



Regulatory Notice May 2019

Registered Provider

Bespoke Supportive Tenancies Limited (BEST) (4718) was registered in June 2012, and designated as a not-for-profit provider. BEST is a private company limited by guarantee (company number 07375502) and is also registered with the Charity Commission.

The March 2018 Statistical Data Return (SDR) stated BEST owned and managed 996 units of social housing.

BEST has no unregistered subsidiary, but is a member of two Limited Liability Partnerships; Surrey Street Properties LLP and Leased Properties LLP.

Regulatory Finding

The regulator has concluded that:

- a) BEST is non-compliant with the governance and viability element of the Governance and Financial Viability Standard. BEST has not ensured its governance arrangements deliver an effective risk management and control framework, and that it has managed its resources effectively to ensure its viability can be maintained.
- b) BEST has not been able to demonstrate that it has managed its affairs with an appropriate degree of skill, independence, diligence, effectiveness, prudence and foresight.

- c) BEST has failed to ensure that it has an appropriate, robust and prudent business planning, risk and control framework.

The Case

The regulator has concluded that it lacks assurance and evidence that BEST is compliant with the governance and viability element of the Governance and Financial Viability Standard.

The regulator lacks assurance that the board's risk management framework is effective in identifying and managing risks associated with its strategy to enter long term lease obligations. It has no long term financial plan that demonstrates it can continue to meet its lease obligations under a range of scenarios and its underlying financial profile is weak meaning it lacks capacity to manage downside risk should it crystallise.

BEST enters into long term indexed linked lease arrangements with the private sector to acquire homes which are then used to provide accommodation to vulnerable tenants. The properties it acquires are leased on 'Full Repairing and Insurance' (FRI) terms which means that income collection, maintenance and repair and operating costs risks are transferred to BEST.

A required outcome of the Governance and Financial Viability Standard is that a registered provider shall ensure it has an effective risk management framework. BEST has repeatedly made decisions to enter into a series of long term lease agreements with no break clauses. We lack assurance that BEST has taken a suitably long term view on managing risks associated with this strategy, nor does it have a long term financial plan in place underpinned by appropriate assumptions. We lack compelling evidence that BEST undertakes adequate stress testing against a range of scenarios, with appropriate mitigation strategies in place, to ensure its long term viability.

BEST has provided examples of the financial modelling due diligence it undertakes on new schemes. This forms the basis of the Housing Benefit (HB) rent and service charge agreed with relevant local authorities, and reflected in a tenant's rental agreement. However, this information seen by the regulator demonstrates an inherent lack of financial capacity in BEST's operational model to manage downside risk such as voids or delays in agreeing rent and HB levels with local authorities.

The information seen by the regulator identifies that some downside risk has crystallised and that BEST's reported aggregated rent income is lower than its lease expenditure. Given BEST's business planning approach, and commitment to long term indexed FRI leases; to meet its contractual lease obligations BEST needs to finance the shortfall through alternative sources. The evidence provided to the regulator demonstrates that BEST can currently only continue to meet its lease obligations with the continuation of growth, third party support, and the use of pooled service charge income. Our judgement is that the board has been unable to demonstrate that the risks to its financial viability, or the financial implications if risks crystallise, can be effectively managed or mitigated over the life of its contracts.

To ensure its medium to long term viability BEST assumes its material income source (rent) being 'excepted' from the requirements of the Welfare Reform and Work Act 2016 by meeting the specialised supporting housing criteria. We lack assurance on how the board has satisfied itself that it is meeting this relevant rent-setting legislation.

These issues mean we lack assurance that BEST is managing its affairs with an appropriate degree of skill, diligence, effectiveness, prudence and foresight.

BEST is a charitable company, and our engagement identified that the directors registered at Companies House were inconsistent with the Trustees registered with the Charity Commission. This is a failure by BEST to comply with its own key governing documents, i.e. the Articles. BEST has taken recent legal advice on this matter, and is seeking to rectify this situation.

We have received some initial information from BEST on their compliance with statutory health and safety legislation, and the regulator will further engage on this matter.

The BEST board has committed to work with the regulator to address the issues outlined in this Regulatory Notice.

Based on its most recent statistical data return, BEST had fewer than 1,000 units and is classed as a small provider. The regulator does not publish regulatory judgements for providers which fall into this category. Instead, in the interests of transparency, the regulator publishes a Regulatory Notice where it has evidence that a small registered provider is not meeting the regulatory standards. This notice is published under those arrangements.

Section 220 of the Housing and Regeneration Act 2008 states that the regulator's regulatory and enforcement powers may be used if a registered provider has failed to meet a standard under section 194 of the Act. The regulator is considering what further action should be taken, including whether to exercise any of its powers.