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Institutional Formation in Tumultuous Times: Reforming English Social Housing Regulation Post-Grenfell

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Abstract: *English social housing regulation theoretically exists to promote the social purpose of the sector, yet the success of regulation against this objective has been questioned amidst concerns with the quality of service provided by landlords. Following the Grenfell Tower fire, the government initiated a reform process to reverse a policy of regulatory passivity on consumer standards. This paper conceives of regulatory reform as a case of institutional formation; a dynamic process that shapes conduct via rules, practices and narratives. It fills an empirical gap on how regulatory practice has responded to an ambiguous institutional environment where the governmental narrative was committed to improving standards, but formal legislation lagged. Quantitative text analysis demonstrates that the Regulator of Social Housing (RSH) has re-emphasised consumer standards post-Grenfell. But the process of institutional formation has been punctuated by social, political and economic crises, and the power of the regulator to enforce improved standards has been limited by legislative delays.*

Keywords: social housing; regulation; text analysis.

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Introduction

Regulation is central to the functioning of English social housing, with social landlords – public sector local authority landlords and non-profit housing associations (HAs) – monitored by the Regulator of Social Housing (RSH). RSH has the potential to prevent the loss of social housing due to landlord financial collapse, hold landlords accountable, and remedy poor service standards (LUHCC 2022). But regulation has been periodically reformed over the past four decades, evolving alongside changes in the sector that are often associated with political priorities, including rolling back state interference, and extending private finance (Goulding 2018). As such, the existing literature tends to treat regulation as subsumed to broader political economic projects such as neoliberalism, privatisation and financialisation.

However, these conceptualisations can obscure the contingency and complexity that characterises reform in practice (Lowndes and Lemprière 2018). There is a lack of research that focuses on the process of reform, and how new institutions are formed and embedded within social housing. This is pertinent as central government has been committed to reforming regulation and strengthening consumer standards since the 2017 Grenfell Tower fire (MHCLG 2018). Yet formal legislation has only recently been passed into law six years later, and an open question remains as to how regulatory practice has evolved in the intervening period.

This paper draws on the concept of institutional formation to theorise regulatory practice and reform, seeing it as a dynamic process that establishes the ‘rules of the game’ (Lowndes and Lemprière 2018). The empirical section utilises an innovative quantitative text analysis approach to understand changes in regulatory practice. The findings show that post-Grenfell, RSH has placed greater emphasis on consumer standards. But the process of regulatory reform has been gradual, and punctuated by social, political and economic events. Moreover, in the absence of formal legislation strengthening their powers, RSH was largely reliant upon landlords self-referring regulatory breaches.

Literature Review

Social Housing Regulatory Reform

RSH’s functions are split between *economic standards* – ensuring landlords are financially viable and delivering value for money – and *consumer standards* – expectations around tenant involvement, service standards and housing condition (LUHCC 2022). Successive rounds of governmental reform have shifted the focus of regulation around these standards, and reform is often treated in the literature as related to broader processes of neoliberalism, privatisation and financialisation (Goulding 2018). Regulation was critical to the policy of stock transfer covering the late-1980s to the end of the 2000s, during which HAs became the primary providers of social housing as large portions of public sector stock were transferred into non-profit ownership (Williams and Whitehead 2015). A key driver of stock transfer was the ability of HAs to borrow without it registering as public debt, and regulation provided a signal to investors of sectoral stability, facilitating the rollback of the state (Pawson and Mullins 2010). Nevertheless, during this era the regulator often intervened to deliver an improved tenant experience, especially in the 2000s as the Decent Homes Standard (DHS) was established to set a minimum expectation for housing condition (ibid.).

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The economic function of regulation became increasingly important post-2010 when governmental subsidy cuts led to greater reliance among HAs on private debt finance. Economic standards were regulated proactively post-2010, with RSH intervening to prevent loan defaults, and cyclically publishing judgements that graded the financial performance of landlords (LUHCC 2022). By contrast, a governmental preference for minimal regulatory interference resulted in consumer standards being regulated passively. A high threshold for intervention was established via the 'serious detriment test' that maintained the regulator would only intervene if there was the potential for major harms or fatalities (ibid.). The nature of regulatory practice shifted to become less prescriptive, more indirect, and to place onus on landlord self-governance (Raco et al., 2023). Thus, this period has been conceptualised as one in which the regulator's powers were eroded and its objectives subsumed to those of investors (Goulding 2018).

Conceptualisations of regulation focused on grand narratives – neoliberalism, financialisation – can present an overly coherent picture of regulatory reform in practice. A contrasting perspective comes from the field of policy analysis, which highlights issues such as fluctuations in the political agenda cycle, unforeseen events, the complexity of coalition building, and the veto points existing in multi-level governance (Cairney 2012). The implication is that reform is rarely linear or coherent, rather it tends to be conjunctural, contested and piecemeal. This is a timely reminder as social housing regulation has recently undergone another period of reform, intended to tackle issues relating to service standards and landlord accountability brought to the fore by the Grenfell tower fire that killed seventy-two residents in 2017 (MHCLG 2018). Governmental documents published post-Grenfell rhetorically committed the government to 'rebalancing the relationship between residents and landlords', strengthening consumer regulation to address falling standards of service, and consulting on a more stringent DHS (ibid.: 7; MHCLG 2020). Whether this results in transformational change remains to be seen; the Social Housing Regulation Act has passed into law only very recently in July 2023, and consultation on the DHS is ongoing. Nonetheless, the government's rhetoric on consumer standards calls into question the reduction of regulatory reform to strong versions of concepts such as financialisation (Raco et al. 2023). Moreover, it draws attention to a lack of research focusing on how the process of reform has affected regulatory practice in the interim. To fill this gap, I explore regulatory reform as a case of *institutional formation* (Lowndes and Lemprière 2018).

Institutional Formation

Institutional formation is part of the new institutionalism literature, where institutions are the 'rules of the game' that shape conduct within a policy domain (ibid.). The concept distinguishes three institutional forms: rules, practices and narratives. Rules are formal, including powers codified in legislation, and regulatory standards. Practices are 'rules in use' that are demonstrated through conduct, such as repeated patterns of group behaviour. Narratives embody values and ideas that give rules and practices meaning (Lowndes and Roberts 2013). The interrelationship between these three sources of constraint determines the institutional setting.

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Lowndes and Lemprière (2018: 228) conceptualise the actors in institutional formation as 'vertically nested' and 'horizontally embedded'. 'Vertically nested' describes how actors interact within hierarchies of power, such as central government operating through RSH. 'Horizontally embedded' describes how actors operate within diverse spatial and temporal contexts. Social landlords will be influenced by locally situated stakeholders – residents, local authorities, local media – and the legacy of their past decisions. Institutional formation is also dynamic; change can be gradual as actors reinterpret institutions, reframe issues, or exploit ambiguity from misaligned rules, practices and narratives. Or change can be rapid, initiated by events such as an election or economic crisis (Lowndes and Roberts 2013).

Institutional formation foregrounds the dynamic, contested and contingent nature of social housing reform. The current reform process is also relatively unique in that narratives have changed rapidly, but formal rules have lagged. As indicated by the previous section, in 2017 the policy narrative shifted towards using regulation to improve consumer standards, but the strengthened powers of RSH have taken six years to cohere into formal rules. The protracted nature of reform has been a source of criticism, with some social landlords arguing it created a period of institutional ambiguity (Marshall forthcoming). RSH told landlords not to wait for formal legislation to initiate service improvements (MacGregor 2021), but there is an open question as to how RSH regulated economic and consumer standards in the interim. As the established rules diverged from emergent narratives, there is an empirical gap relating to regulatory practice within this more ambiguous institutional setting.

Data and Methods

This study addresses the research question: *how, and to what extent, has regulatory practice changed in the English social housing sector throughout the period of consumer regulation reform?* Narrative regulatory judgements of social landlords by RSH provide the data source, on the assumption that the priorities of RSH when evaluating the performance of landlords will be reflected in increased or decreased discussion of consumer and economic standards in regulatory judgements. Changes in the content of regulatory judgements will be a product of numerous related trends, including changes in government policy, risks emerging from landlord practices, and macro-economic issues. Rather than this being a limitation, this helps focus the analysis on the contingent and conjunctural nature of reform in practice. Publicly available post-Grenfell regulatory judgements, ranging from February 2018 to June 2023, provide the corpus of documents (n=215).

Document content is analysed using latent semantic scaling (LSS), a recent innovation in quantitative text analysis.[1] LSS emerged in political science and uses the semantic similarity of words to scale documents along a conceptual dimension (Watanabe 2021). It has been used to determine the degree of negative-positive sentiment in news articles (ibid.), the extent to which stakeholders view policy as a success or failure (Vydra and Kantorowicz 2021), and to scale political attitudes along a left-right dimension (Zollinger 2022). In this application I use LSS to quantify the extent to which an RSH regulatory judgement discusses either consumer or economic matters when evaluating landlords. I produce two scales, one to measure the degree of emphasis on economic standards in regulatory practice, and a second to measure emphasis on consumer standards.

[1] For full a technical exposition of the method, see Watanabe (2021).

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LSS proceeds through three stages: specifying seedwords, scoring individual words, and scoring documents. First, the researcher specifies theory-derived seedwords that are highly associated with a concept of interest. Seedwords are assigned a value of 1, known as a *polarity score*, as seedwords are assumed to represent the ends (or poles) of a conceptual scale. Secondly, the LSS algorithm assigns a polarity score to each word in the corpus based upon whether it appears in similar sentences to seedwords. Words appearing in similar sentences to seedwords are assumed to be synonymous with the concept in question, and will be assigned a score closer to 1 dependent upon their degree of similarity.[2] Thus, the polarity scores of words provide a latent scale representing an underlying concept. Finally, the polarity of a document is calculated as the mean polarity score of all words contained in the document, weighted by the frequency of each word's occurrence in the document. Weighting each word polarity score by its frequency ensures that a document's overall score is a function of both how representative each word is of a latent concept and the proportion of the document dedicated to discussing said concept.

Table 1 presents the seedwords used to produce the two scales measuring regulatory practice. Seedwords were derived from theory and a close reading of a sub-sample. The key output is the document polarity score, which measures the extent to which an RSH regulatory judgement used words associated with economic or consumer standards, and by implication which regulatory standard was emphasised when evaluating a landlord in practice. A higher polarity score for each scale represents greater emphasis on a given regulatory standard. Prior to modelling, all documents were separated into sentences, converted to lower case, and common stop words, symbols and punctuation removed.

Table 1: Seedwords for LSS

Scale	Seedwords*
Economic standards	borrow*, business_plan*, covenant*, creditor*, financial, interest_cover, liquidity, risk_management, stress_test*, viability
Consumer standards	customer*, decent_homes, fire_safety, health_and_safety, home_standard, involvement, resident*, serious_detriment, tenancy_standard, tenant

**Note: * indicates a wildcard matching all words beginning with the seedword pattern e.g. 'resident*' matches 'resident', 'residents' and 'residential'. Words combined with an underscore match only the phrase as specified rather than the words in isolation.*
Source: Author.

LSS is preferred to alternative text analysis methods for the following reasons. Understanding how, and to what extent, regulatory practice has changed requires a method that can both identify words associated with consumer/economic standards, and determine the degree to which a document places emphasis on each. Inherent to the question, therefore, is a qualitative task of semantic understanding, and a quantitative task of measurement. Qualitative methods, such as thematic analysis, are highly effective at the former task, but lack the specificity that LSS can provide for the latter as they do not produce a quantitative scale (Benoit 2019). Dictionary methods are often used for these purposes, and provide an approach that is less

[2] To calculate similarity LSS uses word embeddings, which are dense vector representations of words. The distance between vectors is calculated as the cosine similarity of word vectors, weighted by seedword polarity score.

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quantitatively complex than LSS. Dictionary methods involve a researcher conducting content analysis of documents to compile a list of words associated with themes of interest, and subsequently quantifying the frequency with which these words occur in a document (ibid.). LSS has been shown to produce very similar results to dictionary methods in multiple applications (Watanabe 2021; Umansky 2022). Trubowitz and Watanabe (2021) apply LSS to classify news articles by the degree of threat they perceive from foreign states, and find the correlation between LSS predictions and those of human content analysis to be 0.94. Yet LSS is more easily scalable to large corpora of documents due to less reliance upon human input (Watanabe 2021). Moreover, as LSS automates the process of identifying seedword synonyms, it is more flexible than dictionary methods – dictionaries often struggle when applied in new topical or temporal contexts (Hargrave and Blumenau 2022) – meaning LSS can be used for future replications and extensions of the analysis as the Social Housing Regulation Bill takes effect. In any case, the results of LSS in this study are validated by a close reading of a sub-sample of documents, ensuring that quantitative results are consistent with the researcher's qualitative judgement, which is standard practice in quantitative text analysis (Grimmer et al. 2022).

The semantic themes and topics of text data tend to fluctuate over time in a non-linear fashion (Roberts et al. 2019). As I argue in literature review, we should expect regulatory practice to oscillate in a similar fashion due to the emergence of events, the time taken to build coalitions and capacity within RSH, and the delays inherent to the reform process. To model this process I use the scales for regulatory emphasis produced by LSS as dependent variables in two regression models, where 'date of publication' is the independent variable in each. I model changes in regulatory emphasis via natural splines, which are functions used within regression models to fit non-linear curves (James et al. 2021: 295-300). Natural splines are preferred to alternative means of modelling non-linearities – for example higher order polynomials – as they are less prone to overfitting to the data (ibid.). The most consequential decision in fitting a natural spline is the choice of degrees of freedom, which governs how non-linear the fit is. In this study the optimum curve is chosen via leave-one-out-cross-validation (LOOCV), which is a resampling method used to calculate a mean squared error (MSE) on withheld observations (ibid.: 200-202). I compare the LOOCV MSE on natural splines with degrees of freedom ranging from one to fifteen, choosing the model with the lowest MSE. The sample for the regression analysis is restricted to 2020 onwards as this period contains over ninety percent of judgements ($n = 194$), while estimates prior to 2020 are unstable and imprecise due to lack of data.

Findings

Figure 1 displays the modelled trends in regulatory emphasis over time, with economic standards in the top panel and consumer standards in the bottom panel. A positive (negative) number on the y-axes indicates documents have a higher (lower) emphasis on a given standard. Figure 1 shows that over time emphasis on consumer standards has grown relative to economic standards, with some notable fluctuations in terms of direction and the pace of change.

The period covering 2020 and early 2021 was dominated by the pandemic, which restricted RSH to monitoring economic performance remotely and relying upon landlords to self-report compliance with consumer standards (RSH 2021). This resulted in a low initial focus on consumer matters and a gradual rate of increase as the reform process was delayed.

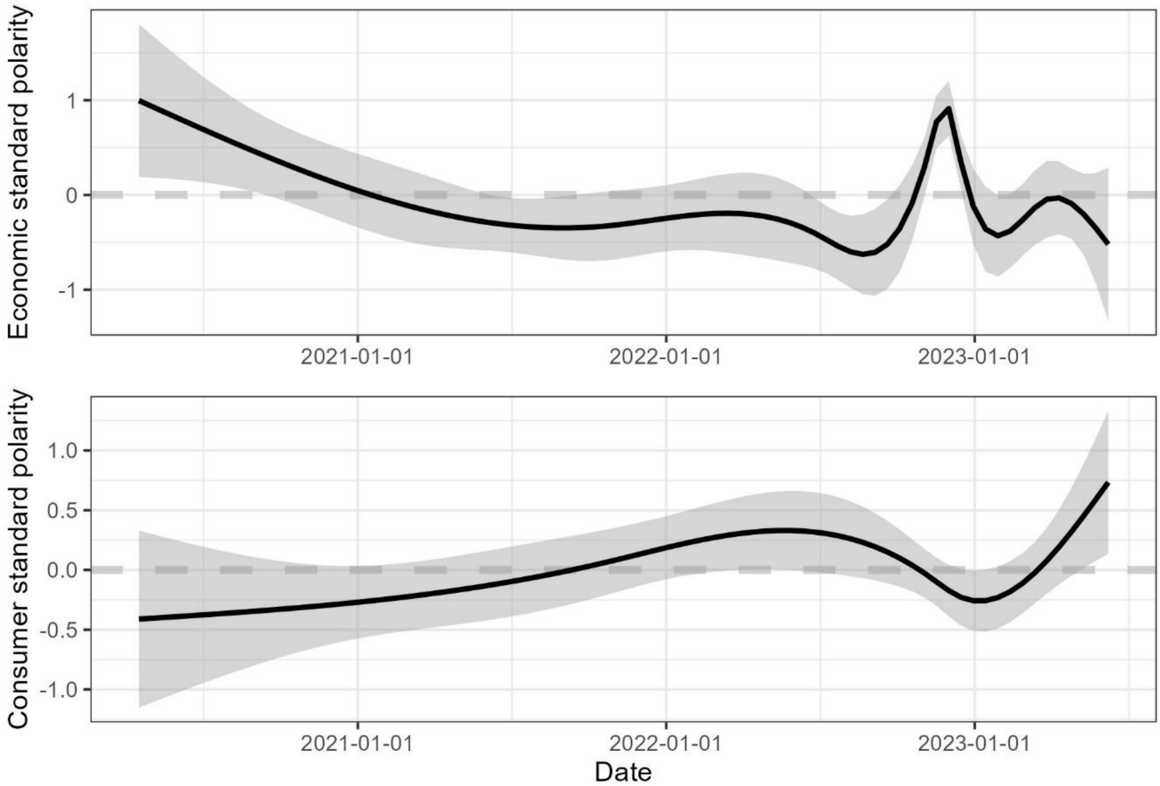

Figure 1: Changes in regulatory practice modelled over time
Note: Top panel is economic standards (natural spline with eight degrees of freedom). Bottom panel is consumer standards (natural spline with four degrees of freedom).
Source: Author.

Emphasis on consumer standards grew through the first half of 2022, and following a dip, rebounded to reach its peak by mid-2023. The growth in consumer emphasis followed a period of capacity building in RSH and the recruitment of new personnel to implement reformed consumer standards (MacGregor 2021). It was also reflective of numerous regulatory interventions relating to disrepair cases that breached the Homes Standard, an RSH consumer standard that establishes expectations around housing condition. These judgements focused on landlord failures relating to damp and mould, fire and electrical safety, and repairs services that were unresponsive to tenants. In the majority of these cases RSH concluded there was a potential for 'serious detriment' to tenants.

Consequently, this increased emphasis on consumer standards occurred despite the serious detriment test remaining in place, and with RSH reliant upon being referred cases in the absence of proactive inspections. Table 2 displays the sources that referred breaches of the Homes Standard to RSH, with the majority being a landlord self-referral. In some cases, self-referrals followed an extensive period of local campaigning, for example a case involving a London estate where residents protested with support from the London Renter's Union and local media (Butler 2022). High-profile cases of damp and mould also received national media coverage, and prompted a sector-wide investigation by the Housing Ombudsman (Housing Ombudsman 2023).

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Table 2: Referral source to RSH of Homes Standard breach

Referral source	Number*
By-product of regulatory interaction on economic standards	2
Housing Ombudsman	1
Media	2
Resident	1
Self-referral	21

**Note:* *Two cases were both media reports and self-referrals. Total cases = 25.*
Source: Author's calculations.

This general trend was interrupted in the latter half of 2022 when focus on economic standards spiked due to inflationary pressure and an interest rate rise. This prompted RSH to issue regulatory downgrades to 48 HAs (Brown 2022). These HAs typically had significant capital investment forecast to fund improvements in building safety, energy efficiency, and new housing. Yet RSH argued their investment plans made them financially vulnerable due to an increased cost of borrowing and general housing market uncertainty. Thus, in a new economic climate, increased emphasis on the quality of social housing is somewhat in tension with HA financial resilience.

Conclusion

Drawing on the concept of institutional formation, RSH practice changed post-Grenfell to place increased emphasis on consumer standards, reinforcing a policy narrative that regulation should deliver an improved tenant experience. RSH engaged in a process of what Lowndes and Lemprière call 'institutional remembering' (2018: 229), reactivating practices that have lain dormant during a period of regulatory passivity, and utilising the levers of power already available to deliver on the spirit of forthcoming legislation. This occurred despite the serious detriment test remaining in place according to the letter of the law, suggesting the shift in regulatory practice was in part due to RSH reinterpreting its powers and the 'rules of the game'.

However, the findings highlight the limited extent of change in the absence of stronger regulatory powers. RSH practice was caught between the legacy of passive consumer regulation, and a new institutional regime of proactive intervention. The practice of enforcing consumer standards was reliant upon RSH being alerted to breaches by other institutional players. Some cases emerged from 'horizontally embedded' actors, including local and national media, campaigners, and residents. But cases were predominantly self-referrals, implying regulatory practice was reliant upon a degree of willing compliance from social landlords, and underlining the importance of formal rules in bolstering a more proactive regulatory practice.

The fluctuations in regulatory emphasis also illustrate the contingent nature of policy reform as it was frustrated by unforeseen events and challenges. Institutional change has been for the most part gradual due to the legacy of the pandemic and ambiguity regarding the eventual content of strengthened consumer regulations. By contrast, the influence of macro political-economic events initiated rapid change in late 2022 when an interest rate rise punctuated the general trend of declining focus on economic standards. These trends reveal the difficulties of forming new regulatory institutions during a period of significant social, political and economic turmoil. It also points to the interaction between economic and consumer priorities, with social landlords attempting to finance investments in existing homes at a time in which the cost of borrowing is rising. Thus, the ambiguity and dynamism of the institutional setting has left an indelible imprint on the ability of landlords to deliver improved standards.

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