

Agenda – Public Accounts Committee

Meeting Venue:	For further information contact:
Committee Room 3 – Senedd	Fay Bowen
Meeting date: Monday, 16 January 2017	Committee Clerk
	0300 200 6565
Meeting time: 13.30	SeneddPAC@assembly.wales

1 Introductions, apologies, substitutions and declarations of interest

(14.00)

2 Paper(s) to note

(14.00 – 14.05)

(Pages 1 – 3)

Coastal flood and erosion risk management in Wales: Additional information from the Welsh Government (6 January 2017)

(Pages 4 – 19)

NHS Wales Health Board's Governance: Letter from the Cabinet Secretary for Health, Well-being and Sport (9 January 2017)

(Pages 20 – 21)

3 Inquiry into Regulatory oversight of Housing Associations: Evidence Session 1

(14.05 – 15.05)

(Pages 22 – 49)

Research Briefing

PAC(5)–02–17 Paper 1 – Consultation response from Welsh Tenants

PAC(5)–02–17 Paper 2 – Consultation response from Tenant Participation Advisory Service (TPAS Cymru)

Steve Clarke – Managing Director, Welsh Tenants

David Wilton – Director, Tenant Participation Advisory Service (TPAS Cymru)



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

(Break 15.05 – 15.15)

4 Inquiry into Regulatory oversight of Housing Associations:

Evidence Session 2

(15.15 – 16.30)

(Pages 50 – 60)

PAC(5)–02–17 Paper 3 – Consultation response from the Welsh Local Government Association

PAC(5)–02–17 Paper 4 – Consultation response from the Chartered Institute of Housing (CIH) Cymru

Jim McKirdle – Housing Policy Officer, Welsh Local Government Association

Neil Howell – Head of Housing & Business Support, Torfaen County Borough Council

Gavin Smart – Deputy Chief Executive, Chartered Institute of Housing (CIH) UK

5 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

(16.30)

Items 6 & 7 of today's meeting and Items 1 & 2 of the meeting on 23 January 2017

6 Inquiry into Regulatory oversight of Housing Associations:

Consideration of evidence received

(16.30 – 16.50)

7 Auditor General for Wales: Forward Work Programme

(16.50 – 17.00)

(Pages 61 – 89)

PAC(5)–02–17 Paper 5 – Auditor General for Wales' work programme

PAC(5)–02–17 Paper 6 – Draft strategy for the Auditor General for Wales and the Wales Audit Office 2017–2020

Concise Minutes – Public Accounts Committee

Meeting Venue:

Committee Room 3 – Senedd

Meeting date: Monday, 9 January 2017

Meeting time: 14.00 – 15.51

Private

Attendance

Category	Names
Assembly Members:	Nick Ramsay AM (Chair) Mohammad Asghar (Oscar) AM Neil Hamilton AM Mike Hedges AM Rhianon Passmore AM Lee Waters AM
Wales Audit Office:	Anne Beegan Gillian Body Gareth Jones Matthew Mortlock Dave Thomas
Committee Staff:	Fay Bowen (Clerk) Meriel Singleton (Second Clerk) Claire Griffiths (Deputy Clerk)



1 Introductions, apologies, substitutions and declarations of interest

- 1.1 The Chair welcomed Members of the Committee.
- 1.2 Apologies were received from Neil McEvoy AM. There was no substitute.

2 Paper(s) to note

- 2.1 The papers were noted.

2.1 NHS Wales Health Board's Governance: Letter from Dr Kate Chamberlain, Healthcare Inspectorate Wales (12 December 2016)

2.2 Hospital Catering and Patient Nutrition: Additional information from the Welsh Government (14 December 2016)

3 Committee working practices and procedures

- 3.1 Members considered the paper and discussed the suggestions contained within it.
- 3.2 The Clerks will prepare a further paper and include examples of different working models to enable Members to have a further discussion.

4 Orthopaedic Services: Welsh Government Update

- 4.1 Members considered the Welsh Government's update on progressing the recommendations contained in the Auditor General for Wales' report, published in June 2015, and noted that Dr Andrew Goodall, NHS Chief Executive, is attending Committee on 23 January to enable the update to be explored further.
- 4.2 The Chair agreed to write to Dr Goodall in advance of the meeting advising him of areas that Members had expressed an interest in discussing with him.

5 NHS Waiting Times for Elective Care in Wales: Welsh Government Update

5.1 Members considered the Welsh Government's update on progressing the recommendations contained in the Auditor General for Wales' report, published in January 2015, and noted that Dr Andrew Goodall, NHS Chief Executive, is attending Committee on 23 January to enable the update to be explored further.

6 Regional Education Consortia: inquiry scoping paper

6.1 Members considered the scoping paper and:

- Agreed the terms of reference for the inquiry;
- Considered the suggested list of witnesses;
- Agreed to undertake a written consultation; and
- Agreed to undertake an online consultation with teachers and headteachers.

7 Auditor General for Wales – Forward Work Programme

7.1 Members considered and stated their preference for forthcoming work contained in the Auditor General for Wales' forward work programme and noted that this item would be discussed further at the meeting on 16 January 2017.

8 Welsh Government in-coming Permanent Secretary: Consideration of draft letter

8.1 Members agreed the draft letter which will be sent in advance of the incoming Permanent Secretary taking up her appointment on 6 February 2017.

Agenda Item 2.1

Grwp yr Economi, Sgiliau a Chyfoeth Naturiol
Economy, Skills and Natural Resources Group

Dirprwy Ysgrifennydd Parhaol • Deputy Permanent Secretary



Llywodraeth Cymru
Welsh Government

Nick Ramsay AM
Chair – Public Accounts Committee

6 January 2017

Dear Nick Ramsay AM,

During the Public Accounts Committee session on 12 December I committed to providing you with further detail on two matters concerning the planning system and flood risk:

- I. That planning permission includes conditions for developers to plant trees and restrict the use of block paving to reduce the impact of flooding; and
- II. That development has taken place on land susceptible to flooding.

The Welsh Government's national planning policies are set out in Planning Policy Wales and a series of Technical Advice Notes. At a local level, every local planning authority is required to prepare and maintain a Local Development Plan (LDP), which provides locally-specific policies and site allocations.

The planning system gives full consideration to managing flood risk both strategically and on a site-specific level. Detailed measures include restricting 'Permitted Development' rights, to allow only permeable areas of hardstanding to be created adjacent to houses and industrial and warehouse development without the need for planning permission. These restrictions were introduced in 2013 to mitigate the cumulative impact of small, incremental additions of impermeable hardstanding on surface water run-off and a subsequent increase in flood risk. As a consequence proposals for non-permeable driveways or hardstanding areas require planning permission from the local planning authority.

National and local planning policies set an expectation for new developments to incorporate sustainable drainage systems (SuDS) to minimise run-off, bringing water quantity and quality benefits, as well as improving local amenity and biodiversity. Furthermore, planning authorities routinely use planning conditions to ensure permeable materials are employed effectively and to ensure appropriate landscaping is incorporated into new development, including the planting of trees.

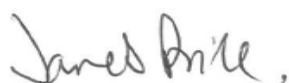


On a broader scale, Planning Policy Wales sets a precautionary approach which seeks to direct development - in particular highly vulnerable uses such as new homes, emergency services and schools - away from areas susceptible to flooding. Developments of this nature should never be located on undefended floodplains, and only where the risk to life and property can be reduced to acceptable levels should these developments be located behind flood defences. The independent examination of Local Development Plans will scrutinise whether any site allocations are proposed in areas of flood risk. At the planning application stage, developers must submit a Flood Consequences Assessment when proposing developments in flood risk areas, which will be assessed by Natural Resources Wales in its capacity as a statutory consultee. This process ensures that development only occurs on floodplains if it can be justified and if the risk to life and property is minimised as far as is practical.

The Welsh Government works closely with Natural Resources Wales to provide accurate maps showing where there is a risk of flooding. The TAN 15 Development Advice Map, which is specific for planning purposes, will become more closely aligned to the national Flood Risk Map when NRW become responsible for its management by April this year. This map gives developers and the public clarity on the location and nature of flood risk, and provides a further restriction to locating inappropriate new development in locations at risk of flooding.

Finally, a Notification Direction issued in 2012 ensures the Welsh Ministers are notified if a local planning authority is minded to approve an application for highly vulnerable development (10 or more dwellings where new homes are proposed) where the site is located on undefended floodplains (zone C2 of the Development Advice Map). This means the Welsh Ministers have the opportunity to call-in the application for their own determination. Ministers have exercised this power on several occasions.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'James Price'.

James Price



Welsh Government
Consultation – summary of response

Establishment of a Flood and Coastal Erosion Committee

January 2017

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Contents

Introduction.....	2
Consultation Process.....	3
Executive Summary	4
Responses to Consultation Questions	5
Question 1 – Other than the high level aim to advise Welsh Ministers on matters relating to flood and coastal erosion risk management, what additional functions may be imposed or conferred on the new committee?.....	5
Question 2 – With regard to the membership of the new Committee: a) Which size should the membership be? b) Which organisations should be represented? c) What skills and/or knowledge should be sought? d) What would be the key links to other organisations/boards/committees? e) Should the new Committee have appointed members, representative members, or an element of both?	7
Question 3 – How often should the new Committee meetings occur, and who should perform the secretariat support?	9
Question 4 – How should the new Committee communicate its advice to Welsh Ministers?	10
Question 5 – The 2016 Act allows for various payments to the new Committee Chair and membership. a) Should the Chair of the new Committee receive remuneration and allowances? b) Should the membership receive payment of allowances?	10
Question 6 – We have asked a number of specific questions. If you have any views on related issues which we have not specifically addressed, please let us know in the response form.....	11
Next Steps	11
Annex 1: List of respondents.....	12

Introduction

Section 81(1) of the Environment Act 2016 provides Welsh Ministers with the power to establish a Flood and Coastal Erosion Committee. The intention is for this new Committee to replace the current Flood Risk Management Wales (FRMW) Committee, whose arrangements were established by the Flood and Water Management Act 2010 (the 2010 Act), and the Regional Flood and Coastal Committees (England and Wales) regulations 2011.

The central role of FRMW is defined in terms of what Natural Resources Wales (NRW) must do regarding their programme and budget and what they may not do without the consent of FRMW.

The collective responsibility of FRMW is to consent to NRW's regional flood and coastal erosion risk management programme, the issue of any levy by NRW under section 17 of the 2010 Act, and the spending of any revenue by NRW under section 118 of the Water Resources Act 1991.

Flood and coastal erosion risk management in Wales is wider than the responsibilities that fall into NRW's flood risk management programme. The 2010 Act sets out the roles and responsibilities of all 'Risk Management Authorities' which in Wales includes NRW, the 22 Local Authorities who act as Lead Local Flood Authorities (LLFAs) and the highway authorities, internal drainage boards and water and sewerage companies.

In addition, external stakeholders including Network Rail and private landowners have a role in maintaining certain assets located on or near areas of flood or erosion risk. The delivery of the Welsh Government's National Strategy for Flood and Coastal Erosion Risk Management (the National Strategy) involves joint working across a range of organisations including Welsh Government, NRW, Local Authorities, Network Rail and Dŵr Cymru Welsh Water.

Consultation Process

The consultation sought to seek wider engagement on key aspects of the new Committee to ensure that it can deliver on its aim of providing sound, accurate and representative advice to Welsh Ministers on all aspects of flood and coastal risk management.

The consultation asked six questions on various aspects of the new Committee and provided factors to consider in relation to each question.

The consultation began on 11th August 2016 and closed on 3rd November 2016, receiving a total of 38 responses. The consultation was placed on the Welsh Government website and sent to relevant stakeholders.

Executive Summary

The idea of the new Flood and Coastal Erosion Committee was broadly welcomed by the respondents to the consultation.

The key message relating to the functions of the Committee was for it to provide advice and/or monitoring of the Flood and Coastal Erosion Risk Management (FCERM) programmes.

For the size and composition of the Committee views varied but, taking all responses into consideration, most people felt there should be at least 10 people but no more than 20, with a roughly equal number of representative and appointed members. Having sub groups feeding into the Committee was also mentioned. The Committee will have to reflect the fact that it covers the whole of Wales, both in the subjects that it will look at and its composition. This was something that was pointed out in various responses, with the importance of local knowledge being stressed.

Another message which came across was that the Committee should foster links with universities and other educational institutions. Other organisations were mentioned which people felt the Committee should interact with and liaise with on a regular basis which is covered under the second question.

On the question of frequency of meetings, quarterly proved to be the most popular choice, with most responses suggesting either NRW or Welsh Government should provide the secretariat. Whilst slightly more people opted for NRW it was noticeable that NRW themselves, and influential organisations such as the WLGA, preferred the role to go to Welsh Government. It was also suggested by multiple respondents that, as the Committee would be reporting to Welsh Ministers, it would make sense for Welsh Government officials to undertake this role.

The Chair would report to Ministers twice a year and will also produce an annual report on behalf of the Committee. The Committee should have a presence on the Welsh Government website and should have an effective communications strategy in place.

The majority of those who expressed a view were supportive of remuneration for the Chair and the payment of expenses to members.

Responses to Consultation Questions

The consultation asked 6 questions to obtain views on the establishment of a Flood and Coastal Erosion Committee. A full list of respondents is provided at Annex 1.

Question 1: Other than the high level aim to advise Welsh Ministers on matters relating to flood and coastal erosion risk management, what additional functions may be imposed or conferred on the new committee?

Overall, there was a general welcome for a new Committee which could provide a holistic view and advice on the entire flood and coastal erosion sector in Wales. Only one response questioned the need for a new Committee and felt that local committees distributed across regions of Wales would enable better decision making.

In total there were a wide range of potential additional functions that could be conferred. The most popular suggested were as follows:

Suggested Committee function (in order of popularity)	No. of responses mentioned
To provide advice and/or monitoring of the Flood and Coastal Erosion Risk Management (FCERM) programmes	17
To be able to commission own programme of work and/or research programme	11
To provide better two way communication with communities and the public on flood risk	11
To provide advice on how best FCERM can contribute to the Environment and Wellbeing Acts	9
To offer advice on how FCERM could incorporate land use and planning considerations, particularly concerning Local Development Plans and natural flood management approaches and implementation	6
To encourage effective partnership working between all Risk Management Authorities (RMAs) and FCERM organisations	5
To advise on the National Strategy for FCERM	5

Four respondents suggested that the advice provided by the Committee should be specifically set out on a short, medium and long term basis, which is consistent with the original proposals set out by the Environment Act. A further four respondents felt that the Committee should facilitate co-operation with and between resilience and emergency response groups with regard to flood events.

Four respondents felt that the Committee should take account of geographical differences and local situations when providing advice on flood and coastal erosion risk management. Three respondents suggested that the Committee should be charged with exploring the potential for partnership funding for flood and coastal erosion risk management programmes. Three respondents felt that the Committee must take climate change fully into account when providing advice, with two respondents each stating that the Committee

should both conduct a review of flood and coastal erosion research and should highlight and share best practice, both nationally and internationally.

One respondent felt that the Committee should encourage innovation.

All of the above suggested functions will be considered during the formation of the Committee. There were also a number of suggestions that cannot be considered. These included a suggestion for the Committee to have the remit to consider broader water management issues, which would not be permitted under the Committee scope as set out by the Environment Act.

A suggestion to include protection against river erosion as a consideration of the Committee is not currently possible as the erosion of a watercourse bank is the responsibility of the riparian owner and Risk Management Authorities do not have powers to manage this risk under the Flood and Water Management Act.

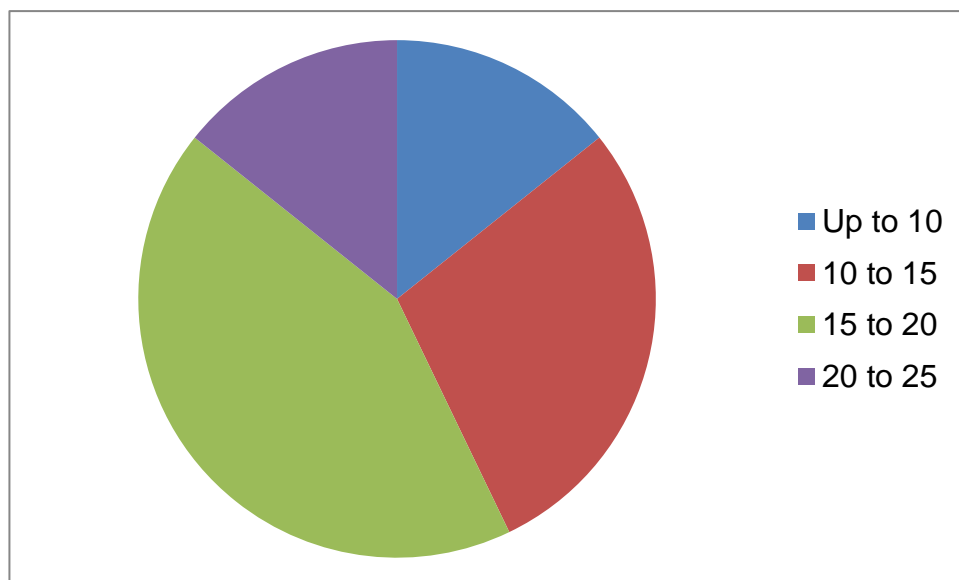
Two respondents felt that the Committee should have the power to question flood and coastal erosion risk management organisations. The Committee will potentially be permitted to invite representatives to meetings to discuss various issues. However, as the Committee will be advisory in status rather than a scrutiny Committee, it would not be appropriate for the Committee to compel any organisation to attend and receive scrutiny.

One respondent felt that the Committee should consider the links to increasing coastal erosion. As the Committee will potentially have the ability to set its own work and research programme, such tasks could conceivably be considered but not as a set and distinct function.

Question 2 - With regard to the membership of the new Committee:

- a) What size should the membership be?**
- b) Which organisations should be represented?**
- c) What skills and/or knowledge should be sought?**
- d) What would be the key links to other organisations, boards or committees?**
- e) Should the new Committee have appointed members, representative members, or an element of both?**

There was a variation in responses received as to the optimum size of the Committee, as displayed by the following graph.



Many respondents did not offer an opinion on the size of the membership, although there were multiple views that core Committee numbers should be reduced with supporting sub-Committees providing opportunities for wider representation and greater detailed discussions.

Of the opinions expressed on the type of membership, the majority view was the Committee should contain a roughly equal number of representative and appointed members.

There was a wide range of organisations listed which respondents felt needed to be involved with the new Committee. These included:

- Welsh Government
- Natural Resources Wales (NRW)
- Lead Local Flood Authorities (LLFAs)
- Welsh Local Government Association (WLGA)
- All Water utilities
- Network Rail
- National Trust
- Community and Town Councils, potentially through One Voice Wales
- Voluntary Sector including flood wardens and residents in high risk areas
- Landowners, including National Farmers Union (NFU) Cymru and Countryside Landowners Association (CLA)
- Environmental Non-Governmental Organisations (NGOs), potentially through Wales Environment Link
- Met Office

- Universities
- Private sector
- Coastal users groups, including beach owners

It was also felt that the Committee would need strong links to:

- Association of Drainage Authorities (ADA) and other professional bodies
- Historic environment groups
- Climate change groups
- Resilience groups
- Wales Coastal Monitoring Centre (when re-established)
- The Flood and Coastal Erosion Risk Management Programme Board (when established)
- Planning departments in Local Authorities and Welsh Government

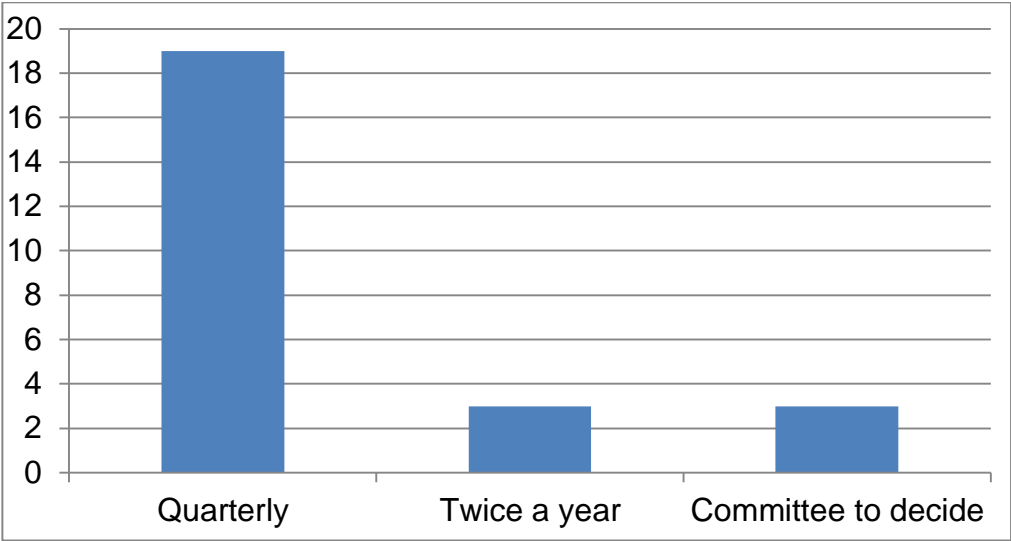
In terms of the skills needed on the Committee, again there was a wide range of responses. These included:

- Engineering, Innovation and Technology
- Independent flood and coastal practitioners
- Knowledge of Welsh Government funding
- Knowledge of different types of flooding
- Technical knowledge
- Knowledge of Capital Investment Programmes
- Communications and ability to liaise with public
- Geographical Information Systems (GIS) and mapping expertise

In addition, respondents felt the Committee should have the ability to co-opt additional expertise when required, including inviting others to attend and contribute.

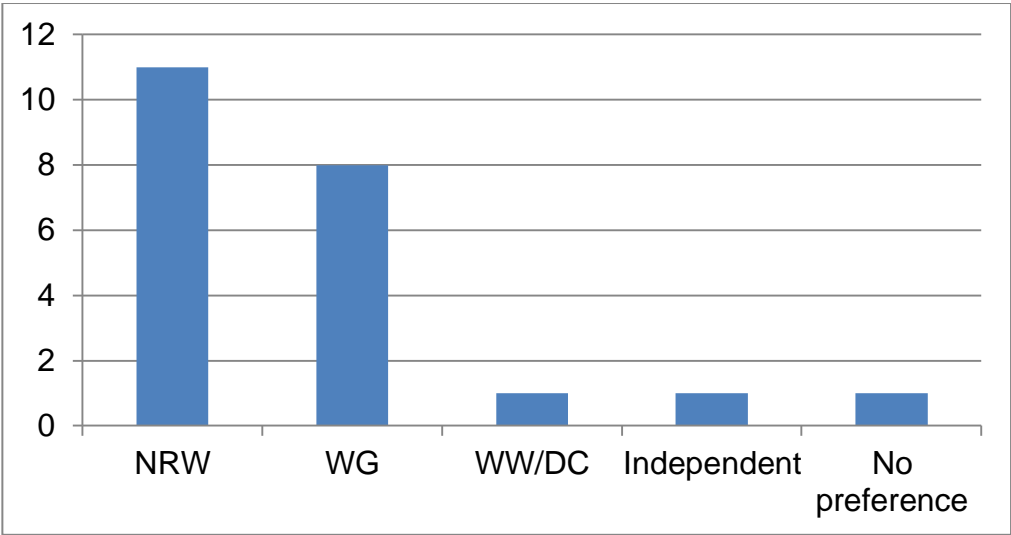
Question 3 - How often should the new Committee meetings occur, and who should perform the secretariat support?

There was an overall view that the Committee should meet in some form on a quarterly basis. The following graph displays the various responses received:



The Committee itself will have an input into the necessary frequency of meetings, with agreement from Welsh Ministers. Although the consultation responses clearly favour a quarterly frequency of meetings, when potential sub-committee meetings are also factored in, a frequency of 2-3 core committee meetings may be more appropriate.

The responses relating to secretariat support were as follows:

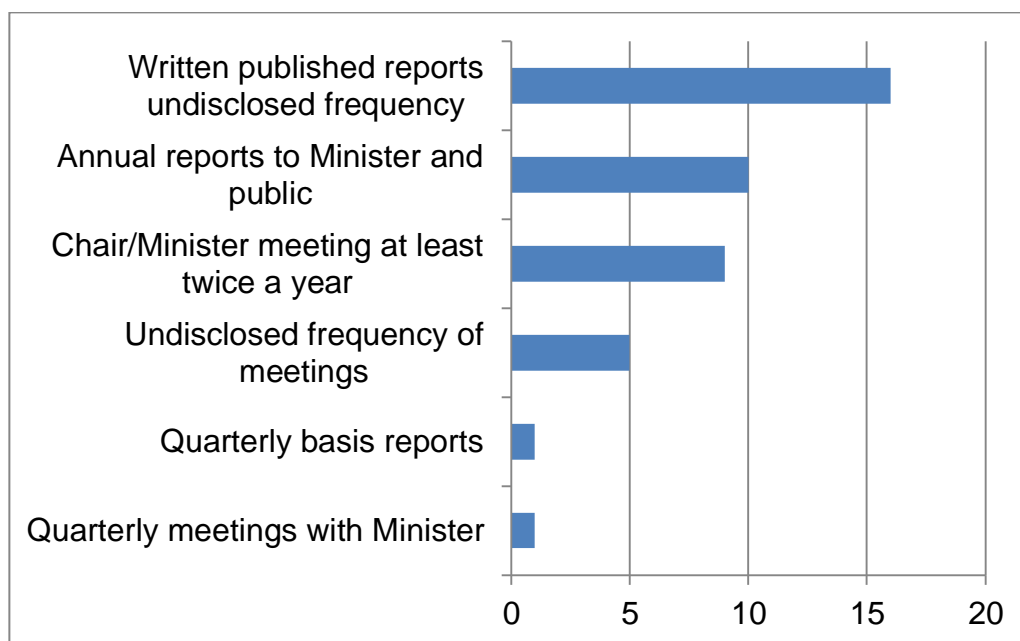


However, despite a higher amount of respondents stating that NRW should provide the secretariat support, a significant number of comments were of the opinion that Welsh Government would be more appropriate. Multiple views were expressed along the lines of “if reports are going to the Minister, then Welsh Government would be the more suitable secretariat.”

In addition, NRW themselves, the WLGA and LLFAs also indicated that Welsh Government would be the appropriate body to provide secretariat support.

Consultation question 4 - How should the new Committee communicate its advice to Welsh Ministers?

When asked about how the Committee should communicate its advice to the Minister and the public, the majority of respondents felt that some kind of written and published report would be preferable. Ten responses were more specific, with an annual report preferred. Respondents also felt that regular meetings between the Committee Chair and the Cabinet Secretary would be desirable, with 9 responses stating these meetings should occur at least twice a year. The range of received responses is displayed below.



Consultation question 5 - The 2016 Act allows for various payments to the new Committee Chair and membership.

- a) Should the Chair of the new Committee receive remuneration and allowances?
- b) Should the membership receive payment of allowances?

The respondees' views on remuneration and allowances were, in general, an agreement that the Chair should have appropriate remuneration and the membership should receive appropriate expenses.

Consultation question 6 - We have asked a number of specific questions. If you have any views on related issues which we have not specifically addressed, please let us know in the response form

We received 11 responses to this particular question, covering a range of proposals.

Various groups used this question to advocate their support for the Committee and to welcome the opportunity to engage with it. There was one response which felt that the current situation was adequate and that there was no need for a change. Another response highlighted the importance of a visible presence on the Welsh Government website. One respondent felt the Committee should look at the performance history of organisations responsible for flood protection from coastal to sewer flooding whilst another stressed that there should be balance between covering fluvial and coastal flooding.

Next steps

The Welsh Government will now use the feedback gained from this consultation to prepare the regulations needed to establish the Committee in 2017 and outline its operation. At the same time, the Flood Risk Management Wales Committee will be formally abolished.

In parallel to this, the Welsh Government will operate a recruitment process for the Committee Chair and membership that will involve both representative and publically appointed members.

Annex 1: List of respondents

*1 respondent asked not to be named

Caerphilly CBC	Local Authority
Conwy CBC	Local Authority
Monmouthshire CC	Local Authority
Farmers Union of Wales	Union
NFU Cymru	Union
Llanelli Town Council	Town Council
Martletwy Town Council	Town Council
Porthmadog Town Council	Town Council
ADA Wales	Organisation
BT	Organisation
DCWW	Organisation
ICE Wales	Organisation
Met Office	Organisation
Mott Macdonald	Organisation
N. Wales Fire and Rescue	Organisation
National Trust	Organisation
Network Rail	Organisation
NRW	Organisation
One Voice Wales	Organisation
Ordnance Survey	Organisation
RSPB	Organisation
RTPI	Organisation
WLGA	Organisation
Talybont Community Flood Group	Organisation
Cllr. K Watts	
DCC Gareth Pritchard	N. Wales Local Resilience Forum
G. Whitworth	Atrepo
H. Jones	Powysland Advisory Group Chairman ADA Wales.
Historic Environment Group	Welsh Government
John Markwick	Powysland IDD Advisory group
M. Bramley	Llanfrynach CC
M. Millett	
Madeleine Havard	Chair, FRMW
R A Falconer	Cardiff University and Independent Water Consultant
Richard Ebley	
Victor Hellier	NHW and Marlborough Flood scheme



Llywodraeth Cymru
Welsh Government

Ein cyf/ Our ref: MA-P VG/0025/17

Nick Ramsay AM
Chair
Public Accounts Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

9 January 2017

Dear Nick,

Thank you for your letter of 6 December, in follow up to the joint update you received from Dr Andrew Goodall and Dr Kate Chamberlain regarding progress achieved against the *Marks Review* recommendations.

As you identified, the response to seven of the recommendations highlighted that the issues, including any future legislation, are being explored following on from the 'Our Health, Our Health Service' Green Paper.

You will recall that the Green Paper consultation was held last year to explore potential areas for future legislation in support of quality improvement, effective integration, partnership and better governance within the health service in Wales. Chapter six of the Green Paper examined whether we have the right arrangements in place for the effective regulation and inspection of health services by Healthcare Inspectorate Wales (HIW). In line with those recommendations made as part of the *Marks Review*, it asked how legislation could be utilised to improve the operational capacity for HIW, its independence, and collaboration between HIW and Care and Social Services Inspectorate Wales (CSSIW).

Further to the consultation, the previous Minister for Health and Social Services published both a summary of responses, as well as the responses in their entirety (apart from those who indicated they wanted their response to remain confidential). Since the summary report, we have also seen the publication of the OECD review of Health Care Quality in the UK, which suggests a number of actions which intersect with the areas consulted upon in the Green Paper, including how to effectively capture the patient voice on NHS matters.

At the time of the consultation it was made clear that it would be for the new Government to decide on any action following the Green Paper. We are now working to complete the review of the functions of HIW and CSSIW and my officials are currently undertaking an

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Vaughan.Gething@llyw.cymru
Correspondence.Vaughan.Gething@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

appraisal to assess whether legislation is necessary to drive forward quality improvement and integration. However, we are clear that legislation should be regarded as the final resort in terms of effecting change and so, for each of the areas above officials are also looking at what action can be taken in the short/ medium term within existing legislative frameworks. My officials are considering all of the reviews preceding and following the Green Paper, alongside the consultation responses, as well as holding discussions with the Inspectorates to ensure the options are fully informed.

I anticipate my officials will provide me with an outcome of this appraisal in the New Year and thus it would be premature for me to confirm whether this will encompass legislation. I will endeavour to keep the committee appropriately informed of progress in this area and subsequent impact on those specific recommendations highlighted.

Yours sincerely,

A handwritten signature in black ink that reads "Vaughan Gething". The signature is written in a cursive, flowing style.

Vaughan Gething AC/AM

Ysgrifennydd y Cabinet dros Iechyd, Llesiant a Chwaraeon
Cabinet Secretary for Health, Well-being and Sport

Agenda Item 3

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

Tenantiaid Cymru / Welsh Tenants

Welsh Tenants is a representative voice for tenants formed in 1987 but with a longer campaigning history. Our mission is to 'enhance and promote the rights, representation and standards for people whom rent their homes in Wales'. We have over 500 registered groups and associates in Wales.

Welsh Tenants served almost 6 years on the Regulatory Board for Wales until the board changed to an independent structure in 2015/16. During this time we helped develop and manage and facilitate the Tenants Advisory Panel throughout this period. We are the only tenant representative body to currently sit on the RAG (Regulatory Advisory Group). We undertook a mapping exercise of tenant scrutiny among HAs in 2015.

This response relates to:

National Assembly for Wales

10th Jan 2017.

Public accounts committee response to the enquiry on the effectiveness of the current Regulatory Framework for Housing Associations Registered in Wales;

1. The effectiveness and quality of governance arrangements;
2. Whether the current regulatory regime is effective in managing and mitigating sector wide risks;
3. The effectiveness of the co-regulatory approach in practice;
4. The remuneration of senior executives of housing associations.

Further information

Steve Clarke, Managing Director

Welsh Tenants

Milbourne Chambers,

Glebeland Street, Merthyr Tydfil,

CF478AT

Email steve@welshtenants.org.uk

Tel: 01685 723922

1. Quality of governance arrangements
- 1.1. The focus on governance has been a key area of regulatory activity. The Regulatory Board Wales commissioned a review of governance in Wales 2013¹ The comprehensive research of HAs in Wales stimulated sector discussions on how governance can be improved. As a consequence a new code² was adopted in 2015 with a 'comply or explain' approach adopted by the regulator.
- 1.2. In our view the representative body for the sector CHC (Community Housing Cymru) undertakes its role diligently and with professional competence delivering a number of governance specific events to share and discuss emerging risks, provide workshops, discussions on strategic and policy issues for boards that address the full range of emerging risks and challenges for the sector.
- 1.3. Boards are always balanced by pushers and pullers. Those wanting to race ahead expand and diversify and those who want to stay grounded in their localism in both traditional and non-traditional models. However, the regulator reports there are some associations still presenting cause for concern' that require closer regulatory monitoring.
- 1.4. We are confident that work undertaken by the regulator in a co-production, co-regulation approach has enabled the sector to improve board governance however this is a dynamic process.

Issues raised by tenant representative group

- 1.5. Executives as board members - There is significant tenant and stakeholder resistance to executive officers being on boards of HAs with voting rights. The executive is accountable to the board not a member of it. We believe this model should be confined to the private sector. If the board has concerns about understanding executive proposals, it should seek independent support and advice.
- 1.6. Paid board members – The sector has a diverse range of highly professional persons on their boards. Individual HAs can determine whether to remunerate board members with a an explanation to the regulator. Tenants are generally not in favour of 'paid board members'. We are however sympathetic to encouraging young professionals to gain board experience through

¹ <http://gov.wales/statistics-and-research/sector-study-governance-housing-associations-registered-wales/?lang=en>

² http://chcymru.org.uk/uploads/events_attachments/Code_of_Governance.pdf

compensating employers for time off to encourage younger profiles into the role.

- 1.7. Tenants as board members – The majority of boards recruit tenants to join their boards from ‘within’ and ‘outside’ of their voluntary TP (tenant participation) structures. There is no mandatory requirement among traditional housing associations to place tenants on boards. Landlords do so, as a part of their TP strategies. There are a range of practices including arrangements for ‘election’ and ‘selection’, although increasingly moving to selection only. We are not convinced, and there is little evidence to suggest otherwise, having tenants as board members improves the board function, compared to other models such as wider range of ‘consumer advice’ professionals. Although there are many tenants who are very experienced and provide a valuable contribution, our preference would be to see tenants in a ‘challenge role’ not equipping them to become ‘the landlord’ with the collective board responsibility this entails. Given the practical limitations on board size, we would rather see the emphasis on meeting other skill gaps such as consumer rights, health and wellbeing, older / young person champions etc.
- 1.8. Scrutiny and challenge – Welsh Tenants are supportive of properly structured and adequately resourced tenant scrutiny and challenge. Our view is that tenants should be empowered to monitor and evaluate ‘service delivery performance’ particularly the effectiveness, efficiency, economic and equitability of service delivery. In this way challenge and scrutiny provides a useful accountability tool for boards. According to a survey conducted in 2015 “Mapping tenant scrutiny among HAs” [2015], conducted by the Tenants Advisory Panel and Welsh Tenants, there are around 1500 tenants participating with housing associations, with a small number undertaking scrutiny and challenge roles. Effective tenant involvement has been assessed as providing significant savings annually to HAs (DCLG commissioned research³ suggest savings per tenancy between £28 and £94 per property or over £20m annually to Wales if implemented, evaluated and evidenced correctly). This can be best achieved through comprehensive involvement structures with external support at local, regional and national levels. The process enables the regulator to focus on governance and financial viability while utilising local tenant scrutiny and challenge of service delivery to account for their “service delivery performance”.
- 1.9. Golden share – The sector is supported by the addition of 11 LSVT (Large Scale Voluntary Transfer) organisations that range from fully and partially mutual to traditional LSVT HA models. LSVT boards are mainly comprised of a third

³ <https://nationaltenants.files.wordpress.com/2015/03/tlc-an-investment-not-a-cost.pdf>

tenants, councillors and independents. The golden share (councillors) maintain the link with local authority accountability providing localised assurances. There's been much discussion about removing this contingent. Welsh Tenants view is that the make-up of governance arrangements for LSVTs were determined by tenant ballot as outlined by the "offer" and "business plan". This included reassurances concerning structures and make-up of boards. Tenants voted on the whole package. A 30 year business plan, a WHQS delivery offer and accountability structures. These measures ensure concerns of anti-stock transfer bodies such as Defend Council Housing and in particular the criticisms of "privatisation of council housing" were allayed. We believe that any fundamental change should be subject to re-ballot and full consultation in line with 'Gunning principles'. If councillors are withdrawn from LSVT boards, one suggestion is for local authorities to have powers to call to account the boards and their CEO's to a public hearing to explain their performance should issues arise.

- 1.10. Social housing sector changes across the UK mean that many involved tenants have concerns about the ability of the sector to continue to provide rented accommodation for low income earners, the disabled and the elderly who can least afford market rents. In the near future, increasing commercialisation of HAs is an inevitability to maintain and even subsidise their current sector niche.
- 1.11. Mergers – Some tenants have raised concerns by the push for increased merger activity. While we understand the necessity to address 'governance issues', mergers are an extreme solution to poor board performance or other risks as reported by the regulator. We are mindful of some views that mergers are politically motivated and produce no tangible long term savings. If mergers are to be extended, we would like to see full meaningful consultation arrangements put in place, as with the stock transfer process with independent tenant advisors appointed, including opportunities to be balloted, with tenants having some say on the appropriateness of merger partners.
- 1.12. AGMs – Annual General Meetings are the primary event to convey annual performance to shareholders and stakeholders. They are we feel, much more inclusive affairs than 5 years ago. These are often supplemented by annual tenant conferences that market the association's collaborative work and allow tenants to understand the breadth of partnership working undertaken. The changes have been widely welcomed by many.
- 1.13. Shareholders – Shareholders act as guardians of the constitution, vision and values and meet up annually, being invited to attend the AGM. However their

role is largely an advisory one to the appointed board. The shareholder role, as well as a recruiting ground for potential board members, could also be better utilised to better understand and provide more effective challenge / accountability of boards. We are pleased to see some HAs develop as 'fully mutual' with inclusive tenant and staff shareholding being developed. However our general view is that the role of shareholders is largely misunderstood and largely underutilised among the majority of HAs.

- 1.14. Transparency – We are mindful that HAs provide the Welsh Government with a great deal of data. We are also mindful of the need to ensure best value is achieved in reporting processes and transparency for tenants and the public to understand the sector. We appreciate the sector provides a valuable 'public service function' as non-public bodies. Due to the vital public impacts on the supply of affordable homes, we would wish to see HAs being subject to FOI (Freedom of Information) requests to improve transparency for the public and stakeholders. We understand that Scotland has also resolved to consult on the same issue for largely similar reasons and due to the ONS reclassification.
2. Whether the current regulatory regime is effective in managing and mitigating sector wide risks;
 - 1.2. Generally, under the co-regulation regime it is for the sector to identify and manage their risks and put in place plans to mitigate their impacts. The regulator provides 'a judgment' as to how well the association performs across these functions and whether they have the competence and confidence to do so. However, the regulator does identify, through the 'relationship management process' emerging risks and can request evidence as to how the association is managing these.
 - 1.3. Sector risks are also identified by regulators themselves, the sector and stakeholders coming together to consider emerging risks and challenges, these cover a very broad range including; lender confidence, devolved and non-devolved matters such as social security / housing benefit, social, technological, earnings risks, aggregates - to mention a few. Thematic reviews are also commissioned.
 - 1.4. In our view the co-regulatory approach encourages HAs to be open with the regulator in raising issues of risk confidentially through the 'relationship management process', and requires the provision of 'self-evaluation' evidence of business models with plans to mitigate high value risks and 'Delivery standard' performance. It is seen as being more useful than routine inspections of pre-set criteria.

- 1.5. With increasing number of complicated group structures and the broad range of diversified businesses associations operate within, regulation also crosses sector boundaries including health, wellbeing and social services. Soft and hard intelligence is therefore critical in the gathering of evidence to make informed judgements. We understand that the Welsh government as regulator has critical links to other regulatory bodies to understand the nature of these risks through various networks.
 - 1.6. The regulatory structure also includes RAG (Regulatory Advisory Group) consisting of stakeholder representative bodies to advise the regulatory board on sector wide risks.
 - 1.7. Over several years a number of high level risks have been identified. Most if not all RSLs appear to have comprehensive risk inventories and are improving their ability to respond to current and emerging risks. This is a dynamic process.
3. The effectiveness of the co-regulatory approach in practice;
 - 3.1. The term 'co-regulation' in effect means housing providers self-regulate in a transparent manner, subject to resident, stakeholder and partner scrutiny and challenge. As one HA states “The aim of co-regulation ensures associations take full responsibility for their actions and how they operate, thereby enabling a reduction in direct, central regulation” (Wales & West HA). This means, demonstrating confidently that housing associations are able to undertake their obligations within the co-regulation relationship diligently. This also means being transparent and open with the regulator, tenants and stakeholder partners regarding performance.
 - 3.2. Some housing associations are better equipped to deliver a co-regulation approach than others. This does depend on the culture and quality of staff and their knowledge and competence to deliver a best value approach and a commitment to the principles of co-regulation. Co-regulation requires extraordinary levels of trust on behalf of the regulator and we would suggest a less transparent, some would say “cosy” model of regulation, however the chosen model has yielded improvements in governance arrangements, identifying emerging risks. This can be evidenced through ‘closer monitoring’ with several associations and has stimulated sector wide collaborative responses to help mitigate them.

- 3.3. While Welsh Tenants fully accepts the need to focus on governance and financial viability we would welcome better 'service deliver judgements' to triangulate governance and financial viability. With more meaningful transparent reporting on how well housing associations deliver service performance commitments and accountable tenant involvement to demonstrate its effectiveness.
- 3.4. Registered Social Landlords as providers of social housing fulfil a vital public service function in society. There is much confusion regarding landlords obligations, and tenants' rights, relating to being informed, consulted and to participate in changes to housing management, including on issues such as rent and service charges, common housing registers, housing management and mergers. Section 104-106 of the 1985 housing Act guaranteed secure tenant rights to be informed, consulted and to participate and has been the fundamental principle used by successive governments in Wales to encourage and support housing authorities and RSLs to participate with tenants. As registered social landlords with assured tenancy agreements the statutory rights are now more confused particularly with a non-public body providing essentially a public service. It is our firm belief, that the principle of tenant involvement and consultation as outlined in the Gunning principles⁴ would be better severed through the development of a consolidated statutory right to be informed, consulted and participate - as in Scotland to safeguard opportunities for accountability, representation and involvement not least to tenants who are not involved.
4. The remuneration of senior executives of housing associations.
- 4.1. Remuneration of senior executives has not been an issue raised by tenants, apart from concerns about potential remuneration of board members. Most may not be unaware of the salary and enhancements attached to senior executive remuneration packages. This further reinforces the need for more transparency of final package schemes.
- 4.2. The comparative salaries prevalent in HAs in England is however it would seem are beginning to feature among top earners here, with a steady stream of executives being attracted to Wales potentially forcing prices upwards.
- 4.3. We are concerned about reports of staff members having to pay for their own 'inferior tools' and having to take out loans and 'salary sacrifice' to pay for them and other such conditions/terms which may not be subject to higher earning grades suppressing earnings for some.

⁴ <http://www.wlga.gov.uk/publications-improvement-and-governance/the-law-of-consultation>

- 4.4. Salary bands including full disclosure of enhancements/benefits/pensions, are not universally transparent. In the interest of transparency, we would welcome annual published ratios of earnings among all staffing levels in the summarised and full accounts of HAs.
5. Other concerns
- 5.1. The Office of National Statistics (ONS) has within its remit the ability to determine decisions regarding accountancy practices and the power to determine whether a body is classified as 'public' or 'non-public' institutions. The ONS Economic Statistics Classification Committee (ESCC), considered the classification of registered social landlords (RSLs) and housing associations in England, which concluded in 2015. This was undertaken in the context of international rules laid out in the European System of Accounts (ESA) 2010 and the accompanying Manual on Government Deficit and Debt 2016 (MGDD 2016) and determined the private registered providers (PRPs).
- 5.2. In the June 2016 Classifications Forward Work Plan, the ONS undertook a further review of the statistical classification of registered social landlords and housing associations in Scotland, Wales and Northern Ireland and concluded that registered providers of those administrations are 'public, market producers' and as such they will be reclassified to the Public Non-Financial Corporations (S.11001) sub-sector for the purpose of national accounts and other ONS economic statistics.
- 5.3. For Wales this classification applies with effect from 24 July 1996; the date of the Housing Act 1996.
- 5.4. As a consequence of the ONS decision, Welsh Tenants are concerned that the loan debt carried by the sector in Wales will become 'public debt' and seriously undermine the ability of the sector to deliver on the planned 20,000 homes recently announced, as the debt required to service new borrowing will be capped by Welsh government borrowing powers and/or restrict the borrowing potential of the sector. We would support urgent legislation that would reverse this decision without serious detriment to accountability and transparency of the sector.
- 5.5. Further issues of concern raised by tenants, is that the sector will utilise the opportunity of the ONS decisions to seek a number of changes and powers of the regulator and Welsh Government.

- a) the sector could place demands on Welsh government not to intervene in its affairs restricting effective regulation in the interest of tenants (tenants at the heart) including restricting any impositions of scrutiny and challenge
- b) concerns that landlords will increasingly focus on commercial and market rent activities and not meet the needs of people unable to access or afford open market rents the number of social housing rent properties as a proportion of homes provided by the social housing sector may further diminish with fewer powers of the regulator to intervene, specifically to meet a mandate to provide homes for those in greatest need
- c) that Welsh Government requested data gathered by HAs and used by the public through ONS data gathering and or FOI (Freedom Of Information) requests will be further reduced leading to less transparency
- d) that existing properties or new properties not funded directly or indirectly by social housing grant and or surpluses generated by HA activity will be used to provide 'market rent properties' that lay outside of the 'common housing register' and thereby excluding tenants from the ability to transfer / downsize to these newly acquired homes

Conclusion

These are demanding times for the sector and for the provision of genuinely affordable homes being harder to access, potentially eliciting fundamental changes in social housing provision for existing and new entrants. Generally the sector is well governed and aware of risks and collaboratively tackle them. There are significant strengths in the co-regulation approach but we are mindful that this could be undermined by the ONS decision and the level of 'back-off' required to address the reversal of the reclassification.

We are under no illusion as to the challenges the sector face. We do however need to maintain a viable social housing sector that may aspire to focus on commercial activities. Wider risks particularly non-devolved matters and the ability to respond effectively to them, particularly social security changes and supply of genuinely affordable homes means that significant stresses remain.

Shortfalls in the Shared accommodation rate will impact on All Broad Market Assessment Areas in Wales with the exception of one in Wrexham (West Cheshire) with the shortfall being in excess of £14 per week. While spare subsidy system (bedroom tax) continues to impact on thousands of tenants with the opportunity to move to smaller affordable social housing being

diminished with the longer term pressures on the Discretionary Housing Payment system and common register changes. While housing management costs are rising steadily as a result of additional work by housing professionals to support tenants. In some areas housing associations are increasingly using section 21 notices (used during the tenancy probationary period) to evict tenants who are struggling to pay rent, placing further pressures on Local authorities (Shelter Cymru research).

The sector has responded well to the pressures, but no doubt is set for significant change as pressures continue. Having an effective regulatory process that embraces collaborative solutions is therefore vital to also holding in check those pushers who may want to diversify away from a high cost social housing sector.

New models of supply through for example modular build and we would suggest self-management to reduce management costs may be required to hold rent costs down. We must however continue to be innovative in finding and funding effective collaborative solutions.

The National Assembly of Wales' Public Accounts Committee **Inquiry into Regulatory Oversight of Housing Associations**

About Us:

TPAS Cymru works to improve the lives of social housing tenants in both housing and community matters, by promoting effective participation of tenants with their landlords and with other partners in issues that affect them. We have supported social housing tenants and landlords in Wales for over 25 years and have a strong track record in developing effective participation through training, support, practical projects and policy development.

This Response is based on:

- Our experience of working with tenants and tenants groups and listening to their views.
- Our observations and dialogue with our members and partners within the HA sector
- Our membership of the Regulatory Advisory Group
- Our work to improve partnerships between tenants and residents and their Housing Association landlords and other partners.

TPAS Cymru welcomes the opportunity to respond to the Public Accounts Committee Inquiry into Regulatory Oversight of Housing Associations and we have responded to each of the terms of reference as set out in the consultation paper;

1. The effectiveness of the current Regulatory Framework for Housing Associations Registered in Wales?

- 1.1 The current Regulatory Framework for Housing Associations (HAs) Registered in Wales has evolved and developed since its inception. Welsh Government has worked with the housing sector, including tenant organisations such as ourselves, to continually develop and improve the framework to ensure it operates effectively to protect tenants and investment in Welsh Housing Associations.
- 1.2 Changes within the last 12-18 months including the establishment of an independent Regulatory Board (RBW) and a reinvigorated Regulatory Advisory Group (RAG) have been positive moves. As members of the RAG, we have seen an improvement in openness, dialogue and communication between the housing sector and Welsh Government which is helping focus the work of the Regulation Team. This is strengthening the co-regulatory approach and thus supporting HAs to provide quality homes and services to their tenants.
- 1.3 Published outputs from the regulation team have changed to much shorter 'exceptions based' Opinion Reports and there are some doubts as to the value of this information in enabling Tenants to see clearly how their landlord is performing. The current reports do not appear to be widely used or relied upon by Tenants.
- 1.4 In the interests of openness and transparency there are other outputs from regulation, such as individual landlord self evaluations, which could be disseminated more widely. A suggestion would be that landlords are encouraged to ensure this information is advertised and made more widely available to their tenants and other local stakeholders.
- 1.5 The framework continues to evolve and develop and we are supportive that the principles underpinning the Regulatory Framework continue to be the right ones i.e. that Tenants should be at the heart of regulation; that individual housing associations should be responsible for their own actions; that regulation should be open, transparent, consistent and proportionate; and that regulation is founded on co-regulation.
- 1.6 The proposed revised approach to regulation, to include a focus on continuous improvement and a clear Regulator's 'judgement' are welcomed. This new approach will need to be adequately resourced to ensure the Regulation Team have the capacity to deliver the changed framework. The team will also need the

capacity to engage directly with tenants and stakeholders at a local level to gather relevant intelligence and evidence as part of each HAs regulatory process.

2. The effectiveness and quality of governance arrangements?

- 2.1 Without having an in-depth knowledge of each HA in Wales it is difficult for us to make a blanket statement about the effectiveness and quality of governance arrangements across the country. However, in general terms we have observed consideration and work undertaken by boards and senior management teams to improve governance over the last couple of years. We're aware that the quality and effectiveness of boards seems to be improving and frameworks for good governance including CHC Cymru's 'Code of Governance' appear well understood within the sector.
- 2.2 There has been a general shift in the sector towards more inclusive and rigorous recruitment methods to help strengthen governance by widening skills and diversity at board level.
- 2.3 Whilst many boards display a strong commitment to tenant involvement at board level how meaningful and successful that is in practise seems to vary. Boards need to explore opportunities to develop clear and direct links between their tenants and the work of the board. This could include engaging with tenants at strategic level as well as offering opportunities for effective challenge of landlord performance and decision making such as through tenant scrutiny.
- 2.4 Involvement of tenants in governance need not always directly translate into board membership: if tenants feel they may have stronger voice and to challenge and hold their landlord to account from outside of the board then this approach needs to be made available to them.

3. Whether the current regulatory regime is effective in managing and mitigating sector wide risks?

- 3.1 Housing associations face an increasing range of risks in delivering their objectives and managing their businesses. Boards are expected to consider the extent to which their strategies and business plans could cope with threats, including changes in the economy, housing policy and related areas including welfare, health and social care.

- 3.2 The current regulatory regime appears to be well focussed to respond to risks faced by the sector and the regulator plays a significant role in identifying potential sector wide risks including producing a paper specifically on this. The document produced is useful for the sector, stakeholders and tenants, helping them to identify and prepare for broader risks.
- 3.3 The identification and sharing of new and emerging risks is also covered by a regular agenda item at the Regulatory Advisory Group meetings.
- 3.4 TPAS Cymru's experience is that tenants can provide useful evidence and information regarding some potential local and service risks faced by their landlord. It may be useful for the regulation team to ensure they dedicate sufficient capacity to enable them to engage directly with tenants and stakeholders at a local level. This would provide them with an opportunity to discuss any particular risks identified by them as part of the regulatory process.
- 3.5 More openness by the regulation team, where possible, would be welcomed in terms of the sharing of lessons learnt relating to managing and mitigating risks e.g. how failure to manage risks by HAs is resolved by boards and how regulatory interventions by the regulation team have protected tenants. This would help to demonstrate the effectiveness of regulation and provide reassurance to tenants.
- 3.6 The proposed revised approach to regulation, including clear standards and 'judgements', should place a continued emphasis on risk and the HAs ability to manage particular risks facing their organisation to protect tenants and investment in Welsh HAs.

4. The effectiveness of the co-regulatory approach in practice?

- 4.1 TPAS Cymru believe that Co-regulation remains a key element of the regulatory framework and we therefore support the retaining of this focus.
In a co-regulatory environment, honest, robust self evaluation is essential and offers mutual benefits. This approach raises expectations that individual HAs assess their own performance honestly and challenge themselves to drive their own continuous improvement.
- 4.2 Where co-regulation appears to be working well is where HAs see self-evaluation as being fundamental to their organisation's performance management and not just part of the regulatory framework.

- 4.3 Some HAs appear to have devoted considerable resources to self evaluation with boards also ensuring tenants are engaged in the process and provided with the opportunity to reflect on the health and performance of the Association. However, it is not clear if all HAs enable tenants to be engaged in self evaluation ensuring it is a reliable view of the Association's performance; this is despite of clear guidance from the regulation team for them to do so.
- 4.4 Effective self evaluation is one of the ways in which a Housing Association can be accountable to tenants, service users and other stakeholders by publishing an evaluation of their health and performance in a way that is readily accessible to tenants. Many individual self evaluations are not made openly and easily available by HAs in a range of accessible formats. This lack of openness limits the opportunities for tenants to challenge or validate their landlord's performance which would ultimately provide mutual benefit for all.

5. The remuneration of senior executives of housing associations?

- 5.1 As independent organisations the remuneration of senior executives of HAs is a matter for each HA board. However in the spirit of openness it is TPAS Cymru's observation that there is a need for HAs to have clear, transparent and published policy rationale for setting senior executive pay. This could include a published policy by a HA that states what the market position and rationale is for senior executive pay decisions. Boards also need to be experienced, trained and advised about remuneration.
- 5.2 Remuneration of senior executives should focus on whether HAs and their tenants are getting the best possible value for money and return from their senior executives' investment.

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales. The three fire and rescue authorities and the three national park authorities are associate members
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve
3. This is the WLGA's contribution to the inquiry by the **National Assembly for Wales' Public Accounts Committee into Regulatory Oversight of Housing Associations**. The WLGA welcomes the opportunity to contribute, and we have used the format provided by the inquiry's terms of reference to structure the contribution

4. The WLGA is currently represented on the Regulatory Advisory Group which provides advice to the Regulatory Board, and were previously represented on the Regulatory Board for Wales, prior to its re-constitution as an independent Board in 2016. Through this participation and involvement, WLGA has contributed to the ongoing development of the Regulatory Framework, and its implementation and delivery

5. Local authorities see housing associations as key local partners providing homes and services to local citizens and, therefore, have an interest in ensuring that the regulation of associations is robust and credible
6. The WLGA supports the three main principles underpinning the Regulatory Framework:
 - Tenants at its heart, with the goal of the framework being that tenants and their families have decent, affordable homes and receive high quality services;
 - Housing associations take full responsibility for their actions and the way they operate; and
 - The framework is based on close working relationships between the Welsh Ministers, housing associations, their tenants, and their key partners
7. Regulation has developed and evolved considerably since the framework was introduced in 2011, following the Essex Review of Affordable Housing. WLGA welcomes the recently announced revised and improved approach to delivering housing regulation which it is believed will allow a clearer focus on the issues of governance, financial viability and tenant services
8. This revised approach will feature annual published co-regulation statuses for governance (including service delivery) and financial viability. It is also proposed that the existing delivery outcomes will be revised to set new performance standards, and associations will be required to submit an annual statement of compliance with these performance standards
9. Regulation supports the critical relationship between councils and housing associations in meeting the housing needs of local communities, particularly for the most vulnerable for whom councils have statutory duties to support. housing associations have a critical role in supporting local authorities in delivering their strategic housing roles, with a key aim being to increase the supply of affordable housing. Therefore, the effective management of associations' development programmes is of critical concern with the attendant focus on management of finance, relationship with lenders, gearing ratios, etc.
10. However, the relationships between councils and housing associations do not solely rely on regulation, and are also often supported by a variety of local

arrangements and partnership structures. For example, local authorities' staff and housing association development teams will regularly meet to review Programme Delivery Plans (PDP's) which set out development priorities for delivering additional affordable housing and the use of Social Housing Grant and other types of public subsidy

11. Section 95 of the Housing (Wales) Act 2014 places a requirement on certain bodies, including housing associations, to co-operate with local authorities in preventing homelessness, unless it is unreasonable to do so. A mechanism for an annual joint review of co-operation between individual local authorities and housing associations on homelessness is currently under development, with input from Community Housing Cymru (CHC), Welsh Government and WLGA, and is now being trialled in a number of areas

The effectiveness and quality of governance arrangements

12. It is significant that the first thematic review commissioned by the Regulatory Board after it was established was in relation to the governance of associations in Wales. This signalled the importance that the Regulatory Board attached to ensuring good governance across all associations
13. Following this thematic review, CHC developed a Code of Governance for associations setting out standards and practices that boards and their members should adhere to in order to deliver good governance. The WLGA supports the principles within the code
14. The WLGA supported the re-constitution of the Regulatory Board for Wales in 2016 to become a board fully comprised of independent members, rather than including a variety of representative stakeholders as had previously been the case

Whether the current regulatory regime is effective in managing and mitigating sector wide risks

15. Welsh Government, as the regulator, publishes "Sector risks facing housing associations in Wales" which sets out the key governance, financial and service risks facing housing associations, including those risks which apply to the whole sector. This is a useful reference for housing association boards, however, it is

clearly the responsibility of individual association boards to identify and manage the risks relating to the operating environment and particular local context/s of each association

16. The delivery outcomes and self-assessment processes have provided useful tools to support this activity and the regulatory regime has continuously emphasised the importance of risk identification and mitigation. The annual submission of 30-year business plans with explicitly identified key planning assumptions also supports this risk management approach across the sector

The effectiveness of co-regulatory approach in practice

17. Co-regulation, built on close working relationships, is a key principle of the regulatory framework, and effective self-assessment by boards is a key component
18. An ongoing, positive, regulatory relationship between regulation staff and an association is an important feature of the co-regulatory approach, therefore appropriate capacity within the regulatory team is critical to the success of co-regulation, along with openness and transparency on the part of the association board and staff
19. The proposals within the revised approach to delivering housing regulation for the development of performance standards and the submission of an annual statement of compliance will further emphasise the importance of the co-regulatory approach and the responsibilities on association boards to positively engage with the regulation team

The remuneration of senior executives of housing associations

20. To increase transparency, a range of organisations including local authorities and Welsh Government publish Pay Policy Statements. A similar approach may be worth considering for housing associations

Prepared by	Jim McKirdle WLGA Housing Policy Officer
Cleared by	Cllr Dyfed Edwards

	WLGA Spokesperson for Housing and Welsh Language
Date	January 2017

Chartered Institute of Housing Cymru
4 Purbeck House, Lambourne Crescent
Cardiff Business Park, Llanishen
Cardiff
CF14 5GJ

Tel: (029) 2076 5760



Sent to: seneddPAC@assembly.wales

Evidence Submission to the Public Accounts Committee

Inquiry Into Regulatory Oversight of Housing Associations

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple – to provide housing professionals with the advice, support and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world. Further information is available at: www.cih.org

In Wales, we aim to provide a professional and impartial voice for housing across all sectors to emphasise the particular context of housing in Wales and to work with organisations to identify housing solutions.

For further information on this response please contact
Matthew Kennedy, policy & public affairs manager
at the above address or email matthew.kennedy@cih.org

Introduction

CIH welcomes the opportunity to provide evidence to the Public Accounts Committee as it undertakes its inquiry into the regulatory oversight of housing associations in Wales.

Our response is informed by feedback from our members, our knowledge of the housing industry and expertise from our policy and practice teams.

General Comments

CIH Cymru supports the development of Welsh policies, practices and legislation that aim to address the key housing challenges we face, to improve standards and supply, promote community cohesion, tackle poverty and promote equality. We promote a *one housing system* approach that:

- places the delivery of additional affordable housing at the top of national, regional and local strategies as a primary method of tackling the housing crisis;
- secures investment to ensure the high and sustainable quality of all homes in a sustainable framework;
- improves standards and develops the consumer voice within the private rented sector
- promotes the concept of housing led regeneration to capture the added value that housing brings in terms of economic, social and environmental outcomes;
- recognises that meeting the housing needs of our communities is a key aspect of tackling inequality and poverty;
- ensures that that there are properly resourced support services in place to prevent homelessness and protect the most vulnerable;
- uses current and potential legislative and financial powers to intervene in housing markets and benefit schemes;
- promotes consumer rights & tenant involvement;
- and supports the continued professional development of housing practitioners.

The effectiveness of the current Regulatory Framework for Housing Associations Registered in Wales

1. Following the review of affordable housing in Wales a new Regulatory Framework for housing associations was developed collaboratively in 2011 between Welsh Ministers, housing organisations and tenant groups. The new Regulatory Framework worked along three main principles:
 - Placing tenants at the centre of the framework
 - Housing associations taking full responsibility for their actions and operating practices
 - The framework is based on close working between Welsh Ministers, housing associations, tenants, services users and other key partners¹
2. We welcomed the original approach outlined in the framework, as it recognised that a “one size fits all” model would not be appropriate in a sector where housing associations can vary significantly in the scale and complexity of their operations. In addition an approach that is transparent and consistent with regards to regulatory judgements, prompting learning and improvement from regulatory activity is one we continue to endorse. The Regulatory Framework included a self assessment; regulatory assessment; delivery outcomes; financial viability judgement; regulatory assessment report and enforcement powers.
3. Building on this, more recently housing association regulation in Wales has been revisited with the aim of improving and building on the risk-based, tenant centred approach developed through the framework in 2011. We strongly welcome that this new approach will continue to place tenants at the heart of the regime, that the underpinning principles of the framework will remain and the system of co-regulation will continue.
4. The new approach is one that will focus on continuous improvement and strategic risks, as housing associations continue to respond to complex operating challenges. We believe that finding the right balance is important for tenants, staff, lenders and other stakeholders linked to an associations work. With the challenges facing the housing association sector only set to intensify we believe that an increased focus on the strategic risks will give confidence to lenders and ensure services are focused on providing high quality outcomes for tenants whilst also delivering value for money.
5. This revised approach will be implemented from 1 January 2017 with a view to assessing its effectiveness following the first full cycle. We look forward to working closely with our members to gain insight and inform the housing regulation team on the impact of these changes.

The effectiveness and quality of governance arrangements;

6. As organisations deeply rooted in tackling poverty, building affordable housing, and increasing community well-being, the tenant voice has rightly been at the heart of how organisations are governed and regulated.
7. It has become common practice to ensure tenants are empowered to become involved in shaping the work and practices of housing associations, providing their experience and expertise to ensure housing associations continue to learn and work with local communities. This has been achieved through, for example the election of tenant board members, creation of scrutiny panels and greater interaction through social media and other technology.

¹ <http://gov.wales/topics/housing-and-regeneration/publications/regframeworkhousingassoc/?lang=en> (January 5, 2017).

8. Our membership felt that the current direction of travel, with a focus on risk management and strong governance is the right area to scrutinise, whereas previously the focus has been placed too greatly on the Housing Associations Regulatory Assessment, (HARA) which some felt, had too many measurements organisations would need to commit considerable resources evidencing.

Whether the current regulatory regime is effective in managing and mitigating sector wide risks; and/or

9. At the present time, when housing associations are facing extensive challenges in meeting demand for affordable housing in addition to meeting the needs of communities, mitigating and managing risk is vital to both sustainability and increasing quality of services provided to tenants.
10. Welsh Government's Housing Regulation Team produced a report in March 2016 outlining the sector risks facing Housing Associations in Wales with a view to informing and supporting risk management at a board level. We feel this proactive approach to working with housing associations and other stakeholders to identify risk is positive and should continue to be a feature of how the team work in the future.
11. In that report the team identified a number of prominent risks for the sector and the boards of respective organisations to consider. These included a need for boards to understand and mitigate the risks of welfare reform; reliance on Supporting People funding; pension costs; increased costs of business operations; managing large-scale programmes of housing development; business diversity; stock condition and debt (both existing and new).²
12. We believe that these risks continue to be prominent to the success and viability of the housing association sector. The regulatory regime has an important role to play in supporting organisations to identify and mitigate risks. We also recognise the vital role that boards currently play in horizon scanning, compiling and monitoring risk registers, and identifying risk champions at board level. Such initiatives seek to ensure risk remains high on the agenda for housing associations recognising the complex and fast-paced nature of the operating environment.

The effectiveness of the co-regulatory approach in practice

13. The co-regulatory approach has been a positive step-change toward joint accountability in housing association regulation in Wales. Some of our members have highlighted that although the approach has brought about real change through cooperation and challenge, this can vary across Wales depending on the skill-set and approach undertaken by individual regulatory officers. However, members have also reflected that the Regulatory team seems under-resourced as it strives to fully implement and work to this approach.
14. As the challenges for housing associations intensify and change it is vital that both the regulatory regime and governing boards of housing associations are equally able to effectively operate the co-regulatory approach. This will continue to require skills and expertise in the various areas of operations conducted through housing associations across Wales to be present and well-represented on both governing boards and within the Welsh Government's Housing Regulation team.
15. For example, as part of our role in supporting professional standards we will be providing a series of CIH Cymru Masterclasses in partnership with Central Consultancy and Training.

² <http://gov.wales/docs/desh/publications/160331-sector-risks-facing-housing-associations-en.pdf> (January 5, 2017).

These include separate sessions on Constructive Challenge, Risk and Assurance and Value for Money.

The remuneration levels of senior staff members of housing associations

16. The housing association sector is facing an increasingly challenging operating environment. The breadth of operations undertaken by many associations means that outcomes achieved with and for tenants are felt across sector such as health and social care.
17. In 2015-16, local authorities reported 2,400 additional affordable housing units had been delivered across Wales, an increase of 8 per cent on the previous year. This brings the total delivered since April 2011 to 11, 508 which exceeds the previous Government target of 10,000 additional affordable homes by 15 per cent.³
18. Welsh Housing Associations continued to make the largest contribution to additional affordable housing in Wales, delivering 94 per cent of all additional affordable housing provision during 2015-16 (2,250 units)⁴
19. Over and above the provision of affordable housing, housing association operations can extend to managing food banks, debt advice services, homecare, student accommodation, community facilities and grants, job clubs, fly tipping removal, community recycling, domestic violence support.
20. The housing association workforce is one made up of a wide range of professional skills, attributes and qualifications. Some enter the sector through undertaking a skilled apprenticeship, or following the completion of a housing studies qualification, others transfer from other professions. Solicitors, nurses, social workers, teachers, designers represent just some of the disciplines whose skills can translate with ease to a career in the housing sector.
21. In order to attract good quality people to lead organisations with significant numbers of staff from diverse disciplines, a mandate to develop and improve communities through managing and increasing affordable homes through a budget that can exceed £40m turnover a year, there will be an expectation that a reasonable package will be offered.
22. As independent organisations it is up to the governing board of individual associations to determine the level of senior staff pay and to justify this to stakeholders if challenged.

Additional Comments

23. One additional issue which requires careful and swift consideration by Welsh Government is the decision by the Office of National Statistics to reclassify housing associations as public bodies. The impact of placing the borrowing debt of the housing association sector on the public accounts is likely to be detrimental to associations ability to borrow further funds to invest in building new affordable homes to meet the 20k target set out in the programme for government. We welcome the intention stated by the Welsh Government to take steps to reverse this decision and believe this may be an opportunity to consider how regulatory arrangements could further compliment the capacity of associations to increase housing supply, via the process of reversing the decision in legislation.

³ <http://gov.wales/docs/statistics/2016/161019-affordable-housing-provision-2015-16-en.pdf> (January 5, 2017).

⁴ *Ibid*

Document is Restricted

Document is Restricted