

Subsidy Advice Unit Report on the proposed Affordable Housing Delivery Scheme

Referred by the Welsh Government

06 March 2025

Subsidy Advice Unit

Part of the Competition and Markets Authority



© Crown copyright 2025

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [Open Government Licence](#).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

CONTENTS

1. The Referral	3
Summary	3
The referred scheme	4
2. The SAU's Evaluation	6
Step 1: Identifying the policy objective, ensuring it addresses a market failure or equity concern, and determining whether a subsidy is the right tool to use	6
Step 2: Ensuring that the subsidy is designed to create the right incentives for the beneficiary and bring about a change	8
Step 3: Considering the distortive impacts that the subsidy may have and keeping them as low as possible	11
Step 4: Carrying out the balancing exercise	14
Other Requirements of the Act	15

1. The Referral

- 1.1 On 20 January 2025, the Welsh Government requested a report from the Subsidy Advice Unit (the SAU)¹ in relation to its proposed Affordable Housing Delivery scheme (the Scheme) under section 52 of the Subsidy Control Act 2022 (the Act).²
- 1.2 This report evaluates the Welsh Government's assessment of compliance (the Assessment) of the scheme with the requirements of Chapters 1 and 2 of Part 2 of the Act.³ It is based on the information and evidence included in the Assessment.
- 1.3 This report is provided as non-binding advice to the Welsh Government. It does not consider whether the scheme should be implemented, or directly assess whether it complies with the subsidy control requirements.

General Observations and Summary

- 1.4 The Assessment uses the four-step structure described in the Statutory Guidance for the United Kingdom Subsidy Control Regime (the [Statutory Guidance](#)) and as reflected in the SAU's Guidance on the operation of the subsidy control functions of the Subsidy Advice Unit (the [SAU Guidance](#)).
- 1.5 Overall, we found that the Welsh Government has considered in some detail the compliance of the Scheme with the subsidy control principles. In particular, we found that the Assessment:
 - (a) clearly demonstrates that the Welsh Government has considered other ways of achieving its policy objectives in respect of the provision of affordable housing and explains why a subsidy was considered the most appropriate option (Principle E);
 - (b) clearly describes and evidences what would be likely to happen in the absence of the Scheme. It also provides clear evidence demonstrating how the Scheme will result in a change in economic behaviour: notably, the Standard Viability Model (SVM) (used to calculate the viability gap for individual subsidies) helps to ensure that the Scheme enables changes that would not have occurred absent the subsidy (Principles C and D); and

¹ The SAU is part of the Competition and Markets Authority

² [Referral of the proposed Welsh Government Affordable Housing Scheme by the Welsh Government - GOV.UK](#)

³ Chapter 1 of Part 2 of the Act requires a public authority to consider the subsidy control principles and energy and environment principles before deciding to give a subsidy. The public authority must not award the subsidy unless it is of the view that it is consistent with those principles. Chapter 2 of Part 2 of the Act prohibits the giving of certain kinds of subsidies and, in relation to certain other categories of subsidy creates a number of requirements with which public authorities must comply.

- (c) presents clear evidence of how the SVM enables the Welsh Government to ensure that subsidies are limited to the minimum necessary for most grant-based activities within the Scheme (Principle B).

1.6 However, we have identified the following areas for improvement:

- (a) the Assessment should distinguish the scope of the Scheme itself, and what it is intended to address, from wider strategic objectives (Principle A);
- (b) the Assessment should set out in more detail the processes it uses to limit the subsidy amount to the minimum necessary for the sub-schemes that do not use the SVM (Principle B);
- (c) the Assessment should include a more detailed analysis of the markets that may be affected by the Scheme, and better evidence its assumption that affordable housing is not in competition with the private sector and therefore that the Scheme will have no competitive impact on it (Principle F);
- (d) the Assessment should ensure that both the positive and negative effects of the proposed intervention are fully considered at Step 4 (Principle G);
- (e) the Assessment should take a more systematic approach to presenting how the SPEI requirements are addressed (Section 29 of the Act).

1.7 The Welsh Government should update the Assessment to capture the amended information it later provided by means of clarification to ensure that it consistently describes how the proposed Scheme would work.

1.8 We discuss these areas below, along with other issues, for consideration by the Welsh Government in finalising its assessment.

The referred scheme

1.9 The Welsh Government is proposing to create a £5.53 billion scheme for the development and acquisition of affordable housing in Wales. Local Authorities and Registered Social Landlords (RSLs) will be able to apply for funding in the form of a direct grant or a subsidised loan; these loans include RSL Development loans, and Land for Housing loans. The Scheme will run from 20 March 2025 until 31 March 2031.

1.10 It will combine existing schemes⁴ under a single umbrella, and allow them to continue by extending them. This will allow the continuity of funding for social housing provision if policies are changed in the future.

⁴ Including the Social Housing Grant, the Transitional Accommodation Capital Programme, the Land for Housing scheme, the Housing with Care Fund as well as existing RSL Development loans.

- 1.11 The Scheme will support activities such as the acquisition of land for use for affordable housing developments, and the development of:
- (a) general needs social and intermediate rent housing schemes without support requirements where social landlords will procure development partners to build the homes;
 - (b) general needs housing schemes for shared ownership;
 - (c) new social and intermediate housing schemes via package deals brought to social landlords and delivered by developers; and
 - (d) supported housing for individuals with care and support needs (settled and temporary accommodation).
- 1.12 The Scheme will increase the supply of affordable homes through the redevelopment of void properties,⁵ the acquisition of existing and new build properties from developers or the demolition and rebuild, development or conversion of properties into accommodation.
- 1.13 The Welsh Government explained that the Scheme is a Scheme of Particular Interest because it allows for the provision of one or more Subsidies of Particular Interest to be given.⁶ In particular, the Scheme will allow the award of individual subsidies of a value above £10 million.

⁵ Defined within the Assessment as 'empty properties owned by Local Authorities and RSLs'.

⁶ Within the meaning of regulation 3 of [The Subsidy Control \(Subsidies and Schemes of Interest or Particular Interest\) Regulations 2022](#) which sets out the conditions under which a subsidy or scheme is considered to be of particular interest.

2. The SAU's Evaluation

2.1 This section sets out our evaluation of the Assessment, following the four-step structure used by the Welsh Government.

Step 1: Identifying the policy objective, ensuring it addresses a market failure or equity concern, and determining whether a subsidy is the right tool to use

2.2 Under Step 1, public authorities should consider compliance of a subsidy with:

- (a) Principle A: Subsidies should pursue a specific policy objective in order to remedy an identified market failure or address an equity rationale (such as local or regional disadvantage, social difficulties or distributional concerns); and
- (b) Principle E: Subsidies should be an appropriate policy instrument for achieving their specific policy objective and that objective cannot be achieved through other, less distortive, means.⁷

Policy objectives

2.3 The Assessment states that the policy objective of the Scheme is 'for the Welsh Government, in conjunction with its delivery partners, to remedy/mitigate levels of homelessness and the effects of the lack of affordable homes in Wales. This includes delivering some 20,000 additional homes for rent in the social sector in the current term of the Welsh Government (ending in May 2026), with the expectation of a similar commitment under the next Welsh Government.' The Assessment also explains that supported affordable housing projects 'have to meet design and quality standards to ensure dignified, better-quality accommodation is provided'.

2.4 The Assessment describes further policy aims, including enabling people to move on from temporary accommodation; increasing the supply of housing to meet the needs of people with support and care needs; and supporting the purchase of modular accommodation on land earmarked for future development, to provide interim accommodation which supports the transition from temporary to longer term accommodation.

2.5 The Assessment also states that 'the support is consistent with the specific policy objectives associated with the provision of affordable housing', outlined in the

⁷ See [Statutory Guidance](#), paragraphs 3.33-3.58 and the [SAU Guidance](#), paragraphs 4.7-4.11 for further detail.

Welsh Government's Programme for Government commitment to make its cities, towns and villages better.'⁸

- 2.6 In our view, while the Assessment sets out the policy objective, it should more clearly distinguish the scope of the Scheme itself, and what it is intended to address, from the strategic objectives of the Welsh Government. The Assessment should also focus on the specific policy objective(s) of the Scheme as a whole (as opposed to individual subsidies or programmes that sit within it), ensuring consistency throughout the Assessment.

Equity Objective

- 2.7 Equity objectives seek to reduce unequal or unfair outcomes between different groups in society or geographic areas.⁹
- 2.8 The Assessment presents a broad range of general information on housing and poverty which it links to equity challenges in respect of housing affordability and an under supply of affordable housing more widely across Wales. It includes evidence to support the incidence of overall and relative income poverty and deprivation in Wales. It also discusses general and supported housing need as well as need arising from demographic challenges linked for example, to an ageing population and people with disabilities. It also presents high level evidence of the impact of a lack of sufficient good-quality affordable housing on health and wellbeing.
- 2.9 In our view, the Assessment describes and evidences the equity rationale that the Scheme is designed to address. It could more clearly set out how the situation in Wales compares to the UK-wide evidence on which the Assessment relies.

Appropriateness

- 2.10 Public authorities must determine whether a subsidy is the most appropriate instrument for achieving the policy objective. As part of this, they should consider other ways of addressing the market failure or equity issue.¹⁰
- 2.11 The Assessment explains that the Welsh Government has considered the following means to achieve the policy objective.
- (a) Mandatory requirements for market housing suppliers to provide a set proportion of affordable housing through planning obligations. These were discounted as it would reduce the viability of the housing projects, causing developers to leave the market, or else attempt to negotiate down the quota

⁸ [Programme for government: update | GOV.WALES](#)

⁹ [Statutory Guidance](#), paragraphs 3.51-3.55.

¹⁰ [Statutory Guidance](#), paragraphs 3.56-3.58.

they were required to deliver leaving the overall level of affordable housing below the level required to achieve the policy objective.

- (b) Increased advice and support services to social landlords. The Assessment explains that these are already provided to social landlords but do not in and of themselves provide sufficient incentive to bring forward social housing projects as the issue of the viability gap remains.
- (c) Direct provision. The Assessment explains that the Welsh Government does not directly provide the level of affordable housing required to meet need itself as it does not have the required capacity nor skills to do so.

2.12 The Assessment explains that RSLs are restricted in commercial loan agreements from borrowing more than a fixed amount, and are bound by covenants to that end. If these are breached, the cost of debt will increase and impact the viability of the associated projects. Therefore, the Scheme will provide subsidised loans where they sufficiently close the viability gap and incentivise RSLs to deliver affordable housing. They will not be appropriate, however, in the instances detailed above where RSLs are bound by restrictive covenants.

2.13 Direct grants will be the main type of subsidy granted under the scheme. The Assessment explains that they are considered to be the most appropriate form of intervention to ensure the provision of good quality, affordable longer-term accommodation.

2.14 In our view, the Assessment demonstrates that the Welsh Government has considered other ways of achieving its policy objective and clearly explains why the proposed subsidy approaches were considered the most appropriate option.

Step 2: Ensuring that the subsidy is designed to create the right incentives for the beneficiary and bring about a change

2.15 Under Step 2, public authorities should consider compliance of a subsidy with:

- (a) Principle C: Subsidies should be designed to bring about a change of economic behaviour of the beneficiary. That change should be something that would not happen without the subsidy and be conducive to achieving its specific policy objective; and
- (b) Principle D: Subsidies should not normally compensate for the costs the beneficiary would have funded in the absence of any subsidy.¹¹

¹¹ See [Statutory Guidance](#), paragraphs 3.59-3.73 and the [SAU Guidance](#), paragraphs 4.12-4.14 for further detail.

Counterfactual

- 2.16 In assessing the counterfactual, public authorities should consider what would likely happen in the future – over both the long and short term – if no subsidy were awarded (the ‘no subsidy’ scenario).¹²
- 2.17 The Assessment sets out a counterfactual scenario where, without the Scheme, fewer affordable homes offering lower rents would be provided. This is because providing affordable housing (as per the policy objective) would not be financially viable without the Scheme, due to the low rents required to meet the affordability criteria of the target cohort and the higher costs (eg initial purchase, development and maintenance) associated with delivering such housing (ie there will be a viability gap).
- 2.18 The Assessment adds that, without the Scheme, unmet demand for affordable housing could continue to increase, resulting in a high number of households living in extreme poverty or, in the worst cases, becoming homeless. It cites that between 6,200 and 8,300 additional homes would be required each year between 2019-20 and 2023-24. Furthermore, unmet demand would increase for those seeking temporary accommodation, resulting in Local Authorities sourcing unsuitable accommodation from B&Bs and hotels.
- 2.19 Without the loan funding (from the Scheme) for these additional affordable homes, households would need to pay higher rents and would mean more vulnerable individuals living in sub-standard accommodation, resulting in adverse health and social outcomes. In addition, without the subsidy, fewer void properties would be brought back into use, and RSLs could be outcompeted by developers on land purchases.
- 2.20 In our view, the Assessment clearly describes and evidences what would be likely to happen if the Scheme was not implemented.

Changes in economic behaviour of the beneficiary and additionality

- 2.21 Subsidies must bring about something that would not have occurred without the subsidy.¹³ They should not be used to finance a project or activity that the beneficiary would have undertaken in a similar form, manner, and timeframe without the subsidy (‘additionality’).¹⁴

¹² [Statutory Guidance](#), paragraphs 3.62-3.64.

¹³ [Statutory Guidance](#), paragraph 3.66.

¹⁴ [Statutory Guidance](#), paragraphs 3.65-3.69.

- 2.22 The Assessment explains that by closing the viability gap, the Scheme will change the economic behaviour of the beneficiaries (Local Authorities and RSLs). The Assessment evidences this change in economic behaviour with the following:
- (a) Historical data showing that 62% to 72% of additional affordable housing was delivered with grant funding, which supports the statement that only a third of current affordable housing delivery would occur without the grant funding.
 - (b) RSLs are constrained in their borrowing due to covenants on commercial loans, such as requiring them to set cash aside to meet interest expenses (ie to achieve a minimum interest cover ratio), provide existing homes as security, and borrowing needs to remain within set proportions of assets (ie to achieve required gearing levels). Therefore, if RSLs needed to borrow the funds using commercial loans rather than as a subsidised loan through the Scheme, fewer homes would be developed due to the higher interest charges and potentially having an insufficient number of homes they could offer as security to take on the loans required to develop further housing.
- 2.23 The change in economic behaviour and additionality are also supported by:
- (a) an explanation of how loan and grant funding would complement each other to ensure maximum delivery of additional homes; and
 - (b) case studies in a supporting annex, demonstrating that more affordable housing properties would be brought into the sector with the assistance of loan funding, compared to a scenario where a commercial developer acquired the sites. The case studies highlight the importance of the loan for acquiring strategically important sites to unlock stalled sites, and ultimately meet affordable housing need.
- 2.24 The Assessment states that the value of individual subsidies to Local Authorities and RSLs would be assessed using the Standard Viability Model (SVM), which calculates the viability gap, allowing the Welsh Government to determine the minimum level of grant required to make a project viable. This methodology ensures that subsidies to Local Authorities and RSLs only cover the viability gap and would not finance the element of project they could have funded without the subsidies.
- 2.25 In our view, the Assessment clearly explains and evidences how the Scheme would change the beneficiaries' economic behaviour, and that the Scheme brings about a greater scale of change than would have occurred absent the subsidy.

Step 3: Considering the distortive impacts that the subsidy may have and keeping them as low as possible

2.26 Under Step 3, public authorities should consider compliance of a subsidy with:

- (a) Principle B: Subsidies should be proportionate to their specific policy objective and limited to what is necessary to achieve it; and
- (b) Principle F: Subsidies should be designed to achieve their specific policy objective while minimising any negative effects on competition or investment within the United Kingdom.¹⁵

Proportionality

2.27 For most of the subsidies (which are awarded in the form of a grant) under the Scheme, the Assessment explains that the SVM-based appraisal process helps ensure proportionality. The SVM combines housing developments' anticipated purchase, development, and construction costs, with projections of annual rental income and operational costs. Future income and costs are discounted to generate a Net Present Value (NPV) for each development.¹⁶ Due to the lower rent levels, the projects' NPVs are typically negative and are also referred to as the viability gap – the amount of additional funding that would be needed to make projects break even.

2.28 These subsidies are subject to two caps:

- (a) Costs are benchmarked against the Welsh Government's Acceptable Cost Guidelines (the Guidelines), which are standard assumptions for the construction and development costs of different kinds of properties.¹⁷ Any costs exceeding the Guidelines' tolerance levels, and not relating to permitted supplements, are not considered for the viability gap.
- (b) Generally only up to 70% of the total eligible development costs may be grant-funded.¹⁸ In exceptional cases, such as additional costs for brown-field site remediation, this rate can be increased to 75% of total eligible costs.

¹⁵ See [Statutory Guidance](#), paragraphs 3.74-3.110 and the [SAU Guidance](#), paragraphs 4.15-4.19 for further detail.

¹⁶ The SVM includes standardised assumptions about the applicable discount rate, ongoing management and maintenance costs, the lifecycle term of the constructed units, and the anticipated growth rate of rents.

¹⁷ ACGs are guidelines designed to help social landlords assess the costs of developing affordable schemes and are based on scheme costs presented to Welsh Government via grant applications and quantity surveyors working in the sector. The cost assumptions vary by type (house, bungalow, or flat) and size (number of bedrooms and occupiers) of property as well as potential modifications such as additional space requirements for wheelchair users.

¹⁸ Thus, while up to 100% of the viability gap may be subsidised, this can also be lower, eg due to high costs of land acquisition.

- 2.29 Aside from those capital grants which use the SVM to demonstrate proportionality, the Scheme also includes loan funding, and grants for voids, which are not assessed through the SVM, but instead subject to other processes:
- (a) For RSL Development loans, the Assessment describes that the Welsh Government surveyed the RSL sector to assess borrowing appetite, concluding that a 3% subsidised interest rate would balance value-for-money with delivery effectiveness. Subsidies are capped at £10 million per individual loan.¹⁹
 - (b) For Land for Housing loans, the Assessment states that the Welsh Government uses HMT guidance included in the Public Expenditure Statement to inform the appropriate interest rates. Subsidies are capped at £4.2 million per individual Land for Housing loan.
 - (c) The Welsh Government explained that for developments that bring voids up to the required standards, the SVM and the Guidelines are not used because the relevant cost varies too much between projects. Instead, there is a cap such that only up to 80% of the cost of the improvement works can be grant-funded.
- 2.30 The Assessment describes how subsidised loans are used where possible and sufficient to bridge the viability gap, but that grants are often necessary to render projects viable. The Scheme is limited to applications made until March 2031, although some of the loans provided under the scheme may run for up to 30 years from the time of issue. The Assessment explains that applicants are required to provide details of any other public subsidy received for their scheme, which – if applicable – is then netted off the total grant calculated by the SVM. This includes consideration of any loans provided under the Scheme when calculating the applicable maximum grant funding through the SVM.
- 2.31 In our view, the Assessment describes robust considerations of how subsidies are limited to the minimum necessary for those elements of the Scheme that use the SVM and the Guidelines. However, the Assessment should set out in more detail the processes the Welsh Government uses to limit the subsidy amount to the minimum necessary for the other sub-schemes, in particular for voids grants and Land for Housing loans. Furthermore, the Assessment could describe in more depth the criteria and processes used by Welsh Government officials when permitting individual sub-schemes to exceed the Guidelines or viability gap caps or allowing subsidies to be granted retrospectively. It could also be clearer which appraisal arrangements apply to which sub-schemes.

¹⁹ The Assessment describes that it uses the Gross Cash Equivalent methodology described in the Subsidy Control (Gross Cash Amount and Gross Cash Equivalent) Regulations 2022 to calculate the subsidy value of a loan on a discounted interest rate.

Design of subsidy to minimise negative effects on competition and investment

- 2.32 The Assessment argues that the affordable housing market is not in competition with the private sector, because provision of housing at the required (higher) build standards and within the permissible rents is not profitable. It further sets out that the Scheme is available to any registered social housing provider in Wales; that similar programmes operate elsewhere in the UK for a similar rationale; and that the Welsh Government requires housing that is funded through the Scheme to remain as affordable housing in perpetuity. The caps imposed by the SVM and used for the loan schemes to limit the subsidies to the minimum necessary should also contribute to minimising negative effects on competition and investment.
- 2.33 In our view, the Assessment could be strengthened by systematically discussing how the Welsh Government's design decisions on the various subsidy characteristics mentioned in the Statutory Guidance could help minimise potential distortions to competition and investment. In particular, the Assessment could more explicitly address how the nature of the activities subsidised, and the timing of subsidy provision affect the competitive and investment impacts; it could also describe in more detail the reporting, and monitoring and evaluation, processes.²⁰

Assessment of effects on competition or investment

- 2.34 The Assessment describes different markets and actors potentially affected by the Subsidy Scheme:
- (a) The affordable housing market in Wales, which comprises social housing, intermediate housing and supported housing, Extracare and other specialist types of housing. Affordable housing is generally provided by Local Authorities or RSLs.
 - (b) The contractor market in Wales which includes specialist and predominantly local or regional contractors for building social housing, and large private housebuilders operating in Wales. The Assessment explains that private housebuilders do not bid for affordable housing contracts and competition between the private and social housing market for contractors is minimal.
 - (c) Adjacent and input markets where the Subsidy Scheme will level the playing field for social landlords to allow them to compete for input resources, particularly land for development. Without the subsidy, the Assessment considers social landlords to be at a disadvantage due to facing higher interest rates, lower rental incomes and their projects being built to a more expensive standard.

²⁰ That is, what information beneficiaries need to report when, and who within the Welsh Government is responsible for reviewing the reports.

- 2.35 Overall, as set out in paragraph 2.32, the Assessment considers there is no competition between the private and social housing markets. It also states that social landlords are encouraged to cooperate with, and not compete against, each other in the delivery of social housing.
- 2.36 In our view, while the Assessment identifies several product and geographic markets that may be affected by the Scheme, it should include a more detailed analysis of these markets and better evidence its assumption that affordable housing is not in competition with the private sector and therefore that the Scheme will have no competitive impact on the private sector. In particular, it should demonstrate that the existence of social housing does not influence private sector rents, including in the temporary accommodation market, given the explicit aim that the Scheme will reduce reliance on temporary accommodation.
- 2.37 The Assessment should also more explicitly consider the potential for affordable housing subsidies to crowd out private investment and the Scheme's potential impacts on investment more generally. One way to demonstrate this could be to include more evidence for the argument that the subsidies provided under the Scheme levels the playing field for inputs such as land and contractor capacity, rather than giving social landlords an advantage over private developers.

Step 4: Carrying out the balancing exercise

- 2.38 Public authorities should establish that the benefits of the subsidy (in relation to the specific policy objective) outweigh its negative effects, in particular negative effects on competition or investment within the United Kingdom and on international trade or investment.
- 2.39 The Assessment states that it is anticipated that there will be social equity benefits derived from the provision of affordable housing, highlighting the Scheme's contribution towards building 20,000 low carbon homes for rent.²¹ These include:
- (a) improving public health by providing stable and long-term accommodation of a good quality to prevent the housing issues that contribute to health issues and death, such as cold homes and mould contamination;
 - (b) alleviating financial stressors that can cause mental health issues such as fuel poverty;
 - (c) lowering the risk of eviction and homelessness, which have effects on the mental and physical health of individuals; and

²¹ The Assessment states that this will contribute to the Welsh Government's Programme for government's target of providing 20,000 low carbon social rented homes in this term of the Welsh Government.

- (d) allowing people to transition from temporary accommodation into permanent homes. There will be subsequent cost savings for Local Authorities who will no longer have to pay to maintain those households.
- 2.40 The Assessment identifies potential negative impacts from the Scheme, such as creating the perception that social landlords are provided with an advantage, and that the market is being distorted by the funding received.
- 2.41 The Welsh Government also identified the possibility of larger RSLs being favoured under the Scheme due to their greater resources, capacity and expertise to compete for funding. It also explained that RSLs may be able to obtain land preferentially over market housing providers due to receipt of a subsidy. It does not consider that the Scheme will have any effect on international trade or investment.
- 2.42 The Assessment concludes that, though the Welsh Government acknowledges that there may be potential indirect negative distortions on the commercial housing sector (see paragraph 2.34(c)), it does not believe that there will be any direct negative impact upon the affordable housing sector in Wales as it is inherently reliant on public funding. Therefore, in its view, the benefits of the Scheme outweigh the negatives.
- 2.43 In our view, the Assessment clearly sets out the positive effects of the scheme in relation to the policy objectives in line with the Statutory Guidance. The Assessment should provide a more detailed and evidenced explanation of the potential negative effects and justify how they are outweighed by the benefits in order to complete a meaningful balancing exercise. The Welsh Government may find it helpful to revisit this having considered the findings set out in Step 3 (paragraph 2.36 – 2.37) which discuss the potential competitive effects of the subsidy.

Other Requirements of the Act

- 2.44 This step in the Assessment relates to the requirements and prohibitions set out in Chapter 2 of Part 2 of the Act, where these are applicable.²²
- 2.45 The Welsh Government has identified that a subsidy given under this scheme would involve the delivery of a service of public economic interest (SPEI). Consequently, the Welsh Government should assess whether the requirements of section 29 of the Act would be complied with in relation to any subsidy given under the scheme. These requirements include:

²² See [Statutory Guidance](#), Chapter 5

- (a) the subsidy is limited to what is necessary to deliver the SPEI having regard to costs of delivery and reasonable profits;²³
- (b) the subsidy is given in a transparent manner, meaning that the subsidy is given in accordance with a contract or other legally binding instrument), which sets out the terms of the subsidy and contains certain prescribed information;²⁴ and
- (c) arrangements are in place to regularly review the subsidy to ensure it remains limited to the minimum amount necessary and that any excess funds can be recovered.²⁵

2.46 The Assessment confirms the Welsh Government's view that the Scheme is a SPEI on the basis that the provision of affordable housing is an essential service for the benefit of the public, and would not be provided by an enterprise under normal market conditions on the terms required. The Welsh Government argues this is because the provision of this service would not be considered economically viable in Wales.

2.47 The Assessment confirms the Welsh Government's intention that all awards under the Scheme will be made in compliance with Section 29 of the Act. The Assessment argues that it has addressed these substantive and procedural requirements throughout the Assessment, and through the supporting information provided. For example:

- (a) transparency is addressed through template support letters which describe legally enforceable arrangements and the terms of the subsidy, including services for which the subsidy is given; the beneficiary; the period over which support is given; the geographic area; arrangements for review and associated clawback provisions where necessary;
- (b) monitoring and review processes are considered through case studies provided in relation to pre-existing grant and loans programmes which it is expected will form part of the proposed umbrella Scheme going forward; and
- (c) information on compensation, with assurance on proportionality and that the subsidy is limited to what is considered necessary to deliver the service, is provided through explanation of the basis of calculation of awards for grants and loans, with the role of the Standard Viability Model of particular importance here for grant components of the Scheme.

²³ Section 29 (2) of the Act.

²⁴ Section 29 (3)-(5) of the Act.

²⁵ Section 29 (6) of the Act.

- 2.48 However, while many of the requirements of Section 29 of the Act appear to be addressed, it is difficult to follow as the information demonstrating compliance is spread throughout the Assessment and its supporting information.
- 2.49 In our view, the Assessment should take a more systematic approach to presenting how the SPEI requirements (both substantive and procedural) are addressed, in line with the Statutory Guidance.²⁶ This could include, for example, providing further explanation on how the template letters comply with the transparency requirements, confirming if they are to be published and what their status is once published or describing how the information set out within Case Studies referred to fulfils the requirements for interim and ex post review set out within the Statutory Guidance.

6 March 2025

²⁶ See [Statutory Guidance](#), Chapter 6, paragraphs 6.9 – 6.26.