



Homes &  
Communities  
Agency

The social housing regulator

**PUBLIC MINUTES**  
**Of the Regulation Committee meeting**  
**Held on Monday 26 June 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	
John O'Mahony	Assistant Director Regulatory Framework & Performance	Items 6 & 7
Jack Lee	Assistant Director Investigation and Enforcement	Item 6
Jim Bennett	Assistant Director Regulatory Strategy	Items 6 & 7
Ros Poulson	Assistant Director Registrations, Notifications & Small Providers	Items 8 & 9
Althea Houghton	Head of Registrations	Item 10
Rob Dryburgh	Assistant Director Analysis	Item 10
Harold Brown	Assistant Director Investigation and Enforcement	Item 12

01/06/17    There was a confidential session between members and the Director of Regulation.

**1            Welcome and apologies**

02/06/17    There were apologies from Isabella Freeman, HCA General Counsel.

**2            Declarations of Interest**

03/06/17    Ceri Richards had been appointed as a Non Executive board member of Be First, a company established and owned by the London Borough of Barking and Dagenham to further the economic growth, development and regeneration of the borough.

04/06/17    Members noted that in relation to the Grenfell Tower incident, the DoR had declared an interest in relation to the former Chief Executive of the Royal Borough of Kensington & Chelsea, who is a friend. This had also been declared to the Chief Executive of the HCA and to DCLG. While there was

no formal conflict in relation to the regulator's wider activities arising from this incident, the DoR has stated that she will not take part in any decision in relation to compliance by RBK&C with regulatory standards. In particular, she will not see any correspondence between the regulator and RBK&C about compliance until the Consumer Regulation Panel has considered all such correspondence and reached a conclusion about compliance.

### **3 Minutes of the last meeting – 22 May 2016**

05/06/17 31/05/17 was amended to read:  
Members AGREED that the Principal Solicitor, Regulation would review the ToR . Members AGREED that a further draft would be circulated for comment, and DELEGATED authority to the Chairman to approve those changes.

06/06/17 Subject to the above:  

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

### **4 Matters Arising**

07/06/17 NOTED.

### **5 Committee forward look**

08/06/17 Members NOTED the planner. In relation to the July workshop, members NOTED that the DoR has discussed workshop content with the outside speakers. It was AGREED that it is helpful to have workshops which combine business as usual topics and outside speakers.

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### **6 Regulation Director's update on key issues**

09/06/17 **Grenfell Tower fire**  
DoR updated members on the regulator's role and activity in relation to the fire at Grenfell Tower. She explained that since 1996 all RBK&C housing stock has been managed by K&CTMO which is an ALMO but not a registered provider. However, the housing stock is owned by the RBK&C which makes that organisation is automatically a registered provider, and means that it has responsibility for compliance with our consumer standards.

10/06/17 Committee were reminded that referrals from tenants about providers would usually come through the RRE team. Any referrals which engage our standards at all will be considered by the CRP who will make an initial decision whether to progress the matter. We have had no referrals about this landlord since 2013. There were five referrals between 2010 and 2013 but none related to fire safety.

11/06/17 The DoR confirmed that in cases where we determine a breach of standards, we require an action plan from the provider, and follow up with the provider as to progress against that plan. We are anticipating an increase in referrals to CRP, and have plans to manage resources if necessary. This may mean other work being slowed or stopped for now.

12/06/17 The DoR explained that it was not practicable for the regulator to search social media for possible allegations. It would be difficult to resource such extensive monitoring, and it would not be a good use of resources since it is

impossible to judge which allegations are reliable. However, the regulator does consider all complaints directly from tenants whether by email, letter or phone call.

- 13/06/17 The DoR confirmed that we are monitoring relevant media coverage for references to the regulator's role.
- 14/06/17 In relation to specific causes of the fire, and possible engagement of our consumer standards, there have been no definitive conclusions yet, and we need to take care not to work on the basis of speculation. The police/fire service are investigating, as will the Public Inquiry. It was AGREED that it is appropriate and in line with our normal practice for us to await the conclusions of the front-line experts before drawing any conclusions. In due course we will take into account all relevant factors. It was noted, however, that all providers, including LA providers, have to meet the same consumer standards, but that the Housing and Regeneration Act 2008 as amended by the Localism Act 2011 limits our ability to take enforcement action in relation to those consumer standards. It was noted that building and fire regulations fall within the ambit of the Home Standard, which is a consumer standard and therefore subject to the same legislative constraints around enforcement. It was AGREED that it would be helpful to keep abreast of on-going work in DCLG and to compile information we have on which bodies are responsible for monitoring compliance in a range of areas relating to Health and Safety as that is likely to be a focus of the Public Inquiry. .
- 15/06/17 The DoR confirmed that the regulator's 19 June 2017 letter to providers referenced the Home Standard requirement to "meet all applicable statutory requirements that provide for the health and safety of occupants in their homes" and confirmed that statutory requirements are part of the Repairs and Maintenance element of the Homes Standard.
- 16/06/17 It was noted that LAs are required by our TI&E standard to have an approach to complaints that is clear, simple and accessible. As part of this they are expected to accept complaints made by authorised advocates. All local authority landlords must be members of the Independent Housing Ombudsman Scheme.
- 17/06/17 It was noted that in due course there may be a political will to look again at the regulators' consumer regulation role. It was also noted that there is a reputational risk to the regulator in relation to explaining our limited remit and approach, notwithstanding that these are in line with the legislation.
- 18/06/17 In terms of the testing and rectification work that is happening now, the DoR explained that DCLG are co-ordinating the Government's approach and they have written twice to every provider. The first letter asked providers to self-identify any blocks over 6 floors and identify ACM cladding of the type in place at Grenfell Tower and arrange for testing by the BRE. The second, on 22 June 2017, additionally required that if blocks were identified as being at risk, the first priority was to get the fire service to do a risk assessment. We have asked providers to notify us if they consider they are in breach. We will ensure that any decisions or action we are taking is co-ordinated with DCLG, to ensure no duplication, but also no gaps, and will continue to liaise as regards any handover of responsibility or overall co-ordination of approach.

- 19/06/17 The DDSP explained that one of the current unknowns is whether a small number of providers may face viability challenges, both in terms of cash availability and impact on covenant compliance. CML and lenders are engaging positively. DCLG is liaising closely with us in this area and we will follow up with providers who may be affected when more information is available. The potential costs and implications are not yet quantified. It is not considered necessary to require re-submission of FFRs. The expectation is that providers find a way to fund what is needed.
- 20/06/17 It was agreed that we will need to factor the impact of Grenfell into our next review of the risk register taking account of the outcome of any wider discussions.
- 21/06/17 Members were advised that our letter of 19 June 2017 is on our website, and regulatory staff have been supplied with lines to take. The DoR confirmed that herself, the DDS&P and the Chairman were liaising closely about the forthcoming speaking engagements at the CIH conference.
- 22/06/17 It was confirmed that there were no recommendations for the regulator after the Lakanal House fire that were not followed up.
- 23/06/17 **General Election and Manifestos:**  
The DoR confirmed that Sajid Javid has been reappointed as Secretary of State for Communities and Local Government. Alok Sharma, MP for Reading West, has been appointed as Housing Minister. The regulator's initial contact with the Housing Minister has been positive.
- 24/06/17 **Queen's speech**  
The Queen's speech was dominated by the subject of BREXIT. The main issue in relation to housing is a continued emphasis on supply.
- 26/06/17 **Policy developments**  
Decisions on a range of other policy matters have been delayed by the events in Kensington. DCLG are also looking at supported housing funding. The complexity of reaching a conclusion in this area which meets the range of competing factors was discussed. There has been speculation that recent events will affect the Government's approach to funding social housing.
- 27/06/17 **Publications**  
Committee AGREED that in light of recent events it would have been inappropriate to publish our VfM consultation at this point. Next steps would be kept under review.
- 28/06/17 It was AGREED that it was still a priority to publish the revised TIE standard as soon as practicable, and we are liaising about timing with DCLG
- 29/06/17 We will continue to publish RJs in the normal way – the next batch will be published 5 July 2017.
- 30/06/17 The next quarterly survey is due to be published on 30 June 2017 – this is business as usual.

31/06/17 We had accelerated plans for publication of the sector risk profile in order not to clash with our VfM consultation. The content of the revised SRP will have a heightened focus on health and safety issues. We will be sensitive to recent developments in all that we say, including in the annex dealing with lessons learned from our consents work.

32/06/17 **Performance**  
We are behind schedule in relation to one measure as a result of the delay in publication of Housing Admin Regulations. The Registration, Notifications and Small Providers Team is expected to be fully established by Q2.

## **7 Transition Programme Update**

33/06/17 Members noted progress made with the Transition Programme. The paper was taken as read but the following points were highlighted:

34/06/17 **LRO**  
The LRO is with parliamentary counsel for final checks.

35/06/17 **Policies**  
The approach to reviewing internal policies was outlined.

36/06/17 Committee NOTED the proposed approach.

## **37/06/17 Internal Audit**

38/06/17 Committee also noted that there is a wider Government agenda around a cross-governmental internal audit service, which may influence future decisions.

39/06/17 Committee also noted that the IA service would report into the Audit and Risk Committee of the standalone regulator once that committee had been established.

40/06/17 Committee AGREED in principle with the proposals in relation to internal audit services, subject to the points noted above.

41/06/17 **Human Resources**  
Committee made the same point about contract length as for IA services.

**MW/JOM**

42/06/17 Committee AGREED in principle with the proposals in relation to human resources services, subject to the points noted above.

43/06/17 **FRAP**  
It was noted that all Committee members had since the last meeting commented on the revised FRAP ToR by correspondence. Some minor changes had been suggested by members, which the Chairman had accepted in exercising his delegated authority to approve the document. Committee DISCUSSED the timing of the launch of FRAP, and heard officers' concerns about readiness to launch by end of July bearing in mind work on finances, budget and the draft corporate plan.

44/06/17 Committee AGREED that it was important not to rush the process, but asked officers to ensure that:

- the first FRAP meetings are in diaries by 1 September when the regulator's first fees invoices will be sent out; and
- information, including the ToR for the FRAP, be put in the public domain as early as possible so as to allow sufficient time for nominations to be made

45/06/17 **Communications and Engagement, Programme Governance Review and Wider Programme and Next steps**  
Committee NOTED the activity undertaken to date and the next steps.

## **8 Review of Registrations 2016/17**

46/06/17 The ADRNSP introduced the paper and introduced Althea Houghton as the newly appointed Head of Registrations. Committee noted the paper which showed there had been an increase in applications, but not registrations. This is partly due to plans being put on hold by applicants given policy uncertainties.

47/06/17 Committee were given details of some of the more novel applications

48/06/17 Committee asked whether applications are becoming more complicated. The ADRNSP explained previously there had been an approach which sought to be permissive and maximise the number of new entrants in line with Government priorities. That approach has moved on and we expect applicants to be able to successfully complete the process and take that as a demonstration that they are likely to be compliant providers. We have learned over the years that the registration process often highlights problems that are likely to manifest in compliance issues once the organisation is registered. We have also now seen some of the problems with riskier/newer models as those providers have evolved.

50/06/17 Committee NOTED the decisions and issues set out in the paper.

## **9 De-registration Policy**

51/06/17 Committee noted the paper and as background information, were given an explanation that until recently, most de-registrations have been compulsory, usually as a result of a restructure. It has been usual to see only one or two applications for voluntary de-registration per annum. Lately this number has increased significantly. This has caused us some resourcing difficulties but it has also prompted a policy review and re-consideration of the regulator's guidance in this area, which is now out of sync with our approach to consumer regulation. The ADRNSP outlined the reputational risks around de-registrations, and signalled the connection and comparison with tenanted disposals. She also highlighted that de-registration is usually a trigger for re-payment of grant.

52/06/17 Committee noted the potential classification implications if we do not permit voluntary de-registration or if we use our controls in this area to compensate for our lack of control by way of consent.

- 53/06/17 Committee indicated that we needed to develop de-registration policy in line with our current framework and role, whilst acknowledging that may change over time. We do not wish to put unnecessary obstacles in the way of providers who wish to exit the regulated sector, recognising the potential dual regulation by us and the Charity Commission. However, we also need to bear in mind the tenant perspective, and the loss of the right to refer matters to the regulator. In light of that, we should consider what we do to check compliance at the point of de-registration. While there are some similar issues to the removal of our consent powers, this is a policy we own, rather than a legislative change.
- 54/06/17 Committee asked that the team consider whether there is scope to apply different criteria according to the size of the provider.
- 55/06/17 Committee were satisfied with the formulation expressed in paragraph 22 of the paper, namely 'known outstanding regulatory issue'. The ADRNSP noted that, but also flagged that we receive some applications which simply say 'we cannot comply with your standards'. We do not consider that to be a reason for agreeing to de-registration and will follow up with further queries to establish the appropriate course of action.
- 56/06/17 Committee also asked the ADRNSP to note our obligations towards proportionality, and to be responsive to feedback in relation to the introduction of fees.
- 57/06/17 In relation to compulsory de-registration, the ADRNSP explained the circumstances in which this is used. In particular, we say we will use this power if an intending provider does not take steps towards providing social housing within 12 months of registration (although we have not yet had to do this). Officers have considered the possibility of using the power in relation to providers who do not comply with our standards including those who do not submit accounts. Consistent with the principles of voluntary de-registration, it was agreed that we would not use compulsory de-registration where standards have been breached.
- 58/06/17 Committee AGREED:
- the proposed principles for voluntary de-registration pursuant to the regulator's de-registration criteria. and asked the ADRNSP to shape these in light of the regulator's wider policy perspective and bring a further paper to Committee.
  - the policy approach to voluntary de-registration on other grounds.
  - to retain the current approach in relation to compulsory de-registration.

RP/AH

## 10 Rents and LHA Caps

- 59/06/17 Committee noted the paper and were advised that the policy outlined will eventually apply to all tenants in supported housing from April 2019 because of the distributed top-up fund. Originally the policy would have only applied to new tenancies issued from April 2016, and have taken effect from April 2018, but this was changed when the top-up was introduced. The original principle continues to apply for general needs but to a slower timetable. The LHA cap will apply for new general needs tenancies made after April 2016, but will not take effect until April 2019.

- 60/06/17 The ADA explained how the figures in the chart on page 3 were arrived at, and confirmed that there will be follow up in IDAs where necessary. He also pointed out some of the geographical disparities in the amount of general needs stock affected by the cap. These were caused by lower LHAs, higher levels of affordable rents, and some suppression of affordable rents to stay within the LHA.
- 61/06/17 Committee noted that LHA caps will be frozen until 2020 and the possible interaction between future rent policy and LHA growth after that date
- 62/06/17 The ADA confirmed that the regulator is aware which providers have the largest proportion of stock affected by the cap, and the potential greatest reliance on the top-up pot and that feeds into follow up work and stability checks.
- 63/06/17 The ADA confirmed that none of this analysis is in the public domain, but most of what is in the paper has been seen by Treasury, DCLG, and DWP. Also some of the data has been used at some round table events held by DCLG. Otherwise it is confidential. Nonetheless, the risks highlighted will feature in the sector risk profile and all of the underlying data is in the public domain through the SDR and published LHA rates so providers can replicate the analysis and some have done so. Where we have seen such analysis, it arrives at conclusions very similar to ours.
- 64/06/17 The ADA confirmed that we cannot do the same analysis on small providers because we do not have the same data. We can however see that it is more of an issue for certain categories of small providers based on proportion of supported housing stock.
- 65/06/17 Committee asked whether the new Government is committed to this policy. The ADA commented that we have no information indicating otherwise, but that the Government has not yet responded to the public consultation on the implementation of the policy, which concluded in February 2017
- 66/06/17 Committee thanked the ADA for the useful analysis and NOTED the potential impacts of the LHA policy and the risk management, resource and engagement information.
- 11 Operations Update**
- 67/06/17 DDRO-MW introduced the paper and made the following points. He explained the smaller number of publications in this period.
- 69/06/17 The DDRO also explained the background to the G1 re-grades for Curo, Rochdale and Tuntum.
- 70/06/17 The merger of Devon & Cornwall with Knightstone was flagged as a recent announcement.
- 71/06/17 Committee asked whether the IDA programme was being revisited post the Grenfell Tower incident. The DoR explained that the FFR should flag financial issues and we have asked to be informed by providers if they are in breach of the consumer standards. We would not necessarily wait for an



IDA in order to follow up any emerging issues.

73/06/17 Committee NOTED the report.

**12 Investigation and Enforcement update**

74/06/17 *Broadacres*

75/06/17 *Impact*

76/06/17 *Luminus*

77/06/17 *Saffron*

78/06/17 *Expectations*

79/06/17 *Manningham*

80/06/17 *Creative Support*

The regulator has published a regulatory notice due to a relatively large number of gas safety certificates having been outstanding for a short time. We are considering the implications for the provider's governance.

81/06/17 *Arches*

82/06/17 *St Mungo's*

83/06/17 *Mulberry*

84/06/17 *Sustain*

85/06/17 *Onward*

86/06/17 Committee NOTED the case reports.

**14 Any other business**

87/06/17 There was no other business.