord operations, the detail of how this is intended to work in practice will be eagerly awaited.
- The "Responsible Person" – in common with the current Fire Safety Bill and Building Safety Bill, the White Paper requires that social landlords appoint a named individual at a senior level within the organisation to be responsible for securing its compliance with the consumer standards. To be introduced as part of a wider requirement for landlords to provide greater information about the responsibilities of senior staff, the Responsible Person is to be clearly identified to residents, the Regulator of Social Housing and the Housing Ombudsman.



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Chapter 3: To have your complaints dealt with promptly and fairly

Chapter 3 of the White Paper very much continues in the same direction of travel as other recent regulatory changes. It builds on the reforms to the way the Housing Ombudsman works which came into effect in September. The intention is to make the system much more resident-focussed, improving responsiveness and outcomes. It also continues on recent work to make the system of housing regulation more cohesive, with clearer lines of responsibility and accountability.

Specific proposals include:

- The Ombudsman is to get more resources, so complaints (which, after all, are likely to be about things fundamental to residents' welfare, like disrepair) are dealt with promptly and effectively.
- The Ombudsman and its powers are going to be promoted throughout the sector through an awareness campaign.
- There will be a clearer, standardised complaints process. At the moment, the Ombudsman cannot get involved unless and until a resident has been through the landlord's complaints process, and their MP, councillor or tenants' panel have been involved. Under the revised process, all landlords will have to follow the Ombudsman's Complaints Handling Code (published in July), and residents can go directly to the Ombudsman if unhappy at the end of the landlord's process.
- Determinations will be published on the Ombudsman's website from March 2021. There will also be wider reporting requirements.
- The relationship between the Ombudsman and the Regulator of Social Housing will be enhanced. The Ombudsman will be able to refer issues to the Regulator of Social Housing, meaning systemic problems will be easier to identify, and there should be less risk of issues "falling through the gaps". This builds on the Ombudsman's new Complaint Handling Failure Orders, introduced in September, under which the Ombudsman can make findings of maladministration and regulatory breach in relation to individual failures or wider problems.



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Chapter 4: To be treated with respect, backed by a strong consumer regulator for tenants

It is not a surprise that the White Paper includes substantial provisions for consumer regulation of social housing. The key features of the proposed regime appear to borrow heavily from what is widely regarded as the successful economic regulation regime that has been in operation for private registered providers of social housing since it was initially established in 2012. In particular, government has resisted calls for an independent regulator in favour of giving this substantially expanded role to the Regulator of Social Housing and has retained the overall co-regulatory approach that applies to economic regulation. The primary onus for compliance clearly rests with the private registered provider's board or local authority's councillors, but with a proactive regulator seeking assurance as to that compliance.

What is proposed is a very significant change. The White Paper provides clear direction, but there is significant detail still to be established. It will require primary legislation and a substantial amount of work to establish revised Consumer Standards and a Code of Practice as well as the development of a completely new approach to regulating the revised Consumer Standards. The Regulator of Social Housing will need to recruit a whole new team as well as appropriate additional Board Members. The sector as a whole will need to engage with residents, the Regulator of Social Housing and government to ensure that the resulting framework achieves the desired outcomes and will operate successfully across the full range of social housing and social housing providers. This will take time and commitment from all involved.

Specific proposals include:

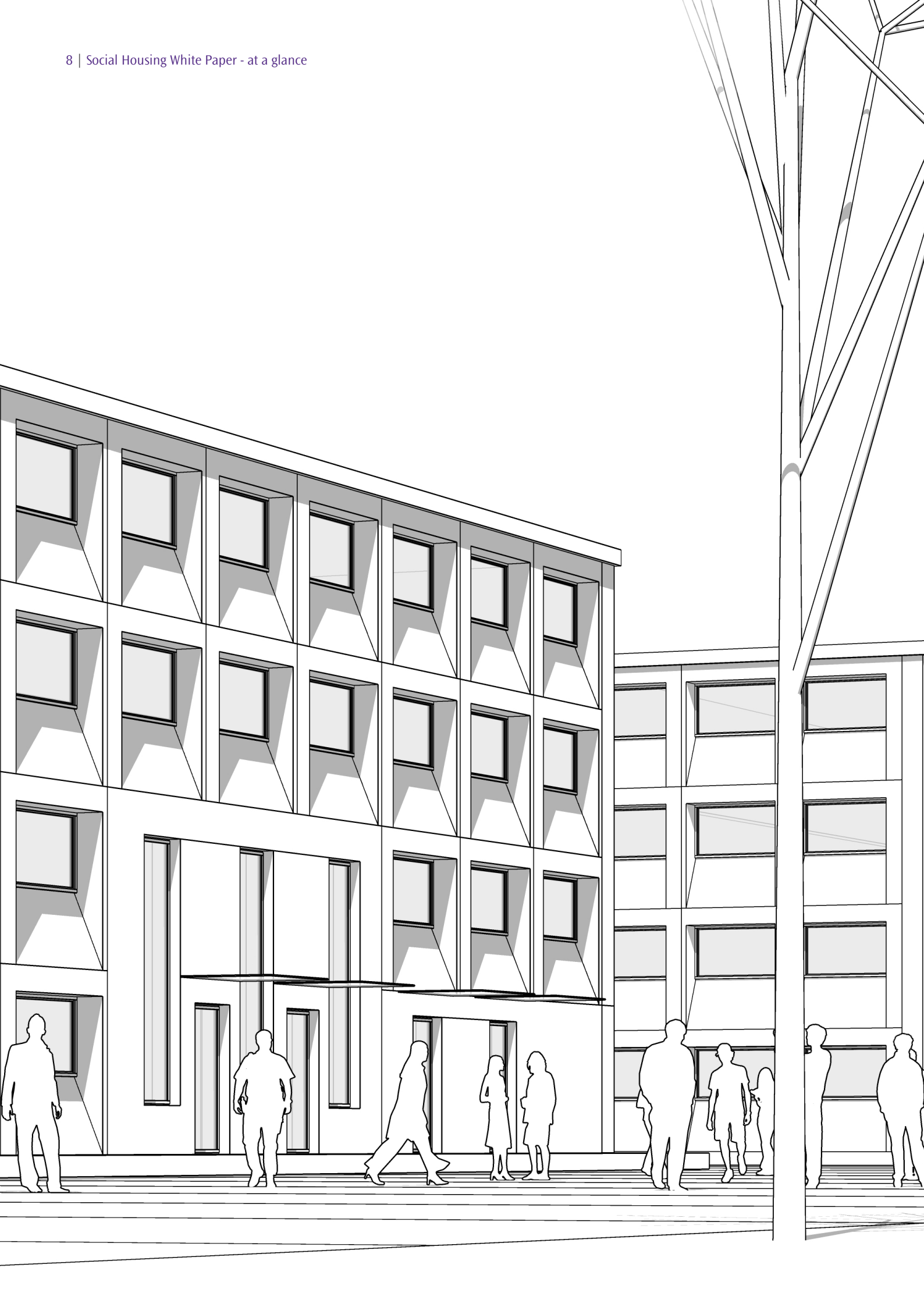
- Proactive regulation including monitoring and driving compliance, with a requirement for a senior person within the social landlord to be responsible for ensuring compliance by the provider with the consumer standards. This is stated to be outcome focussed and risk based, both positive features that will hopefully avoid the excessive prescription for which both Housing Corporation and Housing Inspectorate regimes have been criticised in the past.
- The removal of the serious detriment test.
- New consumer objectives relating to safety and transparency.
- Revised Consumer Standards and a Code of Practice to expand on what is required. The Code in particular will need to be carefully drawn to provide guidance as to expectations of landlords without being excessively prescriptive as to how they operate. The sector is extremely diverse and whilst the underlying objectives are applicable across the sector the mechanisms for achieving them will legitimately vary.
- Inspections every four years for social landlords with more than 1000 units, as well as reactive engagement should an issue arise. The design of the inspection regime will take some time, but hopefully, lessons will be drawn from the In Depth Assessment regime that has operated successfully in the economic sphere and which has received widespread acknowledgement.
- Stronger enforcement powers – in particular, removal of the cap on fines, a

power to undertake surveys on short notice and a power to require Performance Improvement Plans. Although there is no detail as to the nature of Performance Improvement Plans this would appear to be a mechanism somewhat similar to the 'voluntary undertaking' provisions in economic regulation. If so, this is a positive step forward as voluntary undertakings have proved to be a very effective and proportionate means of addressing a wide variety of weaknesses in relation to governance and financial viability issues within private registered provider. Historically, fines have not been regarded as an effective means of promoting appropriate outcomes given the predominance of not for profit providers in the sector, but fines are widely used by the Health and Safety Executive and other regulators such as the Information Commissioner so it will remain to be seen whether this too will change.

- Provisions relating to local authorities with ALMOs and TMOs to ensure that the authority can be held to account and that there are no barriers to effective regulation.
- Some provisions apparently targeted at supported housing providers, especially lease-based providers. These include provisions intended to ensure that only genuinely not for profit bodies remain registered as non-profit registered providers of social housing (benefiting from exempt (enhanced) Housing Benefit treatment), notifying the Regulator of Social Housing of any change of control and a 'look through' power to trace monies paid by a social landlord to other organisations.
- An intriguing provision relating to the establishment of an advisory committee to the Regulator of Social Housing. There is no detail as to the constitution of this committee or its role save that it is to have consultative powers in relation to consumer regulation issues. The context of this provision is about 'regaining' trust in regulation from residents so it may be that a resident voice will be reflected on this committee. The White Paper does not include any provisions relating to a national tenants' voice which was previously mooted and it may be that this committee undertakes a part of what was originally envisaged for that role.



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Chapter 5: To have your voice heard by your landlord

No “Charter for Social Housing Residents”, which is intended to raise the standard of social housing and meet the aspirations of residents throughout the country, and ensure that people living in social housing are treated with dignity and respect, can really achieve its aims without ensuring that there is a real voice for residents.

The White Paper acknowledges the many examples of effective resident engagement across the sector, but also states that this is not consistent enough, which is leaving many feeling patronised, ignored or treated with disrespect.

Specific proposals include:

- Improving landlord engagement – a requirement for much more tailored engagement which reflects that different residents want different levels and types of engagement. This must also be supported by an embedded culture of continuous improvement which looks to and learns from best practice on engagement, including from others sectors. There is an expectation that this requirement be set by the Regulator of Social Housing, together with a requirement that landlords show how they have sought out and considered ways to improve tenant engagement.
- Resident empowerment – a commitment to ongoing ministerial engagement which ensures that residents are kept at the heart of future policymaking and continue to shape social housing. A new opportunities and empowerment programme intended to deliver a range of learning and support activities, as well as providing information for residents on ways to get involved. This will include “rights” to do this as well as just the opportunity to do so. The programme is ultimately intended to give residents the tools to influence and hold landlords to account. Work will be carried out with tenant led national bodies to set out a plan for how residents can best be supported in this respect.
- There is also specific reference to the need for involvement to go further than just engaging with neighbourhoods, but also tackling loneliness and supporting people to have more meaningful social relationships.
- Strengthening professional development – in order to address issues around customer service, a review of professional training and development to consider the appropriate qualifications and standards for social housing staff in different roles, including senior staff will be undertaken. This is intended to achieve better consistency across the sector in terms of how tenants are treated, i.e. by staff who act professionally, who listen to their residents and treat them with courtesy and respect. The review will also consider best practice for delivering support on mental health to ensure staff maintain their skills and knowledge and, if required, set out proposals for new qualifications.



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Chapter 6: To have a good quality home and neighbourhood to live in

This chapter of the White Paper focuses on the wider role of social housing in supporting residents' sense of individual and community well being. It is in many respects the least detailed part of the paper, but establishes the building blocks for some of the potentially furthest reaching change.

The importance of design, quality and place has become evident to all of us during the national lockdowns. The importance of access to green space and good neighbourhoods to increase the feeling of wellbeing is acknowledged – both in the context of the built environment and through services available to residents.

Specific proposals include:

Built environment proposals

- A review of the current Decent Homes Standard is promised in order to consider whether it needs to change to meet the expectations and priorities of tenants and their present day concerns. Given this, the updating of the Decent Homes Standard is not guaranteed. The White Paper notes that a “case for change” of the Decent Homes Standard will need to be made and they will be progressed in collaboration with a cross-sector group to establish whether it needs to be updated to reflect current climate change and safety concerns; what the impact of the current decent homes standard has been. Further, the White Paper notes that any change in the Standard will need to be affordable and deliverable – but will there be additional Government support backing any change – who will hold the purse strings when considering affordability?
- A commitment to the decarbonisation of homes – introducing measures that will help the sector do its bit to meet the United Kingdom's commitment to net-zero carbon emissions by 2050; as well as helping residents' reduce their energy bills; address fuel poverty and achieve the Energy Performance Certificate B and C aspiration set out in the Clean Growth Strategy.
- The White Paper provides a significant amount of space to the provision of green spaces. It notes that it is keen to ensure that green spaces are provided for in accordance with the Framework of Green Infrastructure Standards, the National Design Guide, the National Planning Policy Framework and as part of the likely recommendations/outputs of the Planning for the Future White Paper and the Building Better Building Beautiful Commission. It also notes that any review of the Decent Homes Standard could include extending it to communal and neighbourhood spaces. It will provide a small pot of £4 million to undertake research with multiple partners across the health, housing and natural world sectors into how spending time in natural/green spaces is also able to improve well-being and mental health issues arising.

Neighbourhood management and community support

- Anti-social behaviour (ASB) and crime – in order to tackle the perception amongst some social housing residents that their landlord does not take sufficient action to deal with ASB, the government proposes to include within the Tenant Satisfaction Measures, a measure surrounding responsible neighbourhood management and ASB. As with any such measure, performance will be reportable to residents and available to the Regulator of Social Housing as part of its review of a social landlord's performance against the consumer standards. The government is also considering the scope for including crime and residents' perception of crime within the Tenant Satisfaction Measures. The eventual detail of these proposals will be keenly awaited because, as any impartial observer would identify, a social landlord's ability to deal with crime and ASB, particularly beyond the perimeters of its properties, is dependent upon a much wider range of factors that are within its ability to influence or control. This is in part recognised in the government's commitment to clarify for residents the different roles and responsibilities that the police, local authorities and landlords have in this area. It will be important that any resulting Tenant Satisfaction Measure is aligned to that part of the picture which a social landlord can reasonably be expected to influence.
- ASB and mental health – the government (recognising the potential linkages between those suffering with mental health or dependency issues and the perpetration of ASB) proposes that the professional training and development of social housing staff should be expanded to increase understanding and awareness of mental health issues in order to better enable them to address the needs and concerns of their residents.
- Allocation of social housing – a wider review of the manner in which social housing is allocated is trailed which will include consideration of how joint working between local authorities and social housing providers can be achieved together with improving allocations to adapted or adaptable homes to those who need them by better data capture and management.
- Domestic abuse – government views social landlords as well placed to spot early signs of abuse and to use allocations policies to secure safer accommodation. An extension to the Regulatory Framework is proposed to ensure that social landlords cooperate with local authorities in their duties to support victims of domestic abuse and to ensure that social landlords have a policy identifying how they will tackle domestic abuse issues.

It is interesting to note that none of the strategies in the White Paper mention the role that residents themselves have to play in achieving them. After all residents form the backbone of the "neighbourhoods and communities" in which their homes are located. One view is that they have just as an important role to play in order to respect, maintain, enhance and contribute to local neighbourhoods. Such concomitant responsibilities are key and should be acknowledged as an important factor in achieving the Government's aspiration for better homes and neighbourhoods. In order to succeed, the White Paper in this respect at least ought perhaps to be viewed as much a Compact as a Charter of rights.



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Chapter 7: To be supported to take your first step to ownership

Chapter 7 is largely a restatement of recent policy announcements targeting both increased delivery of new homes and a broader access to homeownership. It pulls together the funding allocations for both the Affordable Homes Programme and the £3 billion Affordable Homes Guarantee scheme alongside the recently consulted planning reforms and the renewed emphasis on local authority housing delivery. In the context of this White Paper, the focus is very much on the Government's ambition to enable better access to homeownership for social housing tenants.

Although the content of Chapter 7 provides little in terms of new announcements there are some interesting flags which may help shape the way the sector responds to the current policy emphasis on increasing homeownership.

Specific proposals include:

- The features of the new shared ownership model for the 2021/2025 Affordable Homes Programme are confirmed with an encouraging reference to the landlord covering only the cost of major repairs for new homes during 10 year “repair free” period. Further detail is awaited on the outcome of MHCLG’s technical consultation on the proposed changes – particularly in the context of the status of new build warranties and the view of the lenders. This statement does however seem to limit the scope of the new obligation to major repairs – rather than all repairs – during the 10 year period.
- The White Paper confirms the Government’s commitment to both Right to Buy and Right to Shared Ownership. Interestingly however it does not give any pointers to any further pilots for the Voluntary Right to Buy – the Midlands pilot will be evaluated but at the moment at least there seems to be little political pressure to extend the scope of the pilot.
- Rural providers – as well as those looking to develop in areas currently classified as Rural Exception Sites, will welcome the signal that further attention will be given to clarifying the current policy and the recognition of the importance of the delivery of affordable housing in rural areas. Further consultation on this policy area is now anticipated.



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