

Introduction

1. Under Part 1 of the 1996 Housing Act, the Welsh Ministers have powers to regulate registered social landlords (RSLs) in Wales and to set standards of performance to be met by RSLs and related guidance. The 1996 Act also sets out enforcement action which the Welsh Ministers can apply to RSLs. The overall approach towards housing regulation in Wales is set out in the Regulatory Framework for Housing Associations Registered in Wales¹ RSLs are commonly referred to as housing associations. Reference in this paper to housing associations is to those housing associations which are registered as registered social landlords under the legislative provisions set out above. Regulation of RSLs is undertaken by the Welsh Government's Housing Regulation Team.

Social Housing Sector

2. Housing associations are a key component of the housing sector in Wales. There are currently 92 associations registered as social landlords. Of this number, 34 associations are significant providers of social housing. Altogether associations are responsible for 10% of all homes in Wales. This compares to the situation in 2001 when they were responsible for just 4% of all homes. The difference relates largely to the transfer of council owned social housing to the RSL sector in 11 local authority areas in Wales.

3. Social housing accounts for just over half of all rented properties in Wales. As the following table illustrates housing associations are responsible for 32% of all rented properties.

| Rented Housing Sector in Wales | Private rented | Housing Association | Local Authority |
|---------------------------------------|-----------------------|----------------------------|------------------------|
| Total homes / proportion of sector | 208 000 48% | 136 000 32% | 88 000 20% |

¹ <http://gov.wales/docs/desh/publications/111202housingregframeworken.pdf>

4. The RSL sector is a key component in delivering the Welsh Government's commitment towards increasing the supply of affordable homes. Between 2011 and 2016 an additional 11,508 affordable homes were provided in Wales of which 84% were delivered by housing associations.

5. The government recognises that housing associations have a wider social role. They are at the heart of efforts to build resilient and sustainable communities. They are essential partners in the government's efforts to prevent homelessness. Housing associations provide a wide range of advice and support to their tenants beyond straightforward landlord services. The sector also plays a crucial role in enabling many vulnerable and disabled people to live independent lives in a manner which reduces the burdens which would otherwise fall on the NHS and social care sectors.

6. The Welsh Government is conscious and supportive of this wider social and economic role. It is also committed to ensuring that this is reflected in the arrangements for regulating the sector in Wales.

Housing Regulation

7. The essential role of housing regulation is to

- **Protect tenants.** There are nearly 140,000 housing association tenants in Wales – 90% of whom are in receipt of welfare benefits of some kind.
- **Safeguard public assets.** The Welsh Government has invested nearly £1.5bn grant funding into housing association homes since 1999 and
- **Facilitate private sector investment.** Grant funding of housing association homes is supplemented by private sector investment, which currently totals £2.5 bn.

8. Tenants are at the heart of regulatory activity. The Regulatory Framework for Wales places clear expectations on housing associations to demonstrate that their tenants are involved in strategic decision making and in the shaping of high quality, improving services. The regulation function provides tenants with information about their landlord which allows them to compare their landlord with others and helps protect them from poor or failing landlords. The Regulation Team has strong relationships with the national tenant support organisations and we have placed a growing emphasis on maintaining and strengthening these links.

9. The key principles of the current Regulatory Framework – proportionality, transparency, consistency and the promotion of continuous improvement – remain unchanged since its original publication in 2011. However, the application of these principles, and of the Regulatory Framework, has been subject to review and change in the same spirit of continuous improvement which we expect from the housing associations we regulate. For example, we recently launched a new regulatory judgement framework and are about to consult on revised performance standards, which reflect the more challenging environment in which housing associations currently operate and our experience of regulation since the launch of the Regulatory Framework in 2011.

Structure of Regulation in Wales

10. The Deputy Director for Sector Development has responsibility for the Team which, since June 2016, has had two branches.

- Operations – Regulation Managers, who engage directly with housing associations, delivering regulation on the ground (8 people) and
- Learning and prevention – finance and housing specialists with a particular focus on the provision of strategic policy and sector analysis and currently producing financial analysis, thematic reviews, lessons learned exercises and considering options to address issues arising from the recent reclassification of housing associations (4 people).

11. The work of the regulation team is supported by a non statutory independent Regulatory Board, reconstituted in April 2016 and made up of independent members with sector expertise. The members are appointed by the Cabinet Secretary for Children and Communities following a public recruitment exercise to provide advice from an independent perspective on the Welsh Government’s regulatory function. The Board is supported by, and draws evidence from:

- Regulatory Advisory Group – made up of representatives of key sector stakeholders, including tenants, funders, housing associations and local authorities; and a
- Tenant Advisory Panel – providing a tenant perspective to the Board, via a group of housing association tenants who interact with tenants across Wales.

The Board meets four times a year. Its main purpose is to provide challenge to the regulation team and to advise the Cabinet Secretary on the

performance of the sector. The current membership of the Board is attached at Appendix 1.

Our Approach to Regulation

12. A key element of the work of the Regulation Team is the publication of regular regulatory opinions on the health and performance of the housing associations we regulate. ² Much work has been done over the past 12 months to improve the efficiency of the Regulation Team in terms of producing timely Regulatory Opinions.

| Year | 2014/15 | 2015/16 | 2016/17 |
|-------------------------------------|----------------|----------------|----------------|
| Regulatory Opinions Produced | 4 | 16 | 27 |

13. Co-regulation underpins the Regulatory Framework, recognising the shared aim of the sector, its stakeholders and the Regulation Team to achieve a vibrant and improving housing association sector, delivering robust governance, strong finance and high quality services. Co-regulation involves setting out the respective responsibilities of associations and the Regulation Team to achieve robust and effective regulation, with both parties agreeing to work together to offer the best protection for tenants and the public funds invested in housing in Wales. Both parties have a shared interest in working together to resolve issues quickly and appropriately to protect tenants. When regulatory or other serious issues arise relating to the business of one or more associations, the Welsh Ministers (in whom the regulation functions ultimately vest) can use a range of powers to intervene and act quickly to safeguard tenants' interests.

14. The Regulation Team operates on the principle that this collaborative, relationship-based approach supports strong and effective regulation. Our experience is that the relationships developed through regulatory contact with housing associations provide a solid foundation of trust and understanding on which to have honest conversations about difficult issues.

15. Where necessary, regulation has taken a robust approach with housing association boards and management teams to ensure that significant issues

² <http://gov.wales/topics/housing-and-regeneration/services-and-support/regulation/regulatory-assessments/?lang=en>

have been effectively addressed. We are conscious that the evidence from our regulatory engagement is that the lack of a co-regulatory approach and a failure to share information can be a warning sign of potential issues and has been a factor in most of our complex cases.

16. The Regulation Team aims to apply a culture of continuous improvement across its work. It is central to our delivery of the regulation function and ensures we develop and change our approach in the light of regulatory experience and the changing environment for housing associations.

17. During the course of 2016, the Regulatory Board for Wales has undertaken a review of housing association approaches to achieving value for money. This review, undertaken in collaboration with the sector, key stakeholders and relevant experts, has produced significant positive outcomes. These include an agreed set of cost metrics which will be available annually through the Global Accounts publication, and will provide the basis for focussed regulatory discussion with individual housing associations around value for money. We are also encouraged that the way in which the review has been approached by the Board has prompted correspondingly positive moves in the sector, including a stronger focus towards value for money across all aspects of RSL business.

18. We have developed a method to ensure that we learn objective lessons where regulatory issues arise. Discussions are ongoing with Community Housing Cymru and the Chartered Institute of Housing Cymru to develop an effective approach to wider dissemination of those important lessons.

19. Our lessons learned approach is at the core of Regulation Managers' work with individual housing associations, through informal sharing of information and highlighting emerging key themes. Current themes are listed at Appendix 2.

Effectiveness and quality of governance arrangements

20. The housing associations we regulate are independent, not for profit organisations run by voluntary, unpaid Board Members.

21. The current regulatory regime is rooted in the 2008 Essex Review of Affordable Housing which proposed an approach focussed on risk and the quality of governance. Our experience is that when associations face serious

difficulties the underlying cause is more often than not an issue related to the quality of governance. For this reason, our analysis of current risks to the sector places a strong focus on governance risk and much of our regulatory activity is now focussed on governance quality.

22. Much of the quality of governance is founded on Board culture and on behaviours displayed. These are matters which can be difficult to identify from remote document reviews. We have therefore increased the focus of our regulatory engagement on Board observation. A minimum of four Board observations per year for every housing association allows a “hands on” approach, giving the opportunity to see culture and behaviours first hand. We are conscious that this is in contrast to a more desk-based assessment approach by the regulators in England and Scotland. This reflects in part the relatively small size of the RSL sector in Wales (there are nearly 1200 associations in England). We are, however, committed to turning the relatively small scale of the sector in Wales to our advantage and using our ability to foster effective relationships through face to face contact to strengthen our regulatory engagement.

Managing and mitigating sector wide risks

23. Housing associations in Wales operate in an increasingly challenging and risky environment. For example, welfare reform means that housing association capital grant availability is less certain, cost pressures have increased, interest rates are likely to start to rise and the diversity and complexity of the sector has grown. Housing associations are also under increasing pressure to diversify and to take a wider role in addressing community issues, partly as a consequence of reductions in local authority finances. Associations are expected to play a central part in delivering the Government’s target of 20,000 new affordable homes in this Assembly term. Associations face real challenges in attracting the board members with the right sorts of skills to oversee multi-million pound businesses contributing to an ever more demanding but important wider social agenda.

24. The approach to the delivery of regulation aims to ensure that the regulatory focus is on key risks. As part of this, the regulation team produces a Sector Risk Paper³ which is used to provide focus to Boards as

³ <http://gov.wales/topics/housing-and-regeneration/publications/sector-risks-facing-housing-associations/?lang=en>

well as to the work of the Regulation Managers and our wider regulatory engagement.

25. Current major risks to the sector are the potential impacts of the recent reclassification of housing associations into the public sector by the Office for National Statistics (ONS); the need to improve the sector's track record in achieving value for money; and the impact of welfare reform on both housing associations and their tenants.

26. The Regulation Team is responding to reclassification by developing a comprehensive set of proposals aimed at addressing those aspects of the current regulatory regime which has caused ONS to reclassify housing associations as public sector organisations. The need for legislative changes is being considered as part of this work. Welsh Ministers have made clear that they will make the changes necessary to allow the ONS to reclassify the sector back into the private sector.

27. We have used our own experience to identify common sector risks and acted to improve sector performance by setting out clear expectations, e.g. our expectation that housing associations put in place Asset and Liability Registers and carry out robust stress testing with mitigation arrangements by 31 March 2017. Experience clearly indicates that the major risks to the sector are in governance and finance, so our Regulation Manager resources have been refocused on the critical elements of these risk areas.

28. The effectiveness of risk management is a key judgement factor in the new regulatory judgement framework and performance standards.

Appendix 1

Regulatory Board for Wales - Current Membership

Helen White (Chair)

Ron Dougan

Ceri Victory-Rowe

Doug Elliott

Gayna Jones (until March 2017)

Claire Russell-Griffiths

David Roberts

Robert Smith

Biographies for Regulatory Board members can be found here:-

<http://gov.wales/topics/housing-and-regeneration/services-and-support/regulation/regulatory-board-for-wales/biographies/?lang=en>

Appendix 2

Themes emerging from current regulatory contact.

- Compliance with Community Housing Cymru's Code of Governance
- Self Evaluation development/improvement
- Compound scenario stress testing of the financial Business Plan, with mitigation strategies
- Asset Management - development/implementation of a strategic and planned approach
- Welfare Reform - continued preparedness for the impact of Universal Credit/Local Housing Allowance Housing Benefit Cap
- Value for Money - development/embedding of a comprehensive approach and assessment of outcomes
- Effectiveness of approaches to promoting equality and diversity
- Improvements to tenant engagement - at strategic level and involving the wider body of tenants in service improvements
- Tenant service satisfaction - more robust monitoring/measurement for assurance/understanding