

**Southern Housing Group
Response to the CLG consultation
Delivering Housing and Regeneration
Communities England and the future of social housing regulation.**

Southern Housing Group welcomes the opportunity to give its formal response to the CLG proposals for the new regeneration agency Communities England and the Cave Review of social housing regulation. We have covered the key areas that we feel are particularly important and hope that the points we make will assist the thinking of government when making key decisions on how to move forward. We think that some of the more detailed issues can be addressed by stakeholder dialogue once Communities England and the new regulator are established.

1. Communities England

1.1 Roles of Communities England (questions 1-5)

We broadly agree with all of the proposals contained within questions 1 to 5 and are content for CLG to proceed on the basis of those proposals.

1.2 Academy for Sustainable Communities

We think that the positioning of the Academy for Sustainable Communities raises some interesting points. We would be content for the academy to be situated within Communities England, but with its own distinct branding; however, we wonder if such a body would sit more comfortably within an academic institution with the proven skills and expertise to deliver successful training programmes. CE could then take on the role of academy sponsor and funder.

1.3 Planning functions and working together

We think that CE should have a more active role in the planning processes, preferably by having the power to make proposals to regional planning bodies who should be obliged to provide a reasoned response if they do not agree.

We believe that regeneration agencies such as Urban Development Corporations, with the ability to deliver regeneration through the positive use of comprehensive planning powers, have proved highly effective. Southern Housing Group supports the setting up of future corporations

of this type and is keen to work with them to provide affordable housing within sustainable communities. We would like to see strategic planning and large planning applications that cross political boundaries dealt with through a separate planning process.

Local Authorities view of planning and regeneration is all too often not joined up. They consider what happens within their own borders with limited regard for the wider strategic picture and cross border working. They can also slow down the development and regeneration process by delays in planning procedures. Financial incentives offered to LA's to speed up the planning process have had limited effect because they have tended to shift delays into parts of the process which are not target based. The incentives do not always focus authorities on the key goal of producing a definitive planning outcome. We would encourage the CLG to consider:

- Requiring LA's to positively demonstrate that they have (where appropriate) considered applications within a wider sub regional or even regional context.
- Discontinuing or revising the current "incentive" scheme.
- Placing a requirement on LA's to deliver definitive planning outcomes within 13 weeks of the physical receipt of an application.
- Introduce planning passporting for buildings or elements of buildings that meet nationally approved criteria.
- Generally create a planning environment where there is an expectation of a positive outcome delivered in a timely manner.

1.4 Compulsory Purchase Orders

We think that existing powers held by English Partnerships should be widened for CE to include sites that are not necessarily brown field or entirely derelict. Regeneration plans should be considered holistically and (for example) the existence of a small area of viable properties within an area that is generally not viable should not be a barrier to a comprehensive regeneration solution.

Compulsory Purchase is often a slow and fractious process which leads to individuals feeling aggrieved and schemes being delivered late and over budget. We think that owners should be offered compensatory purchase prices which take full account not just of the market value of the property that they are being required to give up but also the realistic cost of purchasing a similar property in good condition locally. Arguments about low valuations can frequently result in substantial increases in regeneration costs, way in excess of the savings made in negotiating the value down, due to the resulting delay. The objectives should be to effectively achieve the twin outcomes of reasonably happy sellers who can comfortably rehouse themselves and the speedy vacation of the regeneration site.

1.5 The role of CLG

We agree that the roles defined in section 3.39 of the consultation document should remain with CLG with the possible exception of the housing and regeneration (and regulation) policy making role. We believe that the expertise tied up in the new body will be so great that it would be sensible to give it a pivotal role in helping government define policy. All too often the policy lead is provided by civil servants who have a generalist outlook and public sector culture. Delegating

the role of policy lead to Communities England (and on occasion the new regulation body) would we feel lead to better and quicker policy making.

1.6 Investing for the future

We are comfortable with the government proposals for the scope and functions of CE as an investor. We would make the following suggestions:

- Where CE takes on a direct development role it should be obliged to identify the eventual managers at an early stage and include them in the design and development process.
- RSL's have substantial experience & expertise in delivering estate regeneration and stock transfer which should be drawn on if CE take a more proactive role. There is no point in reinventing the wheel on this.
- In particular CE should consider reviewing the gap funding regime to incorporate some of the benefits of the old Estate Renewal Challenge Fund (ERCF). The ERCF was a highly successful regeneration model that delivered excellent results for communities. The replacements have never been as successful. We think that introducing a new version of the ERCF with the benefit of past experience would be a positive move welcomed by all who are concerned with regeneration.
- The long term revenue streams from LCHO contribute positively to overall financial viability, generally reducing the level of grant required for social rent. Extracting maximum value from LCHO should not simply result in grant reductions which lead to compensatory grant increases on rented homes.
- LCHO remains a key component of regeneration and creating mixed communities. It is important to ensure it is not simplified to the point where it becomes purely a financial mechanism and loses the ability to contribute to regeneration and sustainable mixed tenure integrated neighbourhoods
- CE should take a proactive role on coordinating the release of public sector land to achieve housing & community objectives. More of this should be done with RSL's in the lead. There is strong evidence that RSL's achieve improved overall benefit and a closer fit with key government objectives where they are able to lead this process from the start.

1.7 Multi Agency Working

We support the proposals for CE to take a proactive role in working with Local Authorities on LAA's and MAA's. We believe their role should be to help ensure local priorities are meshed with government objectives to ensure sustainable communities are delivered effectively.

1.8 Thames Gateway

We support the idea of leaving the lead on Thames Gateway with the existing agencies as to change things now would lead to dislocation and confusion. We believe that CE will need a presence in Thames gateway to help ensure that their involvement is properly joined up with the existing Thames Gateway Unit.

1.9 Accountability

We think that the accountability arrangements set out in chapter 6 of the consultation document are sensible and robust.

2. Regulation and the Cave Review:

2.1 Change within context

The Housing Association Sector has grown and become significantly more diverse since the Housing Corporations role as Regulator was established in 1974. The movement has proved to be extremely flexible and adaptable, responding positively to numerous demands made upon it by government, the Housing Corporation and an ever changing operational environment. The positive outcome of the recent comprehensive spending review will result in a significant increase in the flow of resources to our sector requiring a further step change in our ability to deliver and support the government's ambitious programme. Southern Housing Group is ready to play a full part in making those ambitions a reality and we recognise that a strengthened regulatory model can play a positive role in supporting the sector and enabling it to deliver good quality homes and sustainable communities.

2.2 A new regulator

The Housing Corporation has been an effective regulator. Its record on keeping the sector free from major failure, effectively resolving problems as they arise and disseminating good practice, is one to be proud of. We agree with the finding of the Cave Review that an independent housing regulator for the housing domain is the most sensible way forward. We see no reason for housing regulatory powers to be given to the Audit Commission or any other body and believe that the existing corporate entity called the Housing Corporation could be re modelled as an independent regulatory body and given enhanced powers to enable it to effectively regulate the housing domain. This option would be relatively inexpensive and quick to implement. Enhanced powers would require some legislative change, but so would other options. A significant amount of the existing expertise would be retained as would the all important confidence of lenders to the sector.

2.3 Sector Independence

Maintaining an independent housing association sector outside of the sphere of government has led to the creation of a vibrant and diverse range of housing organisations with the agility to adapt to new conditions whilst growing and improving both products and services. We do not think that this would have happened if associations had been part of the public sector and we are concerned to ensure that the sector remains independent so that it can continue to deliver effective housing solutions for our communities.

The Audit Commission is specifically charged with providing audit services to the public sector. Allowing the Commission to take on the role of housing regulator will pull associations closer towards the public sector to the extent that few will believe that they do not constitute elements of government. This will inevitably lead to questions about the status of association's borrowings and some will begin to argue that they are to all intent and purpose public borrowings and should be treated as such by government. In addition the ethos of public sector working, control and regulation will never fit well with the entrepreneurial dynamic that has made housing associations so successful. For these powerful reasons we do not support the Audit Commission becoming the new housing regulator.

2.4 Domain diversity

The roles of housing associations and local authority housing departments are quite different. Local authorities have strategic responsibility for the domain. Housing Associations and ALMO's directly provide housing and deliver housing services in support of the local authority strategy. Any attempt to regulate them in the same way will fail because they have fundamentally different roles.

2.5 Inspection

Inspection has proved to be an effective tool for driving up standards across the whole housing domain. We support the concept of inspection and are encouraged by the Audit Commission moves towards introducing more tightly focussed short notice inspections. We think that the new regulator should be ultimately responsible for the inspection regime although it may choose to sub contract the inspection process to the Audit Commission or other suitably experienced organisations. Provided that inspection remains focussed on service delivery it is one element of regulation which can be applied more or less uniformly across the housing domain.

2.6 Regulatory powers

The legislation underpinning the Corporation's regulatory powers is meagre. As a regulator it punches way above its statutory weight. It has achieved its success through a combination of influence, reason and judicious use of its regulatory powers. The Corporation's regulation methodology has developed into a subtle art. It has successfully moved from being a prescriptive regulator with a rule bound one size fits all approach, to a non prescriptive, outcome focussed regulator that uses risk assessment to gauge and determine regulatory input.

We would be happy to see the new regulators powers enhanced; however, we do not support the concept of any regulator being given powers to impose financial penalties on housing associations because that type of intervention is unnecessary and would in most circumstances make any existing regulatory problems worse. We are also uneasy about a regulator having draconian powers to change the management and ownership of stock. Such powers would be of little practical use in resolving regulatory problems and would undoubtedly be subject to judicial review if used.

The new regulator must have clear step in powers to protect residents and public investment. These might include the ability to appoint skilled people to boards and appoint special managers where appropriate. We think that there needs to be a detailed domain wide discussion about the extent of regulatory powers and how and when they should be used.

2.7 Registration and Consents

We are content for the new regulator to oversee and administer all registration and consent work. In general we think that whilst there is some merit in the regulator having control over disposals, in practice much of the current bureaucracy is unnecessary and the regulators role can be radically slimmed down with out any damage to public investment or the sector.

2.8 Policy passporting

The new regulator should be genuinely independent of government and not be called on to use its power or influence to impose government policy on housing associations. “Policy Passporting” has rarely produced good outcomes and inevitably imposes increased regulatory (and financial) burdens on associations.

2.9 Paying for regulation

We do not agree with the suggestion that housing associations should have to pay for their own regulation. We already self regulate to a large extent paying internal and external auditors and employing specialist staff to ensure quality, compliance and drive continuous improvement. If we are to be asked to pay for external regulation we would want much more influence over the scope and quality of the regulator and a clear commitment to ensuring value for money.

2.10 National tenant’s voice

We are content to see the establishment of a National Tenants Voice provided that it is an independent body that embodies a commitment to innovatively seek the widest possible range of views. Its aim should be to consult with all residents using a basket of modern research techniques. A new body that ends up representing traditional interests will be counterproductive. We think that the model pioneered for the railway industry by “Passenger Focus” would serve as a good starting point when considering a body that can give a real and productive tenants voice to social housing residents.

2.11 Physical standards

We think that the new regulator will play a relatively minor role in defining the physical standard of accommodation. Communities England will have a large say in building design and scheme standards and should take the lead in this important area of work. On this and other areas there will need to be clear protocols drawn up to enable the two agencies to work together effectively.

2.12 Rent control

Rent control measures applied to social housing have never worked very well. The current “rent influencing” regime operated by the Housing Corporation at the behest of government is an example of policy passporting. The lumpiness in social housing rents that it is designed to smooth out was primarily caused by historical changes in government and Corporation policy over grant rates and the vagaries of the statutory “fair rent” system which was always ill suited to the sector and often unfair to both landlord and tenants. Rent control directly impacts on an association’s viability and ability to deliver new housing units at affordable rent levels. We think that any new regulator will need the freedom to sit down with developing associations and agree a sensible approach to rent setting that gives associations an opportunity to develop sensible rent structures across their stock holdings and enables sufficient rental income to hold development capacity at levels that meet both the government and association’s aspirations.

2.13 Housing management standards

We are comfortable with the concept of the new regulator developing core standards covering housing management type activities. In doing this the regulator should adopt a non prescriptive outcome focussed approach that looks at delivery for residents within each association's operational context. We agree that housing plus activities should not be regulated by the new regulator and believe that any attempt to do so would result in a marked falling off of this important type of activity.

2.14 Governance and viability

There is a critical omission in the review with regard to adequate consideration of the importance of governance and financial viability. These elements are vital for the current and future health of the sector. Without effective governance we cannot deliver high performing businesses supplying top quality services; this would, in turn, impact on our financial viability and our ability to assist government in delivering its Green Paper ambitions. There is a 'golden thread' that enables our sector to deliver the government agenda; it runs through our investment programmes, into service delivery and is underpinned by strong financial viability and good governance. Our current regulatory framework delivers the assurance necessary for the golden thread to work, and work well. Disrupting this beneficial arrangement, without adequate investigation of possible consequences, is very high risk.

3. Summary

Southern Housing group broadly supports the findings of the Cave Review. We support the setting up of an independent regulator and believe that this could be done by converting the Housing Corporation into a regulation only body. We think that the revitalised body will need some new powers and should be given a greater degree of independence than is currently the case. We think that proposals from outside the review that would see regulation passing to the Audit Commission are misguided. The Commission is not a regulator, does not have a large housing focus and embodies a public sector culture that will always sit uneasily with housing association culture and jeopardise association's status as non public bodies.

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