

Unite response to Tenant Services Authority's 'Building a new regulatory framework' discussion paper, September 2009

This response is submitted by Unite the Union. Unite is the UK's largest trade union with 2 million members across the private and public sectors. The union's members work in a range of industries including manufacturing, financial services, print, media, construction, not for profit sectors, local government, education and health services.

1. Introduction and summary

- 1.1. Unite represents members who work for Registered Social Landlords and in supported housing, working with some of the most vulnerable people in society, and in housing advice and support services. Unite also represents members in local government where members maintain and repair council housing and estates.
- 1.2. Unite welcomes the opportunity to submit preliminary comments on this discussion paper. These focus primarily on the TSA's proposed standards framework and Unite's view that there needs to be a standard on workforce matters in service contracts transferred from organisations registered by the social housing regulator. Such a standard should be modelled on the Code of Practice on Workforce Matters that applies to the public sector. Unite is aware that Unison has also written to the TSA in this regard and supports this objective and would welcome the opportunity to explore this in further detail.

2. Standard on workforce matters

- 2.1. The TSA has ten statutory objectives set out in the 2008 Housing and Regeneration Act. Unite believes that a number of these have particular relevance to the union's call for a standard on workforce matters, namely :
 - to encourage and support a supply of well-managed social housing, of appropriate quality, sufficient to meet reasonable demands;
 - to ensure that actual or potential tenants of social housing have an appropriate degree of choice and protection;
 - to ensure that registered providers of social housing perform their functions efficiently, effectively and economically;
 - to ensure that registered providers of social housing are financially viable and properly managed;
 - to encourage registered providers of social housing to contribute to the environmental, social and economic well-being of the areas in which the housing is situated.

- 2.2. The workforce is crucial to achieving these objectives and good employment practices are an essential part of delivering high quality public services.¹ In a recent consultation paper the Government acknowledged that a well trained and motivated workforce is critical to deliver best value in services, and that "...services which are outsourced cannot deliver best value where it is on the basis of poorer terms and conditions for employees working on public sector contracts".²
- 2.3. Unite has particular concerns in respect of 'outsourced' services and how this can lead to the erosion of employees' terms and conditions and the establishment of a 'two-tier workforce'.
- 2.4. The Government introduced a Code of Practice on Workforce Matters in local government (commonly referred to as the 'Two Tier Code') which was extended to cover other public services in 2005. The *Two Tier Code* arose after trade unions raised serious concerns that after services were being outsourced from the public sector newly recruited employees were being given worse terms and conditions than their transferred colleagues.
- 2.5. The TSA's discussion paper proposes a new standards framework. It is Unite's view that as the Social Housing Regulator, the TSA should establish a standard on workforce matters and that such a standard should be modelled on the Code of Practice on Workforce Matters that applies to the public sector. This general principal is also something that Unison has put to the TSA and Unite would support this objective and would welcome the opportunity to explore this in further detail and be involved in any discussions to develop such a code in respect of contracts transferred from organisations registered by the TSA.
- 2.6. Unite, through its predecessor unions, was involved in the discussions that led to the Two Tier Code and has a wealth of experience in dealing with its implementation, not least the importance of effective monitoring and enforcement.
- 2.7. Pensions are also a significant area of concern. Contractors often bid on the basis of a lower value pension scheme for the future, particularly in respect of new starters. In its response to the consultation on 'Best Value and Procurement Workforce Matters in Best Value Authority Contracting Statutory Guidance', Unite stated that *"in respect of pensions there remains a central and basic inequality that whereas on a transfer other rights are fully protected by TUPE, peoples' pensions are only protected to a limited degree. Also, unlike other areas where the 'no less favourable provisions' have to be applied to new joiners, this requirement for no less favourable treatment does not apply to pensions. Unite believes it should apply and new entrants to the workforce would have to be supplied with either admitted body status or a 'broadly comparable pension'. The current situation on pensions inequality continues to perpetuate a two tier workforce. Unite has made it clear that the required solution for pensions particularly in regards to the LGPS is for admitted body status to be made compulsory and for new entrants to be allowed into the LGPS"*.

¹ See, for example, ODPM Circular 03/2003 or *Playlist for Public Services* (National Consumer Council, 2005)

² Best Value and Procurement Workforce Matters in Best Value Authority Contracting Statutory Guidance: Draft for consultation, October 2008

- 2.8. Unite would also stress the importance of appropriate training and development and ensuring that this is recognised in respect of organisations contracted to provide services. Training is often one of the casualties of attempts to cut costs but it is an essential part of providing good quality services. Furthermore, short-term contracts and the increasingly contestable contract environment are leading to instability in the not for profit sector and driving down the quality of services and jobs. Longer funding streams are required.³
- 2.9. Finally, acknowledgement of the importance of workforce issues must include full and proper communication with the workforce and their trade unions.

Gail Cartmail

Unite, Assistant General Secretary, Public Services

gail.cartmail@unitetheunion.org

For further information, please contact;

John Earls

Unite, Research Section Head

john.earls@unitetheunion.org

020 7611 2657

³ See Unite's 2009 Recession Charter Not for Profit Sector,
<http://www.unitetheunion.com/PDF/Job%201936%20Recession%20charter%20A4%20v3%20latest.pdf>