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Llywodraeth Cymru
Welsh Government

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

20 September 2018

Dear Nick

Inquiry into the Regulatory Oversight of Housing Associations - Update

I'm pleased to enclose a Welsh Government update on the Report of the Public Accounts Committee – Inquiry into the Regulatory Oversight of Housing Associations in Wales 2017.

Yours sincerely

Tracey Burke



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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

Update by the Welsh Government on the Report of the Public Accounts Committee (PAC) – Inquiry into the Regulatory Oversight of Housing Associations in Wales 2017

This document updates progress with the 15 recommendations contained in the PAC's report of 24th August 2018. The update has been added to the original recommendation and response for completeness.

The current status is in respect of the original recommendations only and not any further developments or initiatives which are referenced in some of the updates.

Recommendation 1

Given the significant amount of public money invested in the sector, and the reliance placed on effective regulation by lenders, we recommend that the Welsh Government's regulation team is routinely permitted to recruit externally and that the Welsh Government give consideration to how it might achieve the most appropriate balance of skills on its regulatory team.

Partially Accepted – Where internal recruitment does not identify candidates with the appropriate balance of skills, we will seek approval for public external recruitment in accordance with the Welsh Government current recruitment policy. It should be noted recruitment to two of the last three vacant posts have been external appointments. An appropriate balance of skills in the team will be addressed by either capacity building within the team or at the point of recruitment if particular skills gaps have been identified including by the Regulatory Board for Wales (see Recommendation 2).

Update - Following correspondence between the Chair of PAC and the Cabinet Secretary/Minister, the status of this recommendation has been changed from

Partially Accepted to **Not Accepted**.

Status - Completed

Recommendation 2

Furthermore, in the interests of transparency we recommend that in its Annual Report to the Cabinet Secretary for Communities and Children, the Regulatory Board for Wales, should reflect on the current skills and capacity of the regulatory team, which in the spirit of co-regulation will enable other stakeholders to then scrutinise the Welsh Government's ability to regulate

Accepted – The Regulatory Board for Wales has responded to the recommendations of the report separately. The Board has confirmed its annual reports, the next due in the summer 2018, will include a section on the skills and capacity of the Regulatory Team.

Update - The Regulatory Board is developing a new approach to its Annual Report with the result that the report will be delayed until autumn 2018.

Status – Target revised from summer 2018 to anticipated in autumn 2018.

Recommendation 3

The Regulatory Board for Wales should provide effective challenge to the Welsh Government's regulation team. Given the sensitive nature of some matters discussed by the Board, it was difficult for the Committee to determine how effective

that challenge has been. The Committee recommends that the Welsh Government and the Regulatory Board for Wales consider how more openness and transparency can be brought into how they work together

Accepted - The Regulatory Board for Wales has responded to the recommendations of the report separately. The Board will consider the issue of further openness and transparency this year with the intention of providing a summary of specific areas of challenge in their annual report as well as continuing to publish summaries, where the discussions are not confidential in nature, of its Board meetings which reference how the Board engages and challenges the regulation team.

Update - The Regulatory Board is developing a new approach to its Annual Report with the result that the report will be delayed until autumn 2018.

Status – Target revised from summer 2018 to anticipated in autumn 2018.

Recommendation 4

We recommend that the Welsh Government make provision for the availability of clear and comparable data sets to assist tenants in determining and challenging the position and policies of their Housing Association. We were impressed by the approach taken in this regard by the Scottish Housing Regulator and would urge the Welsh Government to take a similar approach.

Accepted - The Welsh Government will work collaboratively with the sector and key stakeholders, in particular tenants, to ensure appropriate data available by October 2018. As the data set for Wales is developed, we will ensure relevant learning from Scotland is incorporated. Please also see Recommendation 9.

Update - The user interface for the proposed data set has recently been tested by a small panel of tenants. Their response was positive and work to finalise and publish the data is now proceeding. Published performance data will be available to tenants and other key stakeholders in October 2018.

Status – On target for anticipated publication in October 2018

Recommendation 5

Given the reliance on self-evaluation within the regulatory process and having heard feedback from tenants that the system is not always robust or accurate, we recommend the Welsh Government provide reassurances that it is satisfied that tenants' views will be adequately captured and reflected in the future and closely monitors the new tenant engagement arrangements being undertaken by TPAS Cymru.

Accepted - Effective and appropriate tenants involvement is a requirement of the performance standards (PS2) set out in the revised regulatory framework and will continue to form a key focus of the work of the regulation team. Any issues with the robustness of this work will be highlighted by the review of the regulatory framework programmed for early 2018. In addition, the new tenant engagement arrangements being undertaken by TPAS Cymru are subject to close monitoring by the Making It Work group set up and chaired by the Regulatory Board. The overall impact of the new tenant engagement arrangements will be formally reviewed by the Regulatory Board in March 2018.

Update - No substantive issues with the robustness of PS2 were highlighted by the review of the Regulatory Framework in early 2018. The Regulatory Board for Wales reviewed the work undertaken by TPAS Cymru on 29th March and concluded they

were satisfied with the current arrangements for capturing tenants views and the “Making it Work” contract should be extended for a further year. The effectiveness of arrangements to hear the tenants’ voice, in respect of both the Regulator and the housing association sector more widely, will be considered again by the Board on conclusion of its 2018 thematic review of tenants at the heart which is currently in the scoping phase.

Status – Completed

Recommendation 6

We recognise the importance of making a clear distinction between transparency and scrutiny, with the former being necessary but not sufficient to achieve the latter) and we recommend that the Welsh Government should place a requirement on each Housing Association to be able to demonstrate to the Regulatory Team how they empower their tenants to scrutinise their performance. We believe this should go beyond simply publishing information and enable different Housing Associations to react to their local circumstances requiring them to be proactive in their approach. These steps should be integral to demonstrating effective and appropriate tenant involvement as part of the Performance Standard.

Accepted - Tenant scrutiny of housing association performance is intrinsic to Performance Standard (PS2). This will continue to be a key focus for the work of the regulation team. Any issues with the robustness of this work will be highlighted by the review of the regulatory framework proposed for early 2018.

Update - The Minister for Housing and Regeneration has agreed the Regulatory Board for Wales’ recommendations resulting from the independent review of the revised regulatory framework (including PS2). The review concluded, in broad terms, the framework and its various components are fit for purpose.

There were no consistent or significant themes calling for a revision of the performance standard which relates to tenants engagement. However the Regulation Management Team will be working to address issues regarding the knowledge and understanding of the framework and how it operates. This is because some responses were suggesting the framework and the purpose of the various components, including the performance standards, are not fully understood by all respondent groups, including tenants. Examples include the purpose and content of the judgement reports and the nature of the compliance statements. The actions to be taken will include working with TPAS to improve communication of the framework to tenants and also to reinforce communication with other stakeholder groups. It is proposed this includes a soft re launch of the framework in late 2018 once all of the recommendations have been actioned.

Status - Completed

Recommendation 7

We note the Welsh Government’s consideration of the payment of board members as part of its wider view of regulation. We recommend that Welsh Government give considerations to enabling housing associations to determine whether they pay their board members or not, and housing associations are given responsibility for setting that pay in a manner that is open and transparent. Payment to Board Members should also be appropriately disclosed in the Annual Accounts of Housing Association.

Accepted - The Cabinet Secretary will give early consideration to enabling housing associations to determine whether they pay their board members or not. It is anticipated a position will be set out in December 2017.

Housing association responsibilities in respect of payment of board members and disclosure of such payments to named individuals are set out in the Community Housing Cymru's Code of Governance (*CHC Code B2.1*). Compliance with the code is a requirement of the new performance standards (PS 1) and is therefore a key focus of the work of the regulation team.

Update - A letter setting out the new policy was sent to RSLs in October 2017 confirming the decision whether or not to pay Board members was for each individual RSL to determine.

Status – Completed

Recommendation 8

We welcome the forthcoming review of governance within the sector and would urge the Welsh Government to work closely with Community Housing Cymru as it updates its Code of Governance in light of the review's findings.

Accepted - The Welsh Government is already working closely with sector and tenant representatives through the steering group set up to guide the regulatory board's review of governance and will continue to do so. The findings of the review of governance will inform CHC's update of its code of governance. The review of governance will be completed by March 2018.

Update - Link to Governance report here:

<http://gov.wales/docs/desh/publications/180307-housing-association-governance-progress-review-en.pdf>

Close liaison with Community Housing Cymru continues. A group aiming to provide thought leadership to the sector on governance, jointly commissioned by the Regulatory Board and Community Housing Cymru, is currently being set up to drive forward the governance improvement agenda and the recommendations from the review of governance.

Status – Completed

Recommendation 9

We recommend that Welsh Government consider putting in place mechanisms for regular reporting and benchmarking of performance information to provide assurances on how well the sector is performing. We further recommend that this information should be available from a central website, along with other datasets as noted in Recommendation 4.

Accepted – Benchmarking of sector performance will form part of the collaborative work set out in response to recommendation 4. It is our intention that data will be accessible from a single platform, potentially the Welsh Government website.

Update – See Recommendation 4. Additionally, a second phase of work will commence in autumn 2018. This will involve working with key stakeholders, including tenants to develop a more robust suite of performance data, a platform for publication and arrangements to support effective use of the data.

Status - On target for anticipated publication in October 2018.

Recommendation 10

We recommend that any deregulation of the sector necessary to reverse the ONS decision is proportionate and ensures the Welsh Government, as Regulator, still has sufficient powers to protect the interests of stakeholders, in particular tenants.

Accepted - It has been explicit in the development of the legislation to reduce regulatory controls that the regulatory reform should be the minimum required to achieve classification of the sector back into the private sector. It is anticipated the Bill will be introduced in October 2017. The new regulatory framework provides tools which ensure the maintenance of robust regulation.

Update – The Office for National Statistics announced the reclassification of the RSL sector in Wales on 27th June 2018. The main provisions of the Regulation of Registered Social Landlords (Wales) Act 2018 came into force on 15th August 2018. The legislation makes the minimum changes required to achieve reclassification. The new regulatory framework continues to provide the tools necessary to maintain robust regulation.

Status – Completed

Recommendation 11

We note the potential benefits of diversification. We believe that while diversification is needed to cross-subsidise affordable housing, there are serious risks to the sector if this is not managed effectively. While the ONS re-classification decision would warn against further Welsh Government control of how housing associations run their own affairs, we think there is a need for greater clarity on how the Welsh Government oversees diversification. This is particularly the case where it is undertaken by a non-registered social landlord subsidiary.

Accepted - The new regulatory framework aims to ensure that diversification risks are appropriately managed. This is a requirement of the new Performance Standards (PS 1, 3 and 8) and will continue to form a key focus for the work of the regulation team. Any issues regarding the robustness of this work will be highlighted by the review of the regulatory framework programmed for early 2018.

Update - The Minister for Housing and Regeneration has agreed the recommendations resulting from the independent review of the regulatory framework undertaken in early 2018. The review concluded, in broad terms, the framework and its various components are fit for purpose. There were no consistent or significant themes calling for a revision of the performance standard relating to new business and diversification. Please also see Recommendation 12.

Status – Completed

Recommendation 12

We recommend that the Sector Risks and Regulatory Expectations document should provide further detail on the Welsh Government's legitimate interest in non-RSL subsidiaries and outline scenarios that would cause concern to the Regulator.

Accepted - An enhanced commentary on this issue will be incorporated in the next iteration of the sector risk paper due in March 2018.

Update - The Sector risk overview has been incorporated into the annual global accounts document (May 2018) which is a joint publication by the Welsh Government and Community Housing Cymru. It includes commentary on RSL subsidiaries.

The publication is here:

<https://gov.wales/docs/desh/publications/180719-financial-statements-of-housing-associations-2017-en.pdf>

Status - Completed

Recommendation 13

We further recommend that the Welsh Government carry out a review of current levels of diversification within the sector - the findings of which should be published.

Accepted - The Welsh Government will include a sector level summary assessment of this risk in the next iteration of the sector risk paper which is due in March 2018.

Update - The Sector risk overview has been incorporated into the annual global accounts document (May 2018) which is a joint publication by the Welsh Government and Community Housing Cymru. It includes a review of current levels of diversification and sets out plans for monitoring in moving forward. See link above for the publication.

Status - Completed

Recommendation 14

We have concerns regarding the impact the rise in interest rates would have on the housing sector in Wales. We recommend that the Regulator carries out an assessment of all housing associations capital and their level of exposures to risk and summarise their findings.

Accepted - The Welsh Government will include a sector level summary assessment of the risk of interest rate rises on RSLs capital funding in the next iteration of the sector risk paper which is due in March 2018. Individual discussions will be held with any RSL seen to be outside of the normal range of exposure to this risk.

Update - The Sector risk overview has been incorporated into the annual global accounts document (May 2018) which is a joint publication by the Welsh Government and Community Housing Cymru. It includes an assessment of RSL capital and commentary on the risks of potential interest rate rises. See link above for the publication.

Status - Completed

Recommendations 15

Given the Welsh Government has no powers with regard the setting of senior management pay in the housing association, we recommend that Welsh Government re-emphasise and endorse importance of openness and transparency in relation to the setting of senior management pay across the public sector. We recommend the Welsh Government implements measures to ensure its Regulation Team has a key role in ensuring that the pay setting process is robust and that there is appropriate disclosure in the Annual Accounts of Housing Associations of senior management pay.

Accepted - Arrangements regarding the setting of senior management pay are covered in the CHC code of governance as is the requirement to disclose the Chief Executive's remuneration. Statutory accounts also require the publication of the emoluments of the highest paid executive and to publish the number of senior executives and officers in various pay bands as determined by the individual RSL.

Compliance with the code is a requirement of the new performance standards (PS 1) and is therefore a key focus of the work of the regulation team.

Update - There is regulatory oversight of pay setting arrangements as appropriate. Community Housing Cymru will shortly set out proposals for additional transparency around pay setting and reporting of senior management pay.

Status - Completed