

IN THE MATTER OF THE INQUIRIES ACT 2005
AND IN THE MATTER OF THE INQUIRY RULES 2006

THE GRENFELL TOWER INQUIRY

**OPENING STATEMENT FOR MODULE 3 ON BEHALF OF
THE MINISTRY OF HOUSING, COMMUNITIES AND LOCAL GOVERNMENT**

1. The Department remains steadfast in its commitment to supporting the Inquiry, including in its efforts to continue its important work during the Covid-19 pandemic. The Department remains committed to learning the lessons from the Grenfell Tower tragedy and to driving forward changes to make buildings safer and ensure social housing residents' voices are heard and respected.
2. The Department notes that the Inquiry has indicated that Module 3 will be divided into three topics: firstly residents' complaints regarding fire safety risks, doors and the quality of workmanship during the refurbishment and the degree of engagement and response of the TMO and RBKC to those complaints, secondly the obligations of the TMO and RBKC under the Regulatory Reform Order 2005 and their compliance with those obligations, and thirdly the active and passive fire safety measures inside the tower and management of maintenance of the building.
3. These submissions focus on the first topic. In relation to the second topic, following Dame Judith Hackitt's "Building a Safer Future: Independent Review of Building Regulations

and Fire Safety”¹, the Home Office is taking forwards work relating to the Regulatory Reform (Fire Safety) Order 2005, for which it is responsible².

4. The Department is responsible for the Building Regulations and the Approved Documents, and will closely follow the evidence the Inquiry hears in relation to the third topic, the active and passive fire safety measures inside the tower and management of maintenance of the building.

The social housing white paper

5. The Inquiry will be aware that on 17 November 2020 the Department published 'The Charter for Social Housing Residents: Social Housing White Paper'³ ('the White Paper'). Alongside the White Paper, the summary of consultation responses received to both the social housing Green Paper and the call for evidence on the review of social housing regulation were published⁴. Announcing the White Paper to the House of Commons, Robert Jenrick, the Secretary of State for Housing, Communities and Local Government said:

“The tragedy at Grenfell Tower in June 2017 raised critical questions for everyone involved in social housing. The Chair of the Public Inquiry into the Grenfell Tower fire, Sir Martin Moore-Bick, identified broader questions on social housing policy raised through the consultation on the Inquiry terms of reference. It was agreed that these broader questions should not be within the scope of the Inquiry itself.

Through the 2018 Social Housing Green Paper we sought views on a wide range of potential changes by talking to residents across the country as well as launching a

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<https://www.gov.uk/government/collections/independent-review-of-building-regulations-and-fire-safety-hackitt-review>

² The Home Office issued a call for evidence, seeking views from the fire safety sector, those it regulates and enforcing authorities on the current effectiveness and application of the Fire Safety Order to provide a regulatory framework for the ongoing management of fire safety in non-domestic premises and the common parts of multi-occupied residential buildings. The summary of responses was published in March 2020,

<https://www.gov.uk/government/consultations/the-regulatory-reform-fire-safety-order-2005-call-for-evidence>

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<https://www.gov.uk/government/publications/the-charter-for-social-housing-residents-social-housing-white-paper>

⁴ <https://www.gov.uk/government/consultations/a-new-deal-for-social-housing> and

<https://www.gov.uk/government/consultations/review-of-social-housing-regulation-call-for-evidence>

Call for Evidence about how social housing is regulated. Many residents reported positive experiences, but others did not. We heard concerns about safety, and about complaints being handled slowly or poorly; that residents were not listened to or not treated with basic courtesy and respect.”

6. The evidence that the Inquiry will hear in Module 3 from former residents of Grenfell Tower raises similar concerns, and the Department will pay very close attention to the evidence that is heard during this Module, and the Inquiry’s ultimate findings.
7. The White Paper addresses two recurring themes raised by social housing residents around the country in the course of preparing the Green Paper and the conversations between the Secretary of State and his predecessors and former residents of Grenfell Tower. Firstly, that they didn’t feel listened to when they raised concerns and complaints and could only wonder what might have been avoided if their voices had been heard. And secondly, a broader sense that they had not been treated with the dignity and respect they deserved⁵.
8. The White Paper establishes a new Charter for social housing residents, setting out what every social resident should be able to expect. The Charter covers seven important expectations for social housing residents: to be safe in your home; to know how your landlord is performing; to have your complaints dealt with promptly and fairly; to be treated with respect; to have your voice heard by your landlord; to have a good quality home and neighbourhood to live in; and, should circumstances allow, to be supported to take your first step to ownership.
9. The White Paper sets out what the government will do to ensure landlords live up to the new Charter. Most significantly, the government is reforming the Regulator of Social Housing and empowering the Housing Ombudsman service to drive the culture change required, backed by strong redress and regulation measures. Should the Inquiry find it helpful, the Department would of course be willing to provide further details of the steps it has been taking.

⁵ Foreword by the Secretary of State, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/936098/The_charter_for_social_housing_residents_-_social_housing_white_paper.pdf

10. The reforms that the Department is taking forward through the Building Safety Bill⁶ include measures to ensure that for buildings 18 metres and above there will always be an 'Accountable Person' responsible for keeping residents safe, listening and responding to residents' concerns and ensuring that their voices are heard; to ensure residents' and leaseholders' access to vital safety information about their building; and complaints handling requirements. This will be overseen by a new national regulator for building safety, within the Health and Safety Executive.

The Department's role in relation to social housing and residents

11. The Department has a number of key responsibilities in relation to social housing. Firstly, it plays a role in supporting the delivery of new affordable homes through its Affordable Homes Programme. This programme also supports the provision of shared ownership homes, which enables people to purchase a percentage of the property. The Department also supports local authorities to deliver new homes, for example by setting rules on how they may use their Housing Revenue Account.

12. Secondly, the Department has policy responsibility for the legislative framework on the allocation of housing accommodation by local housing authorities (Part 6 of the Housing Act 1996). It also has policy responsibility for the legislative framework that governs the tenure of social housing under various of the Housing Acts.

13. Thirdly, the Department has policy responsibility for the legislative framework that provides for the regulation of social housing and aims to secure good levels of services and protection for tenants. This covers a range of activities including the level of rent landlords may charge, the expected quality of homes, and the provision of a complaints procedure.

14. Government has also supported alternative management models – such as Tenant Management Organisations (TMOs) and Arms Length Management Organisations (ALMOs). Building on local agreements, in 1994 Government introduced the statutory Right to Manage for council tenants, subject to a ballot of local tenants. ALMOs were

⁶ <https://www.gov.uk/government/publications/draft-building-safety-bill> and <https://www.gov.uk/government/news/explained-the-draft-building-safety-bill>

introduced in 2000 as a means of delivering decent homes funding to local authorities. ALMOs are wholly owned local authority companies set up by the council (with prior consent by the Secretary of State under section 27 of the Housing Act 1985) to manage all or part of its housing stock. The setting up of TMOs and ALMOs are underpinned by legislation and operate under the terms of management agreements with the local authority. The management agreements provide the framework for their operations, including: the functions to be delegated to the ALMO or the TMO; the standard to which these functions should be carried out; reporting and monitoring performance arrangements; the financial relationship and obligations of each party; actions to be taken where there is non-compliance or failure; and arrangements for terminations. Under both models, the local authority remains the legal landlord.

15. The Department also sponsors two executive non-departmental public bodies (also known as arms-length bodies) who are particularly relevant to Module 3: the Regulator of Social Housing and the Housing Ombudsman.
16. The Regulator of Social Housing (“the regulator”) regulates registered providers of social housing to promote a viable, efficient and well-governed social housing sector able to deliver homes that meet a range of needs. The objectives of the regulator are set out in the Housing and Regeneration Act 2008. The regulator’s functions include economic regulation (focusing on governance, financial viability and value for money that maintains lender confidence and protects the taxpayer, as well as protecting residents’ homes) and consumer regulation (supporting the provision of social housing that is well-managed and of appropriate quality, and protecting and empowering residents).
17. A more comprehensive description of the regulatory regime, which has been in place since 2011, and the regulator’s approach to enforcement is attached as an annex. Particular attention should be drawn to the regulator’s Tenant Involvement and Empowerment Standard highlighted in paragraph 14. The standard sets out how registered providers should engage and interact with their tenants, how they should handle complaints, and the importance of taking tenants’ needs into account. Paragraphs [38-42] of the annex set out how the complaints process for tenants works at the moment.

18. Prior to October 2018, the function of regulating social housing was the responsibility of the Homes and Communities Agency, acting through its Regulation Committee. The regulation function transferred from the Homes and Communities Agency to the Regulator of Social Housing, a new standalone public body, on 1 October 2018, in line with the Legislative Reform (Regulator of Social Housing) (England) Order 2018. The White Paper sets out how the Regulator's role will expand over the next few years, with senior leadership and new staff with the right expertise in consumer regulation, customer service and tenant engagement to effectively deliver the new proactive consumer regulation regime.

19. The Housing Ombudsman looks at individual complaints and can make wider recommendations for improvement as well as providing individual redress. The Housing Ombudsman currently has over 100 staff based in London which it is increasing to deliver quicker decision times. Its role is set out in the Housing Act 1996 and the Housing Ombudsman Scheme⁷. The Scheme, approved by the Secretary of State, enables tenants and other individuals to have complaints about landlords investigated by an independent Housing Ombudsman. The Housing Ombudsman's remit includes the activities of private registered providers of social housing and local authority housing management functions. Membership of the Scheme is compulsory for social landlords⁸, which includes local authority landlords and social landlords who are registered with the Regulator of Social Housing (which includes many housing associations). This means all social housing residents (tenants, leaseholders shared owners and residents of supported housing) have access to redress.

20. The Local Government and Social Care Ombudsman (LGSCO) is responsible for complaints about council housing services where the council is acting as the local authority and not as the landlord. This includes homelessness, housing allocations, housing benefit and home improvement services. However, all housing complaints

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<https://www.housing-ombudsman.org.uk/wp-content/uploads/2020/04/Housing-Ombudsman-Scheme-final-version-for-publication-Sep.pdf>

⁸ As defined in section 51(2) of the Housing Act 1996.

related to social housing landlord functions are dealt with by the Housing Ombudsman as set out above.⁹

21. As at 31 March 2020, 2,303 landlords representing 4,686,959 homes¹⁰ were members of the Housing Ombudsman Scheme. The Housing Ombudsman's service provides free, independent and impartial advice and can at any time help and work with landlords and residents to resolve disputes that are still in a landlord's internal complaints process. Residents also have the right, once the landlord's internal complaints process has been exhausted, to formally complain to the Housing Ombudsman if they remain dissatisfied who will investigate and deliver a final adjudication on the matter. The Housing Ombudsman is a corporation sole, a distinct legal entity with no board of directors. Those functions are vested in the person who is the corporation sole, in this case, the Housing Ombudsman. The Housing Ombudsman is solely responsible for the conduct of dispute resolution and the determination of complaints. The Housing Ombudsman scheme at the time of the Grenfell Tower fire was published in 2013¹¹ and it has been updated twice since, in 2018¹² and 2020¹³.
22. Compliance with the Housing Ombudsman's findings is high, with a 95% level of compliance with the Housing Ombudsman's orders within three months and a 99% compliance with the Housing Ombudsman's orders within six months¹⁴.
23. The White Paper sets out how the Government has approved new powers for the Housing Ombudsman in a new Complaint Handling Code, with which landlords will be expected to comply. The new Complaint Handling Code was published by the Housing Ombudsman in

⁹ <https://www.lgo.org.uk/make-a-complaint/fact-sheets/housing>

¹⁰ The Housing Ombudsman Annual Report and Accounts 2019/20 Page 5 - https://www.housing-ombudsman.org.uk/wp-content/uploads/2020/09/CCS207_CCS0320285036-001_The-Housing-Ombudsman-ARA-2019-20_Accessible.pdf

¹¹ The Housing Ombudsman Service Scheme February 2013 (Attached as a separate document)

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<https://www.housing-ombudsman.org.uk/wp-content/uploads/2020/09/Housing-Ombudsman-Scheme-May-2018.pdf>

¹³ The Housing Ombudsman Service Scheme February 2013 (Attached as a separate document)

¹⁴ The Housing Ombudsman Annual Report and Accounts 2019/20 Page 9 - https://www.housing-ombudsman.org.uk/wp-content/uploads/2020/09/CCS207_CCS0320285036-001_The-Housing-Ombudsman-ARA-2019-20_Accessible.pdf

July 2020¹⁵, together with guidance on new complaint handling failure orders, and came into effect on 1 January 2021¹⁶.

24. The Housing Ombudsman offered, and still offers, learning for landlords, covering employees of all levels, from housing officer to chief executive¹⁷, as well as guidance and e-learning on its principles of dispute resolution¹⁸. In the final quarter of 2017/18, the Housing Ombudsman launched a new and improved e-learning package for landlords with caseworkers sharing their knowledge and insight. Detail on this programme was set out in the Housing Ombudsman's 2017/18 Annual Report and Accounts.¹⁹

25. Since the Grenfell tragedy the Department has focused on supporting the remediation of unsafe social housing and considering how to make high rise buildings safe through the Building Safety Programme. It has also been talking to residents about their lived experience of social housing and developing ways to ensure that residents' voices are heard.

Submissions regarding the first topic: resident complaints

26. The Inquiry's letter of 31 July 2020 makes it clear that the Inquiry will only examine in Module 3 specific communications between local residents and the TMO. This relates to communications in which residents drew attention to defects in design, choice of materials or quality of workmanship which they said increased the risk of fire; or which the evidence suggests may in the event have contributed directly or indirectly to the

¹⁵ <https://www.housing-ombudsman.org.uk/wp-content/uploads/2020/11/Complaint-Handling-Code.pdf>

¹⁶

<https://www.housing-ombudsman.org.uk/wp-content/uploads/2020/11/Guidance-on-complaint-handling-failure-orders.pdf>

¹⁷ See for example

<https://webarchive.nationalarchives.gov.uk/20140603130924/http://www.housing-ombudsman.org.uk/advice-faqs/landlord-e-learning/> for historic examples from 2014 and

<https://www.housing-ombudsman.org.uk/landlords-info/e-learning/> for current information.

¹⁸ See for example

<https://webarchive.nationalarchives.gov.uk/20140603130941/http://www.housing-ombudsman.org.uk/advice-faqs/dispute-resolution-principles/> and

<https://webarchive.nationalarchives.gov.uk/20141216182134/http://www.housing-ombudsman.org.uk/learning-faqs/dispute-resolution-e-learning/> for historic examples from 2014, and

<https://www.housing-ombudsman.org.uk/landlords-info/> for current information.

¹⁹ Housing Ombudsman Annual Report and Accounts 2018/18 Page 24 -

https://www.housing-ombudsman.org.uk/wp-content/uploads/2018/07/Annual-Report-and-Accounts-2017-18_Web-Accessible.pdf

outbreak or development of the fire on 14 June 2017; and the TMO's response to the these. On that basis, the Department submits that in relation to the first topic, the areas that the Inquiry may wish to address include:

- a. Whether the TMO's definition of a complaint was appropriate, and whether some complaints were treated as 'enquiries'.
- b. Whether the TMO imposed any inappropriate restrictions or thresholds on matters it would consider as complaints, and the ability of residents to make collective complaints.
- c. Whether the TMO took responsibility for complaints relating to work done by contractors.
- d. Whether the TMO and/or RBKC sufficiently monitored the handling of complaints, including gathering qualitative as well as quantitative data and considering lessons that could be learned from complaints.
- e. Whether the TMO and/or RBKC ensured staff handling complaints at all levels had appropriate training, and whether any staff had undertaken the Housing Ombudsman's training for landlords, or dispute resolution training.
- f. Whether the TMO and/or RBKC's handling of complaints followed the Housing Ombudsman's high-level good practice guidance on dispute resolution: be fair - treat people fairly and follow fair processes, put things right, and learn from outcomes.
- g. Whether residents were provided with sufficient information about the TMO's own complaints system and the role and availability of the Housing Ombudsman by the TMO and/or RBKC.
- h. Whether the TMO and/or RBKC ensured vulnerable residents or those for whom English was not their first language were able to understand their rights and access the complaints procedure.

- i. Whether residents' access to the Housing Ombudsman was fettered by the TMO and/or RBKC.
- j. Whether the Housing Ombudsman decisions were consistently reported to the Board, and whether the TMO ensured it learnt from the Housing Ombudsman decisions.

19 March 2021