



Homes &
Communities
Agency

The social housing regulator

PUBLIC MINUTES
of the Regulation Committee meeting
held on Monday 12 December 2016 at 10 am
Marsham Street, London

Present

Julian Ashby Chairman
Richard Moriarty
Ceri Richards
Simon Dow
Sarah Wall (from item 7)

In attendance

Fiona MacGregor Director of Regulation
Mick Warner Deputy Director Operations
Jonathan Walters Deputy Director Strategy & Performance
Jack Lee Asst. Director Investigation & Enforcement (Governance)
Harold Brown Asst. Director Investigation & Enforcement (Finance)
Catherine Farrington Principal Solicitor – Corporate & Regulation
John O'Mahony Asst. Director Regulatory Framework & Performance
Will Perry Asst. Director Commercial & New Entrants

Christine Kitchen Asst. Board Secretary

01/12/16 There was a confidential session between members and the Director of Regulation.

1 Welcome and apologies

02/12/16 There were no apologies.

2 Declarations of Interest

03/12/16 There were no new declarations of interest.

3 Minutes of the last meeting – 21 November 2016

04/12/16 The confidential minutes were APPROVED.

05/11/16 The public minutes were APPROVED.

4 Matters Arising

06/12/16 Members NOTED the items.

5 Committee forward look

07/12/16 Members noted the planner and members asked that there was a full twelve month plan in future reports. There will be standard item to update on the transition programme.

6 Regulation Director's update on key issues

08/12/16 Policy update:

Autumn Statement: Members noted the key outcomes of the Autumn statement as presented in the DoR report. The sector has welcomed the £1.4bn in additional funding. £200m for a regional Right to Buy Pilot which will run during 2017/18 and £2.3bn recoverable housing infrastructure fund and the £1.7bn for accelerated construction.

09/12/16 *Supported housing – LHA cap and future funding consultation:* Members were advised that the consultation has been launched. A green paper is expected in 2017.

10/12/16 *Deregulation:* DoR advised that a commencement date of 6 April 2017 has been agreed by the Minister and key stakeholders have been informed. External guidance is being drafted for publication in the new year. Consultation with staff in the registration team will end 6 January 2017 after which role matching to the new structure will begin.

11/12/16 *Performance Management:* nothing to add to the report - all targets are on track.

12/12/16 *Publications, media & stakeholders:* Regulating the Standards will be published w/c 12 December. A further revision of the RTS will be required following the deregulation and notification changes in the new year.

7 Transition programme

13/12/16 DoR presented the paper which provided the Committee with an overview of the approach to achieving implementation of a standalone regulator which will be a Non-departmental Public Body (NDPB). The paper set out the objectives and scope for the Transition Programme Board (TPB) which will oversee this work and going forward, how that board will report into Regulation Committee or the Regulation Shadow Board. Members were content with what they were being asked to note, discuss and agree.

14/12/16 Members noted that timing of the announcement and the need for a consultation on the Legislative Reform Order (LRO), the date for the standalone regulator will not be before April 2018. We are liaising with DCLG on the work the TPB will be doing. The intention is that, as far as possible, the move to a standalone regulator will be achieved via a "lift & shift" of our existing structure, corporate policies, etc. when the LRO is passed to minimise the disruption and help make the transition as smooth as possible. The nature of the change, moving the regulator out of the HCA, and the fact that our role is already set out in legislation means that the

amount of work, and complexity of it, is less than would be the case if we were setting up a completely new organisation.

- 15/12/16 **Board:** the intention is for the current Regulation Committee to become the Board of the NDPB. It is proposed that Membership will be increased to seven and work is on-going with DCLG to progress the appointment of new members. The powers and responsibilities of the board will be set out in a governance manual and will include delegations to sub-committees and the executive.
- 16/12/16 **Senior Management Team:** Members were asked to comment on the approach being suggested.
- 17/12/16 **Constitution of the NDPB:** DoR advised that as the NDPB will be set up by the LRO, it will require a new sponsorship/framework agreement. There is already a lot of the information in existence which can be used as the base for the new framework.
- 18/12/16 **Internal control framework:** TPB will work on this.
- 19/12/16 **Name:** Members were consulted on the option and AGREED that the preference was for the new body to be called The Social Housing Regulator. It was agreed that there was no need for a full re-brand.
- 22/12/16 **Governance Structure, the scope and objectives of the Programme:** Committee NOTED the information in the paper.
- 23/12/16 Committee considered and agreed with the next steps and the reporting proposals.
- 24/12 16 There was a discussion about the timing of the LRO and members were advised that the timeline in Annex 1 to the paper is an ambitious one and the earliest date possible to establish the social housing regulator as an independent body will be April 2018. DCLG is still discussing this timetable with relevant government departments and the LRO will need to go through scrutiny committees before approval from the House of Lords/Commons.
- 26/12/16 Discussions should also begin early with HCA on how the transition will take place. Principles should be agreed as soon as possible and the risk register and action plan should reflect the transition programme. Members also asked about the impact of this on already stretched resources and they were given assurance that currently there is not a problem, but should this change, additional resource could be sought through secondments if necessary.
- 27/12/16 Members thanked the executive for a very informative paper and AGREED the recommendations set out in the paper.

8 Fees

- 28/12/16 The Committee were advised that the fees statutory consultation had been launched on 25 November and the closing date was 9 January 2017. The

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paper provided members with information on stakeholder feedback to date. Messages from stakeholders during stakeholder engagement, has consistently been about accountability, transparency and value for money of the regulator.

30/12/16 *National Housing Federation*: Members NOTED the concerns raised by the NHF in relation to the introduction of fees, which have been outlined to the regulator and also to their members.

31/12/16 Members will be kept informed of any further developments.

32/12/16 *Overview of planned activities*: Members were taken through the timescales for fees implementation subject to the consultation outcome. Members noted the three stages planned between now and April 2017. Work during the consultation period is focussed on preparing materials for post implementation period, papers for the Transition Programme Board and Regulation Committee, draft guidance for providers. Consultation responses will be analysed on an on-going basis till the end of the consultation period.

33/12/16 Members noted the work planned for post consultation and post government approvals. Members were content with the overview of the systems work being undertaken and AGREED with the planned activities in relation to fees introduction and the planned systems work as set out in the paper.

9 Updating the Consumer Standards

34/12/16 Following the discussions at the November workshop, and in line with the steer to Executive from the Committee, the paper was inviting committee to agree to amend the Tenant Involvement and Empowerment standard.

36/12/16 Members considered the proposals set out in paragraph 6 of the paper.

37/12/16 Members discussed linking this to the commencement of deregulation provisions in April 2016. Committee AGREED the principles and it was confirmed that the consultation document would be presented for sign-off to the January Regulation Committee meeting.

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38/12/16 Executive set out for members their initial proposals for regulating these disposals in the absence of consent powers. The notification proposal set out in the paper was to include a requirement to notify the regulator of the intention to dispose of tenanted stock at the point at which a provider consults with their tenants. This might lead to regulatory engagement. Members wished to understand further how this might work in practice. Also, consideration would be given to whether this implied that there might be issues with the provider's governance, which could impact on their governance grading. This too can link back to the level of tenant consultation and will be flagged in RTS. Members requested that thinking be developed further for a committee workshop in January 2016.

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39/12/16 Members AGREED to the proposals set out in the paper.

10 VfM Regulation

- 40/12/16 Following the workshop on VfM in November 2016, members were being asked to provide executive with a further steer on the proposed direction on a revised approach to VfM regulation. Committee were invited to agree the overall approach, discuss the timeline, agree high level principles and comment on the proposed set of core metrics.
- 41/12/16 Members discussed the aim of VfM regulation being to drive changes in provider behaviour and make Boards more accountable and in turn make their executives accountable for performance against objectives, providing assurance that outcomes are maximised through efficient and economic practice. Members discussed whether there should be an expectation that new development is included in the objectives and outcome measures providers set themselves.
- 42/12/16 The proposed structure for VfM regulation was noted by members. The VfM Standard would put greater emphasis on Board accountability and ownership whilst not increasing the overall burden of regulation. Members AGREED the main requirements as set out in para 13.
- 44/12/16 Members noted that the regulator's internal exercise considering efficiency and operating metrics and that of the DCLG supported Efficiency Working Group (EWG) had arrived at similar conclusions albeit with some differences in definitions.
- 45/12/16 The data gathering points, timescales and sensitivities around what data was published were considered by members. Members were of the view that maintaining progress, particularly on the publication of metrics, was desirable and AGREED to the main milestones in the proposed timetable. Executive would consider the timing and format of data publications in developing the consultation.
- 46/12/16 Members AGREED with the overall approach to regulating VfM going forward. Members asked for a list of upcoming consultations. This information will be added to the forward planner. **CK**

11 Regulation Staff Survey results

- 47/12/16 Members NOTED the results of the regulation staff survey .

12 Operations Update

- 48/12/16 DDRO reported that there had been one hundred and twenty five regulatory including three new narrative judgements were published in November. A first judgement (G1/V1) was made to Torus62 which was registered in January 2015. Johnnie Johnson was upgraded on governance (now G1/V1), following an IDA which gave robust assurance of their strategic planning process. Warrington was also upgraded on governance now G1/V1 having addressed issues in relation to VfM reporting, whilst Wrekin was downgraded to G2/V1 as they need to improve the effectiveness of their governance arrangements.

49/12/16 Sixty five providers had been considered at stocktake panels following the completion of the IDAs. Five of those had taken place since the previous Committee report.

50/12/16 Members noted the merger activity amongst providers. Business cases for three new mergers had been received. Members noted that three mergers had now been completed.

13 Investigation and Enforcement update

51/12/16 The Committee were sighted on cases which were of concern and NOTED the issues in each case.

52/12/16 *Derwent Housing Association:* this has progressed positively

55/12/15 *London Housing Trust:* Following investigation there is no evidence of a breach of consumer or economic standards and they have been removed from the GUR list.

57/12/16 *Habinteg Housing Association:* Placed on GUR due to weaknesses in Internal controls. Members were advised that Steve White has been appointed as interim CEO.

58/12/16 *Consumer Regulation:* Members noted that 73 cases have been investigated by the I&E team and there are currently 28 active consumer regulation investigations.

59/12/16 *Clarion:* Members were advised that the investigations have concluded that Circle Anglia had breached the Home Standard and risked serious harm to tenants in relation to the repairs service provided to tenants since April 2016, particularly in east London. A regulatory notice is being drafted which will be shared with Clarion (as successor organisation) for factual comment ahead of potential publication before the Christmas break.

60/12/16 Members NOTED the cases under Intensive Regulatory Engagement.

14 Any Other Business – there was no other business.

Date of Next Meeting: Monday 23 January 2017.