



PUBLIC MINUTES
Of the Regulation Committee meeting
Held on Monday 24 July 2017 at 10am
Marsham Street, London

Present

Julian Ashby	Chairman
Richard Moriarty	
Ceri Richards	
Simon Dow	
Sarah Wall	

In attendance

Fiona MacGregor	Director of Regulation	
Mick Warner	Deputy Director Regulatory Operations	
Jonathan Walters	Deputy Director Strategy & Performance	
Emma Tarran	Principal Solicitor, Regulation	
Karen Doran	Assistant Director Regulatory Operations	
Jane Castor	General Manager Finance and Performance	Item 7
John O'Mahony	Assistant Director Regulatory Framework & Performance	Items 7 & 8
David Taylor-Smith	Assistant Director Regulatory Operations	Item 8
Anna Furlong	Head of Regulatory Framework	Item 9
Jim Bennett	Assistant Director Regulatory Strategy	Items 9
Helen Ward	Assistant Director Assurance	Item 9 & 10
Sandy Pacek	Head of Performance Management	Item 10
Rob Dryburgh	Assistant Director Analysis	Item 11
Ros Poulson	Assistant Director Registrations, Notifications & Small Providers	Items 12
Jack Lee	Assistant Director Investigation and Enforcement	Item 13
Angela Holden	Head of Registrations	Item 13

01/07/17 There was a confidential session between members and the Director of Regulation.

1 Welcome and apologies

02/07/17 There were no apologies.

2 Declarations of Interest

03/07/17 Simon Dow declared that his daughter works for Notting Hill Home Ownership in respect of the paper at agenda item 15.

3 Minutes of the last meeting – 24 June 2016

04/07/17 03/06/17: Ceri asked that the wording be amended to better reflect her new role.

14/06/17: wording to be reviewed to better reflect the legislative position of the regulator.

05/07/17 Subject to the above:

- The confidential minutes were APPROVED as a true record.
- The public minutes were APPROVED for publication.

4 Matters Arising

06/07/17 NOTED.

5 Committee forward look

07/07/17 Members NOTED the planner. In relation to the FFR analysis, members requested that in addition to the November workshop on the FFR data analysis, they would like to get a headline report on the findings from the FFR and FVA returns before the scheduled workshop.

JW

6 Regulation Director's update on key issues

08/07/17 Grenfell Tower fire

DoR advised members that the responses from RPs to the letter from the Regulator on 20 June are being reviewed by the Consumer Regulation Panel. The majority are providers updating us on their positions and advising of what action they are proposing to take. Where we have further questions of clarification, those will be followed up.

09/07/17 Committee discussed the various debates and statements in Parliament focussing on the aftermath of the fire and areas which need urgent attention such as testing of cladding and the financial implications of replacement/remedial works. Government has launched its Building Safety Programme alongside the Grenfell Task Force to work on wider sector guidance. There is on-going advice from Government on building safety, and there is anticipated to be further updates on cladding in due course. In the meantime, landlords affected are expected to liaise with their local Fire and Rescue service and there is feedback that their advice is proving very helpful.

10/07/17 A further letter from us is planned to tie in to the one planned from the Department to advise RPs to inform the Regulator if essential remediation works will lead to viability issues.

13/07/17 Policy Developments

DoR advised that the Grenfell incident has impacted on a number of policy discussions/decisions. We are currently in discussion with DCLG.

14/07/17 Members noted the areas of secondary legislation we were interested in – LRO, Housing Admin and regulations reducing LA influence over RPs, and were advised that these had not been laid before the House rose for summer

recess.

15/07/17 *LRO*: The transition programme board is working with DCLG on this.

16/07/17 *Housing Administration*:

17/07/17 **New Registrations**

Members NOTED the registrations and were advised that the refusal was based on the provider not being able to provide assurance on business planning in particular around rents.

18/07/17 **Publications**

Members NOTED the forthcoming publications.

19/07/17 **Consultation Timeline**

Members NOTED the consultation timeline.

20/07/17 **Regulation Committee**

Members noted that a new Committee member, Elizabeth Butler is due to start from September 2017. An induction plan and introductory meeting will be organised and it is envisaged, diary permitting, that she will attend the Committee meeting in September.

21/07/17 DoR advised that dates for 2018 committee meetings need to be confirmed. It was proposed that meetings move from the fourth Monday of each month (except August) to the fourth Tuesday of each month which allows for bank holidays and any late papers etc. Members to be sent the proposed dates and confirm their availability to Chris Kitchen.

22/07/17 **Publications**

Members NOTED the information provided.

7 Management Accounting Information

23/07/17 Jane Castor (JC) joined the meeting by Lync. The paper was introduced by DDRO and set out for Members the initial thoughts of how management accounting information will be presented to the Regulation Committee following the introduction of fees and what the Board of the Regulator will receive post-transition.

24/07/17 The Executive team wish to provide the committee with information that will allow them to have assurance on the recoverability of fee income and how that and grant in aid will be used. Members will also be able to monitor spend in line with budget and forecasts. The executive team will get more detailed reports from finance which they will be able to drill down for more analysis.

25/07/17 The paper set out proposals in respect of the timing of the reports and the annexes provided examples of the information members will receive. Members enquired what period the income and expenditure reports will be for and it was confirmed that the reports could include latest quarterly information as well as cumulative reporting. In addition, members were interested in getting a breakdown of financial performance by fee income and separately for grant-in-aid. JC confirmed that detail of information will be reported on as a matter of course, so it would not be a problem to provide that information to members in the reports.

26/07/17 Committee AGREED the details, the format in which they will receive management accounting information and the frequency of reports.

27/07/17 JC left the meeting.

8 Transition Programme Update

28/07/17 David Taylor-Smith (DTS) joined the meeting by Lync to provide any additional information members might want on progress with the pension schemes.

30/07/17 Pensions

Members were advised that the work is still on track with both the HCA and Westminster schemes.

31/07/17 Actuarial advice has been received from the Westminster scheme

34/07/17 Governance project

Members noted the update on the requirement for procuring a new external legal panel . Work is getting started on this.

35/07/17 HR project

Members were advised that currently staff are on two different contracts depending on when they joined the organisation.

36/07/17 We are mapping the difference between the two contracts and identifying any options for each difference.

37/07/17 Committee NOTED the activity in the other areas of the report and the annexes. DTS left the meeting.

9 Business Plan and Fees Statement

38/07/17 Helen Ward (HW) and Anna Furlong (AF) joined the meeting and presented the paper to the Committee which was a revised version of the business plan and fees statement which incorporated the discussions and comments from the June Committee workshop.

39/07/17 Since the discussions in June, the team have been reviewing the commitments made regarding the fees statement and in particular our commitment to set out for the sector in October each year, details of budget and fees. To this end an additional slide was tabled which was picked up in the discussions.

40/07/17 In order to ensure the comments from Committee had been addressed the changes made had been set out at para 7 of the cover paper. As a general observation, members concurred that in the main the lists of priorities will be seen by the readers of the document, in the order of importance as set out for each priority and therefore consideration should be given to the sequencing of bullet points on some slides.

- 41/07/17 Members were content with the changes made to the following slides:
- Introduction
 - Our approach
 - How do we do it
- 46/07/17 Our measures
- Consider rewording how we refer to becoming a standalone regulator.
- 47/07/17 2017/18 Fees statement
Members found the split between fee income and Grant in Aid income very helpful and NOTED that the figures were based on a half year projection.
- 48/07/18 New slide re 2018/19 budget and fee levels
- Members were advised that we will use the 2017 SDR figures for setting the per unit fee for 2018/19. We anticipate that this information will be available by the time of publication.
 - Members noted that the information on the slide gave us a position where, when we publish, we can set out what we are going to do for the next fee statement, based on the budget and feedback from FRAP.
- 49/07/17 Subject to the suggested amendments, Committee AGREED the Business Plan and Fees Statement including the additional slide re the 2018/19 fee levels and AGREED final sign off will be delegated to the chair.

10 Performance and Risk Report Quarter 1

- 50/07/17 Committee NOTED the paper. Strong position on delivery against business plan targets was reported. Five targets had been marked as AMBER based on recent events in the external operating environment. Performance against scorecard metrics was good, with all metrics flagged GREEN.
- 51/07/17 *Performance report* - members acknowledged that three of the five amber risks were out of our control. On the other two risks:
- E23 – small providers' team - members were advised that all posts have been recruited to, but not all staff had yet started in post.
- 52/07/17 *People Metrics* – members noted the statistics in the paper and asked what our position was in respect of the very topical issue of gender pay gap. DoR reported that the HCA is reviewing this. The figures are impacted by the number of male and female staff in the lower grade bands. Members were given assurance that this matter is being considered actively across the HCA.

- 54/06/17 Committee NOTED the report and thanked the officers.

11 Sector Risk Profile (SRP)

- 55/07/17 Members were thanked for their comments on the SRP which, along with comments from stakeholders, had been incorporated into the next version. Members were advised that Cyber Security had been added in light of the recent cyber-attacks, and the other area that had attracted the most

comments was the section on Grenfell as was expected.

- 56/07/17 These specific areas of feedback from Committee had been incorporated.
- 57/07/17 Members had also been sent the annex which was on lessons learned and were asked to send any comments they might have back in the next day, as the publication date for the SRP is 28 July 2017.
- 58/07/17 Committee thanked the team for an excellent piece of work and delegated the final sign off to the Director of Regulation.

12 Proposals for updated de-registration criteria

- 59/07/17 Members noted the paper which set out the results of the review of the de-registration criteria based on the principles previously agreed with the Committee. Committee was being asked to agree:
- 60/07/17 *No change should be made to the de-registration criteria*
Members were advised that following an internal review, the conclusion reached by the team was that the criteria should remain unchanged as they tie back to our fundamental objectives and achieve what we want from a policy perspective. Committee had asked that consideration be given to having different criteria for the size of the organisation but the recommendation was that this was best dealt with in the guidance. Committee AGREED with the proposal.
- 61/07/17 *The de-registration guidance should be amended in line with the proposals set out in the paper*
The guidance signals how the size of an organisation would be factored into our consideration of applications – this is consistent with the standards being the same for all providers and RTS setting out how we adjust our approach according to size. In addition, aligning the guidance to the approach in RTS will ensure policy keeps in line with any overarching changes to regulation in the future.
- 62/07/17 *Key factors for consideration*
Members discussed the factors for consideration as set out in the current de-registration guidance and the suggested amendments.
- 63/07/17 There was a discussion about requirements on applicants as regards tenant consultation. The current guidance states that we will ‘take into account the representations made by tenants’, and the proposed revised guidance states that we will ‘consider the views of tenants, the effectiveness of the provider’s consultation with tenants and how it has taken account of the results of that consultation’. Committee considered that our policy objective is that providers should conduct a fair and effective consultation with tenants, and that the revised guidance should refer to that.
- 64/07/17 It was noted that we mention taking into account the views of local authorities in whose area the provider is landlord. It was confirmed that in practice we do not approach all LAs because that would be a disproportionate approach where there are very few units in an area. But where there is a likely material impact on a LA we make sure that we liaise with them
- 65/07/17 In light of the information provided and the discussions, Committee AGREED

with the approach set out and to the proposal that the final form of the guidance and the decision to publish be delegated to the DoR.

66/07/17 *Consultation approach*

Committee was advised although there is no obligation to consult before amendment of the de-registration guidance, we have in the past consulted as this has been alongside changes in the criteria, on which we do consult. Consequently, we might have created a legitimate expectation that we would consult on these proposals, given that they will alter the way we approach de-registration. On the other hand, we do not consult on changes to guidance such as Regulating the Standards. In any event, we need to balance the risk of challenge around consultation against the need to be clear about our approach as quickly as possible. We intend to soft-test the guidance with the Small Provider Panel and the NHF. Committee requested that this soft-consultation be extended to capture tenant views. Subject to the above the approach and it was AGREED that the guidance could be republished without first conducting a formal consultation.

13 Consumer Regulation Review 2016/17

67/07/17 Members were asked to consider the key messages set out in the report which this year had key messages on Boards and Governing bodies responsibilities in particular:

- RP's co-regulatory responsibilities
- emphasis on Board responsibilities and compliance systems, highlighting reputational impact of dealing with complaints.

68/07/17 Committee AGREED with the key messages as set out in the report.

69/07/17 Members considered the draft report at Annex 1 and suggested some detailed drafting changes, in particular to some of the language used. Members wanted to see a clear message about legislation states the regulator's role and powers and how these interact with the provider's own complaints process.

70/07/17 Policy is clear on the process for resolving tenant complaints – landlord/MP/Ombudsman. If the regulator does receive individual complaints, the complainant is directed towards the Ombudsman. However all information received is reviewed to determine whether it is potentially evidence of a systemic failure that represents a breach of our standards. If there was a serious failure by the landlord to comply with the its complaints process, that might potentially be such evidence in relation to the Tenant Involvement and Empowerment standard. .

72/07/17 Subject to a few drafting/wording changes, Committee AGREED the Consumer Regulation Review for 2016/17 and delegated final sign off to the Chair.

73/07/17 The Chair noted that this was Jack Lee's last meeting before he starts his new job. On behalf of the members, the Chair thanked Jack for all his work within I&E and also his input to the HCA Review and wished him well in his new job.

14 Investigation and Enforcement update

74/07/17 Members NOTED the reports on the intensive regulatory cases

75/07/17 *Broadacres*

76/07/17 *Luminus*

Members were advised that the CEO has left. Discussions are beginning in respect of finding a merger partner.

77/07/17 *Expectations*

78/07/17 *Impact*

79/07/17 *St Mungo's*

80/07/17 Committee NOTED the consumer regulation case reports.

15 Operations Update

81/07/17 DDRO MW introduced the paper and reported that there had been ten regulatory judgements published in June. Members noted the providers who had had grade changes and those who had been issued regulatory judgements.

83/07/17 The IDA programme and mergers were noted. Members were advised that the merger between Genesis and Notting Hill was now also in the public domain.

84/07/17 Simon Dow declared that his daughter works for Notting Hill.

85/07/17 Committee NOTED the report.

16 Any other business

There was no other formal business. The Chair thanked Sarah Wall for her valuable input over the past three years as a member of the Regulation Committee. Members and Officers wished her well for the future.