



Llywodraeth Cymru
Welsh Government



Housing Regulation

Performance Assurance Report

2019/20

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This Report

- This Regulation Performance Assurance report reviews regulatory activity in the period April 2019 to March 2020 (the regulatory cycle). The purpose of the report is to provide the Regulatory Board for Wales (RBW) and other stakeholders the regulators' view of the performance of the sector in relation to governance, tenant services and financial resilience and viability.

What we do

- Social housing is a major part of the housing system in Wales providing homes to a significant number of tenants. We protect & promote their interests and protect the substantial public investment from the Welsh Government.
- Effective regulation of the sector ensures social housing offers decent, affordable and accessible homes. It also reassures funders that it is a good place to invest.
- Work with landlords to improve their governance, identify risks and share learning.

Covid-19 pandemic

- The last months of this reporting cycle were caught up in the ongoing Covid-19 pandemic. The pandemic has shone a light on the importance of a secure and adequate home.



- So that RSLs could concentrate on continuing to deliver services during the pandemic, routine regulatory oversight and the publication of regulatory judgements was paused.
- Regulation continued through a temporary operating model focusing on the safety of tenants and service users, ongoing financial resilience and viability and business continuity.

Registered Social Landlords

- The Regulation team regulate **50** registered social landlords (RSLs) on behalf of the Welsh Ministers in order to protect tenants and investment in social housing.
- RSLs own and manage some **165,000** homes in Wales, **90%** of which are general needs, supported and retirement housing. The remainder includes leasehold and student accommodation.
- RSLs also carry out other related activities including care and support, nursing and residential care as well as market sales.

- During the year, the Welsh Government invested more than **£240m** into the RSL sector compared to **£154m** in the previous year.



- Private borrowing now totals around **£3bn**, increasing this year by around **£164m**.

Regulatory Judgements

- The regulation team aims to publish at least one regulatory judgement for each large RSL in Wales annually. On occasion, in-year review judgments will also be published if the risk profile of an RSL changes significantly.

- During this reporting period, **36** Regulatory Judgements, including one in-year review were published.



Regulatory Performance

- At the end of the reporting period, the vast majority of regulatory judgements were “Standard” (94%) for governance (including tenant services) and (89%) financial viability.
- This evidences a healthy sector which is generally meeting regulatory requirements and demonstrates it is effectively meeting the required Performance Standards.
- In the cycle, only two RSLs were newly assessed as “non-standard” compared to 4 in the previous cycle.
- Where regulatory concerns are identified, we work with RSLs to resolve them on a voluntary basis. In more serious cases, an RSL can give a “Voluntary Undertaking” which gives legal status to proposals to address the issues identified. Currently there are four voluntary undertakings in place at various stages of progress.
- Overall, the evidence suggests there is a positive direction of travel in regulatory performance. We would however like to see further improvements, particularly in relation to governance, landlord Health and Safety, risk management and effective financial planning.

Non Standard Judgments

There are six RSLs with non-standard judgments:

Two RSLs have an “Increased” judgement – governance

One has made significant progress on addressing issues over an 18 month period which has resulted in a revised judgement to “Increased” from “Intervention”.

The other RSL was subject to an adverse judgement revised from “Standard” to “Increased”. This was as a result of an in year review concerning governance issues raised through whistleblowing and investigations commissioned by the Board.

Considerable progress is being made to address the regulatory concerns.

Three RSLs have an “Increased” judgement for both governance and financial viability

In these RSLs, issues were identified across a number of Performance Standards. Two are progressing merger plans, one of which should complete in November 2020 and the other in early 2021.

The other RSL is making changes to its business model and has progressed other regulatory requirements including increasing its Board capability.

One RSL has a Judgement of “Intervention”

This RSL completed a merger in September 2020.

Permitted payments and benefits (Schedule 1)

- The Housing Act 1996 requires that officers and employees of housing associations must not put themselves in a position where their duty and their own interests conflict, or might conflict, and they must not benefit from their position.
- Housing associations report annually to the regulation team on the use of the exemptions. Guidance on the permitted payments and benefits which can be made under these exemptions is here: <https://gov.wales/permitted-payments-and-benefits-rsl-00510>
- We have been aware for some time, that interpretation of Schedule 1 is inconsistent. In March 2020, Community Housing Cymru launched a practice note developed by a team including Welsh Government Regulation staff. The practice note is here: <https://chcymru.org.uk/en/publications/schedule-1-practice-note> aims to provide a framework for consistency in the use and reporting of schedule 1 exemptions by giving a detailed interpretation of each exemption.
- Analysis of the future returns should therefore provide meaningful data, identifying areas where exemptions are being most frequently used and provide a basis for discussion with individual RSLs.

Whistleblowing

- Whistleblowing is the term commonly used to describe the situation where a member of staff, member of the board or anyone else raises concern about improper conduct, wrongdoing, risk or malpractice with someone in authority, either internally or externally, including to the Regulator.
- We have published our whistleblowing procedure here: <https://gov.wales/whistleblowing-housing-association-guidance>
- During the financial year we received five whistleblowing allegations.
- Two of the allegations related to issues outside of the procedure. In the other cases, the Boards of the RSLs were requested to carry out investigations and disclose their findings. Two were subsequently found to be without merit and the third raised Health and Safety and other concerns which, after investigation, resulted in the RSL being required to undertake a comprehensive improvement plan and also receiving an adverse in-year judgement review.

Notifiable Events

- In Wales, the model of regulation is based on establishing and maintaining strong, relationships between RSLs and the Regulator. The principle of co-regulation underpins the regulatory framework and involves regular, open and transparent dialogue between the two parties. The notification of significant events to the Regulator is an important component of co-regulation.
- An event is considered significant where it could potentially bring the RSL into disrepute, threaten its stability, efficient running or viability or which would raise public concern about the RSL or the sector. Any such events must be notified to the Regulation team at the earliest possible opportunity.
- In the period between July 2019 and March 2020 **94** individual notifications from **32** housing associations were received under the headings:



- Meaningful analysis will not be possible until the next cycle. It is clear however that governance and landlord services feature strongly. Despite regulatory concerns regarding risk management and financial planning, notifications on finance issues are infrequent. We need to understand why this is the case.

Diversity

- Research suggests that “more diverse boards are associated with improved financial performance, enable good corporate governance and facilitate better decision making by bringing different perspectives to support constructive and challenging dialogue...” (Source – EHRC 2016).
- Additionally, Diversity is one of the seven principles set out in the CHC Code of Governance – The Board’s approach to diversity supports its effectiveness, leadership and decision making.
- The forthcoming regulatory framework review will include reference to how Boards can better provide assurance on equality and diversity in all aspects of the business. This is particularly important as evidence emerges on health and health inequalities linked to housing are being exacerbated by the impact of Covid-19.
- Since 2014, the Welsh Government has collected data on a range of protected characteristics of Board members. A full analysis of the data will be published on the regulation pages of the Welsh Government website in due course. The summary will include challenges for Boards in how they might seek to address areas of under representation.

Key findings – A summary

Diversity returns for Board members show that certain groups are underrepresented on the Boards of RSLs.

The most significant underrepresentation has been identified for the following groups:

- Board members under 44 years old
- Black, Asian and other ethnic minority Board members (other than white)
- Disabled Board members
- Female Board members.

Improving Governance & Tenant Involvement

- The recent RBW reports on Governance and Tenant Involvement remain useful and we will continue to promote their recommendations.
- We will continue with the planned developments in the approach to regulatory assessments and will also be seeking views on the “tenant” aspect of the regulatory framework which includes landlord health and safety.
- We will also work with stakeholders to consider ways to ensure the improvements seen over the last two cycles continues. For example, we are exploring with Community Housing Cymru (CHC) whether their Code of Governance and model rules might be reviewed to further strengthen good governance.



Tenant Pulse

- The Regulatory Board for Wales (RBW) and the regulation team work with TPAS Cymru, who engage with tenants across Wales in a range of ways.
- These include gathering tenants' views at regional tenant events and networks, focus groups and forums to discuss specific issues.
- TPAS Cymru also run 'Tenant Pulse' – a survey community where tenants can give their views via email or post.
- The RBW receives quarterly reports from TPAS Cymru. This provides a “temperature check” to ensure tenants' views and concerns of those tenants responding are reflected in RBW discussions and work planning.
- As of March 2020, **916** people had signed up to Tenant Pulse, approximately **75%** of which were registered social landlord tenants. TPAS Cymru is focusing on recruiting more private rental tenants going forward.
- RBW and the regulator meet quarterly with TPAS Cymru to discuss and monitor their work in gathering tenants' views.

The most recent survey themes included:

- Response to the affordable housing supply review
- Repair priorities
- Value for money
- Response to the RBW 'The Right Stuff - Hearing the Tenant's Voice' report
- Contact method preferences
- The survey results can be found here: <https://www.tpas.cymru/about/tenant-pulse#results>

The Right Stuff – Hearing the Tenant’s Voice

- In 2018 the RBW commissioned a review of tenant involvement. It wanted assurance that housing associations are effectively involving tenants in decision making and shaping services. The review is here: https://gov.wales/sites/default/files/publications/2019-07/hearing-the-tenants-voice_0.pdf
- Effective tenant involvement and services are a fundamental part of any RSLs operations. It is even more important that arrangements are effective following the Grenfell tragedy. For that reason, the intention is that the forthcoming framework review will ask specific questions in relation to the tenant involvement performance standard.
- We want to know whether it needs to be strengthened or more specific and, more fundamentally perhaps, we have committed to seek views on whether there should be a separate judgement dimension covering tenant services.

Conferences & Stakeholder Groups

- The regulation team attends a number of conferences and events throughout the year including various CHC, Chartered Institute of Housing and TPAS Cymru events.
- Regulation team members also attend a number of stakeholder meetings including the Regulatory Advisory Group, CHC Strategic Delivery Groups, TPAS Making it Work Group and UK Finance stakeholder group.

Regulatory Development – 2020/21

- Because of the pandemic and lockdown, a number of initiatives which were underway were paused. The projects are part of the commitment to continually improve regulation of social housing in Wales and have significant interdependencies.

Projects include:

Improving the Assessment of Governance

- During the pandemic, as well as pausing routine regulatory oversight and publication of judgements, we also paused work on development of a new assessment model. Our aim is to roll out the new assessment model in early 2021 and we have therefore taken the decision to continue with the temporary regulation model until implementation.

Domain Regulation

- Tenants of Social Housing in Wales, whether their landlord is an RSL or a local authority, face many of the same challenges in terms of holding their landlords to account for the quality of services they receive as well as the engagement they have with their landlord. An initial evaluation and analysis of the potential options has been undertaken. This is currently being reviewed with partners.

Regulatory Framework Review

- A review of the framework was programmed for the summer of 2020. Preparation work was suspended as team resources were diverted due to the pandemic. This work will commence again this winter.