



3 July 2019

Sent by email to:

[genesis.residents.action@gmail.com](mailto:genesis.residents.action@gmail.com)

Dear 

### Your referral to the Regulator of Social Housing (the regulator)

I write in response to your emails of 17 & 26 June 2019, sent to the regulator on behalf of the Joint Committee of Notting Hill and Genesis Residents, about Notting Hill Genesis (NHG), a registered provider of social housing. We have now completed our consideration of the matters you raise and I am writing to let you know the outcome.

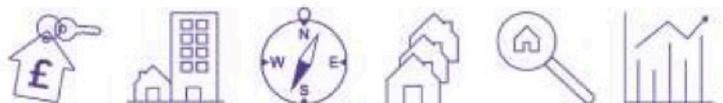
### Your referral

In your initial correspondence, you told us that on 24 May 2019, NHG consulted their leaseholders under Section 20 of the Landlord and Tenant Act as they were considering entering into a *qualifying long term agreement* (QLTA) on procuring a repairs management platform. A consultation period of a month was given during which leaseholders could submit observations and view documentation. You say that although Notting Hill and Genesis Residents Association (the residents association) requested to view documents as promised on 3 June 2019 and chased this on 10 June 2019, NHG's response has been initially to refuse access to the documents, and then later to allow viewing of the documents, but only after the consultation has closed.

You sent a further email with additional information, including a copy of a letter sent to the residents association from NHG, copies of emails arranging appointments to view the documentation; and a further letter to the regulator, responding to NHG's letter in which you state that NHG have breached the regulations quoting the *Service Charges (Consultation Requirements) (England) Regulations 2003, Schedule 2 Consultation requirements for qualifying long term agreements for which public notice is required*.

### Our role and our handling of your referral

Before turning to your concerns, it may help you to understand our role as regulator in complaints handling if I provide some context. Under the arrangements for regulation set out in the Localism Act 2011, the regulator no longer has an active role in monitoring registered providers' performance or compliance with our consumer standards. The regulator is only able to intervene in relation to any breach of the consumer standards where there has been, or is a risk of, 'serious detriment' (which we take to mean serious harm) to tenants or potential tenants. We have no role in the resolution of individual complaints but we consider all information received to see whether there are any wider issues



which would be of regulatory concern. I have attached a note which provides some more detail on our approach.

Bearing in mind our role, we have considered whether any of the issues raised in your correspondence represent a breach the consumer standards and, if so, whether there has been or is a risk of serious harm as a result.

Alongside that, I should also explain that although the consumer standards apply to all registered providers, they do not apply to all types of housing. 100% low cost home ownership and 100% leaseholder accommodation are excluded from the consumer standards.

### **The standards we have considered in this case**

We considered the issues you raised under the Tenant Involvement and Empowerment standard. I have copied the relevant sections below.

#### 1. Required outcomes

##### **1.2 Involvement and empowerment**

*1.2.1 Registered providers shall ensure that tenants are given a wide range of opportunities to influence and be involved in:*

- a. the formulation of their landlord's housing-related policies and strategic priorities*
- b. the making of decisions about how housing-related services are delivered, including the setting of service standards*
- c. the scrutiny of their landlord's performance and the making of recommendations to their landlord about how performance might be improved*
- d. the management of their homes, where applicable*
- e. the management of repair and maintenance services, such as commissioning and undertaking a range of repair tasks, as agreed with landlords, and the sharing in savings made, and*
- f. agreeing local offers for service delivery.*

#### 2 Specific expectations

*2.2.3 Where registered providers are proposing a change in landlord for one or more of their tenants or a significant change in their management arrangements, they shall consult with affected tenants in a fair, timely, appropriate and effective manner. Registered providers shall set out the proposals clearly and in an appropriate amount of detail and shall set out any actual or potential advantages and disadvantages (including costs) to tenants in the immediate and longer term. Registered providers must be able to demonstrate to affected tenants how they have taken the outcome of the consultation into account when reaching a decision.*

### **Our assessment of the issues you raised against the standards**

Bearing in mind our role as set out above, we have carefully considered the information you provided. In terms of the consumer standards, we began by considering whether the consumer standards applied to the issues you raised. In this particular case, we concluded that the matter was out of our remit and so we are unable to take regulatory action in this case.

We recognise the importance of this to the residents association, and so realise that you may be disappointed with our decision. I hope that the rest of this letter clearly sets how we considered your complaint and the reasons for our decision.

After considering the information you sent to the regulator, we concluded the consultation in question appears to relate to a consultation with leaseholders. Although we recognise the

importance of this issue for the residents association, under the legislation which governs our work, we are unable to consider complaints about leasehold properties and the consumer standards, including the Tenant Involvement and Empowerment standard which you refer, do not apply to leaseholders.

### **Taking your complaint further**

As mentioned above, the regulator does not have a statutory mandate to deal with individual complainants and cannot mediate in disputes between social housing landlords and tenants. The complaints procedures used by tenants may be available to members of the residents association. However, you may wish to seek confirmation from NHG about what complaints process is available to leaseholders.

If NHG cannot put things right, individuals may contact an MP, local housing authority councillor or Tenants Panel to act as a Designated Person to help resolve the complaint. If the Designated Person cannot help they can refer a complaint to the Housing Ombudsman Service. Complaints to the Ombudsman do not have to be referred by a designated person, but if they are not, there must be at least 8 weeks from the end of the landlord's complaint process before the Ombudsman can consider the case. The Ombudsman should also be able to confirm if a complaint falls within its jurisdiction.

You may wish to contact Lease (the leasehold advisory service, link to website here: <https://www.lease-advice.org/>), who may be able to advise both on the position of any NHG leaseholders with regard to this consultation, and on the interpretation of the relevant legislation and regulations where the word "tenant" is used outside of the day to day understanding of that term.

We recognise that this response may not resolve matters to your satisfaction but do hope that we have been able to clarify the regulator's role in handling complaints about registered providers in relation to the consumer standards, and to assure you that we have considered the issues you have raised in accordance with the regulator's remit. However, if you are dissatisfied with the level of service provided by the regulator then it is open for you to raise this through stage two of our complaints procedures. You can do this by writing or emailing, within three months from the date of this letter to:

Complaints  
Regulator of Social Housing  
1st Floor  
Lateral  
8 City Walk  
Leeds  
LS11 9AT

Email: [enquiries@rsh.gov.uk](mailto:enquiries@rsh.gov.uk)

The complaint procedures will not re-assess the content of your complaint in relation to the consumer standards but will consider how the regulator has handled the information you provided and whether this has been consistent with its policies and procedures.

Yours sincerely



**Referral & Regulatory Enquiries team**