

**IN THE MATTER OF THE TENANTS' ASSOCIATIONS (PROVISIONS  
RELATING TO RECOGNITION AND PROVISION OF INFORMATION)  
(ENGLAND) REGULATIONS 2018 (SI 2018 NO.1943)**

**AND IN THE MATTER OF A REVIEW OF AN OPINION FROM MR. JUSTIN  
BATES AND MISS CLARA ZANG**

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**OPINION**

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**Introduction**

1. I am instructed on behalf of the All- Party Parliamentary Group on Leasehold and Commonhold Reform (“the APPG”) to review the Opinion of Mr. Justin Bates and Miss Clara Zang dated 2018. Mr. Bates and Miss Zang were instructed to advise in relation to Part 3 of the Tenants’ Associations (Provisions Relating to Recognition and Provision of Information) (England) Regulations SI 2018 No.1943 (“the Regulations”). I have already advised the APPG in relation to the Regulations save for issues concerning data protection.
2. I am broadly in agreement with Mr. Bates and Miss Zang and it is only necessary to highlight three points in their Opinion.

**Data Protection**

3. I share the opinion of Mr. Bates and Miss Zang as to the misunderstanding of the data protection position. As they correctly identify, their opinion is based on the position taken by the Information Commissioner in response to the consultation. I do not need to add anything further.

**Convolutd process of obtaining information**

4. I also agree with them that the process of obtaining information is convoluted. I would, however, suggest that it is worse than this. Part 3 does not simply permit a

landlord to rely on apathy and confusion of leaseholders in order to prevent a tenants' association from obtaining recognition; it introduces myriad ways in which landlords can ensure that information is not obtained and erects unnecessary hurdles which the tenants' association must overcome before reaching the Tribunal. As I have advised, the effect is that the cost and time in seeking to exercise rights to obtain information is such that Part 3 acts as a deterrent, *not* an incentive, for tenants to form associations. I provide examples of this in my earlier Opinion to the APPG.

### **Formation of an RTA**

5. I fully appreciate that Mr. Bates and Miss Zang were not asked to advise in relation to recognised tenants' associations generally. Nonetheless it is necessary to express my disagreement with their opinion in respect of the requirement that membership of a tenants' association must not be less than 50% of qualifying tenants. Footnote (1) of their Opinion states that the 50% requirement marks a "liberalisation from the previous "rule of thumb" whereby 60% was required". This is, I accept, what is suggested in the Explanatory Memorandum to the Regulations. As I explain in my Opinion, this is wholly wrong. Rather than liberalising the powers of the Tribunal, it has placed a constraint on them which was not previously there. The Tribunal's jurisdiction to entertain applications for recognition has been severely curbed.

### **Conclusion**

6. In conclusion, I agree that the barrier requiring consent from tenants regarding contact details needs to be removed. I do not, however, consider that this is the only problem with Part 3 or, indeed, the Regulations.

**Rebecca Cattermole**  
**Tanfield Chambers**  
**14.xii.2018**