Time for consumer regulation to be re-booted – Roger Jarman

Ten years ago this month Professor Martin Cave published his seminal report on housing regulation – ‘Every Tenant Matters’. This marked the high point in the evolution of social housing regulation in England. As the title suggests, the service user was put at the very heart of the regulatory framework devised by the Professor and his team. The report’s blueprint was enshrined in the Housing and Regeneration Act 2008. One outcome saw the creation of the Tenant Services Authority (TSA) as a standalone agency to regulate the sector as a whole (covering both local authorities and housing associations). The Homes and Communities Agency (HCA) was set up to fund and manage state investment in the social housing sector.

The TSA was given a wide range of regulatory tools. Many were designed to ensure tenants received the best possible housing service and that users would have real influence over the delivery of those services by their landlords. But the TSA had barely been established when the coalition government assumed power in 2010 and the dismantling of the new regulatory regime began. Indeed Grant Shapps (the housing minister in the new government) had boasted that the TSA was ‘toast’ when he was opposition. A rearguard action saved the regulatory function from complete abolition after lobbying from the City’s financial interests. This intervention made sure the pared down regulatory framework would concentrate on assessing the financial viability and governance of housing associations (local authorities would hardly feature in this brave new world). This demonstrated the influence of the finance sector as it sought state assurance that its £67bn investment in housing associations was secure. At the same time tenant bodies like TAROE had their state funding withdrawn and Cave’s proposals for a National Tenants’ Voice to represent tenant interests in discussions with government and landlord bodies were ditched.

The new arrangements were put on a legal footing in the Localism Act 2011. The TSA and the Audit Commission (which ran the housing inspections in conjunction with the TSA) were abolished as part of the ‘Bonfire of the Quangos’. Housing regulation – now part of a reconstituted HCA – was to be based on the HCA’s governance and financial viability standard (and latterly on the value for money standard too).

Tenants’ interests were not entirely ignored. Consumer regulation had a set of standards that providers were supposed to follow but those responsible openly acknowledged that

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this part of the regulator’s remit would be reactive only. ‘Serious detriment’ had to be proved before any form of intervention would be considered. Invariably the HCA only became aware of breaches in the consumer standards when providers had ‘fessed up’ that, for instance, a large number of gas safety certificates were out of date.

Even the sanctions applied to providers failing the consumer standard have mirrored the framework for financial regulation. Lazily the HCA downgrades the governance rating when the consumer standard has not been met. And because the HCA has no remit over the governance of local authorities, this measure does not even apply to local housing authorities or their managing agents (such as ALMOs or TMOs).

Overall despite having a plethora of powers to deal with underperforming providers – new managers can be appointed, fines can be levied, inspections can be commissioned to forensically assess the problems identified – the HCA has used very few of these regulatory tools. And with its co-regulatory approach, the HCA has simply monitored the actions of providers attempting to rectify their failure to meet the agency’s consumer standards. This is hardly pro-active regulation.

In the light of the Grenfell Tower disaster we need a re-boot of consumer regulation. The HCA is about to be broken up and regulation separated once more from investment (as recommended by the Cave Review when both functions were previously undertaken by the Housing Corporation). So we have a real opportunity to re-visit the conclusions of Professor Cave and also mirror the regulation of schools, hospitals and care homes where the key objective of the regulator is to judge services from the perspective of the user (be it the pupil, patient or care home resident). We need a regulatory framework that puts tenants first and foremost and one that looks at the performance of all landlords and is not focussed solely on housing associations. Furthermore we need a regulator that not only oversees the safety and security of tenants but also a regulator that assesses the quality of the services delivered by landlords. We do indeed need a regulatory system where every tenant matters – and one geared less to the interests of the banking sector.

This blog was originally posted by Inside Housing. The original article can be found here.
About the author

Roger Jarman has worked in social housing for over 35 years. He has worked as an academic, in local government and for a range of central agencies. In the 1990s he was Head of Housing Management at the Housing Corporation. From 1999 to 2010, Roger worked at the Audit Commission where he was Head of Housing. For much of the last 15 years he has specialised in the regulation and inspection of housing services. He is now an independent housing consultant and trainer.