

## **Written Response by the Welsh Government to the Report of the Public Accounts Committee – Inquiry into the Regulatory Oversight of Housing Associations in Wales**

We welcome the findings of the report and offer the following response to the 15 recommendations contained within it.

### **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).

### **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.

### **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..

### **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

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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.

### **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.

### **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.

### **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.

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**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.

### **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.

### **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.

### **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.

### **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

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regulation team. Any issues regarding the robustness of this work will be highlighted by the review of the regulatory framework programmed for early 2018.

### **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.

### **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.

### **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 association's 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.

### **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.