Consultation on changes to the Accounting Direction

November 2018
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### Scope of the consultation

**Topic of this consultation**

The Regulator of Social Housing is proposing to update the existing Accounting Direction. The proposed revisions have come about: as a result of the publication of a new Value for Money Standard; to accommodate the legislative abolition of the Disposal Proceeds Fund; and to reflect wider changes in legislation and changes in accounting standards and recommended practice.

We are consulting on the proposed changes to the Accounting Direction, which the regulator will review in light of the responses received to this consultation. Any changes that may be made to the Accounting Direction will come into force for accounting periods commencing 1 January 2019.

**Scope of this consultation**

Before issuing any Direction the regulator is required by the s126(6) Housing and Regeneration Act 2008 to consult one or more bodies appearing to the regulator to represent the interests of private registered providers. This consultation fulfils that requirement. It represents an opportunity for interested persons and organisations to influence how the Accounting Direction is developed and implemented.

Alongside the publication of this consultation document, the regulator will engage in discussions with stakeholders, including providers and sector advisors.

**Geographical scope**

These proposals relate to England only.

**Impact assessment**

Impacts are considered in our business engagement assessment (Annex 3).
## Basic information

<table>
<thead>
<tr>
<th>To</th>
<th>Private registered providers (PRPs), auditors, tenants, lenders and other stakeholders who have an interest in social housing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Body responsible for the consultation</td>
<td>The Regulator of Social Housing (RSH)</td>
</tr>
<tr>
<td>Duration</td>
<td>This consultation will last for 6 weeks from 8 November 2018. The closing date is 20 December 2018.</td>
</tr>
<tr>
<td>Enquiries</td>
<td>For any enquiries about the consultation please contact our Referrals and Regulatory Enquiries Team on 0300 124 5225 who will be pleased to help.</td>
</tr>
</tbody>
</table>
How to respond

Please respond online via SurveyMonkey:
https://www.surveymonkey.co.uk/r/accountingdirection2018

Please be aware that unless you complete the survey and click on the ‘submit’ button your response will not be registered as a completed return. However, these incomplete responses will be seen by the regulator and will be reviewed to determine whether they raise any new issues which it would be relevant for the regulator to consider.

Survey Monkey is an international company based in the USA and any data entered on their platform is stored and located in the USA. You can obtain full details of their security policy and privacy policy in relation to the data they hold on their site at the following links

• Security Statement
• Privacy Policy

If for any reason you are unable to complete a response on Survey Monkey you can email your response to the questions in this consultation to: consultation@rsh.gov.uk or write to the RSH at the address set out below.

Please include “Accounting Direction” as your subject heading.

If you are responding in writing or by email, please make it clear which questions you are responding to.

Written responses can be sent to:

Referrals and Regulatory Enquiries team
The Regulator of Social Housing
1st Floor – Lateral
8 City Walk
Leeds LS11 9AT

When you reply it would be very useful if you confirm which questions you are responding to, whether you are replying as an individual or submitting an official response on behalf of an organisation.

Please include:

- your name
- your position (if applicable)
- the name of organisation (if applicable)
- an address (including post code)
- an email address, and
- a contact telephone number.
Representative groups are asked to give a summary of the people and organisations they represent, and where relevant, who else they have consulted in reaching their conclusions when they respond.

We intend to publish an analysis of all formal responses after the closing date of this consultation. This will include anonymised responses and a list of all respondents to the consultation. Individual responses will not be acknowledged unless specifically requested.

RSH is subject to the Freedom of Information Act (FOIA) and the Environmental Information Regulations 2004 (EIR). Therefore, information provided in response to this consultation may be made available in accordance with either statute.

RSH has a statutory obligation to respond to all requests for information. To inform our responses, we consult with third parties where applicable and appropriate. Additionally, you should indicate any areas of information that you believe are particularly sensitive when submitting your consultation response.

Confidentiality agreements may not be binding under FOIA or EIR.

RSH will process your personal data in accordance with the Data Protection Act 2018.

**Equalities statement**

RSH is mindful of its statutory equality duties under section 149 of the Equality Act 2010.

The regulator will take a proportionate approach to its equality obligations and has identified no specific equalities implications for this consultation. However, based on responses to this consultation, the regulator reserves the right to revisit these matters if new information comes to light.
1. Executive summary

1.1. The Accounting Direction\(^1\) was last updated in 2015. The RSH is consulting on a number of proposed changes to the Accounting Direction.

1.2. The principal areas of proposed change to the Direction relate to:

- Value for Money (VfM), to reflect the requirements in the updated VfM Standard published in April 2018.
- The abolition of the Disposal Proceeds Fund by section 92 (and Part 3 to Schedule 4) of the Housing and Planning Act 2016.
- Various other changes, updates and the removal of requirements duplicated by being required by other accounting standards.

1.3. As there are a small number of proposed changes, the RSH is planning on consulting for six weeks.

1.4. It is proposed that any changes which may be made to the current Direction following the completion of the consultation will have effect for accounting periods commencing on or after 1 January 2019. The majority of registered providers have accounting periods that commence 1 April. Early adoption of this Direction will be encouraged.

1.5. The RSH will consider other changes to this document in future, and welcomes any comments in this respect.

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2. Introduction

2.1. Section 127 of the Housing & Regeneration Act 2008 permits the regulator to make directions to PRPs about the preparation of their accounts\(^2\), and to profit-making PRPs in respect of social housing activities\(^3\). The Accounting Direction does not apply to local authorities.

2.2. Section 127(3) states that:

“The power must be exercised with a view to ensuring that accounts:

a. are prepared in proper form, and

b. present a true and fair view of:

i. the state of affairs of each private registered provider in relation to its social housing activities, and

ii. the disposition of funds and assets which are, or have been, in its hands in connection with those activities.”

2.3. PRPs take a variety of constitutional forms, and the source and content of the relevant accounting obligations can vary across those different forms. The Accounting Direction ensures that PRPs report a common minimum set of disclosures within their accounts. The Direction also ensures that various aspects of compliance with the Regulatory Standards are disclosed and certified within PRP’s published accounts. This includes the VfM Standard, compliance with the Governance and Viability Standard and details of the code of governance adopted by the PRP.

2.4. The VfM Standard was subject to an extensive consultation during 2017 and an updated version was introduced in April 2018. The VfM Standard has, since being introduced in 2012, required demonstration of compliance through specific disclosure within the accounts. However the current wording of the Accounting Direction does not match the requirements of the updated VfM Standard, the associated Code of Practice\(^4\) and VfM metrics\(^5\). It is proposed that the Direction is amended to accommodate the VfM Standard changes.

\(^2\) Paragraph 127(1) Housing and Regeneration Act 2008

\(^3\) Paragraph 127(2) Housing and Regeneration Act 2008

\(^4\) https://www.gov.uk/government/publications/value-for-money-code-of-practice

\(^5\) https://www.gov.uk/government/publications/value-for-money-metrics-technical-note
2.5. Section 92 of, and Part 3 of Schedule 4 to, the Housing and Planning Act 2016 (HPA 2016) repealed section 177 of the Housing and Regeneration Act and abolished DPF with effect from 6 April 2017. However, under transitional arrangements the effect of section 177 has been preserved such that, those providers who had a DPF immediately prior to 6th April 2017, must continue to operate the DPF and comply with the regulator’s Disposal Proceeds Fund requirements until:

i. the fund is exhausted; or

ii. the PRP notifies the regulator that it is unable to use or allocate, or continue to use or allocate, funds in its DPF in accordance with the Direction; or

iii. or until 6 April 2020;

whichever is the earlier.

2.6. The proposed amendments to the Direction are designed to accommodate this change.

2.7. The RSH is aware that some stakeholders (auditors in particular) are of the opinion that further refinement of the Accounting Direction is desirable. This is centred on the current disclosures at note B (known as ‘segmental reporting’). The RSH is of the view that overall there is a continuing need for segmental reporting in a standard format but is keen to discuss this and receive comments and suggestions for future updates and revisions. This will be a separate piece of work that will be undertaken in the future.

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6 Housing and Planning Act 2016 (Commencement No 4 and Transitional Provisions) Regulations 2017 (SI 2017/75)
7 https://www.gov.uk/government/publications/disposal-proceeds-fund
3. Proposed changes to the Accounting Direction

3.1. The proposed revised Accounting Direction may be seen at Annex 1.

3.2. Following the VfM consultation it was evident that the Accounting Direction would need reconsideration. The current wording of the Direction reflects the requirements of the old VfM Standard and it is proposed that the wording should be changed to more closely align with the revised VfM Standard, making it clear that evidence of compliance with the Standard must be published within the accounts and removing reference to a VfM self-assessment and other VfM documents.

*Question 1: Does the proposed Direction adequately reflect the requirements of the current VfM Standard and regulatory framework?*

3.3. The deregulatory measures included in the Housing and Planning Act 2016 included abolition of the Disposal Proceeds Fund. The obligation to account for relevant disposals is currently included within the Direction but the obligation will cease after 6 April 2020 (or earlier where a PRP meets the relevant statutory requirements). This proposed change has been incorporated into the draft Direction with an update to the legislative background and DPF note.

*Question 2: Does the proposed Direction adequately reflect the requirements following the abolition of the Disposal Proceeds Fund?*

3.4. Details of all the proposed changes to the Direction are set out at Annex 2. It will be noted that various other changes have been proposed in addition to the changes referred to above. These proposed changes represent a mix of various factors:

- Updated legislative references.
- Revised definitions and notes intended to clarify the document and improve consistency with other returns.
- Removal of requirements that are duplicated by already being in FRS 102.

*Question 3: Do you agree with these proposed changes?*

3.5. It is proposed that any changes that may be made to the Direction will take effect for accounting periods commencing 1 January 2019 and afterwards. Early adoption will be permitted if registered providers wish.

*Question 4: Does the proposed implementation date provide PRPs an adequate timescale to implement the requirements of the Direction?*
4. About this consultation

4.1. This consultation document and consultation process has been developed to adhere to the Consultation Principles issued by the Cabinet Office⁸.

4.2. Representative groups are asked to give a summary of the people and organisations they represent, and where relevant, who else they have consulted in reaching their conclusions, when they respond.

4.3. Information provided in response to this consultation may be published or disclosed in accordance with the access to information regimes (the Freedom of Information Act 2000 and the Environmental Information Regulations 2004).

4.4. If you believe that the information that you are submitting is sensitive please say so when submitting your consultation response and explain to us why you believe that the information should not be disclosed in response to an information request. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that the information will not be disclosed. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the regulator.

4.5. The regulator will process your personal data in accordance with the Data Protection Act 2018 and your personal data will not be disclosed to third parties unless there is a legal requirement to make the disclosure.

4.6. Individual responses will not be acknowledged unless specifically requested.

4.7. Thank you for taking the time to read this document and respond. Your opinions are valuable to us.

Annex 1: The Accounting Direction

See separate document
## Annex 2: Summary of proposed changes

### Part 1

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overview</td>
<td>Updated to reflect legislation re abolition of DPF.</td>
</tr>
<tr>
<td>Commencement and requirements</td>
<td>Periods commencing 1/1/2019 – early adoption encouraged. Reference DPF abolition.</td>
</tr>
</tbody>
</table>

**The Schedule to the Accounting Direction for private registered providers of social housing 2015**

<table>
<thead>
<tr>
<th>Particulars of turnover, cost of sales, operating expenditure and operating surplus</th>
<th>Notes simplified and clarified.</th>
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</thead>
<tbody>
<tr>
<td>Particulars of turnover and operating expenditure from Social Housing lettings</td>
<td>Retained, including specific reference to allocating overheads.</td>
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### Part 2

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
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<tr>
<td>Financial reporting standards</td>
<td>Revised as FRS 102 covers this.</td>
</tr>
<tr>
<td>Accounting policies</td>
<td>Removed as covered by FRS 102.</td>
</tr>
<tr>
<td>Narrative reporting</td>
<td>Updated re VfM statement. Governance and Viability compliance to be measured up to signing of accounts.</td>
</tr>
<tr>
<td>External auditors</td>
<td>Updated for legislation.</td>
</tr>
<tr>
<td>Share capital</td>
<td>Removed. Already in other reporting requirements, but replaced with dividends and distributions (excl. Gift Aid).</td>
</tr>
<tr>
<td>Disposal Proceeds Fund</td>
<td>Included abolition of DPF.</td>
</tr>
<tr>
<td>Residential Accommodation owned and in management</td>
<td>Revised to ensure consistence with SDR.</td>
</tr>
<tr>
<td>Residential Accommodation managed by others</td>
<td>Revised to ensure consistence with SDR.</td>
</tr>
<tr>
<td>Group structures</td>
<td>Removed. Covered by FRS 102.</td>
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<tr>
<td>Glossary of terms</td>
<td>Updated re legislation and definitions of supported housing and housing for older people.</td>
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Annex 3: Business Engagement Assessment

<table>
<thead>
<tr>
<th>Title of proposal</th>
<th>Statutory consultation on Changes to the Accounting Direction</th>
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<tbody>
<tr>
<td>Lead regulator</td>
<td>The Regulator of Social Housing</td>
</tr>
<tr>
<td>Contact for enquiries</td>
<td>Referrals and Regulatory Enquiries team 0300 1234 5225 <a href="mailto:consultation@rsh.gov.uk">consultation@rsh.gov.uk</a></td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Date of assessment</th>
<th>Sept 2018</th>
<th>Stage of assessment</th>
<th>Final</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net cost to business (EANCB)</td>
<td>Commencement date</td>
<td>Jan 2019</td>
<td></td>
</tr>
<tr>
<td>Which area of the UK will be affected by the change(s)?</td>
<td>England</td>
<td>Price and present value base years</td>
<td></td>
</tr>
<tr>
<td>Does this include implementation of Red Taper Challenge commitments?</td>
<td>No</td>
<td>Is this directly applicable EU or other international legislation?</td>
<td>No</td>
</tr>
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</table>

Brief outline of proposed change

The regulator proposes to revise its Accounting Direction for private registered providers of social housing.

Why is the change proposed? Evidence of the current problem

The Accounting Direction is made under section 127 of the Housing and Regeneration Act 2008 which gives the regulator the power to “give directions to registered providers about the preparation of their accounts.”

PRPs operate under a variety of constitutional bases where the appropriate legislation for each type of body (Companies Act, Charities Act, Co-operative and Community Benefit Societies Act) does not lead to consistent financial reporting.

The Accounting Direction ensures that PRPs report a common minimum set of disclosures within their accounts. We aim to ensure that there is no duplication of reporting requirements in the Direction and the Statement of Recommended Practice (SORP) for registered social housing providers/ Financial Reporting Standard 102.
The Direction ensures that useful and consistent disclosures are seen by all users of accounts and this is in the interests of the stakeholders of PRPs. The Direction also ensures that various aspects of compliance with the Regulatory Standards\(^9\) are disclosed and certified within PRP’s published accounts. This includes the Value for Money Standard, compliance with the Governance and Viability Standard and details of the code of governance adopted by the PRP.

In the three years since the last update of the Direction there have been changes to the Regulatory Standards, updated legislation and definitions and in the next year there will be a new SORP. The new SORP is partly driven by the triennial update to FRS 102 as well as revised accounting for the Social Housing Pension Scheme. The changes have been taken into account in this proposal.

The VfM Standard was subject to an extensive consultation during 2017. This Standard has, since being introduced in 2012, required demonstration of compliance through specific disclosure within the accounts. The length of VfM statements previously published led to parts of the VfM assessment sometimes being published elsewhere, such as on the PRP’s website.

The result of the VfM consultation was a key decision on the critical path of how the Direction might need to be amended. The proposal is to change the current wording of the Direction so that it is more closely aligned with the revised VfM Standard, and to make it clear that evidence of compliance with the Standard must be published within the accounts (where accounts are published), and to remove references to a VfM self-assessment and other VfM documents.

The deregulatory measures included in the Housing and Planning Act 2016 included abolition of the Disposal Proceeds Fund. The obligation to account for relevant disposals is currently included within the Direction but will cease after 6 April 2020. It is proposed that this change will be incorporated into the Direction with an update to the legislative background and DPF note.

There are proposals for several other changes to the Direction. These are the deletion of paragraphs where there is considered to be an equivalent and identical requirement already in FRS 102 to remove duplication. Other proposed amendments are to remove uncertainly or improve clarity. These have been identified within the consultation document.

\(9\) https://www.gov.uk/guidance/regulatory-standards
Which types of businesses will be affected? How many are affected?

The proposed revised Direction applies to all PRPs. Legislation permits the RSH to make a Direction to non-profit-making PRPs preparation of their accounts and to profit-making PRPs about their social housing activities only. The Direction covers both, as specified within the document.

All private registered providers are affected by these proposals although there is a slightly reduced disclosure regime for smaller PRPs with fewer than 1,000 units of accommodation.

These proposals do not apply to local authority registered providers.

How will the change impact these businesses?

The proposed changes should make a positive impact for PRPs as some requirements have been removed, changes have only been proposed where the regulator considers that they are essential and the regulator has attempted to provide greater clarity in the Direction.

If the proposals are adopted the main change for PRPs will be the update of reporting requirements in respect of the VfM Standard. This has already been subject to a separate consultation.

This involved removing the requirement to submit a narrative-focused VfM self-assessment and will lead to a net reduction in the regulatory burden placed on providers, as the new reporting requirement will be more focused. The new reporting requirements will enable greater transparency and comparability across the sector.

Impact on small businesses

The majority of the sector comprises of small providers/businesses. We have addressed this in our consultation by minimising the impact on this section of providers in light of our duty to minimise interference and proportionality.

The consultation document proposes to continue our existing regulatory approach to regulating smaller providers of less than 1,000 units. Registered providers which own fewer than 1,000 social housing units collectively account for less than 5% of the sector’s total assets, turnover and debt. As a result, the regulator considers that a different level of regulatory engagement is more proportionate. Our full approach to regulating small providers is set out in our Regulating the Standards document.

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10 https://www.gov.uk/government/publications/regulating-the-standards
Equality and diversity

The regulator is mindful of its statutory equality duties under section 149 of the Equality Act 2010.

The regulator will take a proportionate approach to its equality obligations and has at this stage identified no specific equalities implications of the changes proposed in this consultation. The regulator’s changes to the Accounting Direction constitute primarily a change to the way providers prepare their accounts rather than being directive about the individual measures providers choose to take. In this as in all areas, the regulator’s co-regulatory approach means that these decisions are for the provider to take. As a result of this, a full equality analysis has not been completed on the proposed changes; however, equality will continue to be considered during future development of the proposals.

Although there are no apparent impacts arising from the proposals, providers are responsible under their own equality duties to ensure that their decisions support the requirements of the Equality Act 2010 and meet all aspects of the General Duty.

Due to this, it is incumbent on providers to ensure that they understand and address any impact on equality when working to complete their accounts under the Accounting Direction.

The regulator will review its consideration of the impacts on equality and diversity following the consultation and the analysis of stakeholder feedback to the consultation. Should any equalities-related issues arise following the consultation, the regulator will ensure that these are taken into account when finalising the proposals.

If it becomes apparent that a full equality analysis is needed then this will be undertaken and published with the Decision Statement.
Annex 4: Statutory consultees

Section 127 HRA 2008

(6) A Direction that relates to more than one registered provider may be given only after consulting one or more bodies appearing to the regulator to represent the interests of PRPs.

The following bodies will be consulted on the changes proposed within this document:

- The National Housing Federation
- The Statement of Recommended Practice for registered social housing providers Working Party
- The Institute of Chartered Accountants of England and Wales Social Housing Sub-Committee
- The Chartered Institute of Public Finance and Accountancy Housing Panel
- UK Finance

In addition, responses from individual registered providers or those considering registration will be welcomed. As will any responses from tenants, tenants’ groups, other representative bodies or individual funders to the sector.