

STATES OF JERSEY



THE REFORM OF SOCIAL HOUSING (P.33/2013): THIRD AMENDMENT

Lodged au Greffe on 16th April 2013
by Deputy J.A.N. Le Fondré of St. Lawrence

STATES GREFFE

PAGE 2, PARAGRAPH (a)(iv) –

After the words “sections 3.38 to 3.47 of the attached Report” insert the words –

“Except that before section 3.46 there shall be inserted the following new sections –

- 3.46 It is acknowledged that the cost of administration of the company will be of concern to States Members and to the Public.
- 3.47 It is recognised that two prime benefits which support the restructuring of the Housing Department are tangible improvements in the current level of service to social housing clients and to ensure that the future operating costs of the Department are at least on a par with that being achieved in the local private sector.
- 3.48 To ensure such efficiency is delivered it is proposed that the following principle be established governing the administration/management costs of the proposed company:

The administration/management costs of the company shall not exceed the average administration/management costs of existing social housing providers subject to regulation as identified in paragraph 3.17 on page 29 of this report (“the existing social housing providers”), compared on a like-for-like basis.

- 3.49 The implementation of this principle shall be left to the Regulator, or any equivalent independent body (“the Regulator”), to determine in accordance with the following guidelines –
- (i) The definition of such administration/management costs shall be agreed by the Regulator by reference to those costs incurred in respect of the routine administration of the existing social housing providers in the Island, including the costs of the trustees; the costs of office accommodation; and also those costs incurred in the management of the properties owned and managed by those social housing providers.
 - (ii) Where it seems reasonable to the Regulator that the company legitimately incurs administration/management expenditure additional to that of the existing social housing providers in respect of specialist services to certain tenants, the Regulator may make an adjustment for such costs.
 - (iii) The Regulator may make appropriate adjustments with regard to any significant changes in income which might otherwise have the effect of artificially distorting the ratio of administration/management costs to income in either the proposed company or in the existing social housing providers.

- (iv) In assessing the performance of the company, the Regulator shall consider the following performance measures –
 - (1) The proportion of administration/management costs of the company relative to income in comparison to that of the existing social housing providers.
 - (2) The administration/management costs of the company per unit of accommodation in comparison to that of the existing social housing providers.
 - (3) Any other measure which the Regulator (after consultation with appropriate stake holders, including the company, and the existing social housing providers) shall consider both reasonable and to be in accordance with the principle established in paragraph 3.48 above.

3.50 The Regulator shall present an annual report on the relative performance of the company to the Board of the company, to the Minister for Treasury and Resources and to the States Assembly. This report shall identify the comparative administration and management costs of each entity, particularly by reference to income and per unit of accommodation; any relevant considerations and adjustments made in calculating that performance, and any other matter which the Regulator considers appropriate.

3.51 If the company fails to achieve parity with the existing social housing providers, the Regulator shall be empowered to require the company to reduce its administration/management costs accordingly.

3.52 It is also proposed that the Comptroller and Auditor General would be requested from time to time to consider whether he or she wishes to evaluate and comment on the performance of the company relative to other social housing providers in the Island, or upon any other matter pertaining to the company.

3.53 For the avoidance of doubt it is acknowledged that both the Regulator and the Comptroller and Auditor General shall have full and complete access to the records, employees and officers of the company to no less extent than the Comptroller and Auditor General has to the present Housing Department.”

and renumber accordingly.

DEPUTY J.A.N. LE FONDRÉ OF ST. LAWRENCE

REPORT

P.33/2013: “The Reform of Social Housing” is one of the biggest propositions to be placed in front of this Assembly. Not only does it introduce regulation for some social housing providers, it splits the functions of the Housing Department and involves the transfer of assets with a current value in excess of £500,000,000 into an arm’s length limited liability company. Those assets currently generate an annual revenue of over £40,000,000 and, as such, the new company would in future be of a similar scale to other States-owned organisations such as Jersey Telecom, Jersey Post, and the States of Jersey Development Company, all of which are under the shareholder management of the Minister for Treasury and Resources and the Treasury Department and are no longer directly accountable to the States Assembly.

The provision of States-owned social housing is currently managed by the Housing Department; and as such, the States Assembly sets policy for, and reviews the performance of service provision and expenditure through the processes and procedures established by the States to ensure proper governance and fiscal management of all States departments (strategic planning, business planning, etc.).

In future, if the proposition is approved, the States (through the Minister) will have the same rights as any shareholder in a private company. However, the Board of that company will be autonomous, and (for example) will therefore be free to determine expenditure including the remuneration of its employees, outside of the procedures that are in place to govern other States functions.

The company will, however, be required to answer to an independent Regulator. As such, it is important that the proposition includes the fundamental principles which will inform the terms of reference of the Regulator in order that the Regulator¹ may ensure appropriate and proper control of the activities of the proposed new independent organisation.

Whilst the proposition P.33/2013 includes arrangements concerning a number of aspects of corporate governance, it is broadly silent in respect of performance measures.

The purpose of this amendment is to ensure that the company is required to operate at an administration cost base that is at least on a par with that of the existing private social housing providers. Whilst comparisons may be made with the UK, the most appropriate benchmark standards are those being achieved by other providers locally, and performance appraisal should be made relative to the provision of such services locally, in the local market.

¹ It is noted that the Health, Social Security and Housing Scrutiny Sub-Panel have issued a Review of the Housing Transformation Programme (S.R.6/2013). Recommendation 9 of that report appears to suggest alternatives to the presently proposed form of Regulation. In the event that this is the resultant outcome, it is assumed that there would be provision of some form of over-arching ombudsman or independent authority that would be in a position to identify and deal with any issues of concern that arose over the course of time. As such, the term “Regulator” should be applied to such a body in the context of this report. In the event that this is not the case, and also that a Regulator is not created, it is envisaged that an appropriate condition could be incorporated into the Memorandum and Articles of Association of the new company.

The report states that the Housing Department is a ‘small, well run organisation’ and that it manages over 4,500 units of accommodation. Whilst it can be demonstrated that the Housing Department manages a significant proportion of the total social housing provision in the Island, there are (for example) a number of privately managed Trusts which deliver essential services to the community and which, it can be demonstrated, currently operate at a high level of efficiency.

Social housing providers in the Island are as follows –

	<i>Units of Accommodation per Whitehead Report (July 2009)</i>	<i>% of total</i>	<i>Change in period</i>	<i>Units of Accommodation updated to 2012/13</i>	<i>% of total</i>
Parishes ²	142	2.29%	–	142	2.28%
Charities ²	192	3.09%	–	192	3.08%
Trusts ³	1,260	20.29%	94	1,354	21.75%
States ⁴	4,615	74.33%	(76)	4,539	72.89%
	6,209	100.00%	18	6,227	100.00%

The Housing Trusts are analysed as follows –

	<i>Units of Accommodation per Whitehead Report (July 2009)</i>	<i>% of total</i>	<i>Change in period</i>	<i>Units of Accommodation updated to 2012/13</i>	<i>% of total</i>
Jersey Homes Trust ⁵	706	56.03%	37	743	54.87%
Les Vaux Housing Trust ^{5 6}	314	24.92%	44	358	26.44%
Christians Together ⁵	91	7.22%	32	123	9.08%
Clos de Paradis ⁷	82	6.51%	–	82	6.06%
FB Cottages Housing Trust ⁷	48	3.81%	–	48	3.55%
Richie Brocken West View ⁸	19	1.51%	(19)	–	0.00%
	1,260	100.00%	94	1,354	100.00%

² No details available as to how this number has changed in intervening period

³ 2012/13 figures obtained from respective websites

⁴ 2012/13 figure per page 42 of P.33/2013

⁵ Note – 2012/13 figures updated from Trust website (excluding group homes) – note also that Whitehead report contained a minor computational error between 2 tables, and accordingly 2009 column has been reduced by 1 in order for figures to tally

⁶ Note – as per my declaration of interests, I am the Honorary Secretary of Les Vaux Housing Trust (since 1997)

⁷ Assumed no change in units

⁸ Les Vaux Housing Trust acquired all the units of this housing provider in the intervening period

Using the figures derived from P.33/2013, the proportion of social housing administered and controlled by the non-States sector is set to increase to just under 30%. This does not take into account any additions made by Parishes, or any plans by Trusts not included in P.33/2013.

When setting up a new structure for the provision of States Social Housing, particularly an organisation that will control 70% of the supply, and one that would be in effect outside of the direct control of the States Assembly, it is important to ensure that appropriate measures are put in place to safeguard the Public.

The Housing Department considers that it is operating at a level that is at least as efficient as the private sector Trusts. Indeed, an organisation which is some 6 times as large as the largest Trust should be capable of achieving significantly greater economies of scale in respect of its administration/management costs.

This amendment seeks to ensure the proposition includes a fundamental **principle** regarding the costs of administering the new company and of managing its estates. How that principle is applied in practice shall be left to the Regulator.

The basic principle is that the routine administration costs and management costs of the company shall not be permitted to exceed the costs of the Housing Trusts that have been identified as being subject to regulation in the proposition. These are not the direct costs of repairs and maintenance (for example), but the administration costs of managing such repairs, or of managing voids, or of dealing with tenant queries, etc., etc.

This is important because the less money that is spent on bureaucracy means more money going either back into the estates (therefore ensuring that backlog maintenance can be more quickly addressed and better service provided to the tenant); or more money being available to repay loans quicker; or to provide greater funds back to the Treasury. In the present economic climate it is vital that when we establish new structures, they are established with the appropriate rigour and controls over such expenditure.

The company will have one principal source of revenue – rents. It is therefore key that the proposed new company operates at least on a par with the existing social housing providers, and that those rents are applied for their core purposes and not wasted on potentially inefficient administration costs.

This amendment sets out an over-arching direction in order to avoid such a problem.

It must be recognised that certain tenants require greater attention than others, and it has been the contention of the Housing Department that they have a greater proportion of such tenants, and as such will incur greater administration costs. The amendment allows for this issue by giving the Regulator appropriate flexibility in assessing such expenditure should the Regulator deem such an adjustment to be necessary.

Whilst it is clearly the case that the Trusts are significantly smaller than the Housing Department, in absolute terms they still represent substantial organisations. The top 3 trusts in the above table manage over 1,200 units, and they do so with management

costs being approximately 4.4% of revenue. The modern Housing Trusts have been in existence for up to 24 years and, as can be demonstrated, have had a significant impact upon the provision of social housing during that period.

They should be considered to be significant elements in the deliberations surrounding the Housing Transformation Programme, particularly as they provide valid benchmark standards against which to compare the performance of the new independent company which States members are being requested to agree in the P.33/2013 proposition.

Conclusion

P.33/2013 represents a major change in the way in which social housing is provided in Jersey. The proposition being brought to this Assembly is a very substantial and complex matter that requires careful consideration. Members must be under no illusion that this is a simple issue.

Scrutiny has taken nearly a year to complete their investigations, resulting in the recent publication of a very extensive report. The Sub-Panel has identified over 40 key findings and made some 19 recommendations; and there are a whole raft of issues, many of which need to be answered before changes to the current arrangements are implemented.

This amendment cannot, and does not, attempt to address the issues raised by the Scrutiny Sub-Panel. It does, however, seek to ensure that proper controls are established to require the proposed new Housing Company, if approved by this Assembly, to operate at an appropriate level of management efficiency: an efficiency that is at the very least equal to the group of existing social housing providers which it seeks to join.

The transfer away from both the direct oversight by, and accountability to, the States Assembly of the entire Housing portfolio, with assets valued at over £500 million and annual revenues in excess of £40 million, is a major change that places an obligation on this Assembly to ensure appropriate controls are put in place to safeguard the interests of the Public of the Island, for whom we, as State Members, are the custodians.

- The proposed new Housing Company will be an ‘at arm’s length’, limited liability company, Although wholly-owned by the States, it will be subject to limited ‘shareholder’ direction, and will in practice operate in an entirely independent manner.
- Managing 70% of the total provision, the new company will dominate the social housing sector.
- The economies of scale that such a large organisation can achieve should require that it operates significantly more efficiently than the existing smaller private sector providers, even after making allowance for the provision of specialist services to tenants, when compared on a like-for-like basis.
- Scrutiny has identified that increases in rents from 70% to 90% of market norms are needed to make the proposed housing company viable, and even with the introduction of such ‘uncomfortable’ measures, additional States

funding for the Housing Company may in future be required, should circumstances change.⁹ Accordingly, it is critical that this organisation is regulated from the outset to operate as efficiently in its cost structure as is reasonable and practical.

By endorsing this amendment, States members may have confidence that appropriate controls will be put in place to mitigate against management/administration costs in the new Housing Company being disproportionately greater than those of the current private sector providers. They can be assured that parameters will be set, prior to the establishment of the new company, as to how we expect that company to operate.

Parameters which I trust members will agree are eminently fair and reasonable, and accordingly I commend members to support this amendment.

Financial and manpower implications

There are no manpower implications arising from this amendment.

If the new company is at least as efficient as the existing social housing providers, then there will be no financial consequences. If, on the contrary, the new company is not as efficient as the existing social housing providers, then this amendment will limit the exposure of both tenants and the taxpayer to the downside of any such risk.

The cost of producing and monitoring such performance indicators should be minimal.

⁹ For example, key finding 22