



BRIEFING PAPER

THE CONSULTATION ON THE COMPETENCE AND CONDUCT STANDARD FOR SOCIAL HOUSING

February 2024



CONTENTS

1.	INTRODUCTION - BACKGROUND TO THE CONSULTATION	1
2.	WHAT DO WE LEARN FROM THE CONSULTATION?	1
3.	REGULATOR MUST SET A STANDARD FOR REGISTERED PROVIDERS OF WHICH THE REQUIREMENT FOR PROFESSIONAL QUALIFICATIONS IS A PART	1
4.	WHO IS IN SCOPE OF THE COMPETENCE AND CONDUCT STANDARD?	2
5.	ADDITIONAL RELEVANT PERSONS IN SCOPE: SERVICE PROVIDERS	4
6.	WHAT ARE THE RELEVANT QUALIFICATIONS?	4
7.	WHAT IS “WORKING TOWARDS” A QUALIFICATION?	5
8.	WHAT DOES TRANSITION LOOK LIKE?	6
9.	COSTINGS	7



1. INTRODUCTION - BACKGROUND TO THE CONSULTATION

An amendment to the Social Housing (Regulations) Bill (now the Social Housing Regulation Act 2023) in February last year announced that professional qualifications would be made mandatory for social housing managers. The information was sparse and the questions flowed many! More clarification was needed on phrases such as “working towards” a qualification and more information on what kind of transition period the Government was envisaging given that it had announced this would affect 25,000 managers across the sector. Fast forward 12 months and we have some more meat on those rather sparse bones.

- **The Government has issued a consultation document with further details and information.**
- **The consultation period will last until 2 April 2024**

2. WHAT DO WE LEARN FROM THE CONSULTATION?

The purpose of this briefing paper is to outline what we have learned about the Standard from the Consultation Paper and provide comments and guidance. We will address the following;

- The Standard for registered providers: the requirement for professional qualifications is a part
- Who is in scope of the Competence and Conduct Standard?
- Additional Relevant Persons in scope: Service Providers
- What are Relevant Qualifications?
- What is “working towards” a Relevant Qualification?
- What does transition look like?
- Costings

3. THE REGULATOR MUST SET A STANDARD FOR REGISTERED PROVIDERS OF WHICH THE REQUIREMENT FOR PROFESSIONAL QUALIFICATIONS IS A PART.

This Standard relates to “matters relating to the competence and conduct of relevant individuals” and requires registered providers to do the following;

- ensure that its staff comply with the relevant qualification requirements as set out in the Policy Statement (published alongside the Consultation) AND
- more generally provide a written policy outlining their commitment to and approach to ensuring these standards are maintained.

COMMENT: *It is envisaged that the new Competence and Conduct Standard will come into force from April 2025. The written policy must set out the RP’s approach to appraising staff*



who are relevant individuals and importantly, managing poor performance. This includes a requirement to adopt or develop an appropriate code of conduct for staff to whom the standard applies to ensure this is embedded with their organisation. Behind this measure is the drive towards transparency, accountability, and greater control.

4. WHO IS IN SCOPE OF THE COMPETENCE AND CONDUCT STANDARD?

A **Relevant Person** is the new definition of who will be caught by the qualification standard.

Who do you need to identify within your organisations as Relevant Persons?

Senior housing executives and senior housing managers if the following applies;

- They have a substantive role in managing the delivery of housing management services – i.e., they spend a significant amount of their working time managing the delivery of housing management services. Significant is half or more than half of that individual's work time. (Housing management services, however, do not include the delivery of care and support such as that provided in supported housing. Staff with managerial responsibilities relating to the delivery of these care services are not Relevant Persons unless they also spend a significant amount of their working time managing the delivery of housing management); and
- They are not an unpaid volunteer; and
- They have been in their current role for more than 6 months or;
- There is a probation period applicable to their current role and 9 months have elapsed since they began their current role; and
- They do not hold already or are not already working towards a relevant qualification and
- No exemption applies.

COMMENT: *Applying a 6-month requirement for an individual to be in their current role before they become a Relevant Person (and allowing for further time where a probation period is involved) enables RPs to assess the suitability of the person in that role, the potential return on investment and time to take action if required to redeploy or terminate the employment before committing to that person becoming a Relevant Person that requires training.*

Additional information on roles

The Policy Statement and consultation then helpfully dig down further into these roles. Previously we were relying on brief clauses and descriptions from the Institute for Apprenticeships and Technical Education (IATE). Now we have some information to work with;

What does a **Senior Housing Manager** do?



Usually manages the direct delivery of housing management services to tenants. Those engaged with the following functions will “usually” be included in this definition;

Customer services management, complaints management, tenant/resident involvement or empowerment, lettings management, tenancy management, income management, repairs and maintenance management, asset management, anti-social behaviour management, estate management and capital/major works.

They will often manage teams although line management responsibilities will not necessarily bring them into the scope of the Standard. Likewise, they may be a Relevant Person even without management responsibilities. The role is expected to be the tier below senior housing executive although again that might not be the case depending on the structure of the organisation.

What does a **Senior Housing Executive** do?

They will usually be Heads of Services and Directors providing strategic direction and be accountable for housing management services.

They will generally be expected to provide the following;

Overall strategic direction and accountability for the service quality, accountability for the organisation’s culture, accountability for ensuring implementation of strategies to manage and improve performance and accountability for ensuring accessible and customer-based policies and procedures.

The role is expected to capture a CEO and notes that according to the size of an organisation, a senior housing executive might not have overall accountability for all housing management services but may only have high-level oversight for a specific and substantial part – this will most likely be the case where overall accountability would be too big a role given the size of the organisation.

What if an RP delegates all their housing management services?

Even when the RP delegates all their housing management services to other third parties, they may still have senior housing managers and senior housing executives within their own organisation who will need to get qualified. This would be the case if there are people within the registered providers’ organisation who have responsibility for the quality of services and the day-to-day management and oversight of the contracts with those third parties.

Who is exempt? “Back office managerial roles” are exempt – essentially these are roles that do not manage the direct delivery of services to tenants. A useful example is given of a finance team; those involved in the processing of direct debits/housing benefits etc would be exempt. Those who manage the effective delivery of these processes and communication to tenants would not. Another example is maintenance; a housing manager who manages the repairs and maintenance works from start to end would be in scope but the operatives and contractors who carried out the works would not.



COMMENT: *We are aware that there are some senior housing executives with many years of experience and/or alternative professional qualifications who may not want to gain further qualifications and may look to leave the sector. It is possible that we will see an increase in restructures of executive teams with a re-allocation of responsibilities and direct line reports before the Standard is introduced in order to reduce the number of people required to obtain qualifications mitigating the financial and loss of senior resource and knowledge risks.*

5. ADDITIONAL RELEVANT PERSONS IN SCOPE: SERVICE PROVIDERS

The qualification requirement (but not the general requirement) of the Standard will also apply to service providers (SP). These could be Arms Length Management Organisations (ALMOs), Tenant Management Organisations (TMOs) or private companies contracted to carry out housing management services or individuals on an RP's behalf. From the date the Standard comes into force in April 2025, an implied term will be introduced into all management service agreements between registered providers and service providers whereby the latter will be contractually obliged to ensure that managers who are a Relevant Manager of a Services Provider under the Standard have or are working towards the relevant qualifications. In addition, the Consultation also states that registered providers will be required to take some responsibility to ensure that Relevant SP Managers of services providers (a term which includes relevant sub-contractors) are meeting the qualification Standard.

COMMENT: *While the inclusion of SP managers within scope is a surprise element, the proposal should not be entirely unexpected. Evidence heard by the Grenfell Tower Inquiry highlighted significant failings in terms of the professional conduct of staff employed by the TMO who delivered housing management services on behalf of the Council. We would imagine that the impact of this will be that the Regulator will in future scrutinise the steps an RP takes to secure this information. When putting out services for tender, sufficient employee and worker/contractor due diligence will mean asking tenderers how many staff are Relevant Persons. How many have Relevant Qualifications or are working towards them? For example, robust contractual provisions making the SP aware of their obligations and providing sufficient comfort and protection for the RP will need to be included in any management services agreement.*

6. WHAT ARE THE RELEVANT QUALIFICATIONS?

To be a relevant qualification, it must meet the prescribed qualification type for the relevant role AND meet the course content requirement.

As we know from the initial paper, Senior Housing Managers must have a level 4 qualification as regulated by Ofqual and Senior Housing Executives must have a foundation degree or level 5 qualification as regulated by Ofqual.

We now have the detail of what these qualifications must contain. A level 4 qualification must be a qualification in housing management and relevant to housing management delivery within social housing.



A Level 5 qualification for senior housing executives must be one in housing management and include as a minimum, areas of study such as ethical practices, professional practice skills in housing management, ensuring needs of tenants are met, customer service, strategic and business planning etc.

A higher level of qualification than those specified above may meet the requirement of a Relevant Qualification. This could include a foundation degree, an undergraduate degree, or a postgraduate degree. Importantly, however, the higher-level qualifications must meet the course content requirements outlined above. Apprenticeships are not relevant qualifications, however, where a qualification is taken as part of an apprenticeship programme then it will meet the Relevant Qualification threshold, provided it 1) is either a level 4 or level 5 qualification and 2) the contents of the course meet the relevant requirements.

Relevant Persons who hold or are working towards a qualification in housing management regulated by the Scottish Qualifications Authority (SQA), Qualifications Wales (QW), or the Council for the Curriculum, Examinations and Assessment (CCEA) (or a predecessor of one of those bodies), will be deemed to hold, or be working towards, a relevant qualification. The caveat is though that these equivalent qualifications are accepted provided the qualification is at the required level and meets the course content criteria set out in the policy statement.

COMMENT: *Helpfully, the Government appear to have addressed the potential age discrimination arguments and mitigated against the risk of staff being dismissed for not having the relevant qualifications because they are too old by ensuring that alternative qualifications obtained from predecessor. We note that there is no guidance on what proportion of the course content must be covered. If the course content is covered “in the main”, would that be sufficient?*

7. WHAT IS “WORKING TOWARDS” A QUALIFICATION?

When I last blogged about this, there was no indication of how long one might be allowed to be “working towards” a qualification. We now know that a Relevant Person must be enrolled upon a relevant qualification (or one that is a prerequisite to the relevant qualification) and be making progress towards completing that qualification within six months of being identified as a Relevant Person. There is a caveat whereby a person is enrolled on a course, but the next available course is more than 6 months but less than 12 months ahead. Interestingly, in those circumstances, despite them not actually starting the course they would be deemed as working towards the qualification!

This means that a new recruit (without a probation period) will need to be enrolled within 12 months of starting their role or within 15 months where there was a probation period.

COMMENT: *There are no prescriptive time frames set as to when qualification must be completed – the Government seem happy to leave that to the training providers. However, where no time limits are set by providers, a time frame of two years from enrolment to completion is proposed. There are of course caveats to these timings where staff are absent due to sickness/maternity leave or reservists in the army.*



8. WHAT DOES TRANSITION LOOK LIKE?

Registered Providers must ensure that Relevant Persons are qualified or working towards a qualification within **24 months of the Standard coming into force**. To ensure providers don't leave implementing this until the last months of the transition period, the consultation further notes that at least half of all Relevant Persons must be working towards or have completed the relevant qualifications within 12 months of the start of the transition period.

Registered providers with fewer than 50 units of stock will have a transition period of 48 months. There are also transition provisions regarding partially qualified Relevant Persons.

COMMENT: *If the Standard comes into force in April 2025, most RPs will have a transition period of two years until March 2027 (unless they have fewer than 50 units of stock in which case they will have until March 2029) to ensure that Relevant Persons are qualified or working towards a Relevant Qualification.*

The rationale in part for setting a transition period before the qualification “bites” and flexibility around the “working towards” time limits appear to be an attempt to mitigate against the finding that the qualification element of the proposed Competency and Conduct Standard could disadvantage people in the workforce based on their age, sex, disability, race and gender re-assignment. In particular, the public sector equalities duty assessment accompanying the consultation reports that the Standard will likely present a greater than average and negative impact on women who are more likely to have caring responsibilities, are 2.7% more likely to have to provide unpaid care and consequently have less time outside of contracted work hours to carry out this learning and meet the C&C Standard due to the expected 8 hour per week learning commitment. In turn, this could have negative consequences for this group's employment. While the consultation proposes that qualifications providers are able to provide some flexibility when it comes to the time limits or maximum duration allowed for completion of the qualification (i.e. when individuals' personal circumstances change, to accommodate those with new caring responsibilities, for example), in the absence of one being given by the Training Provider, the consultation proposes that the qualifications should be acquired within two years, which appears to be a hard deadline! Care will need to be taken in its application on a case-by-case basis to mitigate against the risks of discrimination.

Registered Providers will not need to require individuals already very close to retirement (e.g., under two years) to enrol upon a qualification as in theory, they will have left their post by the time the Transition Period concludes.

The assessment also notes that the Standard will also have a slightly disproportionate effect on individuals who are “trans” or “any other gender identity” as there is a slightly higher incidence, although for a smaller sample size, for this protected characteristic amongst the workforce compared to the overall population.

Those who are pregnant and on maternity or take an extended leave of absence to undergo gender re-assignment are also will be allowed to enrol in qualifications within six months after their extended period of leave (if pregnant or on mat leave) or to enrol on qualifications after



their extended period of leave (if protected by Gender Reassignment) but in contrast, we note no time scale is stipulated. Those with disabilities who may have difficulties accessing traditional learning and assessment methods should be afforded reasonable adjustments in the usual way. This group is allegedly underrepresented in the social housing workforce so any impact will be reduced.

9. COSTINGS

Rather disappointingly, the consultation is relatively silent as to costings. It refers to the impact assessment (published alongside the consultation) and asks for input as to the costings given. The cost impact assessment makes two key assumptions in calculating the monetised costs.

The impact assessment throws around a number of different costings. In particular, it alleges that the financial costs of the qualification element for senior staff in order to meet this Standard are £63.6 million in nominal terms and £58.4million in present value terms. It is not very clear what these terms represent.

In addition, it has assumed a level 4 qualification would take each individual 360 hours, a level 4 apprenticeship 496 hours and a level 5 qualification 320 hours based on the market for the Chartered Institute of Housing (CIH) qualifications. Therefore, there is also an 'opportunity cost' associated with this option for providers, the learner commitment is around 8 hours per week, though some individuals will have recognisable prior learning.

COMMENT: *The first point to note is the lack of information on financial assistance towards these costings. The biggest challenge for the housing sector will be how to fund these costs with limited resources in the context of rent caps, and increased regulation in a sector that has been underfunded for years and is expected to deliver more for less.*

While an apprenticeship of its own is not a Relevant Qualification, the fact that the level 4 qualification can be taken as part of an apprenticeship programme provides some financial relief in that the apprenticeship levy can be used to fund in part the professionalisation of the sector which will lower the cost to employers considerably. However, as the impact assessment notes, if RPs draw on the apprenticeship levy, this could lead to the cost of reducing the funding available for other priority apprenticeships within the housing sector.

The second point to note is that if Relevant Persons are to study 8 hours a week to obtain these qualifications, RP employers will have to factor in release time for staff to obtain these qualifications as an incentive for staff to complete them and to retain knowledge. This will impact some RPs' ability to provide a continuous service and is likely to have a detrimental impact on tenant customer service and housing management services. It is also worth considering including in future contracts, the fact that a job will be considered to be a Relevant Person requiring qualifications and if relevant, the need to have completed them within the period stipulated by the training provider, or if none, two years (subject to any exceptions and period of family-friendly, sick or compassionate leave being taken). Employers may also wish to include in new contracts of employment staggered repayment of training costs to encourage retention and reduce the risk of their return on investment



walking out the door too soon and having to start the process all over again with another candidate.

The content of this paper is meant as general guidance only. It is correct at the time of publishing and should not be taken as specific legal advice.

FOR MORE INFORMATION

If you would like specific advice on how these changes will affect individual circumstances, please contact Katherine.sinclair@anthonycollins.com.

