

STATES OF JERSEY



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

Lodged au Greffe on 16th April 2013
by the Health, Social Security and Housing Scrutiny Panel

STATES GREFFE

1 PAGE 2, PARAGRAPH (a)(i) –

- (a) Delete the words “in the Chief Minister’s Department”.
- (b) After the words “dated 4th March 2013” insert the words –
“to be overseen at a political level by the Minister for Housing, except in the last paragraph of section 3.12.5 after the words “overall responsibility for this is proposed to become the responsibility of” delete the words “the Chief Minister” and add the words “Minister for Housing working closely with the Chief Minister, the Minister for Planning and Environment and the Minister for Treasury and Resources.”

2 PAGE 2, PARAGRAPHS (a)(ii) and (b)(i) –

Delete paragraph (a)(ii) and in paragraph (b)(i) for the words “and to further request the Chief Minister to bring forward for approval by the Assembly the necessary legislation to give effect to the proposals in relation to the regulation of Social Housing;” substitute the words “to further request the Minister for Housing, in consultation with the Chief Minister, to bring forward for approval by the Assembly detailed proposals which are proportionate for Jersey in relation to the proposed mechanism for the regulation of social housing, with a view to bringing forward for approval, after the debate on the draft proposals, legislation to give effect to the proposed regulation system as approved by the Assembly;”.

HEALTH, SOCIAL SECURITY AND HOUSING SCRUTINY PANEL

REPORT

Amendment 1

Housing is an essential provision, and it is important to be able to clearly identify a Minister with direct responsibility for it. This is enshrined in the States Strategic Priority of “Housing Our Community.”¹

The need and desire for a co-ordinated, cross-tenure housing policy in Jersey has been clear in the Sub-Panel’s review of the social housing reforms laid out in P.33/2013. However, the current track record of joint working and co-ordination of housing policy across departments is not strong and could pose a risk to successful implementation of the social housing reforms. The Sub-Panel believes that the creation of the Strategic Housing Unit is unlikely on its own to improve this track record sufficiently.

The issue of ‘concentration of power’ in some Departments has been identified by the Sub-Panel as a potential argument against locating the Strategic Housing Unit in the Chief Minister’s Department, and some differences of opinion have been expressed over the success of other strategic units within that Department in unifying disparate areas of social policy. The Sub-Panel was also advised that in other jurisdictions strategic housing functions can tend to be the ‘Cinderella’ service compared to the other larger parts of the authority. Despite general agreement that social housing is a crucial strategic issue, there is a risk that the ‘Unit’ may become marginalised if not given adequate resources and attention amidst competing political priorities faced by the Chief Minister and his Department.

P.33/2013 states that following the establishment of the Strategic Housing Unit in the Chief Minister’s Department, responsibility for housing policy will fall to the Assistant Minister to the Chief Minister.² The Sub-Panel has significant concerns about whether a relatively small Unit with a small budget of £182,000 per annum³, in effect led by an Assistant Minister, will have the sufficient critical mass and political representation to co-ordinate responsibilities which are currently held by the Housing Department, the Population Office, Health and Social Services and the Department for Planning and the Environment.

The Sub-Panel therefore considers that retaining a Minister with responsibility to champion all of Jersey’s housing issues and ensure they are addressed is critical to the co-ordination of housing policy in the future. Proposals to locate the SHU within the Chief Minister’s Department overseen by an Assistant Minister would not enable housing to have the same voice and profile which a Minister could deliver. During Public Hearings, the Chief Minister agreed that it could be possible to have a Minister with a portfolio aligned to each of the priorities set out in the 2012 Strategic Plan.⁴ This structure of Ministerial responsibilities would give clarity, momentum and accountability to delivery of Jersey’s strategic priorities, as well as providing a champion with an appropriate level of authority and visibility relating to their brief.

¹ States Strategic Plan, 2012

² The Reform of Social Housing (P.33/2013), p.61

³ The Reform of Social Housing (P.33/2013), p.51

⁴ Public Hearing with the Chief Minister, 24th July 2012, p.11

The Strategic Housing Unit will need to be able to hold its own against the competing interests of other powerful bodies, such as Jersey Property Holdings, the States of Jersey Development Company, the Treasury and Resources Department and Planning. The Sub-Panel is not convinced that appointing the Assistant Chief Minister – who has no executive powers of his own – will give the Strategic Housing Unit the necessary political weight to ensure its aims and objectives are upheld in the face of divergent opinions. It therefore argues that the Minister for Housing should be retained as the political leader of the Strategic Housing Unit with responsibility for co-ordinating housing issues across all tenures.

In summary, Housing is an essential provision, and it is important to be able to clearly identify a Minister with direct responsibility for it. The Minister for Housing should be retained as the head of the Strategic Housing Unit and given responsibility for housing across all tenures. This is critical in helping address the lack of joined-up thinking on affordable housing policies and should be agreed by the States as it is essential to the success of stimulating new supply.

Amendment 2

It is the Sub-Panel's view that a clear and convincing argument for the establishment of a new social housing regulator is lacking in P.33/2013, and further justification for this view can be found in its recent report, "Housing Transformation Programme Review" (S.R.6/2013). The Sub-Panel has previously drawn attention to the lack of detail about the proposed regulator in its Interim Report (S.R.5/2012), which suggested that more clarity and agreement on the purpose and operation of the regulator would benefit the States prior to lodging any enabling legislation. The key principles presented in P.33/2013 still lack the kind of detail the Sub-Panel would have liked to see with regard to the establishment of a Regulator. It therefore wishes to draw attention to the implications arising from the States approving broad principles that may later see a Regulator established that is not proportionate to the needs of the Island, or to social housing tenants.

The Sub-Panel is concerned that unless alternative methods of compliance are developed, regulatory activities applied to social housing providers could become focused on a top-down, compliance-based approach rather than a system based on co-operation between providers. The Sub-Panel would also like to see more focus on how regulation, whether statutory or voluntary, can improve service delivery as opposed to deal with service failure. This is a subtle difference but an important change in mindset. Furthermore, if the Housing Trusts are to be relied on to deliver a sizeable proportion of new social and affordable housing developments (as stated in P.33/2013), growing the sector should be the overall goal for regulatory activity, rather than compelling providers to achieve uniform standards.

The principles for regulation set out in P.33/2013 do not adequately explain the decision behind key phrases, such as "co-regulation". The Sub-Panel considers that the principle of encouraging a culture of co-regulation where social housing providers should effectively self-regulate to a large degree does not establish clearly how, or on whose terms, the providers will self-regulate. Perhaps more importantly, the proposals lack any significant information about the relationship between social housing tenants and the proposed regulatory body.

The Sub-Panel considers that there is also a risk that future Assemblies and Ministers may change policy priorities around regulation, which would be passed on to the regulator for implementation. Regular, sizeable or controversial policy changes could risk undermining the credibility of the regulator in the eyes of stakeholders.

Although the Sub-Panel is supportive of the proposal to bring all social housing stock up to a Decent Homes Standard, it is not clear whether regulation is required to achieve this, as stock maintenance appears to have fallen behind due to financial constraints rather than organisational resistance. The Panel is therefore of the view that a case for a regulator made on the basis of poor performance on the behalf of other social housing providers is not justified.

The Sub-Panel is concerned that the wording of these in principle enforcement powers risk the States unwittingly endorsing a mandate to bring in more draconian regulations at a later date. It is therefore crucial that the wording of the “in principle” statements around regulation is not taken lightly but are thoroughly examined and interrogated by the States. The Sub-Panel would therefore like to further request the Minister for Housing, in consultation with the Chief Minister, to bring forward for approval by the Assembly detailed proposals which are proportionate for Jersey in relation to the proposed mechanism for the regulation of social housing, with a view to bringing forward for approval, after the debate on the draft proposals, legislation to give effect to the proposed regulation system as approved by the Assembly.

Specifically, the Panel recommend that –

- (i) Prior to introducing a social housing regulator, alternatives for regulation must be brought forward that are more appropriate to the size and nature of Jersey’s social housing sector, including a Social Housing Charter or Code of Practice developed within the next 12 months and signed up to by all providers.
- (ii) A Jersey Homes Standard that is appropriate to Jersey’s needs must be created within 12 months.
- (iii) Regulatory activity needs to be focused on improving service delivery as opposed to dealing with service failure, and should rely upon co-operation rather than compulsion as much as possible with regard to directing the financial affairs of other social housing providers.
- (iv) And finally, any regulation should be flexible enough to include the private rental sector and other social housing providers in future without significant and costly institutional change.

In conclusion, the Sub-Panel considers that the introduction of an Independent Regulator is not immediately appropriate for Jersey’s social housing sector alone. Details of proposals for statutory regulation are not sufficiently developed, and the Sub-Panel is concerned that the Assembly is being asked to sign up to too much in advance, especially given the level of power and control that would be created. The Sub-Panel therefore suggests that a voluntary approach would be more appropriate to the Jersey situation to begin with. Potential alternatives to regulation, including a Social Housing Charter, are discussed in some detail in the report on the Housing Transformation Programme (S.R.6/2013).

Financial and manpower implications

The detailed financial and manpower implications from Amendment 1 are not significant, as P.33/2013 implies that the Minister will be retained anyway, albeit in a different form. As the Minister will be able to utilise the administrative support allocated to the Strategic Housing Unit (p.56 of P.33/2013), additional costs for support staff are not anticipated. There are no financial or manpower implications arising from Amendment 2.