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Health, Social Security and Housing Scrutiny Sub-Panel

Housing Transformation Programme Review: Interim Report



Presented to the States on 17th August 2012

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CHAIRMAN'S FOREWORD

The Health, Social Security and Housing Sub-Panel commissioned the Chartered Institute of Housing to produce this short interim report on findings that have emerged so far in their review of the Housing Transformation Programme, and in particular the White Paper "Achieving Decent Homes."

During Public Hearings held in July 2012, the Sub-Panel encountered a number of unresolved issues regarding core elements of the proposals contained in the Housing White Paper. It was felt that some aspects of the proposals being outlined would benefit from a greater level of consensus at a political level in order to progress and gain the full support and confidence of the relevant stakeholders.

The Sub-Panel felt strongly that it was important to feed back on these findings regarding areas of concern so that the Department might be able to address them in the earliest stages of policy drafting. The Sub-Panel hopes that the Department will find the areas for consideration raised in this report a useful tool to refer to in ensuring that the policy in development is robust and fit for purpose. As such, the report raises six areas for consideration. Unlike a full Scrutiny report, a Ministerial response is not required as implementation of the issues highlighted here will be assessed in the Sub-Panel's final report due later this year.

This report has been drafted by our expert advisers, Abigail Davies and Steve Partridge from the Chartered Institute of Housing, who have assisted the Sub-Panel in providing technical assessment of evidence received.



Deputy Kristina Moore

Chairman, Health, Social Security and Housing Scrutiny Sub-Panel

TERMS OF REFERENCE

1. To determine whether the policy proposals contained in the White Paper are the most appropriate and able to address the range of issues identified by the Housing Minister and his department.
2. To examine how the responses to the Green Paper were analysed and reported.
3. To consider the financial and other implications associated with the policy proposals.
4. To consider the findings and recommendations of previous scrutiny reviews on the subject.
5. To identify changes to the overall Social Housing structure and consider whether the policy proposals will address known housing issues.

SUB-PANEL MEMBERSHIP

The Health, Social Security and Housing Sub-Panel comprised the following Members:

Deputy Kristina Moore, Chairman

Senator Alan Breckon, Vice-Chairman

Deputy James Reed

Deputy John Le Bailly

Expert Advisers

The Panel appointed the following expert advisers

Mr Steve Partridge

Ms Abigail Davies

Steve Partridge, CPFA, is the Managing Director of CIH Consultancy, a role which leads their work on financial consultancy and training and also comprises senior financial policy advice for the Chartered Institute of Housing.

Abigail Davies is Assistant Director of Policy and Practice at the Chartered Institute of Housing. She leads the policy and practice team, whose aims are to champion and support the housing profession and help to shape housing and communities policy and practice at national, local and organisational levels.

INTRODUCTION

The Housing Transformation Programme (HTP) is an ambitious scheme for reform of social and strategic housing in Jersey. Its impending presentation to the States Assembly will be the culmination of many years' thought, consultation and planning.

As the Health, Social Security and Housing Scrutiny Sub-Panel prepares its full report on its inquiry into the HTP, several States Departments continue to analyse information and develop detailed arrangements in preparation for the implementation of the programme. A number of issues identified during the Sub-Panel's evidence gathering phase in July are of direct relevance to the ongoing preparation for implementation, and as such it is beneficial to share them now rather than waiting for publication of the Sub-Panel's final report in the autumn.

The suggestions and issues identified here are presented in the spirit of helping to maximise the prospects for successful implementation of transformational change to social and strategic housing in Jersey. They do not pre-empt the full findings of the Scrutiny Sub-Panel, which will be presented to the States Assembly in due course.

Key issues

In reviewing written submissions, oral evidence and supporting documentation we have considered:

1. The fit between identified housing problems and the solutions proposed within the HTP;
2. The financial implications of the solutions proposed;
3. The prospects for successful implementation;
4. The medium to long term consequences that could arise from the reforms.

We have developed six suggestions for consideration. We believe work around these suggestions could further strengthen the HTP. These suggestions are supported by explanations of the issues which have been identified during the evidence gathering phase.

1. Role and purpose of social housing

An agreed position on the role and purpose of social housing would help support implementation of the HTP and contribute to the development of coherent future policy.

We found that there are differences in views and emphases between Ministers about the role and purpose of social housing, especially around whether it should provide a home for life even if the original need which led to allocation of a property no longer remains.

Where there is no consensus on the purpose of social housing, this can often lead to regular changes in policy as individual Ministers change; in turn this can risk instability and can make it difficult to deliver the objectives of longer-term programmes. Within an administration, this can also be associated with inconsistency where housing policies, or aspects of policy, are led by different departments with different philosophies.

The stability of the financial model for the proposed HTP relies on some tenants on higher incomes living in social housing, especially States housing, and so the future sustainability of this model would benefit from a clear commitment to the 'home for life' approach and a delineation of the parameters of this commitment.

2. States-owned housing association

The financial relationship between the Treasury and the new housing association should be clearly and transparently articulated to help build confidence and understanding within government and amongst tenants and other stakeholders.

Confusion has arisen because of the description of the new housing association as a 'Strategic Investment'. The terminology used has given an impression to members of the public and to some elected representatives that the new housing association will be 'for-profit'. There is caution about making 'profit' from services offered to those who are unable to access the housing market, and there is also an awareness that social housing in other countries is almost always provided on a not-for-profit basis. It is likely that misplaced resistance to the establishment of a new States-owned housing association may be experienced in the Assembly and the wider community if the term 'Strategic Investment' continues to be widely used.

There is a reasonably wide awareness of the financial return made by the Housing Department. The reasons for this return are much less well understood, however, and this contributes to wariness about a social housing provider being 'for-profit' as described above. The plan to break the link between actual Income Support costs and the actual return to the Treasury when the new association is set up could further hinder understanding of this issue unless a clear explanation of the system/agreement is made widely available.

The presence of a return to the Treasury over and above the value of the housing element of Income Support received by States tenants also poses risks to the level of support for the reforms, and to the mid- to longer-term stability of the housing association's financial arrangements. Increased political concerns, or a loss of political consensus, over the set financial return to the Treasury could lead to the arrangement being reopened in several years time, which would interrupt delivery of the investment objectives set out in the association's financial plan. Within the HTP, one of the primary objectives is to achieve greater transparency in 'who pays for social housing' (for example: the return to 90% market rents and the ambition to reduce 'hidden subsidy'). Arguably, there could be political benefits from seeking a comparable level of transparency around the sources of funding for Income Support.

There is a strong risk that the amount spent by the States on housing-related Income Support and the annual return to the Treasury will get out of alignment very quickly, and that pressure to renegotiate the settlement will therefore grow over time. The annual return to the Treasury will be broadly reflective of actual housing-related Income Support costs received by States tenants in year one of the proposed new model. The annual return will increase by RPI+0.75% each year,

but if private rents (to which social rents will be linked) rise faster, there will be an increase in payments of Income Support to States tenants which is not compensated for by the housing association. The same situation will occur if economic factors mean the incomes of those tenants who claim partial or no Income Support fall. Both circumstances would leave the Treasury having to find additional funds for Income Support, and could increase the Treasury's appetite to renegotiate the settlement. We understand that the current business plan does not contain much room for manoeuvre, meaning that any renegotiation would impact on delivery of decent homes, remodelling of housing stock, or quality of housing management services – all core outcomes desired within the HTP.

The business plan for the housing association includes capacity for new build to help re-model the stock profile but not for a net increase in supply, or for provision of affordable (for example shared ownership) housing. A growing appetite for provision of affordable home ownership was identified during the Sub-Panel's evidence gathering, and it is possible that the new Strategic Housing Unit could recommend a greater policy focus on such provision in future. There is some risk to creating a system that would need to rely on the fairly new Policy H3 and the housing trusts to deliver new affordable housing should it become a future policy priority – as funding sources, these are limited by their scale and also largely untested.

3. Rent reform

Confirmation of the longer term affordability and sustainability of the new rent policy will help to build confidence amongst current and potential tenants, housing staff and potential funders.

The likelihood of a return to political reluctance to keep rents at 90% of market levels remains high. If this is the case, there could be implications for the viability of the new housing association and for the ability to deliver new affordable homes in Jersey.

The business case for moving rents back to 90% of market levels has been considered in some detail and supports a range of policy objectives. However, public and political awareness of rent levels and affordability are likely to be much stronger than understanding of the association's business model. This increases the risk of future pressure to drive rents back down to well-below market values. Additional measures to mitigate against such reluctance would help protect the long term viability of the HTP.

It may prove difficult to get a rental valuation method for the return to 90% fair rents which gains the confidence of tenants and financial bodies. The asking price and the letting price for rented accommodation can vary, and the actual letting price is often harder to track. In addition, there may not be availability of sufficient private property that is of a similar design, location and standard to social property to provide a valuation benchmark for Jersey's property-specific fair rents. The broader the estimates that a property professional has to work with, the harder it is to get support for the valuations given.

Evidence given to the Sub-Panel so far does not indicate that there is a sufficiently thorough understanding of the tenant profile (in terms of numbers affected, age of people affected, and scale of impact) to justify the conclusions reached about the additional burden on the Income Support budget. If the affordability study commissioned by the Statistics Unit does not confirm the working assumptions used to date, tweaks to the HTP proposals to take account of the affordability study may help to ensure their future workability.

Current evidence suggests that the housing trusts would not necessarily move their rents up to the 90% level. This creates the possibility of increased demand for trust accommodation from those tenants with incomes which are above Income Support levels and, conversely, a decline in demand for States accommodation from this group of tenants. If this were to occur, it would lead to reduced income-mixing in States estates and mitigate against other policies which are pushing for greater harmonisation of States and trust accommodation (for example the Housing Gateway).

Over time it could also undermine the objective of keeping the provision of States accommodation to Income Support claimants broadly cost neutral to the Treasury.

4. Regulation

The proposals for a new regulator are not yet well developed, and the States would benefit from having more clarity and agreement on its purpose and operation before enabling legislation is laid.

We encountered differing views from Ministers about the reasons why a regulator is required and what outcomes it would be expected to deliver.

A housing regulator can be used to give confidence to potential investors in social and/or affordable housing by a) conducting financial scrutiny of individual providers, b) studying, and reporting on, the strength of the overall social housing sector, and c) making arrangements to intervene and prevent organisational collapse if a provider gets into financial difficulty. Whilst this role is beneficial for housing associations in the UK and has a known impact on the cost of borrowing, it is not clear that this would be replicated in Jersey. The contribution of a regulator to the borrowing of a States-owned housing association whose funding is backed by the financial strength of the government may not be very significant. This does not mean such a role could not help to build the capacity of the housing trusts, but it is not clear from our evidence gathering to date whether this has been considered or whether it would deliver a good balance of cost (of regulator) to return (in terms of extra housing).

Proactive work to ensure implementation of government policy is another task which can be passed to a regulator. The extent and style of pursuit of this function is not without controversy and the approach to regulation, along with the tools and powers available for enforcement, are important in determining the overall impact. Enforcement of statutory or regulatory requirements can be delivered through achieving consensus or at least consent within the regulated sector, or it can be delivered using leverage so that non-compliance is disadvantageous. The approach taken shapes the relationship between the regulator and the regulated, for example the relationship could become a partnership or be acrimonious. Clarity about the approaches and understanding of the likely outcomes are of central importance in establishing an effective regulator and avoiding unintended consequences.

In Jersey, regulatory oversight of delivery of the decent homes standard could be reasonably straightforward because there seems to be consensus that its attainment is an appropriate aim for the sector. However if the regulator was used to ensure that all landlords returned all rents to 90% fair rents, or to ensure that any additional rental income raised was used to finance new housing, for example, it is possible that more compulsion would be required and relationships with some landlords could become strained. It would be beneficial to consider the extent to which cooperation

on other aspects of housing policy, such as allocations, could be affected if greater compulsion becomes a feature of Jersey's housing system.

Even where a regulator is independent, it is given its powers and direction by government. Therefore, the creation of an independent regulator is not necessarily a risk free way to bind future governments/Ministers to a current policy priority. If the success of a policy relies on uninterrupted implementation over time, alternative mechanisms to avoid policy changes would be required. It is also worth noting that shifts in government policy or preference are likely to be passed quickly to the regulator for implementation, and if these shifts are sizeable, regular or controversial, the credibility of the regulator will be undermined in the eyes of stakeholders – landlords, tenants, funders.

Confusion between the role of a landlord's governing body and the role of the regulator should be avoided. There was some suggestion during the evidence gathering to date that an external independent regulator is required because direct political oversight of the housing service will be lost with the creation of the new housing association. In general, where direct political oversight of a service is removed, the responsibility and accountability for performance passes to the new governing body, in this case the board. The strength of board governance is important for the effective functioning of social housing, and assurances on the quality of governance may be required. A regulator could provide this assurance, or assurance could be achieved through monitoring of contractual agreements between the States and the new association. Views on whether the trusts should also account publicly for their performance need to be agreed before the role and functions of the regulator are determined.

Finally on the subject of regulation, our evidence gathering to date shows that appetite for a regulator to set and ensure delivery of consumer standards (for example decent homes standards, housing management quality) is strong. Appetite for consumer regulation in the private rented sector is also strong. It may therefore be beneficial to consider establishing the regulator in a way that would enable flexibility to expand in the future without significant and costly institutional change.

5. Strategic Housing Unit

Future arrangements for the strategic housing function should ensure that there is a strong political voice to champion coordinated action on Jersey's housing issues (across all tenures).

The need and desire for a coordinated, cross-tenure housing policy in Jersey has been clear during our evidence gathering.

However, the track record of joint working and coordination of housing policy across departments is not strong and could pose a risk to successful implementation of the HTP. The creation of a Strategic Housing Unit (SHU), regardless of its location, is unlikely on its own to improve the track record sufficiently. Additional steps to set out expected ways of working and to build a more collaborative culture would complement the creation of the SHU.

We found strong support for having a Minister with responsibility to champion all of Jersey's housing issues and ensure they are addressed. 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 the hearings for this inquiry the Chief Minister suggested 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. 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. This approach would work well for housing and merits further investigation.

6. Housing Trusts

Jersey's housing trusts and parishes should be fully engaged in the next steps towards the Housing Transformation Programme, and their anticipated role in provision of social and affordable housing should be clearly articulated in policy documents.

Information provided during July's evidence gathering suggests that the trusts may not have been sufficiently considered during development of the HTP proposals so far.

Although the trusts are small organisations and provide only a small part of Jersey's overall social and affordable housing, their role looks set to change and, potentially, grow under the HTP. A thorough understanding of the impact the detailed changes would have on the trusts, their relationships with the States, and on the States' subsequent ability to deliver the housing system it is aiming for, would be very beneficial before further policy design work is undertaken and changes are committed to.

Conclusions

These six suggestions cover the four main aspects of the proposed reforms along with two aspects central to social housing provision in Jersey. We hope they address areas where it appears that current policy design and thinking may not be optimised to deliver the most effective implementation of the objectives behind the Housing Transformation Programme.

This interim report, its analysis and suggestions are intended to make a positive and constructive contribution to the thinking of several States departments as they continue to develop the Programme for presentation to the States Assembly in the autumn. The full report of the Health, Social Security and Housing Scrutiny Sub-Panel's inquiry into the Housing Transformation Programme will be published later this year.