



Llywodraeth Cymru
Welsh Government



Housing Regulation

Performance Assurance Report

2020/21

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This Report

- This report reviews regulatory activity in the period April 2020 to March 2021 (the regulatory cycle). It gives the Regulatory Board for Wales (RBW) and other stakeholders our view of housing associations regulatory performance in relation to governance, tenant services and financial viability.

What we do

- Housing associations own and manage over 166,000 homes in Wales providing homes to a significant number of tenants.
- Effective regulation of the sector protects social housing assets and tenants and reassure funders it's a good place to invest.

Changes to Regulation

- At the start of the pandemic, routine regulatory oversight and the publication of regulatory judgements was suspended so RSLs could focus on delivering services in difficult circumstances.
- We focused on the impact of Coronavirus on associations, mainly the safety of tenants and service users, that associations remained financially stable and that they were able to continue providing critical services.

Interim Regulatory Judgement programme

- Following consultation with partners, we introduced an Interim Regulatory Judgement Programme in November 2020.
- Interim judgements are confirmation judgements. They follow very light touch assessments which confirm nothing material had come to the associations or our attention which affected the governance, financial viability or risk profile of the association.



Business Continuity Survey

- We also introduced a monthly survey which collected a broad range of information including Health and Safety inspections, maintenance data, rent arrears and finance information. All of this was used to inform the interim judgement assessments as well as to inform wider Welsh Government responses to the pandemic.
- Despite the challenges of the pandemic, we expected RSLs to make reasoned, rational decisions based on good governance principles when considering the need to make any changes to how services were provided and to make sure those decisions were properly communicated to tenants and other stakeholders.

Risk Profile

- The risk profile of the operating environment has changed and the outlook is still uncertain and changing daily. There are cost and cash flow pressures such as more new affordable homes, investment in existing homes, decarbonisation and building safety agendas and the increasing costs of catching up with Covid delayed works.
- As RSLs consider how to manage the risks and challenges the regulatory approach will be pragmatic, proportionate and supportive but with robust challenge and a strong regulatory response if necessary.

The Sector

Registered Social Landlords

- The Regulation team regulate **48** registered social landlords (RSLs) on behalf of the Welsh Ministers in order to protect tenants and investment in social housing.
- **90%** of RSL homes are general needs, supported or 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 **£250m** into the RSL sector compared to £240m in the previous year.



- Private borrowing now totals around **£3.3bn**, increasing this year by around **£147m**.

Regulatory Judgements

- The regulation team aims to publish at least one regulatory judgement for each large RSL in Wales annually although, this was not possible during the year as a result of the pandemic.

- But we did publish **17** Interim Judgements in the period.



Regulatory Performance

- At the end of the year, **94%** of regulatory judgements were "Standard" for governance (including tenant services) and financial viability.
- In the year, no RSLs were newly assessed as "non-standard" compared to two in the previous cycle.
- In the first place, the Regulation Team works with RSLs on a voluntary basis to resolve any regulatory concerns. There is currently one voluntary undertaking in place which gives legal backing to the RSL's proposals to address our concerns. Through close monitoring, we expect the issues to be resolved in the near future.
- Our assessment, based on this evidence, suggests RSLs have largely been able to maintain satisfactory levels of regulatory performance, despite the extremely challenging circumstances arising from the pandemic.

Non Standard Judgements

- Only two RSLs have non-standard judgements.
- Both RSLs have an “Increased” judgement for governance and financial viability.
- Regulatory concerns identified include governance, financial viability and compliance and both RSLs are perusing merger plans to resolve the issues.

Permitted payments and benefits (Schedule 1)

- Staff and officers of RSLs 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.
- RSLs report annually to the regulation team on the use of the exemptions in this area. Guidance on the permitted payments and benefits which can be made under these exemptions is here: <https://gov.wales/permited-payments-and-benefits-rsl-00510>
- The Community Housing Cymru (CHC) practice note <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.
- As a result of the pandemic this year may prove not be representative and it is therefore difficult to draw any meaningful conclusions based on this year’s data.

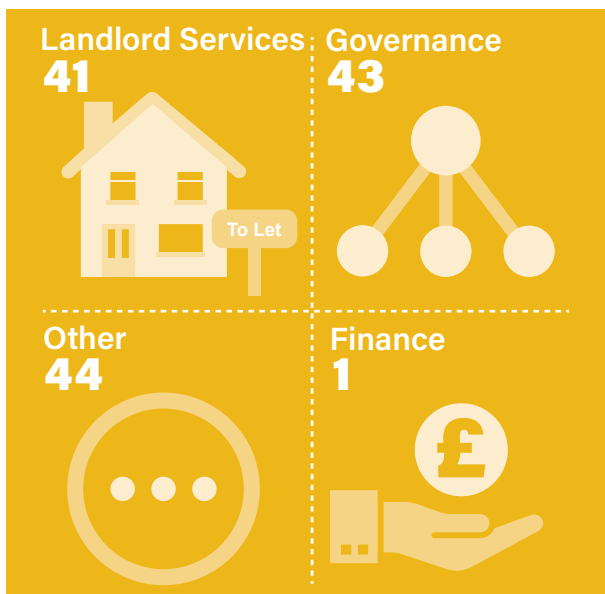
Whistleblowing

- Whistleblowing usually describes 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 two whistleblowing allegations.
- In both cases the regulator requested the board of each RSL to carry out an investigation to establish the facts. In both cases, the concerns were not substantiated.

Notifiable Events

- In Wales, the principle of co-regulation underpins the regulatory framework and involves regular and open communication between the regulator and RSLs. The notification of significant events to the Regulator is an important part 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 April 2020 and March 2021, **129** individual notifications from **35** housing RSLs were received under the headings:



- Themes include:
 - Service charges/short hold tenancies.
 - Staff/tenant/service changes – Covid-19 issues.
 - Staffing changes at senior levels including the board.
 - Permitted payments and benefits
Tenant safety.
- What we learn from these notifications can be taken into account when undertaking a regulatory assessment and significant notifications will be raised with RSLs directly.

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).
- Diversity is one of the seven principles set out in the revised CHC Code of Governance <https://chcymru.org.uk/cms-assets/documents/CHC-Code-of-Governance-2021-ENG.pdf>. The Board’s approach to diversity supports its effectiveness, leadership and decision making.
- The regulator collects data on a range of protected characteristics of RSL Board members. Tai Pawb undertakes a full analysis of the data which will be published on the regulation pages of the Welsh Government website.

A Summary of Key findings and challenges

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

- There has been a significant increase in representation of female chairs (44%) but women are still underrepresented on RSL (43%) boards.
- Representation of over 65’s has changed significantly since 2017 and are currently underrepresented, compared to the general population, by 10%.
- The proportion of black, Asian and ethnic minority board members (5%) is close to being representative of the general population (6%).
- Gay/Bisexual/Other sexual orientation is well represented on RSL boards.

Reviewing the Regulatory Framework

- The review of the regulatory framework which was postponed as a result of the pandemic, commenced in winter 2020.
- The formal consultation stage will follow with the aim of implementing the revised regulatory framework in 2022.
- Work to develop a new regulatory assessment model is also progressing and will be implemented alongside the revised regulatory framework.

Domain Regulation

- Welsh Government commissioned research to explore how the interests of social housing tenants could be protected and promoted through closer alignment of the regulatory and accountability regimes for tenant services the local authority and RSL sectors.
- The research report was intended to be a conversation starter although some partners have reservations about some of the conclusions.
- The potential for a more significant movement to “domain” regulation for tenant services will need much more work and so in the short term, we will be looking to get the most benefit from current initiatives such as the publication of satisfaction information for both local authorities and RSLs.

Conferences & Stakeholder Groups

- The regulation team continued to attend conferences and events throughout the year, contributing to various webinars, virtual conferences and information sessions including Community Housing Cymru (CHC), Chartered Institute of Housing Cymru (CIH) and TPAS Cymru events.
- Team members also attend a number of stakeholder meetings including the Regulatory Advisory Group, CHC Strategic Delivery Groups, TPAS Making it Work Group, the UK Finance liaison group and also met with funders and other partners to provide updates and information.