Homes & Communities Agency

# Annex 2: Analysis of discussion paper responses

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Homes and Communities Agency

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# Analysis of discussion paper responses

## Who responded?

We received 151 written responses to our discussion document. These responses have been taken into consideration when developing the proposals for this formal statutory consultation. All responses are published alongside this document on the regulator's website.

Responses were received as follows:

- 2 from statutory consultees
- 107 from non-profit registered providers (with over 1,000 units) and their representatives
- 1 from profit-making registered providers
- 3 from councils or local authority representatives
- 1 from ALMOs and their representatives
- 28 from current non-profit registered providers (with fewer than 1,000 units) and their representatives
- 2 from other types of responses, including lenders and other financial organisations, legal bodies and property consultants
- 7 from trade or representative bodies

## How we have responded

Key elements of the feedback to the discussion paper, and an outline of our response, have been covered in the consultation paper. The main purpose of this annex is to provide a more detailed summary of the feedback and issues raised in the discussion paper responses, rather than to respond to each point raised. More minor points of detail raised in the responses have not generally been included in this annex.

## Overall summary of responses

**Question 1: Do you think there is an in-principle case for charging fees for regulation?**

Just over half of responses were supportive in relation to the 'in principle' case for charging fees. However, of these the majority had some concerns and 39% of providers were generally unsupportive. Many responses argued that if fees are introduced this needs to result in greater resources for the regulator and lead to better regulation. A number of responses argued that fees should not simply replace grant-in-aid but should be used to top up existing government funding.

There were concerns raised that fees will take resources away from service delivery in providers. Some also argued that as the taxpayer is protected as a result of regulation they too should contribute towards the cost.

Some cautioned over regulatory independence if providers had too much say over regulation as a result of fees introduction. A small number of other responses suggested that comparison with fee charging by other regulators were not valid on the basis that these generally regulate profit-making organisations.

**Question 2: Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

Just over sixty per cent of responses thought that some elements of regulatory costs should continue to be funded through grant-in-aid. Particular areas mentioned as areas to be covered by grant-in-aid included non-routine regulation, consumer regulation, and consents on the basis that these areas only apply to a relatively small sub-set of providers at any particular time. It was also argued that some, or all, of the costs of registration should be funded through grant-in-aid to avoid deterring applicants to the register. Some responses sought clarity on the costs of different elements of regulation.

Concern was raised over the operational independence of the regulator if 100% of funding was provided through fees. It was also argued that as the taxpayer benefits from regulation the government should contribute too. Others pointed out that at least some funding through fees provided increased financial independence for the regulator.

**Question 3: Do you agree we are taking the right approach to developing the principles?**

Just under two thirds of responses were supportive of our approach to developing the principles. One point raised was that it wasn’t always readily apparent how the five factors had followed through into the proposed fees structure.

**Question 4: Do you agree with the proposed approach to initial registration fees?**

Just under two thirds of responses supported the proposal of an initial registration fee, with many describing a flat fee as a reasonable and practical approach. There was concern that this could create a barrier to entry for some providers, in particular small niche providers. Given this concern, some suggested that we consider a lower fee or an exemption for smaller providers.

Some responses suggested that a fee should be charged even where an application to register is unsuccessful. Others suggested that those applicants who apply for profit-making status should pay a greater fee than non-profit applicants to reflect their enhanced risk profile. Some of responses said that grant-in-aid should cover some or all of the cost of registration.

There was also a suggestion that payment of the initial registration fee could be spread over a number of years.

**Question 5: What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

It was suggested that the regulator considers charging separately for stage 1 of the registration process, rather than charging solely for successful registrations. In addition, it was suggested that charging fees on a full cost recovery basis would help deter applications which had not been properly prepared before submission.

A small proportion of responses suggested an alternative initial registration fee. Of those who did the levels suggested varied from £300 - £5,000.

**Question 6: Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

Just over two thirds of responses were in favour of using provider size as a basis for determining the level of annual fees. In addition, over sixty per cent of responses thought the number of units owned by registered providers was a suitable measure. This was mainly down to the simplicity and practicality of the approach, but a number also pointed out that this is used elsewhere in the sector. An example cited was the membership fee for the National Housing Federation which is determined by number of social housing units.

Other suggestions were to link the fee level more directly to the complexity and risk level of the registered provider. A small number of other providers suggested basing provider size on income from social housing rents as use of social housing units also would not take into account geographical differences in rent levels or property value.

A number of responses suggested that turnover of a registered provider would not be a suitable measure for the level of fees, as turnover could include income related to other activities such as employment, support and health projects with separate funding.

Some questioned the fairness of having a per unit fee, with some suggesting this would be less fair to small providers with whom there is a lighter touch to regulatory engagement and to the largest providers where fee levels would be higher.

**Question 7: Do you agree with the proposed approach to local authority registered providers?**

The majority of responses to the discussion document were from private registered providers. Only three responses were received from local authorities and one response from an ALMO. All of these responses were in agreement with the proposed approach to local authority registered providers.

Taking the responses as a whole opinion was mixed among the responses as to whether local authorities should be exempt from paying fees. Around forty per cent of responses agreed with our approach but roughly a third were unsupportive. In particular, some providers were concerned that private registered providers could be subsidising consumer regulation of local authorities and that this regulatory cost should therefore be funded by grant-in-aid.

**Question 8: Do you agree with the principle set out for a minimum annual fee?**

The majority of responses were supportive of our proposals for a minimum annual fee although twenty per cent of responses were unsupportive. Some felt that even a £300 minimum fee would be significant to very small providers, such as almshouses, and that they should be exempt. Conversely, some other responses thought that £300 was too low a minimum to be set.

Looking specifically at the responses from small registered providers, sixty per cent were against the principle of setting a minimum fee. Of those, most voiced concern that the fee would be a significant amount for very small providers. Many suggested that smaller providers may seek to de-register which could have potential impacts on both tenants of those small providers and the regulator in terms of an administrative burden of processing de-registration applications. Many of those small providers in favour of a minimum fee expressed that this was only where the fee was very low, and no more than £300.

**Question 9: Do you think that we should introduce an element of banding in the fee regime and if so why?**

Discussion paper responses were mixed in relation to this question with 35% supportive of our proposal *not* to introduce banding and 40% unsupportive. Of those supportive, some suggested that banding would create unnecessary complication in the fees structure and others thought that banding could create a ‘cliff edge’ effect at the margins of each band.

Of those who were unsupportive, some thought banding could be used to charge differential fees for providers of different risk and size levels. Suggestions in relation to this included a differential approach for providers under 1,000 units and a cap on fees for the largest providers.

**Question 10: Do you agree with the proposal to charge the annual fee at group level?**

Two thirds of responses were generally in favour of charging fees at group level with many seeing this as a reasonable approach. Only four responses disagreed with this approach. Two points were raised over charging fees at group level. Firstly, some thought this could potentially create an incentive for smaller providers to merge in order to reduce the level of fee. Secondly, further explanation was required for how this would work for an unregistered parent.

**Question 11: Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

The vast majority of responses were either in favour of the proposed approach, or did not express an opinion either way. Around nine per cent did not agree that fees should be charged for the whole year when a provider is on the register for a proportion of the year. Most felt it was reasonable to charge for the whole year, but some felt that we should only charge for the proportion of the year that a provider was registered for.

**Question 12: Do you agree with the proposed approach to transparency and accountability?**

Over seventy per cent of providers were supportive of our proposed approach to transparency and accountability. Many commented that the regulator should be transparent and accountable regardless of whether fees are introduced. A small number of responses suggested that providers should have representation at Regulation Committee if fees are introduced. Other responses cautioned that providers should not be able to influence regulation for independence reasons.

Many responses commented on the need for more information about how transparency and accountability arrangements would work. In particular, some responses sought greater information about how the regulator would set out how fees are used and how it prioritises use of resources. Others sought greater transparency on the approach to any future rises to fees levels.

**Question 13: Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

The vast majority of responses were either in favour of invoicing near the beginning of the year or expressed no opinion either way. Only nine responses did not agree with this approach. Most felt this was reasonable provided adequate forward notice was given for the following year's fee level. Some pointed out that not all registered providers start their financial year in April. It was also suggested by a small number that registered providers be given the option to pay in instalments.

**Question 14: Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

Around a third of responses thought there were potential equality and diversity impacts in implementing fees. The main concerns were that both initial registration and annual fees may disproportionately impact on smaller, specialist providers that specifically cater for BME tenants and other minority groups. Concern was also expressed that fees would benefit the taxpayer at the expense of social housing tenants.

**Question 15: Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

A number of concerns were raised in the responses on the possible impacts of charging fees. Some thought a fees regime could encourage providers to de-register, and may discourage new providers from registering by creating a barrier. Concern was also expressed that fees would reduce funding available for new development and would therefore impact, albeit marginally, on new supply.

It was also suggested that fees would take funding away from other services to tenants. Some expressed concern that the largest providers, who would pay for the majority of the regulator's costs, risk having undue influence over the regulator.

**Question 16: Do you have any further comments on the initial proposals set out in this discussion paper?**

A range of other comments were made in relation to this question. The most significant of these were:

- Fees introduction needs to be done in a measured way with adequate time taken to address all relevant issues.
- The regulator needs to manage provider expectations over the extent to which they will be able to influence regulatory priorities.
- Clarity was sought as to whether arrangements for group structures would apply to the housing cooperative sector.
- Fees introduction may result in increased tenant pressure for increased levels of consumer regulation, although this would be outside our statutory remit.
- Clarity is needed over how fees surpluses will be addresses (i.e. where the fees collected for the year on the basis of budgets are in excess of actual expenditure).
- The distinction between profit-making and non-profit providers for fees purposes is not explored in the discussion paper.

# Key statistics from the responses

| Question | | number of responses: very supportive | generally supportive with few concerns | neutral | generally unsupportive | Total number of responses | percentage of responses: very supportive | generally supportive with few concerns | neutral | generally unsupportive |
|---|---|---|---|---|---|---|---|---|---|---|
| | **Overall level of support** | **24** | **54** | **14** | **59** | **151** | **16%** | **36%** | **9%** | **39%** |
| 1 | in-principle case for fees | 24 | 54 | 14 | 59 | 151 | 16% | 36% | 9% | 39% |
| 3 | right approach to principles | 64 | 34 | 30 | 23 | 151 | 42% | 23% | 20% | 15% |
| 4 | approach to initial registration fees | 58 | 31 | 25 | 37 | 151 | 38% | 21% | 17% | 25% |
| 6a | provider size is suitable measure | 51 | 50 | 26 | 24 | 151 | 34% | 33% | 17% | 16% |
| 6b | number of social housing units owned | 44 | 49 | 31 | 27 | 151 | 29% | 32% | 21% | 18% |
| 7 | approach to Local Authorities | 35 | 24 | 44 | 48 | 151 | 23% | 16% | 29% | 32% |
| 8 | minimum annual fee | 66 | 29 | 26 | 30 | 151 | 44% | 19% | 17% | 20% |
| 9 | banding to fees | 31 | 21 | 36 | 63 | 151 | 21% | 14% | 24% | 42% |
| 10 | charge at group level | 87 | 13 | 45 | 6 | 151 | 58% | 9% | 30% | 4% |
| 11 | approach to proportion of year | 79 | 6 | 52 | 14 | 151 | 52% | 4% | 34% | 9% |
| 12 | transparency and accountability | 78 | 32 | 29 | 12 | 151 | 52% | 21% | 19% | 8% |
| 13 | annual invoicing early in financial year | 89 | 10 | 43 | 9 | 151 | 59% | 7% | 28% | 6% |

Note: Question 5 required a narrative response.

| Question | | number of responses: full cost of regulator | grant in aid to fund some elements | all costs funded by grant in aid | other responses | total number of responses | percentage of responses: full cost of regulator | grant in aid to fund some elements | all costs funded by grant in aid | other responses |
|---|---|---|---|---|---|---|---|---|---|---|
| 2 | fees to cover full costs | 7 | 93 | 20 | 31 | 151 | 5% | 62% | 13% | 21% |

| Question | | number of responses: yes | no | other | total number of responses | percentage of responses: yes | no | other |
|---|---|---|---|---|---|---|---|---|
| 14 | equality and diversity impact | 54 | 61 | 36 | 151 | 36% | 40% | 24% |
| 15 | any other impacts | 52 | 61 | 38 | 151 | 34% | 40% | 25% |

# List of responses

A2Dominion Housing Group Limited
Abbeyfield Hertfordshire Residential Care Society
Accent Group Limited
Accord Group
Affinity Sutton Group
Agudas Israel Housing Association
Aldwyck Housing Group
Almshouse Charity of Hannah Rawson
AmicusHorizon
Anchor Trust
Aspire Housing Limited
B3 Living
Barlborough Hospital Trust (Almshouses)
Bedford Citizens Housing Association (BCHA)
Berrow Cottage Homes
Bolton at Home
bpha Limited
Bromford Housing Group Limited
Byker Community Trust
C of E Soldiers Sailors & Airmens HA Ltd
Catalyst Housing Ltd
Central & Cecil Housing Trust
Cestria Community Housing
Chichester Greyfriars Housing Association
CIH
Circle Housing
City West Housing Trust
Coast & Country Housing Limited
Cohousing Network & Community Land trust
Coin Street Housing Co-op
Coin Street Secondary Housing Co-op
Confederation of Co-operative Housing
Cornerstone Housing Ltd
Cottsway Housing Association Limited
Council of Mortgage Lenders
Croydon Churches Housing Association Limited
Cumbria Rural Housing Trust
Curo Group
Derby Homes
Derventio Housing Trust
Derwent HA Ltd
Derwentside Homes
Devonshire Solicitors
Dimensions UK
East 7
East Midlands Housing Group
East Thames Group Limited
Estuary Housing Association Limited
Fabrick Housing Group
Festival Housing
Field Lane
First Wessex
Flagship Housing Group
Four Housing Group
Franklands Village Housing Association
G15
Gentoo
Golden Gates Housing Trust
Golden Lane Housing
Granby House
Grand Union Housing Group Limited
Great Places
Greenfields Community Housing Association
Greenoak Housing Association
Halton Housing Trust
Harefield Parochial Charities
Hartlepool Borough Council
Hastoe Group
Havebury Housing Partnership
Helena Partnerships Limited
Hexagon Housing Association
Home Group
Homesdale (Woodford Baptist Homes) Limited
Hyde Housing Association Limited
Incommunities
Iroko Housing Co-op
Irwell Valley HA
ISOS
Knowsley Housing Trust
Life 2009
Linden First

Livin
London & Quadrant Housing Trust
Longhurst Group Limited
Merlin HA
Metropolitan
Midland Heart
Midlands Rural Housing
Moat
Mulberry Housing Co-op
New Long Sight Housing Co-op
NHF
North Hertfordshire Homes Limited
North London YMCA
North Tyneside Council
North West Housing Services
Nottingham City Homes
NottingHill Housing
Octavia Housing
Orbit Group
Orwell Housing
Palm Housing Co-op
Paragon Community Housing Group
Peabody
Penge Churches HA
Phoenix Community Housing
Places for People
Placeshapers
Progress Housing Group
Radcliffe Housing Society Limited
Radian Group
Raglan Housing Group
Riverside Group
Sadeh Lok
Sanctuary Group
Sentinel Housing Association
Severnside Housing
Shepton Mallet United Charities
South Western Housing Society
South Yorkshire HA
Sovereign Housing Association
Spectrum Housing Group Limited
Symphony Housing Group
TCUK Homes Limited
Teign Housing
Thame and District Housing Association Limited
The Abbeyfield East London Extra Care Society Ltd
The Abbeyfield Society
The Abbeyfield Sodbury Vale Society Limited
The Housing Plus Group
The King Street Housing Society Limited
The Wrekin Housing Trust Limited
Thrive Homes
Town and Country Housing
Tregonwell Almshouse Trust
Two Saints Limited
Tyne Housing Association Limited
Viridian Housing
Wakefield and District Housing
Walsall Housing Group
Waltham Forest HA
Waterloo Housing Group
Watford Community Housing Trust
West Lancashire Borough Council
Westward Housing Group
Wickham Community Land Trust
Wigan and Leigh Housing
Wirral Partnership Home aka Magenta Living
WM Housing
Wulvern Housing Limited
Wythenshawe Community Housing Group
York Housing Association
Yorkshire Housing