

# [Fiona MacGregor's speech: NHF Housing Summit – 22 March 2021](#)

## **Update from the regulator: preparing for the post-pandemic landscape**

Thank you, Mark, for that introduction, and to the NHF for inviting me to speak today.

A lot has changed since the last National Housing Summit. To pick out just a few – the Social Housing White Paper has been published, a new Affordable Homes Programme has been launched, a Draft Building Safety Bill has been published and the new Building Safety Regulator has begun to be set up. Government has begun consulting on policies to decarbonise housing, the Brexit transition period has ended, and of course, we'd all be in the same room if it weren't for a global pandemic.

Both the operating environment and the policy landscape has shifted considerably and I will cover some of those changes this morning.

I'd preface what I am about to say by emphasising that the backdrop against which providers are working in is one of increasing pressures, heightened expectations, and, in some areas, significant uncertainty. The sector is under scrutiny and the choices and decisions providers are and will be making speak to the culture of sector and individual organisations and will significantly impact reputation.

### **The pandemic**

I am going to start with the pandemic.

Almost a year to the day, the Prime Minister announced a national lockdown. Since then, we've had two further national lockdowns as well as other local restrictions. In addition to the personal challenges these measures have brought to every one of us, there have been significant challenges for you as providers of social housing.

If you think back to April 2020 – when we started the Coronavirus Operational Response Survey – there was much uncertainty on key issues like accessing properties to carry out safety checks, concerns about maintaining safe staffing levels in care provision as well as concerns about interruptions to supply chains .

The CORS survey brought evidence that the delivery of services stabilised relatively quickly and that has remained the case despite ongoing challenges and further lockdowns. This really is testament to the hard work and agility of providers and their staff in prioritising tenant safety, welfare and wellbeing. and a good sign as the sector prepares to meet the expectations of

the White Paper. But even if we are on a steady path out of the pandemic, it is clear that Covid-19 will leave a long shadow. Tens of thousands of lives have been lost, hundreds of thousands have lost their jobs – with potentially more to come as various schemes end. Many of those that have been hardest hit by this crisis will be residents of social housing. Understanding and responding to the changed and diverse needs of tenants and the communities you operate in will continue to be key and may require further adaptation of priorities and approaches.

## **Competing demands**

So, as we look ahead, the broader social and economic picture remains uncertain.

The sector faces a growing range of competing internal and external pressures. The needs of current tenants must be balanced with future needs – including reflecting the diversity of the communities you operate in; hard choices must be made about investment in existing housing stock where demands, and expectations, are increasing, whether to maintain standards deliver safety improvements or for decarbonisation. All the while, contributing to new supply remains as important as ever. So while the last decade or so since the 2008 financial crisis has been about building homes to address the housing crisis, the coming years may see a renewed focus on the existing stock as well.

These hard choices demand informed strategic decision-making. You won't be surprised to hear me say that the key to navigating these challenges is good governance and risk management. It is from good governance that everything else flows, and this is never truer than in times of uncertainty and change.

## **Safety**

Of all of those choices, clearly the most fundamental is safety. Seeking to ensure tenant safety is one of the most basic requirements of all social landlords – whether housing associations, local authorities, for-profits or those operating principally a lease based model.

As I said, the CORS survey results have shown providers to be capable of adapting to ensure that ongoing statutory health and safety checks are prioritised even under the difficult circumstances brought about by the pandemic. This has been true for local authorities as well as housing associations and bodes well for our proactive regulation of the consumer standards in the local authority sector in future.

In the wake of the Grenfell fire tragedy, building and fire safety is, rightly, a very high priority, particularly for those with tall buildings and cladding systems which require removal or change. As remediation work continues across the sector, providers will also be considering what they need to do to prepare for the new regulatory regime. The Draft Building Safety Bill has been published and the new Building Safety Regulator has been set up. The expectations on providers are emerging and as the Building Safety Regime develops, you will need to be getting to grips with these expectations

and planning for implementation once the final legislation is enacted.

We, as the regulator, will also be doing the same. In the coming months we will work closely with the Building Safety Regulator and the Housing Ombudsman and Government to work through the touchpoints and linkages between our regulatory regimes.

There are two other themes that are central to getting safety right. One is the relationship that landlords have with their tenants, which I will come back to. The other is good quality data. Do you know and understand the current state of your stock? While providers may face uncertainty in a range of areas, data quality and understanding your own stock is in your control. It must underpin the strategic choices you make about stock investment (whether for safety, net zero carbon or basic quality of accommodation reasons). It is an area that needs work in many organisations and is an area that providers can, and should, be getting on with.

## **Building Safety sits within wider stock management and investment plans**

As has been underlined more than ever this past year, the quality of your home affects your health and wellbeing. A failure to understand and invest in your stock presents a substantial risk to your tenants and your business.

You should already be maintaining your stock at the current Decent Homes Standard, supported by a cost-effective and efficient repairs service that meets your tenants' needs. We know this really matters to tenants – not least from the strength of feedback we hear at round tables, and from current consumer regulation referrals so it's an area that you really need to put significant effort into ensuring you're getting right. I'd remind you all that it is required by the existing consumer standards which you should be complying with.

Again, it is an area where you also need to be planning for the future – housing is a long-term asset and boards are the custodians of those social homes so you need to be prepared to meet changing expectations. The review of the Decent Homes Standard is underway, as are the consultations on the Future Homes Standard and Future Buildings Standard, and details of the government's £3.8 billion Social Housing Decarbonisation Fund are starting to be released.

While the details are yet to come, we know the UK has a target of net zero carbon emissions by 2050 and housing will be part of achieving this goal.

So, there are difficult choices ahead as to where to direct the marginal pound in your business plan. We recognise that those choices are not easy when there is uncertainty about the future requirements. However, uncertainty cannot be a reason to ignore the issues.

While we can see that providers have slightly reduced expenditure this year on capitalised major repairs in the light of Covid restrictions, they are forecasting an increase over the next few years both to catch up on missed works and in the light of increased safety and stock quality requirements.

But there is significant variation among providers. It is vital that you think about your stock over the longer term – and acknowledge and begin planning for the changing expectations over that period. If, or where, we see providers materially reducing forecast expenditure over the next five years you can expect us to ask questions and seek an explanation of your approach.

As I've already said, it is imperative that providers have a solid evidence base about their stock condition to inform asset management plans that ensure that standards are maintained. In the current climate the reputational risk for providers that are not maintaining their tenants' homes to the required standards should not be underestimated.

## **New supply**

Now a word on new supply. The provision of new affordable housing is a key element of the government's approach to the housing crisis. The pandemic is also likely to have an impact, further increasing demand for social housing.

Providers' objectives, in seeking to provide housing to those whose needs are not currently being met by the market are aligned with that priority. Over the past decade providers have delivered significant levels of new housing – 56,000 units in 2019/20 alone, of which 49,000 were for sub-market rent or low-cost home ownership.

The latest Quarterly Survey showed actual expenditure on housing supply in the quarter ending December 2020 beginning to catch up after an initial dip at the start of the pandemic.

The latest quarterly survey also saw the highest number of market sales achieved since the data was first collected in 2014.

But returning to the theme of uncertainty, we cannot ignore the level of uncertainty we are still facing with respect to the housing market. We may still be seeing the effects of pent-up demand from the first lockdown coupled with cuts to Stamp Duty wash through. While not wishing to be the voice of doom and gloom, providers must continue to exercise care when their view of, and reliance on sales income in managing development risk. The overall context remains one of longer-term macroeconomic uncertainty and we cannot rule out a housing market downturn.

## **Current financial picture of the sector**

To put the changing operating environment into context I'd like to turn to the current financial picture for the sector.

Overall, the sector has remained in a financially robust position despite all of the current financial and economic headwinds. That position of strength is both reflected in, and supported by, the ability to continue to raise significant levels of new private finance.

The most recent Quarterly Survey showed that the sector remains financially strong with access to sufficient finance. Undrawn facilities have increased

by a further £6.8 billion since the start of the financial year, taking us to £28.7 billion of undrawn facilities at the end of December – the highest level ever.

This is a good thing, because that major challenge of balancing competing priorities will require significant investment in new supply but, more than ever, also in the existing social housing stock.

Providers' financial forecasts show that, in aggregate compared to last year, forecast debt has increased – the need for new debt facilities over the next five years is forecast at historically high levels. The increased reliance on debt in providers' business plans is underpinned by assumed continued low interest rates in forecasts: should rates move higher the sector's financial performance and ability to service debt would weaken. This is a risk we set out in the Sector risk profile that we will expect providers to monitor and be able to manage.

Which takes me onto the evolving shape of the sector.

## **Starting with Funding models**

As I've said, the sector continues to be an attractive investment proposition. The current high demand for ESG investments and the increasing prevalence of ESG reporting standards has the potential to further increase the range of funders available to the sector.

While debt-funding accounts for the vast majority of the funding of private registered providers, alternative financing models are becoming more prevalent in the sector. An increasing number of private investors have looked to invest in social housing products. This investment has been through the establishment of funds providing equity to (usually) for-profit registered providers, either by way of lease arrangements, or through direct equity investment in registered providers.

While new sources of finance may bring new opportunities for the sector to meet the many competing demands that I have already outlined, they may also bring higher expectations of the returns that they will generate, which may be hard to reconcile with a submarket social housing product.

New financing comes with new risks and new obligations. Boards should start with working out the type of finance they need then look to find that in the market – and should carefully consider which finance option is right for them, ensuring that they have the skills to ask the right questions before taking on new commitments. This is less about buyer beware than about working out what you want to buy before going into the shop.

## **For-profits**

I mentioned for-profit providers. Alongside new finance sources we are seeing another trend. There is a growing number of for-profit providers in some cases with limited organisational substance and most functions outsourced. While this can be a valid approach, the Boards of such providers need to be

aware that they have the same landlord responsibilities as any provider, therefore it is incumbent on them to ensure that they own and manage the associated risks. While this is already true now, it will become even more so as the requirements of the White Paper are implemented. It is the landlord, issuing the tenancy, not the managing agent that needs to ensure that tenants have influence and engagement.

Again, we're talking about good governance. As regulator we need to be assured that Boards have thoroughly tested their organisations' business plan to ensure both the short-term and long-term viability of their organisations as good landlords. Viability and good governance are fundamental, but, they are not an end in themselves. The end is to ensure that providers are able to continue to house current and future tenants, keep the homes that they live in safe and in good repair, and provide high quality services.

You will hear me come back to this time and again. It is often when providers forget this purpose, or in some cases wilfully ignore it, that things go wrong.

## **Lease-based providers**

You will all know that we continue to engage with a cohort of lease-based providers, with a number of non-compliant judgements already published and recently more organisations being added to our gradings under review list.

We have been rehearsing the risks that we have seen with this model since before the publication of our Addendum to the 2018 Sector Risk Profile. The non-compliance we are seeing ranges across the breadth of our regulatory standards.

We continue to engage with those organisations as they work to return to compliance. However, should that not prove possible, then our priority will be, wherever possible, to protect the interests of, and seek to achieve the best outcome for, tenants. As we've said before, we cannot guarantee that the interests of all stakeholders would be protected, or that creditors and investors would not suffer losses.

Clearly, a failure is not our desired outcome. Supporting providers to strengthen their Board and support the work they are undertaking to address issues and prevent failure should be seen in that light. Where we judge it necessary, we will use our enforcement powers to ensure providers have the capacity and are able to act to prevent failure. You will have seen that we have made a number of statutory appointments to the Boards of such providers over the past few years.

Ultimately, it is only those organisations that have a robust underlying business model that are likely to be able to provide assurance that they meet our standards over the long term. You will be aware that one short-term lease-based provider has concluded that it is not possible for it to provide all tenants with the quality of accommodation and services they require within the existing commercial constraints in their lease agreements and have made a decision to cease operations and to de-register as a provider of

social housing.

Whether other lease-based providers follow a similar path remains to be seen.

## **Mergers**

And to finish on emerging changes to the shape of the sector, I want to highlight one other discussion that may be going back up the agenda – consolidation.

The rationale driving these discussions are a combination of building resilience – given changes in the economic, social and operating environment – with a view to, ultimately, allowing providers to continue to deliver, or even deliver more of, their core social purpose – including, or especially, good services to tenants.

If done well, and the challenges and risks which come with delivering a merger are well managed, consolidation can help achieve those objectives and there are some signs that there may be increased activity in the merger arena. But it will be very important in the current circumstances to be able to demonstrate that a larger organisation does not have to be a remote one.

## **Proactive consumer regulation**

I'd like to cover a final, key, topic before I close – the future of consumer regulation.

The central theme at the heart of the Social Housing White Paper is the relationship that landlords have with their tenants. The changes set out in the White Paper are seeking to reset and rebalance that relationship.

There are clear linkages with the areas I've already picked up. If the White Paper meets its aims, then tenants should expect to be safe in their home, that those homes meet good quality standards with repairs and other issues dealt with promptly and properly with clear routes of redress when things go wrong, and to be listened to and treated with respect by their landlord. The White Paper is clear that those expectations apply regardless of who that landlord is – housing association, local authority or for-profit provider – and they apply to the landlord, regardless of whether there is a managing agent involved in the chain.

We can all subscribe to these outcomes.

In an ideal world, they would not require changes to the regulatory regime. As I said, the primary relationship is that between landlords and tenants – which, after all is the original definition of co-regulation: landlords and tenants working together, with the regulator stepping in only when needed.

Many providers will already be delivering good customer service. For those who could go further, even before the White Paper was published, you will have heard me say “don't wait”. Indeed, we have seen examples of landlords and tenants working more closely together, for example during the pandemic or

through initiatives such as 'Together with Tenants' seeking to build, or re-build, trust with tenants.

However, feedback suggests that there is real variability in the quality of services delivered to tenants. Which means there remains a need for us as regulator to set clear standards that landlords need to meet, to seek assurance that those standards are being met, and have the powers to follow up where they have been not been met.

Updated consumer standards will form the bedrock of a new, proactive, consumer regulation regime. I'm sure many of you will have heard me refer to the three tests that I have set for this new proactive regime:

1. It must make a meaningful difference to tenants. If tenants aren't seeing an improvement in services, then we will have collectively failed.
2. It must be deliverable by landlords. There is no point setting landlords an impossible task, because ultimately that will not help tenants. That doesn't mean being soft; the standards will still need to be capable of making a difference, but we recognise that they do have to be deliverable by well-governed, viable landlords.
3. We must be able to regulate the new regime effectively. This means building on the best of our existing approach to our economic standards. A system that is outcome-focused, co-regulatory, proportionate, risk-based and assurance based. Retaining those principles will give us the best chance of achieving the aims of the White Paper.

I would underline again the importance of the standards themselves – they set out the expectations of landlords, supported by a framework and set of tools to allow us to gain meaningful assurance that they are being met.

The other thing that you will have heard me say is that, delivering these changes, in the round, will take time. It's really important that we acknowledge the building blocks that need to be in place before we can start proactively regulating a new set of consumer standards.

The base of these building blocks is new primary legislation. We currently don't have certainty over what the timetable for a Bill looks like. But just as I have said that you, the sector, will need to plan and prepare for the future. So will we as regulator – and we have begun that work: to design and deliver a framework that is effective and to recruit and train the staff we need to deliver proactive consumer regulation.

## **Conclusion**

Social housing providers are emerging from the pandemic having demonstrated their ability to flex and really focus on the needs of tenants, to manage

unforeseen challenges and in a position of comparative financial strength.

Those are good starting points for the increased pressures and heightened expectations the sector faces: balancing the range of demands for investment in existing stock, expectations around new supply and crucially, providing good customer service and being transparent with tenants and other stakeholders to build a relationship of trust.

While there are areas of uncertainty, which are evolving or where more information is needed, for example around safety or achieving net zero carbon, there are areas in your control – understanding your existing stock profile; ensuring funding models are sustainable in a challenging fiscal and financial environment; that you treat tenants with respect. These are all within your gift now.

This is a key inflection point for the sector. What you do and how you do it speaks to organisational culture and affects your reputation – that of your own organisation, and of the sector. Being very clear about your social purpose, and transparent with stakeholders about the trade offs and decisions you have had to make are key. You may not be able to meet all of the demands made of you, but you can explain your choices. You will build trust if you do so.