



Regulator of
Social Housing

Regulatory Judgement on Sustain (UK) Limited 4687

January 2019

Publication Details

Reason for publication

First assessment

Regulatory process

Stability Check and Reactive Engagement

Please see the definitions in Annex 1 for more detail

Governance

G3 (Non-compliant)

The provider does not meet our governance requirements. There are issues of serious regulatory concern and in agreement with us the provider is working to improve its position.

Viability

V2 (Compliant)

The provider meets our viability requirements. It has the financial capacity to deal with a reasonable range of adverse scenarios but needs to manage material risks to ensure continued compliance.

Key to grades

G1 / V1	Compliant
G2 / V2	Compliant
G3 / V3	Non-compliant and intensive regulatory engagement.
G4 / V4	Non-compliant, serious failures leading to either intensive regulatory engagement or the use of enforcement powers.

Provider Details

Origins

Sustain (UK) Limited (Sustain) was registered in 2012 as a company limited by guarantee and is a non-profit registered provider. Sustain operates a lease based model for the provision of supported housing through three year short term lease agreements.

Registered Entities

Sustain is the only registered entity in the group.

Unregistered Entities

There are no unregistered entities.

Geographic Spread and Scale

Sustain operates in the West Midlands area and has a bed capacity of 2,365 across 433 properties.

Staffing and Turnover

Sustain reported a turnover of £19.4m at 31 March 2018 and employed 49 staff at that date.

Development

Sustain does not develop new housing. Its growth strategy is to acquire properties to rent under short term leases.

Regulatory Judgement

This regulatory judgement is the first published assessment of Sustain's governance and financial viability ratings. It replaces a regulatory notice published in August 2015.

The regulator has concluded on the basis of reactive engagement that Sustain does not meet our governance requirements. There remain issues of serious regulatory concern and in agreement with us the provider continues to work to improve its position.

The previous regulatory notice set out the regulator's findings of non-compliance with the Rent and Governance & Financial Viability standards.

Sustain had failed to provide assurance that its accommodation met the criteria for Specialised Supported Housing and was exempt from the requirements of the Rent standard, and subsequently excepted from the requirements of the Welfare Reform and Work Act 2016. The provider sought advice which confirmed that the criteria for an exception were not met and that rent should be charged with reference to the Social Rent Rate.

Sustain's board membership did not previously include any independent non-executive members and the provider was not compliant with its chosen code of governance. Inherent conflicts of interest had arisen as a result of related party transactions to companies owned by Sustain's executives. We stated in the regulatory notice that there was a lack of assurance that this and the issue of relatively high levels of executive remuneration were being addressed appropriately.

Sustain's board now comprises five independent board members and four executives and some progress has been made to put in place robust governance and risk management frameworks. Sustain has a co-regulatory approach and is engaging proactively with the regulator. With external advice and support the provider's board has considered the options available to it to address its remaining significant governance issues.

Sustain's board will need to continue its work to address and manage conflicts of interest and to put in place appropriate executive remuneration arrangements. A review will be undertaken to gain assurance on the appropriateness of the services delivered to and charges received by Sustain's tenants. There is an appropriate plan in place to agree and implement the necessary actions.

Until this work is complete the Regulator does not have assurance that Sustain meets regulatory governance requirements.

We have concluded that Sustain complies with the financial viability element of the Governance and Financial Viability standard. It has the financial capacity to deal with a reasonable range of adverse scenarios but needs to manage material risks to ensure continued compliance. Sustain's financial plan is based on reasonable macro-economic assumptions and it has no external debt or associated covenants.

Sustain remains materially reliant on enhanced housing benefit payments as its source of income. It must continue to carefully manage its position in relation to this exposure to ensure long-term viability and will need to complete planned work to review charges made to its tenants. The regulator will continue to engage with Sustain to understand the implications for Sustain's viability grading of the outcome of the work to review charges. We take assurance from the way Sustain has sought to mitigate this risk, for example by entering into short term leases only, with contractual arrangements in place to manage void risk. Sustain has reviewed its reserves policy and has increased the level of reserves it holds to further mitigate the exposure to income which is subject to volatility. Nonetheless appropriate stress testing and having in place effective mitigation strategies will be key to protecting the provider's financial viability.

Annex 1: Definitions of Regulatory Processes

In Depth Assessment (IDA)

An IDA is a bespoke assessment of a provider's viability and governance, including its approach to value for money. It involves on-site work and considers in detail a provider's ability to meet its financial obligations and the effectiveness of its governance structures and processes.

Stability Checks

Based primarily on information supplied through regulatory returns, a stability check is an annual review of a provider's financial position and its latest business plan. The review is focused on determining if there is evidence to indicate a provider's current judgements merit reconsideration.

Reactive Engagement

Reactive engagement is unplanned work which is triggered by new intelligence or a developing situation which may have implications for a provider's current regulatory judgement.

Stability Checks and Reactive Engagement

In some cases, we will publish narrative regulatory judgements which combine intelligence gained from both Stability Checks and Reactive Engagement.

Further Information

For further details about these processes, please see 'Regulating the Standards' on <https://www.rsh.gov.uk>