



Homes &  
Communities  
Agency

# RESPONSES TO DISCUSSION PAPER ON FEES

List of responses 2014

October 2016

Julian Ashby  
Chair, HCA Regulation Committee  
7<sup>th</sup> Floor, Maple House  
149 Tottenham Court Road  
London W1T 7BN

13 March 2014

Dear Sirs,

### **Charging fees for social housing regulation – a discussion paper**

Further to your letter of 10 February 2014 and the discussion document distributed by the HCA, I would want to make the following contributions to the consultation from the viewpoint of Chair of a major registered provider. I know that our executive will be submitting a more technical and detailed response so these comments are directed more from a governance viewpoint.

1. A regulated sector, if it maintains standards both of service and financial management, enhances both public trust and viability with subsequent benefit. If regulation serves this purpose then it is appropriate for those being regulated to contribute towards the reasonable cost of regulation.
2. The distribution of cost has to reflect the size and therefore the benefit to the regulated body so fees should be in proportion to the regulated activity. Hence there would be concerns about including within, on a turnover basis, private rented sector or areas such as care where charges are made by another regulator.
3. If the reference is to the regulator as a finance regulator, not a service regulator, then fees should only cover the appropriate regulation which is to the benefit of the sector, and not any role that the regulator might play as an arm of public policy. This should help define the role of the regulator and that part which is payable by the constituency. For example there would be concerns about fees that covered the regulator's current review of Value For Money which could be seen as in pursuance of public policy. Also is the regulator fulfilling its role if it did not play a significant part in the discussions on the new SORP affecting registered providers, which obviously has a major impact on financial viability.
4. We do not understand why local authorities should be exempt from having to contribute on the same principles that registered providers would contribute.

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5. It does not seem justifiable why existing providers should cross-subsidise the cost of registration of new providers albeit that some of that cost could be recouped at later dates when the new provider reached a certain size.

In general our concern is not about contributing towards the cost but that that cost only reflects the agreed role of the regulator as a finance regulator, not as an extension of public policy.

Yours faithfully,

Chair, ~~A2~~ Dominion



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20<sup>th</sup> March 2014

## **Charging fees for social housing regulation – a discussion paper**

### **Response of the Accord Group (“Accord”)**

#### ***Background to the Accord Group Response***

The Accord Group is made up of six organisations which owns and manages over 11,000 homes and delivers over 70,000 hours of health, social care and support services each week. We are one of the largest housing associations operating within the West Midlands region with an extensive care service developed over the past 30 years.

Accord is a Lead Investment Partner and in 2011 was awarded £14.2m to build 672 homes at an estimated cost of £91.3m and is on track to ensure 100% delivery. Accord is also the lead investment partner for the Matrix Housing Partnership, comprising Rooftop Group, Trident Group, Trent & Dove Housing Association, Black Country Housing Group and WATMOS. Matrix was awarded £30m of Social Housing Grant to build 1,462 homes at an estimated cost of £179.3m as part of the 2011-15 Affordable Homes Programme.

We believe in providing a rounded community offer which means the provision of housing, but also care and support so that people can lead independent lives in the community. As a Placemaker organisation we are committed to locality and as strategic community partners we have an important role to play to tackle unemployment, poor health and low educational achievement and make a huge difference to lives.

In our response to this consultation, we have taken into account the activities we understand are required by the regulator to ensure the protection of publically funded social housing assets and the effective viability and transparent management of registered providers. A ‘one-size fits all’ approach is understandably difficult to obtain however we are in general opposed to RPs funding a regulatory regime. Based upon the information available, we understand that funding from RPs would replace DCLG current funding arrangements.

Equally our care and support work is also subject to further regulatory rigour by the Care Quality Commission.

We would welcome the opportunity to discuss our response. Please contact Lakhbir Jaspal at the Accord Group (0121 500 2369) if this is desired.

**Yours sincerely**

**Accord Group Chief Executive**

**Enc.**

## **Accord Group response to the Homes & Communities Consultation on charging fees for social housing regulation**

### **Question 1:**

**Do you think that there is an in-principle case to charge fees for regulation?**

#### **Accord's response:**

We are not convinced of the case to charge RPs for the regulation of the social housing sector although we accept that there is some inevitability that fees will be introduced. The introduction of fees should not be a substitute for government funding and should only be charged for a lean, efficient, value for money regulatory service.

### **Question 2:**

**Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

#### **Accord's response:**

The consultation document makes reference to saving costs to the taxpayer by moving charges to RPs from grant-in-aid from government. The cost, regardless of how carefully RPs are achieving VFM on service delivery and return on assets will nevertheless be indirectly passed to tenants or will see a reduction in our available investment in homes and community services. The majority of RPs work with the most vulnerable in communities and often those in need of welfare subsidy. We would suggest that those tenants in receipt of welfare will be impacted upon further in this respect.

We understand that the new approach would not therefore see additional resource being given to the Regulator but a switch from funding by central government to self-funding by RPs. If additional funding from RPs was being sought in order to provide additional resource to the regulatory and advisory function this would be a further point for discussion.

Should the decision to establish a fee structure be implemented we would see a split or share of fees with government grant-in-aid and direct payment by RPs to be the most appropriate.

### **Question 3:**

**Do you agree we are taking the right approach to developing the principles?**

#### **Accord response:**

We welcome the consultative approach as required by statute. The consultation document issued establishes the principles effectively.

### **Question 4:**

**Do you agree with the proposed approach to initial registration fees?**

#### **Accord response:**

The consultation document emphasises the resources required for initial registrations particularly those which involve complex issues. What consideration has therefore been given to costs incurred for failed applications?

If fee charging were introduced our preference would be for a flat fee.

### **Question 5:**

**What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

**Accord response:**

Smaller, specialist providers may struggle with the cost of a set-up fee at registration and this could demotivate expert providers in areas where the sector needs increased provision (e.g. culturally specific provision of services). £10,000 is an arbitrary figure notwithstanding the consultation document note that this is an average cost over the last two years. This naturally suggests that some registration processes cost less than £10,000.

Has enough consideration been given to a one fee approach? Would an annual subscription be easier to manage both for RPs and the regulator as there will be a requirement for the HCA to track payments and manage the process of charging and claiming fees.

**Question 6:**

**Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

**Accord response:**

Whilst the unit number is a straightforward mechanism, this approach does not benefit providers who are relatively risk-free, or a larger size and who require minimum regulatory support. Conversely, RPs who are under-performing will be paying the same rate as those who have consistently scored at G1 and V1 levels.

**Question 7:**

**Do you agree with the proposed approach to local authority registered providers?**

**Accord response:**

Yes.

**Question 8:**

**Do you agree with the principle set out for a minimum annual fee?**

**Accord response:**

As per response to Q6.

**Question 9:**

**Do you think that we should introduce an element of banding in the fee regime and if so why?**

**Accord response:**

Having a one-fee approach would work with a banding structure so should not be ruled out in assumption that any fee charging system should be a two-part process.

**Question 10:**

**Do you agree with the proposal to charge the annual fee at group level?**

**Accord response:**

Yes.

**Question 11:**

**Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

**Accord response:**

We would support consideration of the annual fee being paid quarterly which would aid those smaller organisations. We would also support an approach like our PlaceShaper group which allows for new members joining in January - March being charged the full annual fee but not paying again until the following April so effectively gaining up to 15 months for the price of 12.

**Question 12:**

**Do you agree with the proposed approach to transparency and accountability?**

**Accord response:**

We concur with the statements that transparency and accountability of the regulatory system will be even more vital if fees are introduced. We would be interested to know about any appeal or challenge mechanism should decisions made be questioned by RPs as existing process tends not to allow for any dialogue in this respect.

**Question 13:**

**Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

**Accord response:**

This would make sense however we would all encourage exploration of a monthly or quarter basis for the benefit of smaller organisations.

**Question 14:**

**Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

**Accord response:**

RPs working with diverse communities and customers can have higher costs – broader services and higher value support required. There can also be higher risk elements e.g. working with vulnerable customers. Some of the most diverse work is carried out by smaller RPs however if costs are attributed by unit size then by default the largest RPs will be carrying the cost for the higher risk organisations. See also answer to Q2 – impact upon social housing customers.

**Question 15:**

**Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

**Accord response:**

What, if any, elements of this process might be carried out by RPs directly in a self-assessment approach to reduce the administrative burden and costs on HCA colleagues at the initial application for registration?

With improving IT, evolving service delivery and the government's commitment to VFM, are the HCA expecting to recover any surplus through the fee approach and if so, could that surplus be used to explore innovation, share good practice or provide training and events for RPs around excellence in regulation?

Would increases in future years be in accordance to a per unit cost inflation?

What good practice has been learnt from other regulatory bodies – HOS for example where RPs pay fees.

What opportunities might there be for RPs to have closer involvement in the policy direction, procedures and appointments within the HCA?

**Question 16:**

**Do you have any further comments on the initial proposals set out in this discussion paper?**

**Accord response:**

What consideration has been given to RPs who decide not to bid for future grant; would fees be based upon units funded only by grant or would it include units funded through private finance?

Government was keen during the early part of its current term to reduce the number of quangos and effectively abolished a number of regulatory type bodies. Notwithstanding the specific nature of social housing, is there opportunity for the regulatory function of the HCA to be included within other still existing regulation organisations? Should the regulation element of the HCA become a standalone organisation?

Should other stakeholders in social housing be asked to contribute in part to fees?

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Affinity Sutton Group  
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London  
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19 March 2014

Dear Sir

### **Response to discussion on charging fees for social housing regulation**

Affinity Sutton Group is one of the largest Housing Associations in England. We work in over 120 local authorities in which we own or manage over 57,000 properties. These include General Needs, Supported Housing, Keyworker, Leasehold and Part Buy/Part Rent homes.

We welcome the opportunity to respond to the discussion paper concerning the potential for switching from the current grant-in-aid arrangement to a system where the Regulator recovers part or all of the cost of regulation through fees.

Overall, we believe there is value in exploring options that relate the costs paid by landlords to the amount of work the Ombudsman undertakes as a result of dealing with complaints. However, this needs to be carefully balanced against the need for simplicity and predictability of costs to landlords.

Our responses to the specific questions are set out below:

#### **Q1. Do you think that there is an in-principle case to charge fees for regulation?**

Yes, a properly resourced regulator is a requirement of the sector. We would in principle have no objection to paying fees towards an efficient and effective regulatory system which had demonstrable benefits for the sector as a whole. It is unfortunately the case that the regulator has been seriously under resourced and this has manifest itself in an inability to recruit new staff and unrealistic expectations placed on those staff who are responsible for day to day regulation. The regulator needs to improve the skills set available to it and if providers' fees were able to be applied to deliver this improvement then I believe landlords would have little difficulty supporting this. If however the fees raised are not used to improve the resources and expertise available to the regulator then landlords will resent what will be seen as an arbitrary reallocation of cost from central government to landlords.

Although it is common for regulated entities to pay the costs of their regulation, a crucial difference with housing associations is that we are non profit distributing, largely charitable entities who apply our resources for public benefit. Charges made for regulation will reduce the resources available for this purpose.

**Q2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

In principle a fully funded regulator with no dependency on government to meet its running costs should be able to be more independent and less influenced by Ministers. Landlords would welcome that independence. However the allocation of the costs of regulation on a fair and equitable basis would need to be assured. The cost of regulation might fall disproportionately on those landlords least able to bear the cost. An organisation in serious financial trouble might require a lot of supervision from the regulator but be in a position where it is unable to reimburse the regulator for its time and effort. In these circumstances it may be better to have the ability for government to fund certain costs from grant-in-aid.

**Q3. Do you agree we are taking the right approach to developing the principles?**

We agree that the five identified factors (reliability, simplicity, easily verifiable, impact on fee payers, benefits of regulation) are a suitable basis for considering reasonableness of the principles. We believe that value for money should also be included in this list as should some measure of the effectiveness of regulation. A successful regulator creates the conditions in which landlords are able to thrive and to deliver more than they could do in the absence of regulation. Establishing the counterfactual would be one way of testing the approach.

**Q4. Do you agree with the proposed approach to initial registration fees?**

Yes.

**Q5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

There should be an expectation that costs incurred in seeking registration are payable even if the eventual application is rejected – ie the applicant should bear the risk. Whilst it is laudable to want to encourage applicants the system ought properly to encourage applicants that are capable of meeting the regulatory requirements rather than any applicant regardless of their merit.

**Q6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

Although not perfect, using provider's size based on number of social housing units owned to determine annual fees is simple, easily verifiable and predictable. It also has the advantage that those landlords with most at risk because of their size and scale pay the greatest amount. There should however be a cap on fees both at the top and bottom of the scale to would recognise that the benefits of regulation are not directly proportional to size. The regulator must find a way of

engaging with landlords at the right level with a degree of sophistication and understanding of the risks being taken by businesses and the appropriateness of how those risks are being managed.

**Q7. Do you agree with the proposed approach to local authority registered providers?**

The regulatory approach to local authority landlords remains a muddle, charging fees or not will not change this state of affairs. If there is any regulation of such landlords then they should be charged in a similar way to housing associations.

**Q8. Do you agree with the principle set out for a minimum annual fee?**

Yes

**Q9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

The only advantage would seem to be to simplify the administration of the scheme, I cannot see that it simplifies the arrangements for landlords.

**Q10. Do you agree with the proposal to charge the annual fee at group level?**

Yes

**Q11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes

**Q12. Do you agree with the proposed approach to transparency and accountability?**

Yes – although these are secondary considerations; of far greater importance is having a regulator that is fit for the job because it has access to the right skills and expertise. There is a strong argument that providers should be represented on the Regulation Committee by a non conflicted person nominated by the National Housing Federation.

**Q13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

No view

**Q14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

Introducing a fee regime based on size and number of homes would seem to address any potential issues since the scale of the charge will be proportionate to the resources of the landlord.

**Q15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

The most significant issue must be whether fees collected will remain with the regulator to fund their activities or whether they will be captured by central government and used to alleviate general expenditure. This is a serious consideration for charitable associations who are under legal and regulatory obligations to maximise the use of our resources to house people who are unable to find suitable accommodation in the market. Regulation should assist us in delivering our charitable objects because it provides the right conditions in the market for us to deliver. Using our resources to defray general government expenditure does not assist in this and should be challenged.

**Q16. Do you have any further comments on the initial proposals set out in this discussion paper?**

No

Should you wish to discuss our response please do not hesitate to contact me.

Yours faithfully

Group Director of Governance and Compliance

20 March 2014

Mr Tim Sullivan  
Regulation Framework Manager  
Homes and Communities Agency  
The Social Housing Regulator  
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LONDON W1T 7BN

Dear Mr Sullivan

### **Charging Fees for Social Housing Regulation**

Following Aldwyck Housing Group's consideration of the HCA's 'Charging Fees for Social Housing regulation' discussion paper, published by the HCA in February 2014, I write to formally confirm that Aldwyck Housing Group has no objection to the Regulator's preferred option.

Yours sincerely

**ACTING CHIEF EXECUTIVE**

## About us

AmicusHorizon is a large housing association. We provide homes and services to communities in London, Surrey, Kent and Sussex. We own or manage around 28,000 homes and offer housing solutions from general needs to housing for people with care and support needs. We're a member of the g15, London's 15 largest housing associations.

We're committed to providing more than bricks and mortar. We work to improve the lives of our residents through programmes designed to support training, qualifications and secure employment.

## Charging fees for social housing regulation – a discussion paper

We welcome the opportunity to respond to this Homes and Communities Agency consultation. **Our comments are restricted to particular questions.**

### In summary

- **The methodology for fee levels needs to be fair and proportionate**
- **Sector funded fees need to supplement and not replace public funding to deliver better regulation**
- **The regulator must retain independence. Funding other than purely through the sector will enhance this independence**
- **Quality of regulation must not be compromised**
- **Good governance of the regulator will be paramount.**

2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

- We firmly believe grant-in-aid funding will both boost quality of regulation through maximising fee income and retain independence by providing another source of funding. An entirely sector funded regulator may compromise independence.

3. Do you agree we are taking the right approach to developing the principles?

- The relevant factors listed in the discussion document seem sensible. Overall we would expect to see quality regulation underpinned by excellent value for money.

4. Do you agree with the proposed approach to initial registration fees?

- A flat fee for initial registration would be our preferred option.

6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

- There are some difficulties around charging on a size basis. Firstly, the level of regulation required will not necessarily match the size of the organisation. Furthermore, it could be argued that the more diversified an organisation; the more inherent risk involved. In this case a charge based purely on social housing units owned seems less sensible than one based on overall units in management.

10. Do you agree with the proposal to charge the annual fee at group level?

- Yes, this makes sense.

12. Do you agree with the proposed approach to transparency and accountability?

- We understand more details will be available at a later stage but would strongly advocate for robust accountability and the highest level of transparency in order to maintain credibility of sector regulation



## **Response to the Homes and Communities Agency discussion paper – *Charging fees for social housing regulation***

### **Introduction**

We are grateful for the opportunity to submit our response to the discussion document on the proposal that registered providers pay towards the cost of their regulation. We hope it helps in the pulling together of a formal consultation document later this year.

### **Background – Anchor**

Anchor Trust is a not-for-profit organisation with more than 40 years' experience of helping older people. We are England's largest not-for-profit provider of sheltered housing for rent as well as England's largest not-for-profit care home provider. We provide great places to buy or rent as well as care and support services, including:

- Almost 700 retirement housing schemes for rent
- Property management services for leaseholders at 230 estates
- 96 care homes, including two specialist dementia homes
- Almost 1,000 integrated care and housing properties

We have responded in the order that the questions within the discussion paper have been asked.

### ***Q1. Do you think there is an in-principle case to charge fees for regulation?***

The housing regulator fulfils an important role in maintaining the reputation of the sector; and through that function allows lenders, tenants and other stakeholders to have the assurance that those organisations providing social housing are well managed and governed. This is of considerable value and needs to be protected. As such we agree that the regulator should be appropriately financed and resourced to ensure that an organisation's governance and delivery of the regulatory standards is robust.

We are of course mindful of the difficult economic conditions currently facing the Government and how savings need to be delivered. It is therefore right to review how the functions of Government are funded. However we are not sure that charging registered providers directly is the best way to proceed as it shifts the financial burden from the tax payer to the tenant. If the benefit of social housing was just limited to the tenants of an organisation the case would be stronger for such a move. We believe, however, that the benefits of social housing extend beyond that population group. Nowhere is this more apparent than with social housing for older people which was designed to

promote independence and prevent or delay incurring additional care and support costs.

There are tough financial pressures on tenants and landlords and the financing of the regulator directly in this way takes money away from the ability of organisations to deliver on their plans. We hear from the social housing media that the bill could be as much as £4 - £5 per unit. Depending on how social housing<sup>1</sup> is defined this could be as much as £110,000 per annum for Anchor, which on top of the subscriptions paid to the Housing Ombudsman and the National Housing Federation (both of considerable value to us and the sector) would equate to a reasonable number of kitchen or bathroom refurbishments. This withdrawal of money from our organisation therefore impacts directly on the quality of life of our customers and on what we can provide to them. We are, like most other social housing providers, not profit making.

We struggle to see that any benefit to the sector from improved governance and reputation as a consequence of the introduction of fees would offset the disbenefit arising from a reduction in funds available for future investment. We are responding to the economic standards and working hard to deliver value for money to our customers – however some of the gains we make will inevitably be undermined by the need to resource this additional cost.

In determining the final proposal for consultation we would request that appropriate consideration be given to the above factors.

***Q2. Do you think that fees should cover the full cost of the regulator or that some elements should continue to be funded through grant in aid?***

We would refer you to our response above. We would ideally only wish to see minimal costs passed on to providers.

The discussion paper makes a useful distinction between routine regulation and reactive regulation. In our response to the DCLG's consultation of charging for the Housing Ombudsman service we articulated the viewpoint that there should be a fixed charge for the broader services and a variable charge to reflect the costs of case management. We would therefore argue that if a charge is to be made then many of the broader services around administration and those which support governance should be paid for by all providers, possibly as a per unit sum. In contrast the reactive charges, (such as investigations on matters of consumer regulation) should be borne, at least in part, by the provider. These charges however should reflect the financial stability of an organisation.

We hold the above view as we think it inappropriate that the tenants of a well governed and managed organisation should have to bear the costs of the additional regulatory activity required of weaker organisations. The Boards and senior officers of such organisations should be accountable to their tenants for such additional costs and this should be transparent through

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<sup>1</sup> This figure is based solely on our housing for rent units

publications provided to their customers and reports made to their customer bodies; transparency and accountability are key to the principles of co-regulation and the restructuring of the system on payment of regulatory costs offers an opportunity to embed this more successfully within the sector.

We also believe there is a case for a contribution to some one-off costs such as the administration of consents for disposal and registration.

A further concern is that if all of the regulator's costs are to be covered by fees, there needs to be some mechanism for determining the reasonableness of any proposed fee increases. Currently, the regulator is subject to budgetary constraints which are imposed by governments. We would not wish to see a situation where the regulator was free to set its own budget (and charge fees accordingly) without some independent review, preferably by representatives of organisations responsible for the payment of any fees.

***Q3. Do you agree we are developing the right approach to developing the principles?***

Your interpretation of the legislative requirements in developing your approach seem sensible and practical to us. We note however that when considering reasonableness, simplicity of the approach taken, may not always equate to fairness.

***Q4. Do you agree with the proposed approach to initial registration fees?***

We agree that a flat fee for bodies seeking to enter the sector is the most appropriate for meeting the registration costs of the HCA. We accept the reasons why a variable direct attribution cost would deter smaller providers and how a charge based on the size of an organisation does not reflect the costs likely to be incurred by the regulator in processing an application

***Q5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?***

It is a distinct benefit to the sector that new and innovative organisations are encouraged to enter the sector. The average cost you quote of £10,000 could put up that barrier for some smaller providers. As such we believe that support from grant-in-aid be forthcoming for small organisations with less financial reserves to meet the initial costs. We do not think it appropriate that other already registered providers meet any aspect of this cost. Though new organisations bring challenge, and at times competition to the sector, (which hopefully will raise standards) this is not strong enough to ask tenants of existing registered providers to support this cost being paid by their landlord.

***Q6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable housing measure of size?***

As articulated in our response to question 2 we think a fee solely based on the size of an organisation is too simplistic and is unfair to the tenants of larger well run organisations. Your options do not entertain that elements of several options could be incorporated into a fairer fee based structure; for example a fee based on the number of units within an organisation for routine regulatory activity could be supplemented by a direct attribution fee for regulatory activities generated by claims of serious detriment or weak governance, especially over delivery of the consumer standards which by its nature will be more reactive.

The arguments against a fee (partly based) on direct attribution revolve mostly around endangering the financial viability of an organisation; however if the focus was on consumer standards this would be less of a risk. If however the financial viability of an organisation was brought into the mix then it does not seem disproportionate to offset those costs to a later date when the provider is more able to pick them up.

The proposed approach is similar to that put forward by the DCLG consultation regarding the funding of the Housing Ombudsman service and there seems merit in replicating the approach.

If a fee is to be based on the size of an organisation then we agree that size should not be determined by turnover. As a provider of supported housing, (including extra care and residential care) then our turnover is inevitably going to be considerably greater per unit than providers of general needs housing. To base the cost on turnover would therefore impact on us and our customers more.

We are more supportive of the fee being based on the number of social housing units. However in respect of the number of social housing units which would make up the fee, we are cognisant of how social housing units are currently defined so as to include many residential care units. Existing payments to the CQC would mean that we may be paying twice for the same unit. We would wish this to be avoided and would appreciate a clear statement, in the forthcoming consultation document, as to what is meant by social housing and what units will be picked up in the fee structure. We don't think the existing definition in the Housing and Regeneration Act, (S77) serves as a fair basis for charging on the number of units in light of other regulatory fees already being paid.

***Q7. Do you agree with the proposed approach to local authority registered providers?***

We do not think it appropriate to exclude local authorities from payments. If you adopt a simplistic method of charging then the costs of administration should be minimal; conversely if the charge is only limited to reactive consumer regulation then it is not apt that tenants of housing associations pick up that cost on behalf of weaknesses in the local authority sector. There is a

principle of fairness which needs to be considered alongside the costs of administration – no doubt which can also be passed onto the landlord.

***Q8. Do you agree with the principle set out for a minimal fee?***

We agree a minimal fee is apt and we note you have related it to the cost of fulfilling specific functions, (maintaining the register & checking the provider's financial statement). It is an application of this variable fee principle which we are seeking to articulate in our response

***Q9. Do you agree that we should introduce an element of banding in the fee regime and why?***

If an argument can be made that the costs of regulating smaller providers is less then banding would seem appropriate. If this is not the case then the fee structure should be consistent and if there are issues of high charging for smaller organisations then grant in aid should be used to make up the shortfall. Tenants of larger organisation should not have to subsidise the regulatory costs of smaller providers.

***Q10. Do you agree with the proposal to charge the annual fee at group level?***

You have told us in the discussion paper that group structures result in some streamlining of regulatory activities especially around assurance – as such it seems in keeping with the principles of fair charging that the annual fee should be charged at the group level.

***Q11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?***

We feel there needs to be some flexibility – a provider registered for only 1 month in a particular year may feel they have incurred substantial costs for that year. It would however create some imperative that the regulator establish some clear standards around timescales for the registration process as this may impact on the decision making process as to when a potential provider seeks to make an application.

***Q12. Do you agree with the proposed approach to transparency and accountability?***

Yes we are fully supportive of this proposal.

***Q13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?***

Yes – we agree that is the approach we would favour. Announcing the fee for the forthcoming year in October is sufficient timing to take it into account for our budgeting purposes. If our preferred option is supported then it would also possibly necessitate invoicing at other times of the year following any reactive

regulatory intervention – or at least the costs being carried over into the next financial year.

***Q14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we taken them into account?***

Thank you for asking this question. We have responded in question 6 that turnover should not be used as the determinant of size as this would have a disproportionate effect on supported housing providers. If however it was implemented then in effect the most vulnerable tenants would often see more of their landlord's income going to meet the costs of regulation compared to tenants of landlords who did not provide supported housing.

***Q15. Are there any other potential impacts of charging fees on the sector that we have not considered in the paper? If so, what are they and how should we take them into account?***

There is a need for the costs of regulation to be more joined up and those paid to the CQC should not be duplicated by payments to the HCA.

***Q16. Do you have any further comments on the initial proposals set out in this discussion paper?***

No – we are grateful that a discussion paper has been issued well in advance of a formal consultation paper so as a proper response and debate can be implemented on this important development.

17 March 2014

# Aspire Housing response to discussion paper on HCA fee charging

## 1. Do you think that there is an in-principle case to charge fees for regulation?

We do not think that there is an in-principle case to charge fees for regulation. The comparison is made in the DP to other sectors where this is common. Many of these sectors are comprised of PLCs. When a PLC is charged for regulation then it is ultimately the shareholder who will bear the cost.

Assuming that the full cost of the current bill is passed on to providers then the approximate bill for an organisation of our size will be circa £40k per annum. This is based on current costs and noting the reduction in funding to the HCA in recent years it is of course possible that they will seek to redress the cuts by way of increasing fees to providers in future years.

This cost is ultimately borne by our current and future tenants, by way of a reduced service or reduced capacity to provide social housing. Therefore the government is in effect passing a £12.5m cost to those in society who are least well placed to afford it. Other regulators who operate on a similar basis (outside of the PLC sector) do not charge those regulated for their services. By way of example, the Charity Commission are funded through grant-in-aid.

In recent years the social housing sector has already been heavily exposed either directly or indirectly to the programme of cut backs at central government level. The amount of funding available through the affordable homes programme has been significantly reduced. Welfare reform programme is already having an impact, and we still await the introduction of Universal Credit. The removal of the rent convergence mechanism in 2015 has impacted on a number of providers, particularly LSVTs, with some organisations having had their future viability challenged.

On the grounds stated above we fundamentally disagree with the passing of another central government cost to providers. If a decision is taken to proceed then there needs to be a tangible benefit to both the HCA and providers from the change. This tangible benefit should be in the form of an appropriately funded regulator that is fit to deal with the challenges of an increasingly complex and evolving sector. Therefore any funding received from providers should be in addition to a base amount of grant in aid that continues to be provided by DCLG and should increase the overall budget available. It would be helpful to provide clarity on how any increase in funding will be used.

On a final point in relation to this question, we note that there is an increasing amount of for profit providers joining the register. Noting that these new entrants will have a very different motivation to be in business, it would seem appropriate to charge such organisations for regulation. By definition they will be more complex and could potentially require a tighter regulatory focus to ensure that public funding is not released to shareholders.

## 2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

As stated above, we believe that some elements of regulatory costs should continue to be funded through grant-in-aid. Such elements would include registration – it would be particularly unfair if not for profit providers subsidised the entry to market fees charged for profit providers!

It would also be unfair that well run providers had to pick up the bill for enforcement action taken against other organisations. As such this should continue to be funded through grant-in-aid.

## 3. Do you agree we are taking the right approach to developing the principles?

Yes. The best way is the simplest way in this case. Whilst we understand that there are arguments for charging by reference to risk, the assessment of risk would in itself add to the costs. It would also make it difficult for providers to budget through the life cycle of their business plans as the costs would be more difficult to forecast.

**4. Do you agree with the proposed approach to initial registration fees?**

On the basis that an increasingly large proportion of new entrants are expected to be for profit providers we would consider it appropriate to charge at a level that represents the costs of dealing with the registration.

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

This is very difficult to determine as it will vary widely by the size of the entrant. For a small not for profit provider £10,000 would take a long time to recoup from social housing rents. For a large for profit provider the situation is clearly very different. If the legislation allows for a different level of fee to be determined by reference to such factors that would be an ideal approach.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

Yes

**7. Do you agree with the proposed approach to local authority registered providers?**

Yes

**8. Do you agree with the principle set out for a minimum annual fee?**

Yes

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

Potentially if it favours very small providers who operate on very small margins

**10. Do you agree with the proposal to charge the annual fee at group level?**

Yes

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes

**12. Do you agree with the proposed approach to transparency and accountability?**

Yes

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

Any entry level fee, unless graduated, will impact more adversely on charitable and not for profit groups, particularly those that attempt to deal with newly emergent need groups which by definition tend to be at the economic if not social margins. There will be inevitable and consequential impacts on equality and diversity.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

No

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

No

|

# Barlborough Hospital Trust (Almshouses)



Est. 1752

14<sup>th</sup> February 2014

**Tim Sullivan, Regulatory Framework Manager  
Homes and Communities Agency  
The Social Housing Regulator  
Maple House  
149 Tottenham Court Road  
London W1T 7BN**

**Response to: -**

## **CHARGING FEES FOR SOCIAL HOUSING REGULATION**

A discussion paper

February  
2014

Barlborough Hospital is a registered charity (221552) set up in 1752 to provide accommodation for poor people from the parish. The bequest of the current Almshouse, single property, comprising four units of single-person accommodation, is managed by a group of voluntary trustees. To aid the sustainability of the charity, the original benefactors bequeathed other property with which to provide income under leasehold terms. Historic decisions by the then trustees have seen this other property gradually sold off.

The building is Grade II listed.

The total income from all sources in 2012 was £7,666 with costs of £7,725.

## Consultation questions and responses

### **1. Do you think that there is an in-principle case to charge fees for regulation?**

**1A: No.** The whole tone of this consultation paper does not suggest that the HCA recognises the role of, and valuable/valued contribution made by, small village charities such as ours. Rather, it has its focus on generating income to cover the cost of its organisation.

*“We would ensure that the total amount received from fees matches the cost of the regulation function .....”*

Barlborough Hospital Trust (Almshouses), Registered Charity N<sup>o</sup> 221552

Trustees: Rev. S Short, Chairman; Mr D Ainsworth; Mr D Blackwell; Mr M Jones; Mr G Naylor; Mr G Stables  
Clerk to the Trustees: Mr D Blackwell, 8 Greenside Close, Clowne, Chesterfield S43 4PX; Tel: 01246 811017

The repeated reference to “*private registered providers*” suggests a mind-set in which housing associations and other profit making organisations with large property portfolios are the only consideration. A charity is a not-for-profit organisation; its income is totally for the benefit of its ‘clientele’.

**2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

**2A.** Some elements should continue to be publicly funded. Charities such as ours take some housing burden away from the Local Authority. We do so at a beneficial cost that would otherwise have to be supported, at a much higher level, from general taxation.

**3. Do you agree we are taking the right approach to developing the principles?**

**3A. No.** The starting point should be to examine how regulation and the cost of the organisation can be reduced.

*“ ... the total cost of the Regulator, including corporate overheads attributable to the regulation function, is in the region of £12.5m for the current financial year (2013/14) “*

**4. Do you agree with the proposed approach to initial registration fees?**

**4A. No.** It is hard to appreciate what has to be done that costs so much.

*“The average cost of processing applications for registration over the last two years is around £10,000 ....”*

The fee should be set based upon the size of the applying organisation and the complexity of undertaking the assessment.

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

**5A.** At the indicated flat rate fee of £10,000 it is hard to see organisations such as ours choosing to apply. To a £multi-million organisation it may be viewed as affordable, when measured against the scale of potential benefits.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

**6A. Yes**, but a 'no intervention discount' should be made to those registered providers who require/request no support.

**7. Do you agree with the proposed approach to local authority registered providers?**

**7A. No**. Based upon size and risk of complex issues affecting large groups there should be no reduction for LA.

**8. Do you agree with the principle set out for a minimum annual fee?**

**8A. No**. Looking back over this charity's records to 1985, we have received no beneficial input from HCA, whether that is support, advice or financial help. @ £300 pa, £8,700 is not an investment that the trustees would have chosen to make.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

**9A. Yes**. See all of the above.

**10. Do you agree with the proposal to charge the annual fee at group level?**

**10A.** No opinion.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

**11A.** No opinion.

**12. Do you agree with the proposed approach to transparency and accountability?**

**12A.** The proposals are not persuasive or compelling.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

**13A. Yes.**

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

**14A. Yes.** Increasing the charity's costs jars with the objects of our foundation deed which is to support poor people in the parish. This cannot be sustained if we must continue to increase weekly maintenance contributions to cover a cost that has no measured benefit.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

**15A.** We are always looking for and taking steps to reduce expenditure whilst providing good quality accommodation. This is not helped by burdening us with a high additional cost.

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

**16A.** If the HCA is desirous to kill off charities such as ours then go ahead with an annual charge of £300 (min), a figure that represents 4% of our total income.

**David Blackwell, Clerk to the Trustees**

Email: [consultation@hca.gsi.gov.uk](mailto:consultation@hca.gsi.gov.uk)

## **HCA Consultation: Charging Fees for Social Housing Regulation Response from Bedford Citizens Housing Association (BCHA)**

Thank you for giving us the opportunity to express our views on the HCA proposals put forward in your discussion document “Charging Fees for Social Housing Regulation”. We are a registered housing provider with less than 1000 units. We are also members of SHAPE (Small Housing Associations Pursuing Excellence). SHAPE members have discussed the fee proposals and have agreed to co ordinate elements of their response. Though the views expressed in this response are very much our own, you may find that several SHAPE colleagues are making similar or identical points.

### **General points**

- **The discussion document makes the general point that charging for regulation is common practice in a number of business sectors. However there is no exploration of the success of this approach.** The public are aware of some notable failures of regulation in recent years (the banking sector and the press to name but two). It is not necessarily the case that the regulated paying for their own regulation yields positive results. This applies especially when a number of very large players dominate the market and there is a danger of the tail wagging the dog. The reputation of the social housing sector has so far remained relatively good and it is vitally important that it remains so.
- **The discussion paper makes no reference to the difference between “not for profit” and “for profit” providers.** This will be an increasingly important distinction in future as the sector diversifies and new intermediate types of rented housing come on the market. If fees are to be charged this could be an important distinction: for a start the “for profit” provider could off set the cost of fees against tax liabilities which the “not for profit” provider can not.
- **The discussion paper makes no reference to the many RPs that are also care providers and already pay regulatory fees to the Care Quality Commission.** Thought needs to be given to how that may impact adversely on such providers in terms of the overall burden of regulatory fees. This particularly applies to small providers with a foot in both camps and who are effectively paying twice to be regulated.

Q1

There is an in principle case for regulation (provider pays) but there is also an

in principle case against it:

- That the public is protected and so the public should pay
- That the government's investment is protected so the government should pay
- That when the regulated pay for their own regulation they (especially the dominant players) can put undue pressure on the regulator both to keep fees down (eventually leading to poorer quality) and to water down regulatory judgements.
- If fees are to be introduced then the system should be fair and equitable across all bodies to be regulated. Under the current proposals, Local Authorities will get a free service whilst RPs will have to pay.

Q2

If fees are to be introduced some elements should continue to be funded through grant in aid. This particularly applies to those elements of regulation which include local authorities if the decision is taken to exclude them from any charges which are introduced. (consumer regulation and any others that apply). Looking at the list of activities (Table 2) other candidates for grant in aid are registration and deregistration, consents, strategy and management and a proportion of the support functions.

Q3

The items listed as being of particular relevance in developing a reasonable approach are acceptable: clear and succinct.

Q4

The question of charging for initial registration is quite complex and much depends on what type and size of organisations are likely to apply for registration in future. It is not something on which we feel qualified to comment at this stage.

Q5

As above for Q4.

Q6

If fees are to be charged then there is merit in basing the charges on

something where data is easily obtainable, verifiable and therefore not open to dispute. "Number of social housing units owned" meets these criteria and it is tempting to select it as the preferred option. However, it takes no account of a number of important factors which will affect the financial burden of the fees on the organisation and the perception of "reasonableness":

- Some RPs charge much higher rents than others: either because of regional differences in "target" rents and/or because of the proportion of their homes now being let on affordable or intermediate rents of various kinds. A flat rate unit fee will impact much more on an RP in the north west with mostly social rented homes than it will on a provider in London or the south east providing affordable rented as well as social rented homes. Consideration should be given to basing fees on the rental and service charge income from the social housing units owned by each provider.
- The HCA has recently taken a new light touch approach towards small providers: those with less than 1000 units. As these small providers receive a lower level of regulatory input they should pay a lower level of fee in proportion to whatever charging criteria is eventually selected.

Q7

- The answer to this question depends on whether or not those elements of regulation to which local authority housing is subject ( and the associated overheads) are paid for by grant in aid or not. If fees are to be introduced then the system should be fair and equitable across all bodies to be regulated. Under the current proposals, Local Authorities will get a free service whilst RPs will have to pay.

Q8

Rough calculations show that if the whole current cost of regulation (stated to be in the region of £12.5 million) were shared equally among all RPs with stock the unit cost would be about £4.90. This calculation is based on figures provided by the HCA from the statistical release 2013, which reveal that in 2012-13 RPs (including 124 shown as having no stock holding) owned 2,550,431 units.

At a unit fee of £4.90 an RP with 300 homes would pay £1,470 pa for regulation. One with 500 homes would pay £2,540. All this is in addition to fees they already pay for the Housing Ombudsman service and regulation by the Financial Conduct Authority and, in some cases, by the Care Quality Commission.

Looking at the above figures it seems likely that if fees are introduced by the HCA many smaller RPs may look to deregister, particularly if they are not currently developing or intending to do so in the future. The implications of this need to be considered in terms of:

- The welfare of tenants
- The interests of stakeholders (particularly local authorities with nomination rights)
- The workload and costs it might generate for the HCA in handling applications for deregulation
- The long term impact on sector reputation

Q9

Given the arguments set out above and the points made in paragraph 46 of the discussion paper (smaller providers are regulated less intensively than larger ones) further consideration should be given to introducing a banding system for charging regulatory fees to providers with less than 1000 units. The proposal should not be dismissed at this early stage of the consultation process. So the answer to the question is provisional YES and the reasons are that it provides a mechanism for lessening the financial burden on those Associations that are regulated less intensively than the others.

Q10

This question is one that we have no informed views on, not being in a group.

Q11

This question is one of detail and has minimal financial impact so we have no comment.

Q12

Transparency and accountability is something we should all strive to achieve whether or not fees are charged.

Q13

The approach seems reasonable. If using DDs there should be an option to pay quarterly and spread the cost.

Q14

As many specialist and ethnic minority RPs are small, any charging regime

that impacts adversely on small providers is likely to impact disproportionately upon them.

Q15

The potential impacts not considered in this discussion paper are:

1. The possibility of fees generating a demand for deregistration (see answer to Q8). Is this something HCA wants to encourage or to discourage?

How this is taken into account will depend very much on the HCA's perception of the risks what outcomes the HCA wants to achieve.

2. The potential for a few dominant providers to exert undue influence on the regulator because they are largely funding it. Under the proposed fee structure the 68 largest RPs pay over half the cost of regulation for the entire sector. The risk of these RPs having undue influence should be mitigated by ensuring that no provider pays a proportion of the total regulatory bill sufficient to influence the regulator. One way to achieve this is to ensure that a substantial proportion of the overall bill is paid by grant in aid.

Bolton at Home welcomes the opportunity to comment on proposals to introduce fees to pay for regulation.

***Question 1: Do you think that there is an in-principle case to charge fees for regulation?***

Although we fully support the continuation and development of the HCA's regulatory role, we are not convinced of the in-principle case for charging non-profit making businesses fees for regulation. Our reasons for this are:

- There is a much stronger in-principle case for regulation to remain publicly funded. The HCA is carrying out an important regulatory core function on behalf of central government, it is important that this principle is recognised and properly resourced from within.
- We have no issue about the levels of accountability at present and feel that the HCA already is responsive to challenges. On the contrary we would be a little more concerned about the independency issue if the HCA relied on the sector to for their income.
- There is no comparison with private for-profit service industries that pay fees for regulation. We do not have a profit margin to cover the cost of fees. It would be our customers not the industry that would pay directly for any reduction in public funding of regulation.
- Rather than it being unfair on the tax payer, a fee-based system is more unfair to our customers who will have to bear the cost rather than it being pooled amongst the wider community. Especially an issue for those of us whose households are disproportionately poorer than the rest of the population.
- As is indicated in the consultation document, this is the worst time to suggest introducing the extra burden of fees. Perhaps it is worth considering (on a very limited scale) only once the economic situation is showing a sustained improvement? Even then there would have to be doubts as our customers are largely on low incomes. Their financial situation would have to improve significantly relative to the rest of the country, irrespective of a general upturn.
- It is very difficult to see a strong case to support the argument that fees are somehow a valid premium for being in a well-regulated sector. Rather, we are regulated by an independent impartial body that we make no direct financial contribution to, and that is why the present relationship is mutually beneficial. Also the principle is that grant support is given without any other financial tie between the HCA and its regulated organisations. There is a very clear demarcation line that the introduction of fees, to the outsider, may seem to undermine.
- Finally the danger is that, by charging fees, organisations who need more of your help and support, may not engage fully because it may

cost them more in fees. Whilst it is logical that fees increase proportionate to the risk involved. Very often high risk organisations are least likely to be able to absorb higher fees even though the time spent on them by the HCA justifies them paying more. However it is unjust for well-run relatively risk-free housing organisations to subsidise the work you have to do with these by paying a higher pooled contribution. Especially unreasonable as this means, in effect, it is one set of customers paying for the service given to another set of customers.

The remaining responses to the questions asked are predicated around the assumption that, despite our challenge to the basic principle, there is merit in discussing what a fee-based system would look like if it was to be introduced.

***Question 2: Do you think fees should cover the full costs of the Regulator or that some of the elements of regulatory costs should continue to be funded through grant-aid?***

Grant-aid should be retained at least to cover the set up costs around introducing fees and (to support) the initial regulation for one year so that any teething problems could be sorted out. Further it seems fair that the grant-aid should be used to supplement a set fee as you describe as an alternative to charging for all the services whether or not they are appropriate to the particular provider.

***Question 3: Do you agree we are taking the right approach to developing the principles?***

The criteria, as described, seem a reasonable basis for developing a process that is both thorough but not too bureaucratic. Though achieving the correct balance between the five general factors will be the challenge.

**Just a few comments on the 'Benefits of regulation' factor:**

- Can the level of benefit by being part of a regulated sector be accurately identified for it to be useful as a basis for assessing fees?
- What comparators can be used to make the case? That is, how much precisely would it cost a provider not to be part of a regulatory process?
- How can these indicators be developed so as to assess the differences in fees charged between providers? Assuming that there will be a fee differential.

- How will the challenge that the more you pay in the more you will get back be defended? That is, it is the capability to pay more fees rather than a fair, independent and transparent regulatory system determines future interactions.

***Question 4: Do you agree with the proposed approach to initial registration fees?***

The flat fee option appears the simplest and fairest of the options. However it would be reasonable that the, inevitable and unquantifiable (at the outset) higher costs of pushing some providers through the regulatory process should be met by grant-aid (as suggested previously) not by pooling the anticipated higher costs within the fixed rate charge.

***Question 5: What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?***

If the cost estimate is coming out at £10,000 then this is too high and either something must be done to cut costs or grant-aid needs to be provided. To expect others already regulated to bear additional costs of others going through the process is wrong at all levels; especially as it is our customers not "the industry" that ultimately picks up the tab. Also, if some providers who wish to be regulated bring with them that much complexity there has to be a cut-off point where it is uneconomical for them to continue for all sides.

***Question 6: Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?***

Whilst, of all the options given, provider size and number of social housing units is the most straightforward it still has its problems, such as:

- We need more social housing and providers need to be encouraged to build more, does this option provide a brake to this?
- Because of bedroom tax providers are encouraged to build and acquire smaller units; again will the fee charges work against this?
- In some cases providers are encouraged to take over 'difficult' properties from other organisations or individuals; unit-based fees could reduce the business case to do so.

The HCA may wish to consider 'tweaking' this option to allow a few special cases to be argued without it becoming too bureaucratic to administer.

***Question 7: Do you agree with the proposed approach to local authority registered providers?***

Agreed

***Question 8: Do you agree with the principle set out for a minimum annual fee?***

Agreed just as there should be an upper limit beyond which it cannot be worthwhile there should also be a lower limit in the region of £300, but in very special circumstances such small providers should have the opportunity to approach the HCA to secure grant-aid to cover some of the costs.

***Question 9: Do you think that we should introduce an element of banding in the fee regime and why?***

Agreed in principle but there is a danger that some new house building may be put off if an increase in a provider's stock takes them slightly over into a higher band.

***Question 10: Do you agree with the proposal to charge the annual fee at group level?***

Yes, for those non-private housing providers, housing associations etc., but a more careful approach may have to be taken with any large for-profit making organisations seeking regulation.

***Question 11: Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?***

Agreed; unless very special circumstances apply.

***Question 12: Do you agree with the proposed approach to transparency and accountability?***

As mentioned previously you have a duty of accountability and transparency irrespective of fees being charged. We would welcome your proposals to increase this part of your service. However, we would argue that the cost of doing this should be through grant-aid as it is contradictory to provide information of this nature/depth to indicate how and why you are charging us a fee only to pay an additional fee for receiving it.

***Question 13: Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?***

To pay for a service before receiving it is not always the best approach. It would be preferable for grant-aid to support year one fee and then subsequently providers would be invoiced in the third quarter of that year.

***Question 14: Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?***

None spring to mind.

***Question 15: Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?***

Whilst your initial consultation has involved landlords and other similar stakeholders, the next stage of consultation the HCA needs to embark upon is with our customers and their families who will ultimately have to pay through their rents for this additional cost. This would have to concentrate on basic principles rather than procedural issues.

***Question 16: do you have any further comments on the initial proposals set out in this discussion paper?***

The paper will open a wide debate about what is legitimate to remain the financial responsibility of central government funding and what is not. As mentioned in your first question it is as much about basic principles as it is about implementation/processes. What is in agreement is that we all want and need a strong well-resourced regulatory service; the differences occur as to how this may be brought about.

## Questions

### **1. Do you think that there is an in-principle case to charge fees for regulation?**

We believe that the sector must have a robust, transparent and thorough Regulator however the cost should not be borne by housing providers.

As the demand for affordable continues to outweigh the supply and government subsidy becomes increasingly scarce, housing providers have been compelled to conduct their business in a more commercial manner and to diversify their activities in order to support their core business.

Essentially, not for profit registered providers such as **bpha** are socially motivated organisations providing housing and support for some of the most vulnerable members of society. They still use their housing asset base to act for the good of society. All the money they earn, all the surpluses they make, are ploughed back into providing and managing more homes, getting more people back into work, or caring for older people, people with learning disabilities and working with residents to investing in the communities .

Regardless of the actual cost or the method of calculation, ultimately it would be an additional expense for providers at a time when maximum savings are being sought and budgets are being squeezed. Implementing a regime of charging would have the effect of compromising services and activities that the provider may have no alternative funding available for leaving the residents as the unfortunate victims.

### **2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

Further to the answer above, we believe the costs of the Regulator should continue to be covered entirely through grant-in-aid.

We feel that the concept of charging raises questions that this discussion paper has not answered beginning with:-

- How will you assure value for money is provided?
- What will you do with any surpluses that are generated from fees?
- How will you deal with providers who **don't** pay or withhold payment due to a dispute?
- **Will providers who don't pay not be regulated?**
- How will any increase in fees be determined?
- Will the Regulator remain within the HCA or become a separate entity?

### **3. Do you agree we are taking the right approach to developing the principles?**

No, we have concerns about the approach being taken and the impact it will have.

### **4. Do you agree with the proposed approach to initial registration fees?**

No, we do not support charging an initial registration fee. We are concerned that this will deter organisations, particularly smaller ones from registering.

### **5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

We feel that this should be funded entirely by grant-in-aid. A fee of £10,000 has been suggested; this would be prohibitive for some organisations such as tenant managed cooperatives. Therefore not charging a fee a per se would be a good incentive for new entrants to join the register.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

We very clearly do not support the concept of charging for regulation.

However, in the event of a charging framework being introduced, using provider size as the determining factor and units owned as a measure of size would be the most logical method in our opinion.

**7. Do you agree with the proposed approach to local authority registered providers?**

No, we feel there would need to be parity between providers and local authorities should any kind of charging be introduced. This could be based on a proportionate basis as regulation would only be relevant to consumer standards.

**8. Do you agree with the principle set out for a minimum annual fee?**

No, we have concerns that the minimum fee will steadily and stealthily increase year on year with successive governments and moreover, we don't believe or agree that there should be a minimum fee.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

No, it over complicates the perfectly adequate system recommended in question 6.

**10. Do you agree with the proposal to charge the annual fee at group level?**

No, we believe there should be no charge made. However, should charging be implemented, the group level annual fee would be appropriate.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

No, we believe that any fees payable should be apportioned to reflect the amount of time left in the year to benefit from the service.

**12. Do you agree with the proposed approach to transparency and accountability?**

The initial proposals are a starting point. We look forward to more detailed recommendations on how the customer/regulator relationship is expected to develop.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Should this come to fruition and depending upon the level of fee imposed, we believe there will need to be a flexible approach towards payments as there may be some providers that will be unable to find the entire fee in one payment and therefore may need to spread the cost.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

We are not aware of any such issues.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into**

**account?**

No

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

No

## BROMFORD RESPONSE TO HCA CONSULTATION

<p><b>1. Do you think that there is an in-principle case to charge fees for regulation?</b></p>	<p>Yes. However it is not true that all regulated sectors pay their own regulation fees – eg, NHS. Like the NHS, RPs perform a public service and receive a significant proportion of funding directly or indirectly from government so there is a strong case for government at least partially funding the regulation. Many regulated industries are in the private sector, where there is a clearer case for fees to be paid by the regulated bodies, because the benefit they derive from regulation is directly reflected in the value they provide to their shareholders. Any fee charges to RPs will be essentially a reduction in the income that would otherwise be available to provide services to what are often the poorest people in the community.</p> <p>The stronger argument for fees is that this should free the regulator from inappropriate government interference and drive better accountability to RPs for the quality of regulation</p> <p>On balance therefore we support the principle of charging fees, provided this drives genuine independence from government and stronger accountability to RPs for the quality of the service.</p>
<p><b>2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?</b></p>	<p>Initial registration costs for new entrants should be covered by grant-in-aid so that new entrants, particularly smaller ones, are not discouraged from entering the market. Since it is government who benefits from expanding the potential for more competitors for grant it is reasonable that they and not RPs should fund this. The same argument about who benefits could apply similarly to managing consents for disposals?</p>
<p><b>3. Do you agree we are taking the right approach to developing the principles?</b></p>	<p>Yes, subject to the regulator delivering excellent value for money in the services provided</p>
<p><b>4. Do you agree with the proposed approach to initial registration fees?</b></p>	<p>Yes, but see above</p>

<p><b>5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?</b></p>	<p>See above</p>
<p><b>6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?</b></p>	<p>Yes, agree that size is a suitable basis for the level of fee. However, the number of housing units is not the best measure of size, as units can vary in impact on the ability of the RP to generate income. Additionally RPs who also generate turnover from diverse business streams may generate higher regulatory costs due to higher risks so overall turnover or some combination of turnover and units may be a better measure of size.</p>
<p><b>7. Do you agree with the proposed approach to local authority registered providers?</b></p>	<p>No. The per unit fee for consumer regulation of LAs may be low but the stock numbers are large so we do not accept the argument that it would be uneconomic to collect this. Consumer regulation should be charged on a per unit basis to LAs unless this is funded by grant in aid</p>
<p><b>8. Do you agree with the principle set out for a minimum annual fee?</b></p>	<p>Yes</p>
<p><b>9. Do you think that we should introduce an element of banding in the fee regime and if so why?</b></p>	<p>No</p>
<p><b>10. Do you agree with the proposal to charge the annual fee at group level?</b></p>	<p>Yes – anything else is artificial because corporate structures can include a number of entities for a variety of reasons, which are not always risk related.</p>
<p><b>11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?</b></p>	<p>Yes</p>
<p><b>12. Do you agree with the proposed approach to transparency and accountability?</b></p>	<p>Yes but we would want the focus of the transparency and accountability to be as much about quality as costs</p>
<p><b>13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?</b></p>	<p>Yes but given differing financial year ends, if turnover is used as the measure rather than unit numbers, you will need to be clear on the data used for establishing the fee due, ie, the most recent statutory accounts or statistical returns</p>
<p><b>14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what</b></p>	<p>No</p>

<p>are they and how should we take them into account?</p>	
<p><b>15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?</b></p>	<p>Yes. Essentially, the shift in the burden of the cost of the regulator from the Government to RPs is simply a cut in funding to the housing sector because there is no proposed corresponding increase in rents/housing benefit. The Sector will simply have a reduced income, whilst providing the same level of service to its customers. There must be a clear benefit to the sector to offset this, eg, an explicit statement of how the relationships and accountability between the regulator, government and RPs will change as a result</p>
<p><b>16. Do you have any further comments on the initial proposals set out in this discussion paper?</b></p>	<p>Yes. See above - the proposal is that the “paymaster” changes from the Government to the Housing Sector. Given this, and the justifiable emphasis on VfM in the sector, how will RPs be assured that the regulator itself is providing a quality regulatory function whilst assuring the public and stakeholders that it remains independent and objective. (<i>cf The Press Complaints Commission and the Independent Police Complaints Commission.</i>)</p>

## **CHARGING FEES FOR SOCIAL HOUSING REGULATION HCA DISCUSSION DOCUMENT**

On behalf of Byker Community Trust (BCT) I thank the HCA for the opportunity to respond to its discussion document on Charging Fees for Social Housing Regulation.

Before addressing the specific questions in the report, whilst we recognise the driver behind this is partly the ongoing drive to reduce public expenditure, we feel strongly that this is a further change that has most impact on some of the poorest members of our society, i.e. our tenants, who will ultimately end up paying for any imposed fee through their rents.

### **Q1 – Do you think that there is an in-principle case to charge fees for regulation?**

No. This is a further charge against registered providers who are already being hit by reduced income and increased costs as a direct result of other government changes, specifically the reduction in development grant and changes to Welfare Reform. If the HCA is to charge fees, the government should market test the whole service to ensure value for money.

### **Q2 – Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant – in – aid?**

If fees are to be charged there is a case for charging separately for intervention/ responsive type regulation if found proven, e.g. reactive and consumer regulation.

If fees are charged for the support functions, these services need to be market tested to ensure value for money.

An option could be to only charge RPs based on the officer time spend on regulatory activity for each specific provider using an appropriate hourly or daily rate. The remainder of HCA time could then be funded by grant – in – aid on the basis that it cannot be specifically allocated to a particular RP. This could incentivise RPs to provide high quality regulatory assurance information which would help minimise HCA staff scrutiny time covering the RP.

### **Q3 – Do you agree we are taking the right approach to developing the principles?**

Yes, but what incentive is there for the HCA to reduce costs and/or improve efficiency on a year by year basis?

**Q4 - Do you agree to the proposed approach to initial registration fees?**

Yes.

**Q5 – What other factors should we consider in setting the initial registration fee?**

**What levels of registration fee would not discourage new entrants?**

We would support a small fixed fee for registration. The figure of £300 quoted in the document seems reasonable.

**Q6 - Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable reassurance of size?**

Whilst this proposal should be the simplest to implement, ideally if possible we would support a combined size/complexity of business/risk based approach.

An option could be to only charge RPs based on the officer time spend on regulatory activity for each specific provider using an appropriate hourly or daily rate. The remainder of HCA time could then be funded by grant – in – aid on the basis that it cannot be specifically allocated to a particular RP. This could incentivise RPs to provide high quality regulatory assurance information which would help minimise HCA staff scrutiny time covering the RP.

**Q7 - Do you agree with the proposed approach to local authority providers?**

Yes.

**Q8 - Do you agree with the principle set out for a minimum annual fee?**

Yes.

**Q9 - Do you think we should introduce an element of banding in the fee regime and if so why?**

No - Fees should be based on clear size criteria, mixed with a complexity/risk element.

An option could be to only charge RPs based on the officer time spend on regulatory activity for each specific provider using an appropriate hourly or daily rate. The remainder of HCA time could then be funded by grant – in – aid on the basis that it cannot be specifically allocated to a particular RP. This could incentivise RPs to provide high quality regulatory assurance information which would help minimise HCA staff scrutiny time covering the RP.

**Q10 - Do you agree with the proposal to charge an annual fee at group level?**

Yes except the document would need to be clear on the position where the group is not registered only the subsidiary.

**Q11 - Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes, we would support full year charging for part year's registration.

**Q12 - Do you agree with the proposed approach to transparency and accountability?**

No, the service should be market tested.

**Q13 - Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes.

**Q14 - Are you aware of any potential equality and diversity impacts on implementing fees? If so, what are they and how should we take them into account?**

No direct implications – although small registered providers will be more adversely effected.

**Q15 – Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

Any annual uplift in fees should not exceed the level of annual uplift in rents allowed through rent standards. Otherwise, RPs would have to either raise other income or cut some costs in order to fund any regulatory fee increase in excess of that which can be recovered from rents.

**Q16 – Do you have any further comments on the initial proposals set out in this discussion paper?**

No.

Financial Controller

Catalyst Housing Limited - Response to HCA Consultation on Charging Fees for Social Housing Regulation

<p><b>1. Do you think that there is an in-principle case to charge fees for regulation?</b></p>	<p>Broadly yes, but this is subject to receiving a better service, with increased resources. Otherwise we are being asked to pay for a service that is currently free and is currently under-resourced. Additionally, the comparisons to other regulated industries only have limited value as these are generally profit distributing companies holding a monopoly or near monopoly on a service. The vast majority of Registered Providers are non-profit distributing who re-invest profits into the business.</p>
<p><b>2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?</b></p>	<p>Some costs should be met by grant-in-aid. As set out question 1 above, we would want any fees to enhance the service provided rather than simply replace money from DCLG.</p>
<p><b>3. Do you agree we are taking the right approach to developing the principles?</b></p>	<p>Yes but the benefits of regulation should set out the added value from introducing fees.</p>
<p><b>4. Do you agree with the proposed approach to initial registration fees?</b></p>	<p>Yes</p>
<p><b>5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?</b></p>	<p>We don't have any further comments on this.</p>
<p><b>6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?</b></p>	<p>Yes.</p>
<p><b>7. Do you agree with the proposed approach to local authority registered providers?</b></p>	<p>Another option would be a lower, fixed fee since some expenses are incurred in relation to Local Authorities. If the whole cost of regulation were to be met by fees, this would mean Registered Providers were subsidising Local Authorities.</p>
<p><b>8. Do you agree with the principle set out for a minimum annual fee?</b></p>	<p>Yes there should be a minimum fee; however the level of this should be proportionate to the cost of regulation for smaller associations.</p>
<p><b>9. Do you think that we should introduce an element of banding in the fee regime and if so why?</b></p>	<p>No strong view here. Would possibly create a 'step' depending on levels set.</p>
<p><b>10. Do you agree with the proposal to charge the annual fee at group level?</b></p>	<p>Yes</p>
<p><b>11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?</b></p>	<p>Yes, if this only applies to registrations of new providers who will be paying the minimum annual fee. If fees are likely to be larger than this then should be pro-rata</p>

Catalyst Housing Limited - Response to HCA Consultation on Charging Fees for Social Housing Regulation

	for registrations. If not it is likely to create a bottleneck for applications at the start of the year. Acceptable for de-registrations not to receive a refund.
<b>12. Do you agree with the proposed approach to transparency and accountability?</b>	If the sector is to be subject to fees for Regulation we would expect to receive more influence. Suggest that the National Housing Federation have a seat on the Regulatory Committee.
<b>13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?</b>	Yes
<b>14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?</b>	No.
<b>15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?</b>	No
<b>16. Do you have any further comments on the initial proposals set out in this discussion paper?</b>	No



Tim Sullivan  
Regulation Framework Manager  
Homes and Communities Agency, The Social Housing Regulator  
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149 Tottenham Court Road  
London W1T 7BN

By email to: [consultation@hca.gsi.gov.uk](mailto:consultation@hca.gsi.gov.uk)

11 March 2014

Dear Mr Sullivan

**Charging fees for social housing regulation, a discussion paper**

Thank you for the opportunity to provide you with feedback on the above paper.

C&C is a London based small-medium sized specialist housing provider for older people, providing approximately 2,500 homes predominantly in central and west London.

From a general point C&C is not completely opposed to the principle of paying for regulation and we have in the past responded with this view in previous discussions/consultations on the subject. Our positive response to payment has been predicated on the fact that payment would increase resources at the HCA so that we had more access and faster access to the HCA. The discussion paper makes no reference to HCA resources and so this silence leads C&C to believe there will be nothing more.

C&C does not believe that comparisons between the housing sector and other regulated sectors can be made. Other industries make huge surpluses that are paid out to shareholders. RPs' surpluses are ploughed back into the business and so any additional costs impact on what that RP can do by way of property improvement, development and service delivery.

This will impact considerably on the smaller RPs who already post small surpluses in their accounts and where every £100 counts.

As stated above, it is hard to see what RPs will gain, over and above what they already 'benefit' from by regulation, should fees be introduced. Is this really an exercise to improve or even regularise regulation or simply one that will provide savings for the government in power. The document says that the key argument for payment is that regulation brings with it lower borrowing costs and protects the sector's reputation. We supposedly already enjoy this so why would we want to start paying for it?

Q1 – The case for charging regulation has to demonstrate an improved regulatory service to RPs, not more of what we already have. If RPs were to offer such a business case to their residents e.g. same service, higher costs we would be rigorously challenged.

Q2 – As stated above, consideration must be given to what the fees will provide over and above what is already provided. Value for money is key to RPs who have to demonstrate their approach to this. Without this C&C would not support any fee charged.

Q3 – In general, yes, the principles are sound.

Q4 – C&C agree to a flat fee approach to initial registration.

Q5 - It is very difficult for an outsider to assess the level of registration fee. Those that have experienced registration will have a better feel for this. What is clear is that smaller RPs will struggle with any payment and account should be taken of this. Small RPs bring significant value to local communities.

Q6 – All in all the simplest and most transparent way to apply the annual fee is by provider size, counting the social housing units.

Q7 – Should the cost of consumer regulation be covered by grant-in-aid for all RPs regulated then yes this should include LAs. However if this were not to be the case then it is not appropriate or fair that RPs pick up the costs no matter how small the costs may be. The administration of such should be included in the actual fee. C&C does not agree with the proposed approach.

Q8 – A minimum fee with the potential to charge more based on unit numbers will severely impact on the smaller RPs. This is a real issue for consideration and must be taken account of.

Q9 – This addresses the point above to some degree. It does not address the potential impact on smalls over 1000 units. This proposal does not accord with C&C.

Q10 – For simplicity's sake C&C agrees with one annual charge at group level.

Q11 – It becomes quite obvious that should a full year fee be charged regardless of date and registration, RPs will seek to register at a time close to year end or year beginning. This potentially will cause backlog problems for the HCA.

Q12 – Yes, C&C fully supports transparency and accountability.

Q13 – Yes, annual invoicing at the beginning of each financial year makes sense.

Q14, 15, 16 – Consideration needs to be given to the impact on smaller RPs, many of which are BME associations.

As mentioned above these RPs provide a valuable community/neighbourhood service, quite often through very limited resources. A complex and costly regulation service would impact considerably on these organizations.

Yours sincerely

Chief Executive, C&C



## **Charging Fees for Social Housing Regulation - Response to discussion paper**

Cestria Community Housing is pleased to submit its response to the Discussion Paper “Charging Fees For Social Housing Regulation”. Our comments are set out below, and we would be happy to clarify our thinking if required.

Any queries on this submission should be addressed to our Chief Executive

### **Q1 – Do you think there is an in-principle case to charge fees for regulation?**

We do not believe that the case for payment of fees for regulation has been adequately proven. The frequently asserted view that regulation produces benefits in funding costs is overly-simplistic. Funders rely primarily on their own due diligence and monitoring in appraising the risk of a potential customer, and therefore determining pricing. The key benefit that lenders derive from the regulator is a guarantee of a soft landing in the event of a potential default by a registered provider.

We are pleased to note that the discussion paper recognises that the introduction of fees “would mean providers would have less resources to deliver their objectives”, and this is a concern for us.

We wonder if the proposal to introduce fees changes the nature of our relationship with the regulator, and whether that therefore provides an opportunity for a fuller debate on what kind of regulatory framework would be appropriate for the changing needs of our sector.

### **Q2 – Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

Our response to Q1 gives some context to this question.

If we accept that regulation plays a major role in reassuring potential funders to the sector about their exposure in the event of default, then a system that levies a contribution from rent to fund this stream of activity would be appropriate. This could take the form of a proportion of turnover, and could be applied to monitoring financial performance and plans, and to the intervention process in the event of a potential default.

The balance of regulatory activity, around setting standards and monitoring compliance with standards is primarily focussed on protecting government investment and securing compliance with policy objectives. This stream of activities should remain the subject of government funding.

**Q3 – Do you agree we are taking the right approach to developing the principles?**

The approach to developing the principles appears reasonable given the legislative requirements

**Q4 – do you agree with the proposed approach to initial registration fees?**

We would query whether the initial registration fee should not be proportionate to the scale and complexity of the applicant. In that case, a fee level based on expected turnover levels in first year of registration could be a reasonable proxy for scale and complexity.

**Q5 – What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

Please see Q4 above – a fee of £10,000 could perhaps be a deterrent for smaller organisations.

**Q6 – Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

Partially. A fairer way to apportion fees may be to vary based on size, complexity and risk. Turnover would be a reasonable proxy for this combination of factors.

**Q7 – Do you agree with the proposed approach to local authority registered providers?**

The proposed approach to local authority registered providers appears reasonable..

**Q8 – Do you agree with the principle set out for a minimum fee?**

A fee based on a proportion of turnover would not require a minimum fee level, although we accept the practicalities associated with a minimum fee approach.

**Q9 – Do you think that we should introduce an element of banding in the fee regime and if so why?**

We agree that banding would increase the complexity of the fee regime, and would not be in favour of banding.

**Q10 – Do you agree with the proposal to charge the annual fee at group level?**

Yes we agree.

**Q11 – Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

We believe that the fee should be charged in full in the year of de-registration and pro rata in the year of registration (given that a fee will have been payable for registration)

**Q12 – Do you agree with the proposed approach to transparency and accountability?**

We agree that there should be clear transparency and accountability, and welcome the proposed approach to this. The regime should also be underpinned by robust provisions to ensure Value for Money in the delivery of the regulatory function.

**Q13 – Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

This proposal would maximise the impact on cashflow, particularly for smaller organisations. Consideration could be given to a monthly direct debit system.

**Q14 – Are you aware of any potential equality and diversity impacts in implementing fees? If so what are they and how should we take them into account?**

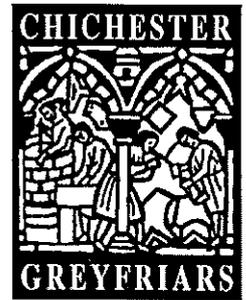
We have not identified any equality and diversity impacts arising from the proposals.

**Q15 – Are there any other potential impacts of taking fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

None

**Q16 – Do you have any further comments on the initial proposals set out in this discussion paper?**

None



Tim Sullivan Regulatory Framework Manager  
Homes and Communities Agency The Social Housing Regulator  
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11 March 2014

Dear Sir

Thank you for giving us the opportunity to express our views on the HCA proposals put forward in your discussion document "Charging Fees for Social Housing Regulation". We are a registered housing provider with less than 100 units. We are also members of SHAPE (Small Housing Associations Pursuing Excellence). SHAPE members have discussed the fee proposals and have agreed to co-ordinate elements of their response. Though the views expressed in this response are very much our own, you may find that several SHAPE colleagues are making similar or identical points.

Q1

There is an in principle case for regulation (provider pays) but there is also an in principle case against it:

The public is protected and so the public should pay

The government's investment is protected so the government should pay

When the regulated pay for their own regulation they (especially the dominant players) can put undue pressure on the regulator both to keep fees down (eventually leading to poorer quality) and to water down regulatory judgements.

Q2

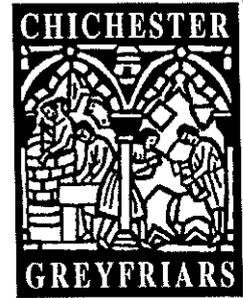
If fees are to be introduced some elements should continue to be funded through grant in aid. This particularly applies to those elements of regulation which include local authorities if the decision is taken to exclude them from any charges which are introduced. Looking at the list of activities (Table 2) other candidates for grant in aid are registration and deregistration, consents, strategy and management and a proportion of the support functions. Consideration should be given to charging a lower rate to those Associations who are not developing.

**CHICHESTER GREYFRIARS HOUSING ASSOCIATION LIMITED**

*(a charity)*

*Registered Office as above*

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Inland Revenue (Charity Division) No XN 50152 Industrial and Provident Society Register No. 19118R*



Q3

The items listed as being of particular relevance in developing a reasonable approach are acceptable: clear and succinct.

Q4

The question of charging for initial registration is quite complex and much depends on what type and size of organisations are likely to apply for registration in future. It is not something on which we feel qualified to comment at this stage.

Q5

As above for Q4.

Q6

If fees are to be charged then there is merit in basing the charges on something where data is easily obtainable, verifiable and therefore not open to dispute. "Number of social housing units owned" meets these criteria and it is tempting to select it as the preferred option. However, it takes no account of a number of important factors which will affect the financial burden of the fees on the organisation and the perception of "reasonableness":

Some RPs charge much higher rents than others: either because of regional differences in "target" rents and/or because of the proportion of their homes now being let on affordable or intermediate rents of various kinds. A flat rate unit fee will impact much more on an RP in the northwest with mostly social rented homes than it will on a provider in London or the south east providing affordable rented as well as social rented homes. Consideration should be given to basing fees on the rental and service charge income from the social housing units owned by each provider.

The HCA has recently taken a new light touch approach towards small providers: those with less than 1000 units. As these small providers receive a lower level of regulatory input they should pay a lower level of fee in proportion to whatever charging criteria is eventually selected.

HAs are required to show that they are achieving Value for Money. The fee for regulation therefore needs to reflect the service they are receiving.

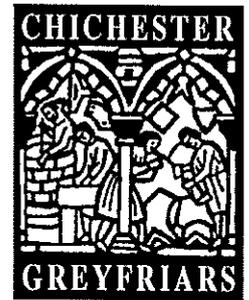
Q7

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The answer to this question depends on whether or not those elements of regulation to which local authority housing is subject ( and the associated overheads) are paid for by grant in aid or not. If paid for by grant in aid the approach is reasonable: local authorities cannot be expected to pay for regulation that they are not subject to.

Q8

Rough calculations show that if the whole current cost of regulation (stated to be in the region of £12.5 million) were shared equally among all RPs with stock the unit cost would be about £4.90. This calculation is based on figures provided by the HCA from the statistical release 2013, which reveal that in 2012-13 RPs (including 124 shown as having no stock holding) owned 2,550,431 units.

At a unit cost of £4.90 the breakeven point for a minimum flat rate fee of £300 would be 61 units. If, say, half the cost of regulation were met by grant in aid the unit fee would be £2.45 and the break even position with a flat rate minimum fee of £300 would be 122. Given the cost of “ individual” invoicing consideration should be given to raising the threshold below which a flat rate fee would apply - say to 250 or even to 500 units. A “breakeven” position at a higher level would streamline the invoicing process. Smaller Associations with upwards of, say 300 homes would, under your proposal, be above the minimum flat rate charge. At a unit fee of £4.90 an RP with 300 homes would pay £1,470 pa for regulation. One with 500 homes would pay £2,540. All this is in addition to fees they already pay for the Housing Ombudsman service and regulation by the Financial Conduct Authority.

Looking at the above figures it seems likely that if fees are introduced by the HCA many smaller RPs may look to deregister, particularly if they are not currently developing or intending to do so in the future. The implications of this need to be considered in terms of:

The welfare of tenants

The interests of stakeholders (particularly local authorities with nomination rights)

The workload and costs it might generate for the HCA in handling applications for deregulation

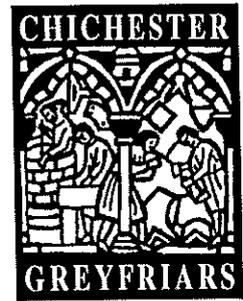
The long term impact on sector reputation

**CHICHESTER GREYFRIARS HOUSING ASSOCIATION LIMITED**

*(a charity)*

*Registered Office as above*

*Registered with The Housing Corporation No L1306 The National Housing Federation No 0286  
Inland Revenue (Charity Division) No XN 50152 Industrial and Provident Society Register No 1011RP*



Q9

Given the arguments set out above and the points made in paragraph 46 of the discussion paper (smaller providers are regulated less intensively than larger ones) further consideration should be given to introducing a banding system for charging regulatory fees to providers with less than 1000 units. The proposal should not be dismissed at this early stage of the consultation process. So the answer to the question is provisional YES and the reasons are that it provides a mechanism for lessening the financial burden on those Associations that are regulated less intensively than the others.

Q10

This question is one that we have no informed views on, not being in a group.

Q11

This question is one of detail and has minimal financial impact so we have no comment.

Q12

Transparency and accountability is something we should all strive to achieve whether or not fees are charged.

Q13

The approach seems reasonable. If using DDs there should be an option to pay quarterly and spread the cost.

Q14

As many specialist and ethnic minority RPs are small, any charging regime that impacts adversely on small providers is likely to impact disproportionately upon them.

Q15

The potential impacts not considered in this discussion paper are:

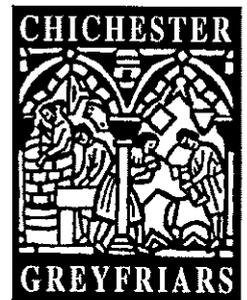
The possibility of fees generating a demand for deregistration (see answer to Q8). Is this something HCA wants to encourage or to discourage?

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How this is taken into account will depend very much on the HCA's perception of the risks what outcomes the HCA wants to achieve.

The potential for a few dominant providers to exert undue influence on the regulator because they are largely funding it. Under the proposed fee structure the 68 largest RPs pay over half the cost of regulation for the entire sector. There is a known risk, demonstrated by recent events in the financial services sector, credit rating issues in particular.

This risk should be mitigated by ensuring that no provider pays a proportion of the total regulatory bill sufficient to influence the regulator. One way to achieve this is to ensure that a substantial proportion of the overall bill is paid by grant in aid.

We would also make the following additional comments:

The discussion paper makes no reference to the difference between "not for profit" and "for profit" providers. This will be an increasingly important distinction in future as the sector diversifies and new intermediate types of rented housing come on the market. If fees are to be charged this could be an important distinction: for a start the "for profit" provider could offset the cost of fees against tax liabilities which the "not for profit" provider cannot.

The discussion document makes the general point that charging for regulation is common practice in a number of business sectors. However there is no exploration of the success of this approach. The public are aware of some notable failures of regulation in recent years (the banking sector and the press to name but two). It is not necessarily the case that the regulated paying for their own regulation yields positive results. This applies especially when a number of very large players dominate the market and there is a danger of the tail wagging the dog. The reputation of the social housing sector has so far remained relatively good and it is vitally important that it remains so.

The discussion paper makes no reference to the many RPs that are also care providers and already pay regulatory fees to the Care Quality Commission. Thought needs to be given to how that may impact adversely on such providers in terms of the overall burden of regulatory fees. This particularly applies to small providers with a foot

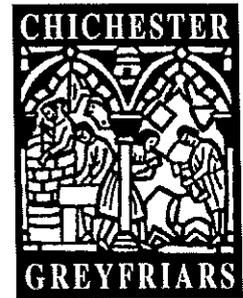
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CHICHESTER GREYFRIARS HOUSING ASSOCIATION LTD (a charity)  
THE FORUM STIRLING ROAD  
CHICHESTER WEST SUSSEX PO19 7DN



in both camps who may get caught out by flat rate minimum charges from both regulators.

Yours faithfully

Chief Executive

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21 March 2014

Dear Tim

### **CIH's response to the HCA consultation on charging fees for social housing regulation**

CIH welcomes this opportunity to contribute to the HCA's consultation on charging fees for social housing regulation. While we have not responded to every question posed in the discussion paper, our views on key areas are set out below.

#### **The case for charging fees for regulation**

As regulation brings benefits for housing providers, for example lower borrowing costs, CIH accepts the argument that it is reasonable that they should contribute to the costs of it. However, the government also benefits from this arrangement: for instance it allows providers to access private funding to develop much needed new homes with significantly reduced impact on the public purse. However, money spent on housing regulation by housing providers is money which then won't be available for service delivery or investment.

CIH therefore believes strongly that any fees charged should be both proportionate and **in addition to** grant-in-aid from the Department for Communities and Local Government, not instead of it.

CIH also recognises that the increasing diversity and complexity of the social housing sector has clear implications in terms of the skills and capacity needed by the HCA to deliver truly effective regulation. Allowing any system of fees to supplement the current grant in aid arrangements would allow the regulator to bolster its skills and capacity to meet today's more complex operating environment without any additional call on the public purse. Paragraph fifteen of the consultation paper also summarises useful arguments for continuing to ensure that public expenditure meets at least a proportion of the regulator's costs, including keeping barriers to entry lower than would otherwise be the case.

[www.cih.org](http://www.cih.org)

Chartered Institute of Housing

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## **Proposed principles of the fees regime**

We agree that the proposed approach to developing a set of principles for charging fees strikes the right balance between reflecting the true costs of regulation and being reasonable and proportionate.

### **Determining fee rates**

Simplicity should be at the heart of any fee structure adopted. After all, time, effort and money wasted on complex administrative processes detracts from the resources available for regulation itself.

In our view the most straightforward way to determine the level of annual fee payable is to base it on the number of social housing units a provider owns. Numbers of homes owned is both a simple measure and less volatile than other potential measures of size helping to ensure that fee levels are more predictable, being transparent and easily verifiable and meeting the requirement that any fee structure should be proportionate. In our view size calculating a fee relative to social housing stock owned already accounts for organisational size and obviates the need for any banding arrangement, helping to keep the fee structure simple and transparent. Charging fees at group level offers simplicity and CIH supports this approach.

CIH understands and accepts the pragmatic argument that a minimum fee level ensures that all fees are economic to recover, but also recognises that flat rate fee structures are regressive by nature. On that basis the regulator should ensure that any flat rate element of fees should be set at the lowest possible level whilst still being economic to recover and reflecting the costs of maintaining each provider on the register.

We agree that the principle of an initial registration fee is sound. If fees are to be charged then failing to charge for registration would mean that the costs of registration would fall on existing regulated entities which is neither transparent nor proportionate. A simple flat rate structure seems the approach most likely to ensure that significant new barriers to entry are avoided and that the initial costs of registration do not disincentivise new or novel approaches providing the flat rate fee is kept at a reasonable level.

### **An open and transparent approach**

CIH believes that organisations paying fees for HCA regulation activity should be absolutely clear about what they can expect in return. A simple service level agreement would aid transparency and accountability and enable housing providers to challenge appropriately in situations where they do not believe they have received value for money.

### **Local authority registered providers**

Given that the regulator's role in relation to local authority landlords is currently limited to breaches of the consumer standards where there is actual or potential risk of detriment to tenants, the discussion paper's suggestion that the annual fee should not apply to local

authorities seems sensible to us. There is little value to the public purse in setting a fee level where the costs of collection exceed the value of the fees concerned. However, this approach should be kept under review and if the regulator takes on a fuller role in relation to local authorities then the decision not to charge fees should be revisited.

We hope that you will find our comments helpful and look forward to receiving and considering the outcomes of this consultation.

Yours sincerely

**Director of Policy and Practice**

## HCA Discussion Paper: Charging fees for Social Housing Regulation

### 1.0 Introduction

- 1.1 We understand and appreciate the value of effective, proportionate regulation, and acknowledge the pressure spending departments in Government are under in a period of constraint.
- 1.2 However, we feel very strongly that fee income should not replace Government funding, but should supplement it to provide a higher quality of regulation in keeping with the challenging operating environment we are working in.
- 1.3 We also think that to compare the social housing sector to other regulated areas, such as financial services or communications, is incorrect. Those areas are established to make a profit, and therefore are not appropriate comparisons.

### 2.0 Questions

#### **Q1. *Do you think there is an in-principle case to charge fees for regulation?***

- 2.1 We think the argument that regulation delivers reduced borrowing costs is largely historic; it may have done in the past, but with the shift away from conventional lenders to the capital markets, it is more accurate to attribute our borrowing costs to the assessment of the Ratings Agencies.

#### **Q2. *Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant –in-aid?***

- 3.1 We think fees should supplement the Government funding, not replace it. We do not think that we should pay for “reactive regulation” i.e. action taken where there is evidence of a breach or potential breach of standards.
- 3.2 We do not think that we should meet the costs of registration, and that these should be met in full by those seeking to register. We also think that there should be differential charging for those wishing to register “for profit”, which could be used to defray the expenses of those others.

#### **Q3. *Do you agree we are taking the right approach to developing the principles?***

- 4.1 We agree with the proposals. We would be concerned if there were to be a difficult charging mechanism which leads to a heavy administrative burden, which in turn will lead to additional costs.

#### **Q4. *Do you agree with the proposed approach to initial registration fees***

- 5.1 We would agree with a flat fee for registration as being the most simple. We are disappointed that the HCA cannot recover for abortive costs for registration, but we do consider that organisations should pay the true costs of registration.

**Q5** *What other factors should we consider in setting the initial registration fee? What level of initial registration would not discourage new entrants?*

6.1 We think there should be differential charging for those registering “for profit”. Whilst we accept that £10,000 is high for new entrants who are small providers, we think that this is not significant given the other costs they would have to find in respect of initial set up.

**Q6** *Do you agree that the provider size is a suitable basis for determining the level of the annual fee? Do you agree that social housing units owned is a suitable measure of size?*

7.1 We agree that, if there is to be a fee charged, it should be based upon provider size and social housing units owned. However we also wish to make the point that charging any fees will result in a reduction in the services we are able to provide to our residents.

**Q7** *Do you agree with the proposed approach to local authority registered providers?*

8.1 We do not agree that Local Authority providers should be exempt from charges for consumer regulation. We reject the arguments around economic cost of recovery and would suggest that an annual fixed fee should be levied against all Local Authorities, banded according to size. We do not consider that this would be onerous to collect.

**Q8** *Do you agree with the principle set out for a minimum annual fee?*

9.1 We agree with the concept of a minimum annual fee

**Q9** *Do you think that we should introduce an element of banding in the fee regime and if so why?*

10.1 We would not recommend the introduction of a banding element in the fee regime, as we think this would increase complexity and therefore cost of recovery.

**Q10** *Do you agree with the proposal to charge the annual fee at group level?*

11.1 The proposal to charge groups at group level is sensible as this will reduce the administrative burden.

**Q11** *Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?*

12.1 We agree with the proposed approach that a provider should not get a refund if they register or de-register part way through a year.

**Q12** *Do you agree with the proposed approach to transparency and accountability?*

13.1 We do not think the proposal on transparency and accountability goes far enough. Publishing a regular transparency statement does not, in itself, deliver greater

transparency (c.f. VFM Statements in the sector). Neither does consultation over the content of a Business Plan.

13.2 We think that there should be proposals which set out how we can influence and provide appropriate scrutiny in respect of the costs of regulation, if we are expected to pay these, to ensure that there is greater involvement of the sector. Providers should have commensurate influence over the performance, direction and focus of the regulator.

**Q13** *Do you think that invoicing on an annual basis towards the beginning of the financial year is an appropriate approach?*

14.1 The proposal for fee charging from the start of the financial year makes sense.

**Q14** *Are you aware of any potential equality and diversity impacts in implementing fees? If so what are they and how should we take them into account?*

**Q15** *Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?*

**Q16** *Do you have any further comments on the initial proposals set out in this discussion paper?*

We feel that the sector should have commensurate influence over the performance, direction and focus of the regulator. This could be achieved by the sector paying all of the fees and setting up an independent regulator that is not constrained by government or other pressures.

City West Housing Trust welcome the opportunity to take part in the discussion paper around fee charging and are delighted that the Regulator is working with Registered Providers to jointly agree the best way forward the sector. We are committed to delivering a high quality value for money service to our customers and feel smarter regulation should help to protect social housing assets and ultimately the customers that live in our properties.

Our responses to the questions raised in the consultation paper are covered in the table below.

Question	Comment
1. Do you think that there is an in-principle case to charge fees for regulation?	Yes. City West Housing Trust generally agrees with the in-principle case to charge fees for regulation as it could help to enhance the relationship between the HCA and Registered Providers, particularly if the measure brought greater support and advice to Registered Providers.
2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?	City West Housing Trust generally feels that as the Government has a continued responsibility to support the Regulator to deliver the National Housing Strategy, there should remain an element of grant-in-aid.
3. Do you agree we are taking the right approach to developing the principles?	Yes, City West Housing Trust generally agrees that the HCA is taking the right approach to developing the principles.
4. Do you agree with the proposed approach to initial registration fees?	Yes, City West Housing Trust generally agrees with the proposed approach to initial registration fees.
5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?	City West Housing Trust suggests that you may wish to consider the number of social housing properties that the Registered Provider plans to own. This should then not discourage smaller Providers from entering the market.
6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?	<p>Yes, City West Housing Trust generally agrees that the level of annual fee should be linked to the provider size based on the number of social housing units owned.</p> <p>We do however suggest that banding in relation to current regulatory involvement due to a failure against the standards is part of the fee charging regime.</p> <p>Whilst we appreciate the concerns highlighted in the discussion paper, this would offer a fairer charging model for those Registered Providers with limited regulatory involvement.</p> <p>A suggested methodology would be for those Registered Providers rated at G1, G2, V1 and V2 be charged a lower rate, a Registered Provider with either a G3 or V3 rating – charged at Band 2 and Registered Provider with either a G4 or V4 rating – charged at Band 3.</p> <p>The Regulator may also want to consider reducing the banding if the Registered Provider has voluntarily identified to the Regulator that they have not met the standards.</p>
7. Do you agree with the proposed approach to	City West Housing Trust generally agrees with the

Question	Comment
local authority registered providers?	<p>proposed approach to Local Authority Providers assuming that the Regulator's role remains only to regulate the Consumer standards. If this were to change in the future, we suggest that Local Authority Providers are charged the annual fee.</p> <p>An additional income stream for the Regulator could be to charge Arms Length Management Organisations.</p>
8. Do you agree with the principle set out for a minimum annual fee?	City West Housing Trust generally agrees with the principle set out for a minimum annual fee.
9. Do you think that we should introduce an element of banding in the fee regime and if so why?	City West Housing Trust suggests the banding structure referred to in question 6 but not in relation to the size of the Registered Provider.
10. Do you agree with the proposal to charge the annual fee at group level?	Yes, City West Housing Trust generally agrees to the proposal to charge the annual fee at group level.
11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?	Yes, City West Housing Trust generally agrees with the proposed approach to the annual fee when a provider is only on the register for a proportion of the year.
12. Do you agree with the proposed approach to transparency and accountability?	Yes, City West Housing Trust generally agrees with the proposed approach to transparency and accountability.
13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?	Yes, City West Housing Trust agrees with the proposal of invoicing on an annual basis towards the beginning of each financial year.
14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?	No, greater accountability and security of the sector should help protect social housing assets and therefore positively impact the diverse communities served by Registered Providers.
15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?	No.
16. Do you have any further comments on the initial proposals set out in this discussion paper?	No.

## Charging Fees for social housing regulation – A discussion paper

Q1: We agreed in principle to the charging of fees, provided we can see the value in such a regime and that there is transparency and value for money on the fee structure.

We would not want to see the charging of fees as simply a means of making up a shortfall in government funding.

We would like to see a charter or contract in place so that we can see what we can expect from the Regulator.

Q2: If fees are to be charged at full cost we need to ensure that there is an effective response to the changing regulatory environment and we see added value. It cannot be a means to simply plug a funding gap, as referred to in Q1 above, particularly at a time when RPs are under pressure with the consequences of Welfare Reform and LA funding cuts.

Q3: Yes

Q4: In principle, yes, but perhaps a reduced/nil fee for setting up a new subsidiary within an existing group.

Q5: A small fixed fee would be more equitable for smaller RPs.

Q6: In principle yes, based on the fact that the preferred option is the simplest and most transparent. However, perhaps we need to consider issues where intervention is required and findings are made against the RP.

Q7: Yes

Q8: Yes

Q9: No

Q10: Yes

Q11: Yes, we would support a full year charge, made clear prior to registration.

Q12: Yes, we completely agree with this and the need to publish regular statements, as we believe, critical to maintaining trust between RP and

Regulator.

Q13: Yes.

Q14: We believe that, indirectly, the costs will fall on the most disadvantaged in our communities but we do not feel that this raises a significant E & D impact.

Q15: Clearly fees will have the effect of changing the relationship as currently exists. This we believe will manifest itself in Value for Money and accountability discussions between RPs, the sector and the regulator.

Q16: Only one, in that if funders do benefit as greatly as perceived in the discussion paper, perhaps they could be asked to contribute.

## **HCA Discussion Paper on charging fees for social housing regulation**

### **Joint response from UK Cohousing Network and National CLT Network, March 2014**

#### **About the UK Cohousing Network**

The UK Cohousing Network is the membership organisation that exists to promote and support the development of cohousing. There are 18 built cohousing communities and over 60 developing cohousing communities across the UK, 80% of which are developing affordable homes where HCA investment will be vital. Cohousing is clusters of homes with shared resources; a model of community building and resilience, where residents are involved in designing their neighbourhood and self managing. The creation of communal facilities enables neighbours to share food together on a regular basis, share equipment in tool rooms and laundries and to combine resources to create workspace, meeting rooms, food growing areas and so on.

#### **About the National CLT Network**

The National CLT Network is the national membership body for Community Land Trusts (CLTs) and supports and promotes the work of CLTs in England and Wales. CLTs are non-profit, community-based organisations run by volunteers that develop affordable housing, workspaces, community facilities or other assets that meet the needs of the community, are owned and controlled by the community and are made available at permanently affordable levels. There are over 160 CLTs in England and Wales, nearly 300 homes have been delivered to date and there are another 800 homes that will be delivered by 2016.

#### **Response to the HCA discussion paper on charging fees for social housing regulation**

Community-led housing is where local people come together to build new homes for themselves and the local community, and to create well designed, affordable and neighbourly places. It includes Community Land Trusts (CLTs), Cohousing, Co-operative housing, self-help housing and community-self-build housing. The sector is strong and active, is making a modest but vital contribution to meeting housing need and has the potential to contribute even more.

That's because the evidence suggests that by virtue of giving communities genuine influence and control over development, community-led projects help unlock the supply of land and local support for new development. Community-led housing schemes are often innovative, pioneering in both delivery and management and create highly attractive and sustainable places to live with low turnover and waiting lists.

The Government is committed to seeing communities take more control over development and the future of their neighbourhoods, including through the development of community-led housing. The Government has introduced several policy and funding measures that lend support to community-led housing, including the Localism Act 2012 (including Neighbourhood Planning and the Community Rights), National Planning Policy Framework, the community-led element of the current Affordable Homes Programme 2011-2015, the Community Empty Homes Fund (both of which are fully allocated), and the Community Led Project Support Fund.

The HCA investment and regulation teams have demonstrated significant support to the community-led housing sector in recent years, and we are already seeing some of these new registered housing providers access successive investment awards and develop a portfolio of community driven projects that are providing a catalyst to the regeneration and social well-being of their local communities.

However, the introduction of a prohibitive registration fee as proposed in the Discussion Paper will work against the progress made in recent years to facilitate community-led housing. It also goes against the Coalition Government's clear support for community led housing.

In light of the continuous growth in the community-led sector and the fact that the majority will require HCA investment to deliver affordable homes, a significant proportion of the new registrants to the HCA are likely to be community-led housing organisations.

Whilst many of the community led housing projects forge productive partnerships with existing Registered Providers, for others such partnerships are not always possible, due to: disconnected aims and objectives, financial constraints (it is not financially viable to construct a partnership and service the additional charges such partnerships can bring community organisations) or a lack of ambition within the community to concede significant control over development.

In response to Questions 1 to 4, we agree to the in-principle case for charging fees for regulation within the context of deficit cuts and understand the rationale for introducing a flat fee for new registrations.

However, the suggested flat rate fee for registration is hugely prohibitive for small community housing providers and will be a significant deterrent to community housing groups considering accessing HCA investment. The uncertainty introduced by this consultation has already caused alarm amongst community-led housing groups as they recognise that their aspiration to create affordable housing is not achievable independent of HCA investment support.

We appreciate that the regulation of smaller organisations does not always entail a proportionately smaller administrative cost for the HCA, but often the contrary. However, we would like to point out that the new registration process for Community-led housing organisations was streamlined in 2011 with significant input from the community-led housing sector. We would welcome working further with the HCA on making the process even more streamlined, to relieve the administrative burden on the HCA.

### **Recommendations**

For the reasons highlighted above, we recommend against introducing a registration fee for new community-based housing providers. The HCA may wish to consider alternative options, which could include:

- 1) Not levying a registration fee on organisations with a projected turnover of less than £3 million;
- 2) Spreading the cost of new registrations across the annual regulation charge for Registered Providers with significant development portfolios, as these organisations are the most significant beneficiaries of the HCA investment programmes.

21 March 2014

Tim Sullivan  
Regulatory Framework Manager  
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149 Tottenham Court Road  
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W1T 7BN

**BY HAND**

Coin Street   
secondary housing co-op

Dear Tim

### **CHARGING FEES FOR SOCIAL HOUSING REGULATION**

Thank you for providing Coin Street Secondary Housing Co-op with the opportunity to respond to the February 2014 discussion paper on Charging Fees for Social Housing Regulation.

We do not consider the introduction of any fee structure to be appropriate for smaller housing organisations (those with a stock size of less than 1,000 homes). We are particularly concerned about the proposed registration fee for new providers, which in our view would substantially stifle the ability of small housing organisations to start up. We believe that the introduction of annual fees and new registration fees for all providers would likely have a disproportionate impact on the cost of running specialist housing organisations, such as those for people with mental or physical disability and black and ethnic minority housing.

We cannot see that secondary housing co-op structures are considered in the proposals relating to the treatment of group structures and expect some clarity on this matter. Our own case, in particular, demonstrates the need for special consideration.

Coin Street Secondary Housing Co-op (CSS) is a registered provider of housing and is landlord to three primary housing co-ops; Redwood Housing Co-op (79 units); Palm Housing Co-op (27 units); and Iroko Housing Co-op (59 units), all of which are registered in their own right. Other than the three housing co-ops, CSS does not have any tenants. Under the fee proposal it would appear that registered secondary housing co-ops and their primary co-ops would both be required to pay the registration fee and the annual fee. As CSS recovers all of its costs from the primary co-ops, *under the proposed fee structure, tenants of primary co-ops would pay twice for regulation.*

The discussion paper rightly recognises the light touch regulatory obligations of those registered providers with stock size of less than 1,000 and the limited level of involvement of the regulator. It also recognises that the financial and reputational risks to the sector of these organisations is small when compared to larger registered organisations which tend to have more complex borrowing arrangements, structures, development, and land holding portfolios. For this reason we do not believe the introduction of fees for smaller providers is either fair or reasonable. There is a clear risk that smaller housing organisations will end up subsidising the regulation of large complex housing providers. This would be an unacceptable outcome.

The proposal suggests that the application of a fee would enable the HCA to acquire resources for specific areas of work. We want to know what resources, over and above the existing resources of the regulator, are proposed. This should be made clear during the statutory consultation so that the regulator can demonstrate to those who may end up paying fees how they would be getting value for money.

We look forward to future correspondence and consultation on this serious matter.

Yours sincerely

  
**Secretary**





## Confederation of Co-operative Housing CCH submission to the HCA “charging fees” consultation

### 1 The Confederation of Co-operative Housing

- 1.1 With a membership of over 110 co-operative housing organisations, the Confederation of Co-operative Housing has been the representative body for co-operative and mutual housing in England and Wales since 1994. Our membership is primarily made up of Registered Provider housing co-ops and includes all the major providers of services to housing co-ops – which gives us access to most other Registered Provider housing co-ops who are not directly affiliated to us.
- 1.2 We have engaged with the DCLG, HCA and GLA regarding development of new co-operative and community-led homes, and we are shortly to produce a basic guide “New Co-operative and Community-led Homes” aimed at communities, local authorities, housing associations and co-ops, and others in England and Wales.
- 1.3 We maintain a governance accreditation framework for housing co-operatives and for their service providers, and with the National Housing Federation, we produce the Code of Governance for housing co-operatives.
- 1.4 We have provided practical support to many co-operative housing organisations on governance, finance, development and other issues. In particular, we liaise with the HCA’s RASA Team to discuss regulatory issues relating to co-operative housing organisations. On several occasions, the CCH has provided advice and support to particular housing co-ops suffering from governance difficulties.
- 1.5 We work in partnership with other National Tenant Organisations having produced guides on Tenant Panels and Designated Persons at the request of the Coalition Government.

## 2 Is there an in-principle case to charge fees for regulation?

2.1 The CCH's agreement that there is an in-principle case for charging fees for regulation is based on the regulator operating in a way that mirrors the way that other UK regulators work.

2.2 The other primary regulators in the Joint Regulators Group include:

- Office of Rail Regulation (ORR)
- Civil Aviation Authority (CAA)
- Office of Gas and Electricity Markets (Ofgem)
- Office of Water Services (Ofwat)
- NHS Monitor
- Office of Fair Trading (OFT)
- Office of Communications (Ofcom)

2.3 All the other regulators indicate in different ways that one of their primary duties is to protect the interests of consumers. For example:

- Ofgem states that “an important element in fulfilling this duty is to understand what really matters to consumers and to ensure they remain at the heart of everything we do”
- ORR states that “the Government says that it wants to put passengers at the heart of our railways, and ORR has a big part to play as the independent regulator”.
- CAA state that “the interests of consumers and the public are at the heart of all that we do”.
- Ofwat state that “our job is to make sure that your water company provides you with a good quality service”.

2.4 Most of the other regulators have a relationship with a body that speaks for consumers (either independent groups or bodies established as part of the regulator).

2.5 Whilst the HCA's consultation paper takes into account that industries pay for other regulators, it does not reflect that, as is the case with the other regulators, it is the consumers of the service (ie.

in the case of the HCA, tenants and other service users) who actually pay fees for a regulator. Fees charged by a regulator therefore should relate to services provided by the regulator to the consumers of the service who pay the fees.

- 2.6 The HCA's consultation paper refers on several occasions to benefits to providers as a justification for charging fees. The HCA should carefully consider how it would be received publicly if Ofgem were to say that its primary purpose was to ensure that the big six energy firms "receive a number of benefits from being part of a regulated sector" – including "lower borrowing costs", "protection of reputation" and "dealing with poor governance".
- 2.7 Of course, these things are important in the housing sector, but they are part of the Government's responsibility to its national housing strategy. An appropriate balance needs to be struck between this function being paid for by the taxpayer and through tenants' rents.

In summary, in response to Q1, there is an in-principle reason for the regulator to charge fees for its services to the consumers of the service, but if it does it needs to mirror how other regulators operate by providing a service to those consumers for which they are held accountable by consumers for the service provided.

In response to Q2, we consider that fees charged by the regulator should relate to services to the consumer and that there is an ongoing obligation for Government to continue to provide grant in aid to fund the elements of the regulator that are about supporting the Government's national housing strategy.

In response to Q3, some of the development principles are correct, but the HCA needs to carefully consider how much it is the consumer of the service rather than the provider to whom the HCA needs to show "the relationship between the amount of a fee and the cost to which it relates".

- 2.8 We recognise that it is Government that determines the extent to which the HCA is able to ensure that its services are accountable to consumers, but the HCA Regulation Committee, in its ongoing public consideration of the principles behind paying fees, should reflect that it is consumers who it is intended will pay the proposed fees.

### 3 Initial registration fees

- 3.1 The HCA is aware that the Coalition Government has taken steps to encourage the development of community-led housing, and that recent debates in the House have shown ongoing cross party support for co-operative and community-led housing.
- 3.2 We are concerned that the HCA's flat fee proposal for initial registration, especially if it is as much as £10,000, could make it prohibitively expensive for community-led housing organisations to register, and therefore conflict with Government policy to encourage such entrants into the market.
- 3.3 The HCA has simplified the registration process for community-led housing organisations which may result in slightly fewer HCA resources being necessary to register them. We would suggest that there may be a case for adopting a specific flat fee for community-led housing organisations to enable them to be able to register.
- 3.4 The CCH would also be willing to explore with the HCA whether and how the CCH, as a representative body for our sector, could take responsibility for the registration process for community-led housing organisations to enable commensurate value for money and sectoral self-regulation.

In response to Q4 and Q5, we are concerned that the HCA's proposed approach to initial registration fees may conflict with Government policy towards community-led housing, in that proposed registration fees of £10,000 would be prohibitively expensive. We suggest an alternative approach to registration for community-led housing organisations (a lower flat fee, administration through the CCH).

### 4 Annual fee

- 4.1 As the representative body for co-operative housing, we would be concerned that an annual fee not set commensurate to the size of the organisation would be prohibitively expensive for our members.
- 4.2 We also consider that the only practical method for determining size is to use the number of social housing units, although we are also open to a minimum fee set in the region of £300 and to banding options.

In response to Q6, we agree that provider size is a suitable basis for determining the level of annual fee and that social housing units owned is a suitable measure of size. In response to Q8, we do not have an objection to a minimum fee in the region of £300. In response to Q9, we do not have strong views in relation to banding.

## 5 Transparency and accountability

- 5.1 We certainly agree that the HCA should be transparent and accountable regarding fees charged. However, it needs to be transparent and accountable to the consumer who will be paying these fees as well as to the providers.
- 5.2 The CCH has particular concerns that on a small number of occasions, the regulator has not sufficiently exercised its powers in relation to one or two housing co-ops who have breached the governance standard. This may have undermined work that the regulator has asked the CCH to do with these particular co-ops. We appreciate that taking regulatory steps may sometimes be resource intensive, but if the HCA does not take sufficient enforcement action, it sends a message to those co-ops that they do not need to comply with the Government's regulatory standards and it potentially could result in co-ops becoming unviable and the tenants of those co-ops receiving services that do not meet regulatory requirements.
- 5.3 For some years, the CCH has worked with the regulator and housing co-ops with a view to ensuring compliance with the regulatory framework. We have developed an accreditation system and code of governance for our members. We would welcome further discussions with the HCA about the role that we may be able to play in partnership with the HCA in self-regulating our sector.

In response to Q12, we consider that the regulator (a) needs to consider how it is accountable to consumers of the service as well as providers and (b) needs to be specifically accountable to our sector regarding Registered Provider housing co-operatives. We offer further dialogue with the regulator about how the sector can increasingly self-regulate through the CCH.

For further information on this submission, please contact  
[info@cch.coop](mailto:info@cch.coop) 07947 019287

## **Cottsway's response to the *Charging fees for social housing regulation* discussion paper**

### **Cottsway Housing**

Cottsway is a housing association providing affordable homes in local communities for people in West Oxfordshire, Gloucester, Forest of Dean and Royal Wotton Bassett. Cottsway's key stock holding was transferred from West Oxfordshire District Council some 13 years ago and we have continued to build homes in rural communities.

Over the past 15 months we have had close connections with the Regulator and experienced, first hand, the Regulation process. We are still in enhanced engagement with the Regulator but are now Regulatory Compliant.

### **Consultation response**

The sector is becoming more diverse and complex, and is attracting new for-profit and not-for-profit entrants, as the consultation paper sets out. We believe that through this growing complexity it is a good time to look at ways of ensuring that the regulator has the right skills and capacity to enable effective regulation.

While recognising the complexity of the sector we are opposed to the introduction of fees for social housing regulation. We come to the position on the following basis:

- Quality of regulation is key for the sector and quality we believe is linked very strongly to clear and adequate resourcing. We believe that government funding, through grant-in-aid, continues to be the best source of income for the regulator.
- Quality of regulation is key and a fee based income should only serve as a means to improve the quality of the end product. In other regulated sectors there is little evidence of a link between sector-funded regulation and better regulation.
- Through the introduction of a fee we believe, that once introduced, the government will over time want to squeeze more from the fees by their common practice of reducing grant-in-aid.
- We also believe that once a fee is introduced it will be difficult for smaller RPs to resist the pressure/obligation for increases. This could lead to the larger associations therefore being treated or involved to a greater extent than middle/smaller RPs.
- It is our view that, if a fee were to be applied, it should serve only to supplement grant-in-aid funding.
- The option of charging the 'for-profit' providers we would support and fees for this sector we would support

- In the paper it is proposed that a fee based on RP size is preferred and our concern is that could have the potential of the larger RPs having a greater influence on the Regulation Committee and officers as they could be seen to have greater weight of comment as they pay the greater sums.
- We believe that if larger RPs were providing a larger slice of the funding they could have a greater influence and access to regulatory matters as well as to key non-executives and executives and that a reduction in independence would make the system less credible, and could significantly erode confidence.

The sector presently has had to cope with some of the largest changes in the benefit system and that the resources of RPs, in particular smaller and middle sized, are being used to shore up the gaps. An increase in costs with the introduction of fees we believe to be at the wrong time and will put further pressure on RP's resources.

## Charging fees for social housing regulation

### Response by the Council of Mortgage Lenders to the Homes & Communities Agency discussion paper

#### Introduction

1. The CML is the representative trade body for the first charge residential mortgage lending industry, which includes banks, building societies and specialist lenders. Our 117 members currently hold around 95% of the assets of the UK mortgage market. Over £60 billion has been lent by CML members to housing associations UK-wide for new build, repair and improvement to social housing.

2. We welcome the opportunity to comment on the HCA fees [discussion paper](#). We have responded on the principles rather than the detail of the proposals.

#### CML views

3. *Do you think that there is an in-principle case to charge fees for regulation? (Q1):* Yes, on the basis that fee charging is a widely adopted model in other regulated sectors, and that legislative provision already exists for its application in relation to social housing. We believe that the introduction of fees at a reasonable level could provide a degree of financial independence for the regulator from government and the taxpayer, and signal industry willingness to pay for an activity which is key to the success of organisations which use it. We would be supportive of the introduction of fees if this enables the regulator to resource itself appropriately for an increasingly complex sector.

4. *Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid? (Q2):* A reasonable balance is needed between fee-funded and government-funded activities, and whether individual providers should pay for all regulatory activities for all providers, or only those applicable to their circumstances. It will be for the Agency, government and providers to agree the appropriate balance.

5. *Do you agree we are taking the right approach to developing the principles? (Q3):* Yes, the “reasonableness” factors appear to be the right ones provided regulatory benefits include the implied benefit of attractive borrowing costs as a result of funder comfort from regulation. We look forward to more detail on the required transparency arrangements, in the statutory consultation to follow.

6. *Do you agree with the proposed approach to initial registration fees? (Q4):* Yes, a flat-fee approach seems reasonable provided it is not set so high as to be a barrier to entry to the sector.

7. *Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size? (Q6):* Option 4 (fee based on provider size) and principle 2 (fee set by number of social housing units) strike a reasonable balance in the circumstances, although this is a matter for providers themselves. Alternatively, consideration could be given to a basis which considers the complexity of individual providers, although it is accepted this could be difficult to assess in some cases.

8. *Do you agree with the proposed approach to transparency and accountability? (Q12):* In principle, yes, subject to further detailed proposals to follow as part of the statutory consultation.

9. *Do you have any further comments on the initial proposals set out in this discussion paper? (Q16):* The regulator will need to manage provider expectations of the fee-paid service, including any expectation that paying a fee might entitle a provider to set the terms on which regulation is delivered.

14 March, 2014



Regulatory Framework Manager  
Homes and Communities Agency  
Maple House  
149 Tottenham Court Road  
London  
W1T 7BN

20<sup>th</sup> March 2014

Email: [consultation@hca.gsi.gov.uk](mailto:consultation@hca.gsi.gov.uk)

## **CHARGING FEES FOR SOCIAL HOUSING REGULATION**

Thank you for the opportunity to make a response to this discussion paper and **to comment on the HCA's proposals.**

Curo operates principally in the West sub-region (the four Unitary authorities that make up the former Avon area), where we own and manage over 12,000 homes.

Curo comprises a LSVT landlord, a smaller traditional RP and a specialist supported housing organisation. Having completed the rationalisation of those roots into a single service provider, with a common culture and common **objectives, our vision is that by 2017 we will be 'a modern, customer-driven ethical business which makes a positive contribution to people and places'.**

We are investing heavily in an ambitious programme for the delivery of new homes, as well as diversifying our activities, not least in two significant regeneration schemes in Bath and in Bristol. These schemes will lever additional funding into the provision of affordable homes, as well as contributing to the local economy and to the regeneration of two key brownfield sites.

We recognise the benefits that regulation bring to Curo and to the sector. Our own ambitions will benefit from that regulatory engagement and clearly that comes at a cost. We therefore have a significant interest in the proposals that are set out in the discussion paper.

Our detailed response is below.

***Question 1: Do you think there is an in principle case to charge fees for regulation.***

We recognise the value of regulation and the benefits that it brings to the sector. We also recognise that comes at a cost. In principle, therefore, we would accept the case for

the charging of a fee, and if the current grant in aid funding were to end then fees would be the only alternative.

However, in our view it is not a desirable alternative, and we think that any fees should provide additionally to, and not replace, current regulation.

We think too that in directly paying for the regulatory service, the sector should receive **a greater voice at the "Board table"; a something for something deal. This will allow us** greater influence in the way regulation is developed and strengthened – as is the way with tenant representation on Boards.

One of the reasons for believing that grant in aid should continue is the nature of the sector. The background paragraphs make reference to other 'industries' and to regulating the social housing 'sector', without acknowledging the differences between the two.

Social housing cannot simply be compared to other regulated industries, where the purpose of regulation is to provide reassurance to the public that essential public services or utilities are provided in a way that is fair and that ensures their long term sustainability.

**'Housing' as an industry may benefit from regulation, but that is not what is in place or what is being proposed.** The proposals are about regulating one sector within that industry, with the principle objective of protecting public investment.

***Question 2: Do you think fees should cover the full cost of the regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?***

If fees are to be charged, then yes. The proposals are unclear what elements of regulation it is appropriate for fees to cover, and what elements it is appropriate for grant in aid to fund. Without that clarity there will be a suspicion, or the potential, that in the longer term this exercise is simply one of reducing the cost to the public purse of an activity that should be funded in that way. In our view, that element of regulatory activity which provides assurance that public funds are being protected should be funded by grant in aid.

***Question 3: Do you agree that we are taking the right approach to developing the principles?***

Yes

***Question 4: Do you agree with the proposed approach to initial registration fees?***

Yes, we agree that, if fees are to be charged (and there is a greater case for charging for registration) then a flat fee is the most appropriate mechanism. There might be a case for charging a lower fee for charitable applicants.

***Question 5: What other factors should we consider in setting the initial registration fee. What level of initial registration fee would not discourage new entrants.***

No view

***Question 6: Do you agree that provider size is a suitable basis for determining the level of the annual fee. Do you agree that social housing units owned is a suitable measure of size?***

The rationale for considering fee charging is the increased complexity of the sector, the increased risks that presents and the consequent increased requirement for regulatory engagement. The consultation on regulatory engagement is clear that risk profiling will identify those engaging in increasingly diverse and risky activities, but the fees proposal will take no account of that risk profiling in the setting of fees.

At its most basic level, the risk profile is likely to identify those engaged in diversification into activities other than social housing, and the number of social housing units alone may not be an appropriate indicator.

**Whilst we agree that straightforward 'direct attribution' is not appropriate, there might be a case for charging an additional sum (perhaps subject to a cap) where more intensive regulatory activity has been necessary.**

***Question 7: Do you agree with the proposed approach to local authority registered providers?***

Yes, although there is a potential tension

a) if the outcome of this discussion appear, and the basis of any future proposal, is that consumer regulation is one of those activities for which fee charging is most appropriate, and

b) with small providers where the level of regulatory engagement is little more than that with local authorities.

***Question 8: Do you agree with the principle set out for a minimum annual fee?***

Yes, subject to our comment in 7 above.

***Question 9: Do you think we should introduce an element of banding in the fee regime, and if so, why?***

We would prefer not, but have no fundamental objection.

***Question 10: Do you agree with the proposal to charge the annual fee at group level.?***

Yes

***Question 11: Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?***

Yes, subject only to ensuring that delays due to the HCA do not result in penalties.

***Question 12: Do you agree with the proposed approach to transparency and accountability?***

Yes

***Question 13: Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?***

Yes

***Question 14: Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they, and how should we take them into account?***

No

*Question 15: Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they, and how should we take them into account?*

None

*Question 16: Do you have any further comments on the initial proposals set out in this discussion paper?*

The paper gives no reassurance of a long term commitment that fee charging will provide greater resources that will improve regulation, and no commitment that ongoing grant in aid will fund the current, basic, level of regulation. We are clear that we feel grant in aid should continue to fund the basic activities of regulating to protect public investment.

If it were clear what additional regulatory activities fees would fund, and there was transparency about this, then there would be value to the sector.

Thank you again for allowing us the opportunity to comment, and we look forward to hearing the outcomes of the discussion paper

With best regards

Yours sincerely

Head of Service Development

The Maltings, River Place, Lower Bristol Road, Bath BA2 1EP

## Derby Homes' response to HCA regulatory fees consultation

### 7: Consultation questions

A full list of the consultation questions in this paper are provided below. When answering the questions please state reasons for your answer and where you disagree with the proposals please make suggestions for alternative approaches.

1. Do you think that there is an in-principle case to charge fees for regulation?

It is hard to argue with the principle that a sector's regulatory costs should be met by the providers in that sector, although it is to be hoped that the additional burden that fees represent would not be significant enough to create a difference to delivery of new homes.

2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

Any fee should be tied to the regulatory issues that are required as part of the sector's regulation and not for any purposes that are required solely by government for which grant in aid should be retained.

3. Do you agree we are taking the right approach to developing the principles?

Yes

4. Do you agree with the proposed approach to initial registration fees?

Yes

5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

The difficulty with a flat fee is that smaller organisations, in particular community organisations would struggle to pay for it. Any subsidy that the government wishes to see as a result should again be retained as grant in aid. It might be worth having a lower fee for non profit or smaller organisations?

6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

Yes

7. Do you agree with the proposed approach to local authority registered providers?

Yes

8. Do you agree with the principle set out for a minimum annual fee?

Only if the minimum fee is set very low (eg £100 to £300 a year). We have a stock of 38 homes and other smaller owners / RPs would find a large minimum of concern. It would be better to leave the fee as entirely set by reference to stock with no minimum.

9. Do you think that we should introduce an element of banding in the fee regime and if so why?

No

10. Do you agree with the proposal to charge the annual fee at group level?

Yes

11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

Yes

12. Do you agree with the proposed approach to transparency and accountability?

Yes

13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?

Yes

14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?

Only that many smaller specialist providers need to be protected from fees that are too large for them by means of low or no minimum fees.

15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?

The general impact might be to discourage smaller new RPs if they have to pay £10,000 application fee.

16. Do you have any further comments on the initial proposals set out in this discussion paper?

No

## Derwentside Homes Board response to HCA discussion paper: “Charging fees for social housing regulation”

### 1. Do you think that there is an in-principle case to charge fees for regulation?

Yes: if used solely for the purposes of ongoing registration i.e. to retain registration status and not as a contribution to regulatory costs. See 2 below.

### 2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

It would **not** be reasonable to charge individual providers for all of the activities undertaken by the Regulator. An annual registration fee should only cover routine regulation common to all providers; maintenance of the register and carrying out assurance on judgements appertaining to the individual registered provider. Registration and de-registration costs and Reactive regulation should be charged at a set fee (which could be banded – depending on size or complexity) to the individual provider concerned. All other activities should be funded by grant-in-aid as they are either the running costs of the HCA (support functions; strategy and management) or Government regulatory or statutory conditions e.g. Consents; Consumer Regulation; Assurance sector wide.

### 3. Do you agree we are taking the right approach to developing the principles?

Yes we agree with the approach taken by the Regulator in developing the principles for a fees model.

### 4. Do you agree with the proposed approach to initial registration fees?

We agree with the proposed approach to initial registration fees.

### 5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

£10,000 seems an appropriate charge for initial registration if we believe there are benefits to being part of a Regulated sector. Those organisations that do not recognise such benefits will not register.

### 6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

We agree with the proposed methodology for determining fees based on social housing units owned, as this is both a transparent and a equitable approach to setting fee levels. However, this should be determined by a unit price. The downside of this approach is that it does not reflect the varying levels of regulatory effort required for those associations that comply fully with standards and provide little regulatory challenge compared to those who not.

**Working hard for you.**

**7. Do you agree with the proposed approach to local authority registered providers?**

We agree that local authorities should not be charged as they are not subject to routine regulation and as set out in our response to question 2, we believe consumer regulation should be funded through grant-in-aid.

**8. Do you agree with the principle set out for a minimum annual fee?**

Yes

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

No we do not think you should introduce an element of banding. We support your preliminary proposal of a fixed charge per unit with a minimum fee of £300.

**10. Do you agree with the proposal to charge the annual fee at group level?**

Yes

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes

**12. Do you agree with the proposed approach to transparency and accountability?**

We would wish to see transparency as to how the initial fees would be set. The principle is noted but not the scale other than the initial £300. We would expect a higher level of accountability from the Regulator, including consultation on annual priorities within the HCA's business plan.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

No

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

We would like to understand what, if any, mechanism is proposed to amend or change the fees once this initial proposal is determined, and what type of events you would anticipate triggering a need to review the charges. We would welcome the opportunity to consult on that in due course

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

No

**Working hard for you.**

Chief Executive: Geraldine Wilcox Chair: Sebort Cox OBE  
Derwentside Homes is an Industrial and Provident Society registered with the  
Financial Conduct Authority No. 32230 R and an exempt charity.  
Registered in England and Wales with the Homes and Communities Agency L4483.  
A member of the National Housing Federation.



business for neighbourhoods



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## Working hard for you.

**Chief Executive:** Geraldine Wilcox **Chair:** Sebert Cox OBE

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## HCA fees discussion paper – Devonshires response

We set out here Devonshires' responses to the questions raised in the HCA's fees charging discussion paper (Issued February 2014).

1. We agree that there is a case in principle to charge fees for regulation.
2. Our view is that for regular ongoing regulation the HCA should aim to cover its costs without grant in aid. The main exceptions (in line with your paper) where there may need to be grant in aid, would appear to be:
  - on initial registration, where there is a need to avoid creating a “barrier to entry”, and
  - cases where an RP is in difficulty. Such associations may have difficulty meeting any enhanced fees for additional regulatory activity but there is a clear public interest in an enhanced level of regulatory activity for the good of the sector.
3. We agree that the five factors you identify here represent a sound approach to developing the principles. The fee charging methodology you have developed (questions 4 to 11) is based on taking a single charging criterion, and so it may not be readily apparent how these five principles have been followed through into the fee structure.
4. We are happy with a “flat rate” registration fee so long as it is modest.
5. We would have thought that a flat fee of (say) £1,000 to £2,000 would be seen as an appropriate registration fee. We appreciate this is considerably less than £10,000 which is your estimated cost of processing a new registration.
6. We agree that provider size is a suitable basis for determining the annual fee level and that the number of social housing units is a suitable measure of size. This is on the basis that the number of units is easier to measure and is less variable than measures which are based on turnover or perceptions of risk. Having said this, we can see a case for having a higher level of charge for associations which have more complex structures and/or engage in activities which need to be reviewed specifically by the regulator. We wonder if the regulator has considered, for example charging for review of new group structures (particularly with unregulated entities), mergers or complex finance transactions such as leasebacks. In our original response to your discussion paper on the new regulatory framework, we suggested that RPs which wish to develop “cross subsidy” through non-social housing activities should enter into “settlements” with both the regulator and the investment arm of the HCA; and envisaged that a charge might be made for such settlements. We appreciate that a statute simply allows for “annual fees” and does not refer to transaction-based fees.
7. We agree that to charge fees to local authorities, which would be recovered from public funds, is somewhat circular and serves little purpose.
8. We agree in principle with a low minimum annual fee though you might want to consider waiving this for the very smallest RPs e.g. under 100 units.
9. We see no particular benefit in “banding” as opposed to a charge per unit.
10. We agree it makes sense to charge groups at group level.
11. We agree with applying fees on a flat rate annual basis even where the RP is only on the register for part of a year.

12. We agree with your approach to transparency and accountability.
13. In general invoicing at the start of each year sounds sensible. This might need to be adapted if the proposals in reply 6 are adopted.
14. We see no equality and diversity impacts which would involve a change to the proposals.
15. & 16 (any other factors): Please see reply to question 6.

**Devonshires**  
**20 March 2014**

**Charging Fees For Social Housing Regulation**  
**Discussion paper response from Dimensions (UK) Ltd**  
**Submitted by Jackie Fletcher**  
**17 March 2014**

**Q1 Do you think that there is an in-principle case to charge fees for regulation?**

**Our response:** it is difficult to argue against an in-principle case to charge fees if this means a better resourced regulator with the right skills to meet the diverse and complex sector. If the introduction of fees though is seen as a way to reduce other Government spending and is not reflected in the resource of HCA then there is little or no benefit to the provider, quite the opposite. It will mean that that providers will have even less resources to deliver their objectives in what is already a very challenging environment.

Additionally the Regulator should be mindful of other unintended consequences that there might be on other stakeholders, for example tenants and the service they receive.

**Q2 Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

**Our response:** given that providers are all different and will experience different levels of activity it will be difficult to determine what is balanced, proportionate and fair. At the very least routine regulation should continue to be funded through grant-in-aid.

**Q3 Do you agree we are taking the right approach to developing the principles?**

**Our response:** it seems a reasonable approach to take subject to the comments made to Q1.

**Q4 Do you agree with the proposed approach to initial registration fees?**

**Our response:** at this stage we would agree in principle.

**Q5 What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

**Our response:** it is not right that some of the cost of new registrations is met by those already on the register. This argues a good reason to keep funding or part funding with DCLA. It is difficult to determine what level of fee would not discourage new entrants other than no fee or low fee. Perhaps this question should be asked directly of recently registered providers or those considering registration.

**Q6 Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

**Our response:** this is the most suitable model for us as a small provider. We absolutely do not think it should be determined by turnover. As pointed out this is a less reliable approach and the cost of additional activities despite additional income (e.g. care and support) is high.

Additionally this incremental cost to providers is unlikely to be reflected in the current fees agreed. Local authorities are unlikely to flex pricing as a result of the Regulator introducing fees. Annual fees should be phased in to allow time to reflect the additional costs in pricing.

**Q7 Do you agree with the proposed approach to local authority registered providers?**

**Our response:** subject to a fair and transparent fee model and appropriate resource reflected in the Regulators approach this would seem a reasonable approach, however the devil is in the detail. Does not charging local authorities (LA) put in-house LA provision at a cost advantage?

We would not be in favour of non-LA registered providers in effect subsidising LA providers by bearing any of the cost of regulating the LA providers. The cost of this should be funded by grant-in-aid.

**Q8 Do you agree with the principle set out for a minimum fee?**

**Our response:** this seems like a reasonable approach.

**Q9 Do you think we should introduce an element of banding in the fee regime and if so why?**

**Our response:** no this would further complexity to regulation.

**Q10 Do you agree with the proposal to charge the annual fee at group level?**

**Our response:** yes

**Q11 Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

**Our response:** this seems a reasonable approach if fees are to be introduced.

**Q12 Do you agree with the proposed approach to transparency and accountability?**

**Our response:** this should be expectation of the HCA by the sector and other key stakeholders. It would be unreasonable if these were not to be available and published.

**Q13 Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

**Our response:** it is recognised that this is a less risky approach for the Regulator but it is more likely to suit providers to pay at the end of the financial year.

**Q14 Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

**Our response:** not at this stage but consultation needs to reach all groups.

**Q15 Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

**Our response:** as mentioned in Q1 careful consideration should be given to any unintended consequences, in particular for any tenants. Additionally the cost of introducing fee charges in the current economic climate with little or no benefit to the sector, particularly smaller providers should be given careful consideration. It may cause providers to consider current business activities and seek de-registration causing gaps or uncertainty in the sector.

**Q16 Do you have any further comments on the initial proposals set out in this discussion paper?**

**Our response:** if the Regulator's resources are not reflective of the fees charged then we are not supportive of this proposed fee charging.

# East 7 Response: Charging Fees for Social Housing Regulation

## **Q1. Do you think that there is an in-principle case to charge fees for regulation?**

- A stable social housing sector needs a strong and independent regulatory framework, a goal East 7 believes could be realised through a fee charging scheme. But this advocacy is conditional – the additional cost associated with the proposed reforms will only be acceptable if the new regime meets three criteria.
- First, a fee charging scheme system must improve the basic functions of the HCA. Paying for regulation must therefore improve response times to enquiries, cut timescales for publications, result in more efficient regulatory visits and deliver higher quality judgements. Since the proposals are likely to improve the financial position of the HCA, the group feels this is a wholly reasonable request.
- Second, a fee charging scheme ought to create a more responsive regulator. Housing associations continue to diversify in terms of their activities and membership, and if the HCA is to keep apace, it will need to develop new skills and technical expertise. A fee charging scheme will create some distance between the HCA and government, thereby allowing the regulator to develop the requisite skills to deal with a changing sector. To the extent that fee reform will result in a regulator with these attributes, East 7 will support the proposals.
- Third and finally, any changes to funding must improve accountability in the sector. While of course remaining independent, a fee-funded HCA should be more conscious of registered providers and their corporate priorities. Moreover, appropriate channels for robust scrutiny must be opened to ensure value for money.

## **Q4. Do you agree with the proposed approach to registration fees?**

- The Group is in agreement that the best funding solution is a standard fixed fee for registration and an annual fee based on homes owned. A flat fee structure would clearly disadvantage smaller, less well-off housing associations, while a banding system could result in housing associations of equal size paying different amounts.
- Given the undesirable characteristics of flat and banding fee structures, East 7 endorses the HCA's framework. However we feel the flat £10,000 registration fee may still be tough on smaller bodies. We therefore urge the HCA to consider a £5,000 flat registration fee, a move that would make the regulatory regime financially affordable for all.

Mr Tim Sullivan  
Regulatory Framework Manager  
Homes and Communities Agency  
The Social Housing Regulator  
Maple House  
149 Tottenham Court Road  
London  
W1T 7BN

T 01530 276000  
F 01530 276006  
E [enquiries@emhgroup.org.uk](mailto:enquiries@emhgroup.org.uk)  
[www.emhgroup.org.uk](http://www.emhgroup.org.uk)

20 March 2014

Dear Tim

### **Charging Fees for Social Housing Regulation**

I would like to make a formal response to the consultation document on behalf of *emh group*. The comments below follow the sequence of questions posed in your discussion paper.

#### *Questions 1 and 2:*

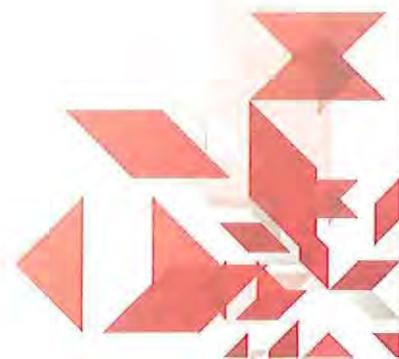
We agree in principle that there is a case to charge fees for regulation. However, this support is predicated on the basis that the funds from this source should not replace existing government grant-in-aid funding. The fees should be supplementary to the existing funding and add to the quality of regulation provided by the HCA.

#### *Question 3:*

The principles outlined in the paper are broadly the right ones and these, in our view, require further development to clarify how they will be implemented in practice.

#### *Question 4:*

The proposal for a flat fee for initial registration purposes is sound and one we agree with.



*Question 5:*

We would question whether a starting sum of £10,000 is appropriate for smaller, community-based organisations wishing to register with the social housing regulator. In such instances a strong case can be made for a charge that is disproportionately lower for smaller organisations so that it does not act as a barrier to entry.

*Question 6:*

We agree that the size of the provider is the most appropriate method of levying fees, particularly based on the number of social housing units owned. Other methods, such as direct attribution of costs or flat fee, would appear to be less equitable.

*Question 7:*

The proposed approach for registered providers should not be applied to local authorities on the basis that they have an entirely different statutory, constitutional and accountability framework. Their accountability is primarily to the local electorate and anything that results in ambiguity in this context should be avoided. However, it is equally the case that registered providers should not, under any circumstances, bear the costs associated with the regulation of local authority consumer services. Any costs here should be attributed directly to them.

*Question 8:*

The principles of a minimum fee level is sound, subject to the caveat mentioned above about the level being such that it does not unduly discriminate against smaller providers.

*Question 9:*

There may be an argument for the introduction of an element of banding along the lines indicated in your paper. However, the principle of simplicity should be the overriding factor and the complexities implied by the application of a banding system may render it inappropriate.

*Question 10:*

We agree that the proposal to charge an annual fee should be directed at the Group rather than subsidiary level.

*Question 11:*

We agree, again on the basis of simplicity, that the annual fee should be charged for the full year rather than a proportion of it.

*Question 12:*

We are strongly of the view that there should be maximum transparency in terms of the way the fees are being charged and utilised. It would seem unfair when the rent increases of providers are constrained by the CPI indexation formula without a similar regime applying to any future fee increases charged by the social housing regulator. The extent to which fees could be increased is an area that should be strongly regulated and set out at the earliest possible opportunity. An Annual Accountability Statement to the sector on how fees are used and maximum value for money achieved is absolutely crucial.

*Question 13:*

We believe that invoicing of the fees should be undertaken on an annual basis towards the beginning of each financial year.

*Question 14:*

Care will need to be taken to ensure that smaller, community-based or BME organisations are not disproportionately affected by the extent of the minimum annual fee.

*Question 15 and 16:*

We have no additional comments.

Yours sincerely

Group Chief Executive

Tuesday 20<sup>th</sup> March 2014



Dear Mr Ashby,

**Re: Charging fees for social housing regulation, a discussion paper**

Thank you for the opportunity to respond to the HCA's discussion paper on charging fees for social housing regulation. East Thames understands that in a time of ongoing financial constraint that charging private registered providers for regulation is one way of relieving pressure on central Government budgets.

We also acknowledge that in a number of other sectors charging for regulation has been in place for many years. We are not against these principles being applied to the social housing sector as long as they provide effective, proportionate, value for money regulation for both providers and our tenants.

East Thames is a member of the g15 group, representing the 15 largest private registered providers of social housing in London. As a member of the g15 we support the response that has been submitted on our behalf and therefore on this occasion will not be responding to the individual questions asked in the discussion paper.

Head of Policy and External Affairs



INVESTOR IN PEOPLE



**business for neighbourhoods**

Registered office: 29-35 West Ham Lane, Stratford, London E15 4PH. Customer contact centre: 0845 600 0830  
Main number: 020 8522 2000. Minicom: 020 8522 2006, Fax: 020 8522 2001. Web: [www.east-thames.co.uk](http://www.east-thames.co.uk)  
Registered in England & Wales (4091100) Registered Charity (1084952) Tenant Services Authority Registered (LH4309)  
Member of the National Housing Federation

Dear Mr Sullivan

Thank you for the opportunity to respond to your discussion document, a copy of which has been made available to each of our Trustees.

I would respond to the consultation questions as follows:-

- 1) In principle there is a case for regulatory fees to be charged where appropriate, for this is the case for existing regulatory bodies.
- 2) Some elements of the regulatory costs should continue to be funded through the existing grant-in-aid system.
- 3) We would agree that you are taking the right approach in the principles that you are considering developing.
- 4) We would agree with your proposed approach to initial registration fees, but only in so far as the applicant for proposed registration is not paying regulatory fees elsewhere.
- 5) The aim should be to encourage new entrants however the annual fee should be based on the size of the new applicant and also whether the new applicant is paying regulatory fees elsewhere.
- 6) We agree that provider size, based on the number of social housing units owned, would be a suitable measure of the size of the applicant.

**7) We agree that local authority registered providers should be excluded from paying a registration fee.**

- 8) We agree that a minimum fee, in the region of £300, would appear to be fair and equitable.
- 9) We agree that an element of banding should apply to the fee regime. Our reasoning is based on the principal of fairness.
- 10) Simplicity should be the foundation on which annual group level fees are based.
- 11) We agree that only a proportion of the annual fee should be charged based on the time that the applicant is actually on your register.
- 12) We would always agree that transparency and accountability form the foundation on which legislation is based.
- 13) Invoicing annually is both fair and reasonable.

**14) We very strongly believe that any organisation who is registered with yourselves, because they received a grant, initially from the old Housing Corporation, should be removed from your register where it can be shown that the organisation is already inspected by, and under the authority of an existing supervisory body, e.g. The Care Quality Commission.**

**We have been requesting removal from your register, as a social landlord, for over a year now, which we cannot progress because we are unable to obtain consent from our local authority who have failed to respond to our many written requests.**

**15) We consider it to be both unfair and inequitable for any organisation to pay fees to a supervisory body where it can be shown that they already pay a fee to another supervisory body. In our own case we are required to pay The Care Quality Commission £3,000 (Three thousand pounds annually) to be registered with them. Should your organisation be considering that a fee should be charged because we have to be registered as a social landlord, then such a proposal is both unfair and unreasonable.**

**16) Our comments are already referred to in our response to questions 14 & 15.**

Yours sincerely

Chairman  
for and on behalf of:-  
Abbeyfield Hertfordshire Residential Care Society Ltd.,  
Friars Mead  
Rockliffe Avenue  
KINGS LANGLEY  
Hertfordshire  
WD4 9HX

I do not have access to my e-mails to my private account whilst I am at work, hence only receive these e-mails once I get home at 6.30 pm. I was under the impression that you had obtained my details as your organisation had been informed that I am Clerk to the Trustees of the Hannah Rawson Almshouses Trust.

It appears that I am obliged to receive communications from the Homes and Communications Agency and take actions required by this body. Please could you and your colleagues **post** communications to: **Hannah Rawson Almshouses, c/o 45 Middlewood Drive, Sheffield S6 1TX**. The address of our Almshouses is Worrall Road, Sheffield S6.

The Almshouses consist of 6 tiny one-bedroom early Victorian (1840) almshouses. **The maintenance charge (i.e. rent) for these properties is increasing from £195 to £205 per month in April- so you can see the minute scale of the Trust, and thus how completely unviable it would be for our Trust to be paying any registration charge at all.** It seems unnecessary for such a small-scale operation to come under the auspices of some Regulatory body. From the correspondence I have received, it seems to be aimed at large organisations providing large-scale social housing.

Yours sincerely,

Clerk to the Trustees  
Hannah Rawson Almshouses Trust

Dear Sir,

Please find my response below to the fees consultation in red.

## 7: Consultation questions

A full list of the consultation questions in this paper are provided below. When answering the questions please state reasons for your answer and where you disagree with the proposals please make suggestions for alternative approaches.

1. Do you think that there is an in-principle case to charge fees for regulation? **Yes**
2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid? **Full cost**
3. Do you agree we are taking the right approach to developing the principles? **Yes**
4. Do you agree with the proposed approach to initial registration fees? **Yes**
5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants? **Unit size**
6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size? **Yes**
7. Do you agree with the proposed approach to local authority registered providers? **Yes**
8. Do you agree with the principle set out for a minimum annual fee? **Yes**
9. Do you think that we should introduce an element of banding in the fee regime and if so why? **Only below and above 1000 units**
10. Do you agree with the proposal to charge the annual fee at group level? **Yes**
11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year? **Yes**
12. Do you agree with the proposed approach to transparency and accountability? **Yes**
13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach? **Beginning or end shouldn't make much difference**
14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account? **No**
15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account? **No**
16. Do you have any further comments on the initial proposals set out in this discussion paper? **Get cracking**

Yours Sincerely,

Customer Services  
Agudas Israel Housing Association  
206 Lordship Road  
N16 5ES

Dear Tim,

The Accent Board discussed the consultation paper at the board meeting yesterday and asked me to submit the following responses to the questions you pose in the consultation paper:

1. Do you think that there is an in-principle case to charge fees for regulation?

Yes – subject to resources being increased and quality of regulation improving, together with increased accountability.

2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

No – Government should not use this as an opportunity to make savings.

3. Do you agree we are taking the right approach to developing the principles?

Yes, although members raised the additional option of increased charges for providers requiring intensive regulation with lower fees for G1V1 Providers receiving “light touch” regulation.

4. Do you agree with the proposed approach to initial registration fees?

Yes – although higher fees registration fees should be considered. If higher fees served as a barrier to registration then one should question the viability or commitment of such providers.

5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

See comments at 4 above

6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

Yes – but consideration should also be given to the time and cost implications of regulating downgraded providers, or those whose complexity requires more intensive interaction with charges also reflecting that issue. It may also focus the mind of boards if they see regulation costs increase when downgraded.

7. Do you agree with the proposed approach to local authority registered providers?

Yes – although fees should be considered for LAs who obtain HCA grants to support development of new homes.

8. Do you agree with the principle set out for a minimum annual fee?

Yes

9. Do you think that we should introduce an element of banding in the fee regime and if so why?

Yes – for basic fairness and to demonstrate VFM of such arrangements.

10. Do you agree with the proposal to charge the annual fee at group level?

Yes – see above

11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

Yes

12. Do you agree with the proposed approach to transparency and accountability?

Yes

13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?

Clarification of fees three months before the start of a financial year when due would assist in budget setting.

14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?

As BME providers are more often smaller than average provider size this should be considered when setting minimum fees as they could be disproportionately affected.

15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?

Providers may feel able and prepared to challenge more and hold the regulator to account if they are unhappy with the appraisal. Such disputes could therefore be distracting for the regulator. There may be an increased risk of legal challenge by providers of decisions taken by the regulator.

16. Do you have any further comments on the initial proposals set out in this discussion paper?

The HCA have demonstrated excellent transparency and openness of debate on this issue which is very welcome and encouraging. I hope this response is helpful.

Yours sincerely

Chief  
Executive   
**accent**

Charlestown House | Acorn Park Ind Est | Charlestown | Shipley | BD17 7SW

In response to the HCA discussion paper on the introduction of fees, I would offer the following comments:

In principle, CCHA does not disagree with the introduction of fees and feels that having a minimal registration fee (£300) is the right approach to encourage membership and not discourage the smaller providers. However, the basis for calculation of the total fee is less straightforward. If the fee is based upon size and size is determined only by the number of homes the organisations owns it doesn't truly reflect the nature of the business. However a system based upon number of homes is the most transparent way to apply fees. Whatever system is applied should be fair and ensure that it doesn't put too much burden on the smaller housing associations whilst ensuring that the larger associations do not have too much influence.

In terms of reporting, we would welcome the suggested approach with regards to transparency and feel that this would provide some level of assurance and strengthen the relationship between the registered providers and the regulator.

I hope this is helpful.

Regards

Chief Executive  
6th Floor, Norfolk House, Wellesley Road, Croydon CR0 1LH

[www.ccha.biz](http://www.ccha.biz)

1. Yes
2. No (some costs should continue to be met through grant-in-aid)
3. Yes
4. Yes
5. Initial registration fees should be kept as low as possible (through continuation of some grant-in-aid)
6. Yes
7. Yes (but LA levels of work should be reported on to determine if this remains minimal)
8. Yes (but needs some safeguard that this doesn't increase disproportionately in future years as some registered Providers are particularly small)
9. No
10. Yes
11. Yes
12. Yes
13. Yes
14. No
15. No
16. This will represent additional costs for Providers and put pressure on services. I appreciate that the sector is becoming more complex and by implication the HCA needs to look at its own resources; however I would think that representations should be made for the HCA to retain the maximum amount of grant-in-aid and by implication only charge Providers the extra costs required for the regulatory service. How will future fees be increased and who will be accountable to maintain these at a reasonable level?

Deputy Chief Executive



Cornerstone House, Western Way, Exeter EX1 1AL  
Telephone 01392 273462 [www.cornerstonehousing.net](http://www.cornerstonehousing.net)

I set out below CESSA HA's response to the above discussion paper.

**Q1. Do you think that there is an in-principle case to charge fees for regulation?**

A – No. As a (very) small Registered Provider, we would be unhappy to pay a fee. Regulation for us is very light touch; we don't benefit from grant, as we have no plans to develop. The introduction of fees would simply be an additional cost for us to bear.

**Q2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

A – No. It seems to be a confused position to offer i.e. if some elements will remain 'grant-in-aid' then the full costs should remain as such.

**Q3. Do you agree we are taking the right approach to developing the principles?**

A – The principles are sound – if you agree with fees being charged. We don't.

**Q4. Do you agree with the proposed approach to initial registration fees?**

A – No. It seems most of the work done by the Regulator is at the registration stage.

**Q5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

A – Any registration fee will discourage new entrants.

**Q6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

A – No. Direct attribution would suit smaller providers as little or no regulation is required – annually.

**Q7. Do you agree with the proposed approach to local authority registered providers?**

A – No. Surely all providers of social housing should be covered by the same Regulatory Framework?

**Q8. Do you agree with the principle set out for a minimum annual fee?**

A – No. Smaller providers should be exempt.

**Q9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

A – No. If introduced, a set (low) fixed fee would be preferable.

**Q10. Do you agree with the proposal to charge the annual fee at group level?**

A – No opinion. CESSA HA is not part of a group.

**Q11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

A – Yes. If part of a group structure, if not, then partial refunds should be available.

**Q12. Do you agree with the proposed approach to transparency and accountability?**

A – Of course.

**Q13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

A – Yes, although our financial year ends December.

**Q14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

A – No.

**Q15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

A – Please reconsider charging fees. A budget of only £12.5M can easily be deducted from the total grant budget. Grant-in-aid should continue.

**Q16. Do you have any further comments on the initial proposals set out in this discussion paper?**

A – No. Thanks for the opportunity to respond.

Director of Housing

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Director of Housing



1 Shakespeare Terrace  
126 High Street  
Portsmouth, Hampshire  
PO1 2RH

I am the Treasurer of a relatively small but well run almshouse charity with 29 housing units available. The only contact we normally have with you is if we need to borrow/obtain money against any capital scheme. Our financial affairs are sound. We are frugal with overhead costs thereby seeking to our residents with first class value.

My Trustees would be against the principle of accepting a fee burden presently provided via taxation unless the fee is a small one i.e. around £100 or so per annum. Better to pay a fee when work is required. We do not wish to subsidise local authorities.

The mechanism for ensuring VFM exists is important. The present £12.5 costs seem very high and should be tested by competitive tendering.

Yours sincerely

Dear Tim,

Please see below the B3Living response to your consultation on fees:

1. Do you think that there is an in-principle case to charge fees for regulation?

WE AGREE IN PRINCIPLE AND ON THE BASIS THAT THIS WILL ENABLE REGULATION OF THE SECTOR TO BE ADEQUATELY RESOURCED TO ENSURE THAT RISK BASED REGULATION APPROPRIATE TO THE NEEDS AND CIRCUMSTANCES OF REGISTERED PROVIDERS IS IN PLACE. THIS CAN ONLY BE A GOOD THING FOR THE SECTOR AND INDIVIDUAL PROVIDERS IN TERMS OF ASSURANCES TO FUNDERS AND PARTNERS AND A ROBUST AND VIABLE OPERATING ENVIRONMENT

2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

SOME ELEMENTS SHOULD CONTINUE TO BE FUNDED SUCH AS STRATEGY AND MANAGEMENT, ASSURANCE AND ANALYSIS AND SUPPORT FUNCTIONS

3. Do you agree we are taking the right approach to developing the principles?

YES

4. Do you agree with the proposed approach to initial registration fees?

YES – A FIXED FEE SEEMS SENSIBLE

5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

£10,000 SEEMS A REASONABLE SUM TO OBTAIN AN INITIAL REGISTRATION FOR A PROVIDER

6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

YES – NUMBER OF SOCIAL HOUSING UNITS SEEMS MOST EQUITABLE ALTHOUGH THERE IS ALSO A QUESTION OF ASSESSED RISK, SO THAT A MORE COMPLEX ORGANISATION, WHICH WOULD DEMAND MORE OF THE REGULATORS TIME, SHOULD PAY MORE FOR THE SERVICE.

7. Do you agree with the proposed approach to local authority registered providers?

YES- THERE IS LOGIC TO NOT CHARGING A FEE TO LOCAL AUTHORITIES

8. Do you agree with the principle set out for a minimum annual fee?

YES – THERE SHOULD BE A SENSIBLE MINIMUM FEE ALONG THE LINES OF THAT PROPOSED

9. Do you think that we should introduce an element of banding in the fee regime and if so why?

IF YOUR FEELING IS THAT BANDING WOULD BE LESS EQUITABLE AND MORE COMPLEX THE SIMPLER MODEL BASED ON NUMBER OF UNITS IS PREFERABLE

10. Do you agree with the proposal to charge the annual fee at group level?

YES

11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

YES

12. Do you agree with the proposed approach to transparency and accountability?

YES THIS SEEMS A SENSIBLE APPROACH

13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?

YES

14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?

NONE EVIDENT

15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?

NONE APPARENT

16. Do you have any further comments on the initial proposals set out in this discussion paper?

NO FURTHER COMMENTS

Best wishes,

**Director of Business Services and Deputy Chief Executive**

**B3Living**

Scania House, 17 Amwell Street, Hoddesdon, EN11 8TS

[www.b3living.org.uk](http://www.b3living.org.uk) | [twitter: https://twitter.com/B3Living](https://twitter.com/B3Living)

Please find my responses to this consultation

[http://www.homesandcommunities.co.uk/sites/default/files/our-work/fees\\_discussion\\_paper\\_final.pdf](http://www.homesandcommunities.co.uk/sites/default/files/our-work/fees_discussion_paper_final.pdf)  
as follows

Q1 No, regulators of private industry are in a different situation - this is like taxing a tax. Social Housing and associated regulation is a service provided through taxation by government to compensate sections of the population for exploitative low rates of pay and a badly distorted housing 'market'. For a new RP this charge would be paid from housing or other public grant and development loans. It would therefore add to the cost of providing and managing a public service.

Q2 The whole cost of regulation should be covered by grant-in-aid for the above reasons.

Q3 No - Fees in this context are less efficient and are driven by the contra-factual agenda that commercialisation is always efficient. In practice commercialism may introduce new costs into public systems which outweigh efficiencies and increase the cost to the tax payer.

Q4 Certainly a fee as great as £10,000 applied to prospective community led Registered Providers would stop them proceeding and would conflict with strong government encouragement of community led development. The CLT movement has had great success in delivering community owned schemes within normal development periods, and we now have a pipeline of new communities wanting to become RPs. The principle of charging a fee is flawed, but for the specific circumstances of community RPs, whether the fee is flat or proportionate, any fee would need to be close to symbolic reflecting the start-up resources available to community RPs.

Q5 'Risk' should not be a factor for community RPs where CLT Network enabling is secured during set up and business planning, with selected professional teams in charge of development, and collateral warranties in place - or - where schemes are delivered via leases with HAs.

Q6 The principle of charging a fee is flawed, but for small community RPs proportionality will be essential if the intention is not to entirely halt community led development.

Q7 & Q8 A minimum fee regardless of size of £300 pa - The principle of charging a fee is flawed, but for small community RPs £300 should be a maximum. The regulation involved amounts to the HCA receiving an annual statement of accounts and update letter. £300 would seem more than enough to handle this. Community led development may create more organisations for the regulator to handle, but is a small element of overall provision - and one which brings significant benefits often increasing over time for communities in the form of re-investment income, growing capacity, sustainability, sense of pride, ownership and involvement, reduced LA costs, and diverse follow on projects. This is something which the regulator should be pleased to support and actively make a case for, bearing in mind that - beyond initial registration - admin is minimal.

Q9 The principle of charging a fee is flawed, but for small community RPs banding would enable appropriate fees to be applied.

Q10 Obviously a large (£10,000) fee charged annually would not be sustainable for many community based RPs who may have modest stand-alone schemes. Those only providing shared ownership will have no income, and those with rented homes will have marginal income during the residual loan period of 25 yrs or so.

Q 11 pass

Q12 Transparency and accountability - this would require an accurate description by the regulator of the amount of work done to incur the fee.

Q13 The principle of charging a fee is flawed, but for small community RPs - if the fee is symbolic - charging annually at the start of each financial year would be fine.

Q14 Equality and diversity is threatened by not risk assessing for community based RPs

Q15 More specific stress testing for community led developments is required.

Kind regards

Community Land Trust Project Officer

Cumbria Rural Housing Trust  
Redhills House, Redhills  
Penrith, Cumbria, CA11 0DT

Please find below our response to the consultation:

**1. Do you think that there is an in-principle case to charge fees for regulation?**

Yes.

**2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

Some elements of regulatory costs should continue to be funded through grant-in-aid. Otherwise, the burden would be large enough to adversely affect providers, particularly smaller and new providers. Some elements are not the responsibility of all providers, such as reactive regulation and consumer regulation, which benefit consumers. Strategy and management are properly the responsibility of government. Support functions should also be grant-in-aid funded.

**3. Do you agree we are taking the right approach to developing the principles?**

Yes.

**4. Do you agree with the proposed approach to initial registration fees?**

Direct attribution would also disproportionately penalise new entrants to social housing, which would have the unintended consequence of stifling innovation, and smaller niche organisations.

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

The flat fee suggested of £10,000 is very high. This would place a significant barrier for smaller and newer organisations. A flat fee of £2,500 would be more realistic and not discourage new entrants.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

Yes using turnover would be unrealistic, as the total turnover for an organisation is likely to include other projects (for example, employability; health; projects fully-funded by statutory and trust funders), and expenditure, such as support. Using the number of social housing units owned is more realistic.

**7. Do you agree with the proposed approach to local authority registered providers?**

This would disproportionately increase the operating costs of third sector providers, which seems unfair. Regulation is a reassurance and benefit to consumers – who are in LA registered provision – and as an indicator that the provider meets industry standards (eg for funding bids). LA registered providers would also benefit from both these, so it seems only fair that they also contribute through fees.

**8. Do you agree with the principle set out for a minimum annual fee?**

Yes.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

Yes. If there is a flat fee, the burden is disproportionately high on small providers. They already face higher per unit costs for central services such as HR, finance, strategic direction and senior management.

**10. Do you agree with the proposal to charge the annual fee at group level?**

No. This would encourage the formation of ever-larger groups, and possibly even groups that exist purely to minimise fees.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes. It is simple and clear.

**12. Do you agree with the proposed approach to transparency and accountability?**

Yes. Transparency and accountability are important.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

High initial fees would make it almost impossible for some smaller niche providers, and/or user-led providers, to become registered. Housing that meets the needs of specific groups is more likely to be provided by smaller / user-led providers.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

Head of Communications & Strategy  
DHT  
33 Boyer Street  
Derby  
DE22 3TB

Thanks for the opportunity to comment on the paper.

1. The case for Fees

It is hard to argue against the principle though it does look like Government looking to reduce its costs at the expense of the private sector. Originally we had understood that fees may help to pay for additional resources. This paper looks like a naked proposal to pass the costs of all regulation to us. You indicate that other sectors pay fees and you already have the legislative permission. I certainly like the idea that paying for regulation gives us the chance to challenge the regulator on efficiency and effectiveness. In practice I think those who are regulated and in receipt of funds find it very hard to be critical of the regulator/funder!!!

If fees are to be introduced can I plea for a phasing? The sum may not be that significant for a medium sized social landlord such as Derwent but in the last 5 years we have borne down heavily on our cost base reducing operating costs to below 50% of turnover and staffing levels from 250 to 130 FTE. We take the view that every pound of surplus/profit is used to cross subsidise the construction of new homes often without grant. We can produce an extra new home with circa £20,000 cross subsidy. In addition to regulatory fees we already have Ombudsman fees (£20k per year), NHF fees (£35k per year) then various affiliations such as the Chamber of commerce and potentially the CBI. These sums all add up and in our drive to cut costs we will have to review all of this.

If the fees are phased in over 2 or 3 years then we can adjust our budgets.

2. Full cost or some via grant in aid?

My first point makes the case that grant in aid should continue to cover some of the cost of regulation. Reactive and consumer regulation costs should not be borne by all nor should registration costs which should attract a fee in themselves

3. Right approach to the principles

Yes, we agree that you are taking the right approach to the principles

4. Approach to the fee calculation

We agree that a fixed fee is best for new registrations at £10,000

5. Other factors and level of initial fee

No additional comment

6. Approach to Annual Fee

Provider size is the correct approach. The number of social units owned is the right calculation. How do you define 'social'? I would argue that it should only be grant funded

units for social/affordable rent. You should not include shared ownership or intermediate 'try before you buy'. We have a number of nil grant section 106 homes and a number rented out at social/affordable levels of rent where there was no grant or section 106. These definitions are critical and will presumably be based on NROSH.

#### 7. Local Authorities

Not sure about this. Why should private providers pay the cost of regulating LAs even if this is only consumer issues. It could be that you will need to spend resources on a rash of cases in poorly performing LAs. Whilst zero fee might be a starting point it must surely be kept under review?

#### 8. Minimum Annual Fee

Yes, happy with this at £300

#### 9. Banding

Do not introduce this. It is complicated. A per unit fee is fairer.

#### 10. Annual fee at Group level

Yes.

#### 11. Annual Fee at full year cost even if only registered for part of the year.

Yes, agree with this.

#### 12. Transparency and Accountability

This is a key area. We are striving hard for VFM. These fees will be fixed to a single provider. We won't have any choice. But we must have the ability to question services and VFM *without fear*.

#### 13. Fee payment

Happy with the proposal

#### 14. Equality and diversity

No issues evident

#### 15. Impact of fees

I have set out our concerns in my opening paragraph. Any additional costs for us reduces our ability to build new homes. In itself the fee might appear insignificant and the numbers of new homes lost might be small but the aggregate calls on Housing association budgets are significant and across the sector this would add up to a **major** burden. Derwent could produce between 600 and 700 new homes for the total regulation budget of £12.5m!!!!

#### 16. Further comments

None

Chief Executive  
Derwent Living

Please find below the comments of Festival Housing in response to the HCA discussion paper on Charging Fees for Social Housing Regulation.

- (1) Do you think that there is an in-principle case to charge fees for regulation?**  
We agree in principle with the case for charging fees but only on the basis that this is used to enhance the quality of regulatory services and promote the importance of the role of housing associations with the government.
- (2) Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**  
In order to keep the costs to a reasonable level we think some elements of regulatory costs should be met through grant-in-aid.  
If full costs were recovered based on size/stock-holding this would place an unreasonable financial burden onto providers would be counter to the HCA's VFM principles.
- (3) Do you agree we are taking the right approach to developing the principles?**  
Broadly yes
- (4) Do you agree with the proposed approach to initial registration fees?**  
Yes
- (5) What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**  
N/C
- (6) Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**  
Yes but additional charges should be made for providers with more complex and risk taking activities which requires greater regulation.
- (7) Do you agree with the proposed approach to local authority registered providers?**  
As LA's are not regulated by the HCA we agree to this approach
- (8) Do you agree with the principle set out for a minimum annual fee?**  
Yes
- (9) Do you think that we should introduce an element of banding in the fee regime and if so why?**  
No but we agree that there should be a minimum fee for all providers
- (10) Do you agree with the proposal to charge the annual fee at group level?**  
Yes
- (11) Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**  
N/C
- (12) Do you agree with the proposed approach to transparency and accountability?**  
Yes

**(13) Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes

**(14) Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we taken them into account?**

N/C

**(15) Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

N/C

Chief Executive  
Festival Housing

As a small association but with varied services including registered care we would not want to be paying HCA as well as CQC for regulatory requirements. We all also have to pay the Housing Ombudsman and so regulatory fees are therefore a major issue for us.

If there has to be a payment it should be based on unregistered beds / units only and to be at the lowest level possible.

Regulation payments must also give us a benefit for the cost involved. I would want to have in return at least some clear support for us in terms of assessment which is suitable for financial institutions – it should take our housing with support offer into account - and preferably some publishable assessment of service quality.

Regulation benefits with additional costs have to outweigh the benefits of deregistration and further costs do not help us to stay registered

I hope this is of use

Chief Executive

**Field Lane  
2<sup>nd</sup> Floor, Victoria Charity Centre,  
11 Belgrave Road  
London SW1V 1RB**

Sent on behalf of Chief Executive, First Wessex

Thank you for the opportunity to comment on your discussion document, 'Charging fees for social housing regulation'.

First Wessex has no detailed comments to make but believes that regulation should be funded out of general taxation rather than by the not for profit organisations which comprise the sector. We therefore do not believe that there is an in-principle case for charging fees. As with many Registered Providers, we are proud of our track record of delivering surpluses which then are ploughed back into the provision of new homes. As an illustration, we are, in theory, able through the generation of surpluses to build homes, at affordable rent without grant, by financing the grant element through borrowing. As an estimate, the financing of a loan for this replacement-for-grant element would typically cost £1500 per property. The payment of fees to the regulator would, pound for pound, reduce our ability to deliver homes in this way.

If the proposal is to be taken forward we would a) seek assurance that the fees raised by central government would be reinvested wholly in new subsidised homes for those in need, and b) would take the view that the most appropriate calculation of the fee payable should be by reference to the number of social housing units owned by the provider.

Thank you for the opportunity to express our views.

Kind regards

Chief Executive  
First Wessex

Thank you for the opportunity to comment on the HCA's proposals to charge fees for social housing regulation.

We understand and accept the change to a fee system albeit we are concerned about the overall cost. And keen to keep it as low as possible.

We agree with the Value for Money approach and this will be important in demonstrating that the HCA is doing a good job.

More clarity on the mechanisms by which RPs can hold the HCA to account would be helpful, especially in disputes.

In general our board agrees with the direction of travel.

Kind regards,

**Policy and Research Manager**

Flagship  
Keswick Hall, Keswick, Norwich, NR4 6TJ

## **RESPONSE TO HCA FEES CONSULTATION DISCUSSION PAPER**

Thank you for giving us the opportunity to express our views on the HCA proposals put forward in your discussion document “Charging Fees for Social Housing Regulation”. We are a registered housing provider with less than 1000 units. Greenoak is also a member of SHAPE (Small Housing Associations Pursuing Excellence). SHAPE members have discussed the fee proposals and have agreed to co ordinate elements of their response. Though the views expressed in this response are very much our own, you may find that several SHAPE colleagues are making similar or identical points.

### **General points**

**The discussion document makes the general point that charging for regulation is common practice in a number of business sectors. However there is no exploration of the success of this approach.** The public is aware of some notable failures of regulation in recent years, eg. the banking sector and the press. It is not necessarily the case that the regulated paying for their own regulation yields positive results. This applies especially when a number of very large players dominate the market. The reputation of the social housing sector has so far remained relatively good and it is vitally important that it remains so.

**The discussion paper makes no reference to the difference between “not for profit” and “for profit” providers.** This will be an increasingly important distinction in future as the sector diversifies and new intermediate types of rented housing come on the market. If fees are to be charged this could be an important distinction: for a start the “for profit” provider could off set the cost of fees against tax liabilities which the “not for profit” provider can not.

**The discussion paper makes no reference to the many RPs that are also care providers and already pay regulatory fees to the Care Quality Commission.** Thought needs to be given to how that may impact adversely on such providers in terms of the overall burden of regulatory fees. This particularly applies to small providers who will get caught out by charges from both regulators.

Q1

The case against provider paying for regulation:

The public is protected and so the public should pay

The government’s investment is protected so the government should pay

If the regulated pay for their own regulation they (especially the dominant players) can put undue pressure on the regulator both to keep fees down (eventually leading to poorer quality) and to water down regulatory judgements.

Q2

If fees are to be introduced, some elements should continue to be funded through grant in aid. This particularly applies to those elements of regulation which include local authorities if the

decision is taken to exclude them from any charges which are introduced. (consumer regulation and any others that apply). Looking at the list of activities (Table 2) other candidates for grant in aid are registration and deregistration, consents, strategy and management and a proportion of the support functions.

Q3

The items listed as being of particular relevance in developing a reasonable approach are acceptable: clear and succinct.

Q4

The question of charging for initial registration is quite complex and much depends on what type and size of organisations are likely to apply for registration in future. It is not something on which we feel qualified to comment at this stage.

Q5

As above for Q4.

Q6

If fees are to be charged then there is merit in basing the charges on something where data is easily obtainable, verifiable and not open to dispute. "Number of social housing units owned" meets these criteria and it is tempting to select it as the preferred option. However, it takes no account of a number of important factors which will affect the financial burden of the fees on the organisation and the perception of "reasonableness":

Some RPs charge much higher rents than others: either because of regional differences in "target" rents and/or because of the proportion of their homes now being let on affordable or intermediate rents of various kinds. A flat rate unit fee will impact much more on an RP in the north west with mostly social rented homes than it will on a provider in London or the south east providing affordable rented as well as social rented homes. Consideration should be given to basing fees on the rental and service charge income from the social housing units owned by each provider.

The HCA has recently taken a new light touch approach towards small providers: those with less than 1000 units. As these small providers receive a lower level of regulatory input they should pay a lower level of fee in proportion to whatever charging criteria is eventually selected.

Q7

The answer to this question depends on whether or not those elements of regulation to which local authority housing is subject ( and the associated overheads) are paid for by grant in aid or not. If paid for by grant in aid the approach is reasonable: local authorities cannot be expected to pay for regulation that they are not subject to.

Q8

Rough calculations show that if the whole current cost of regulation (stated to be in the region of £12.5 million) were shared equally among all RPs with stock, the cost would be about

£4.90 per unit. This calculation is based on figures provided by the HCA from the statistical release 2013, which reveal that in 2012-13 RPs (including 124 shown as having no stock holding) owned 2,550,431 units.

At a unit cost of £4.90 the break even point for a minimum flat rate fee of £300 would be 61 units. If, say, half the cost of regulation were met by grant in aid the unit fee would be £2.45 and the break even position with a flat rate minimum fee of £300 would be 122. Given the cost of “ individual” invoicing consideration should be given to raising the threshold below which a flat rate fee would apply – say to 500 or 1000 units.

Q9

Given the arguments set out above and the points made in paragraph 46 of the discussion paper (smaller providers are regulated less intensively than larger ones) further consideration should be given to introducing a banding system for charging regulatory fees to providers with less than 1000 units. The proposal should not be dismissed at this early stage of the consultation process. So the answer to the question is provisional YES and the reasons are that it provides a mechanism for lessening the financial burden on those Associations that are regulated less intensively than the others.

Q10

This question is one that we have no informed views on, not being in a group.

Q11

This question is one of detail and has minimal financial impact so we have no comment.

Q12

Transparency and accountability is something we should all strive to achieve whether or not fees are charged.

Q13

The approach seems reasonable. If using DDs there should be an option to pay quarterly and spread the cost.

Q14

As many specialist and ethnic minority RPs are small, any charging regime that impacts adversely on small providers is likely to impact disproportionately upon them.

Q15

The potential impacts not considered in this discussion paper are:

The potential for a few dominant providers to exert undue influence on the regulator because they are largely funding it. Under the proposed fee structure the 68 largest RPs pay over half the cost of regulation for the entire sector. There is a known risk, demonstrated by recent events in the financial services sector, credit rating issues in particular.

This risk should be mitigated by ensuring that no provider pays a proportion of the total regulatory bill sufficient to influence the regulator. One way to achieve this is to ensure that

a substantial proportion of the overall bill is paid by grant in aid.

**Q16 The discussion paper makes no reference to the difference between “not for profit” and “for profit” providers.** This will be an increasingly important distinction in future as the sector diversifies and new intermediate types of rented housing come on the market. If fees are to be charged this could be an important distinction: for a start the “for profit” provider could off set the cost of fees against tax liabilities which the “not for profit” provider can not.

**The discussion document makes the general point that charging for regulation is common practice in a number of business sectors. However there is no exploration of the success of this approach.** The public are aware of some notable failures of regulation in recent years (the banking sector and the press to name but two). It is not necessarily the case that the regulated paying for their own regulation yields positive results. The reputation of the social housing sector has so far remained relatively good and it is vitally important that it remains so.

**The discussion paper makes no reference to the many RPs that are also care providers and already pay regulatory fees to the Care Quality Commission.** Thought needs to be given to how that may impact adversely on such providers in terms of the overall burden of regulatory fees, particularly for small providers who may get caught out by flat rate minimum charges from both regulators.

Yours sincerely

Chief Executive

Dear Sir or Madam

Please find below LIFE's comments on the proposals set out in the above discussion paper:-

1. LIFE provides only short term supported housing for vulnerable young mothers. The introduction of regulation fees will result in these costs being passed on to vulnerable tenants even though it is a service which benefits all sections of the community. For this reason we believe that the costs of regulating Registered Providers who only provide supported housing should continue to be met through grant-in-aid from the Government.
2. LIFE is a charity with only a very small number of supported housing tenancies (65). Services are delivered using staff and volunteers and each project is linked into the local community with a supporter group. As a further sign of supporting the voluntary sector and the Big Society agenda, the Government should cover regulation costs using the grant-in-aid route.
3. With such a small number of units the financial benefits of regulation are negligible. The example given in the discussion paper of cheaper borrowing costs for RPs as a result of regulation does not apply to charities like LIFE.
4. The same principles argued for not charging LAs an annual fee for regulation – ie that the role is limited to considering breaches of consumer standards and the risk is very low, also applies to very small RPs. Other than being listed on a register, there is little or no work created by charities such as LIFE with 65 units.
5. For all these reasons we would object strongly to the imposition of a £300 minimum fee for a regulation service. We would argue that the costs of regulating smaller providers should be covered by grant-in-aid. Alternatively, a new threshold should be introduced to distinguish organisations such as LIFE from RPs with over 100 or 500 units.

Head of Housing  
LIFE House  
1, Mill Street  
Leamington Spa  
CV31 1ES

I am e-mailing in response to the discussion paper in relation the charging fees for housing regulation. By way of background, Midlands Rural Housing is a specialist rural enabling and service provider. We are subsidiary organisation of a larger HA and directly support 3 ,small, County - based rural housing associations. It is the context of a small, rural, HA that I am responding.

Specifically, I am responding to the following questions;

Q1 – We feel that there is case for the regulator to charge fees, but this should be on the basis such fees are proportionate to the level of regulatory activity. It would also require the regulator to operate in a transparent way, and to take on board stakeholders views in determining its regulatory priorities. On the basis that fees are part of “something for something” approach, and they are related to the anticipated level of engagement with a particular provider, it is something we would be comfortable with as small provider.

Q6 – We would agree that provider size should determine the level of annual fee. This would seem the most fair and equitable way of progressing this element of the fee structure. If the regulatory engagement for smaller providers (ie; those below 1000 units) is to be minimal, and only in response to particular concerns (as per Regulating the Standards -2014) it would be inappropriate for a flat rate fee to be applied, which would financially disadvantage such providers, for no “gain”. Units in ownership seems to be logical way forward, however, the fee level for small HAs, given the likelihood of minimal engagement, should be kept low - possibly less than the £300 suggested in the discussion paper.

I hope this response is helpful.

**Midlands Rural Housing**

**Whitwick Business Centre | Stenson Road | Coalville | Leicestershire | LE67 4JP**

Our committee discussed the issues outlined in the consultation at their meeting last night.

There was concern that charging for regulation would deter new, especially small social housing providers, especially at this time when the demand for affordable housing is increasing.

It was felt that if charging fees goes ahead, then provider size is a suitable basis for determining the level of annual fee. However it was felt that a bottom of tier of below 1,000 properties was too high. We have 90 tenancies and might struggle to pay the same amount as someone with 10 times our number of social housing units.

Regards,

On behalf of New Longsight Housing Co-op Management Committee.

Thank you for the opportunity to respond to your discussion paper.

Our preference would be that the HCA continue to be funded by the government only. As a small Registered Provider any fees would be a financial burden to us.

However, if you conclude that you will press ahead and charge fees our preference is for a fee structure based on size (number of units in management).

Regards

Director of Housing  
North London YMCA  
184 Tottenham Lane  
London N8 8SG



Please see below from Paragon Community Housing Group in response to the discussion document on fees.

1 *Do you think that there is an in-principle case to charge fees for regulation?*

The discussion paper is not convincing in its in-principle case to charge fees for regulation. The idea that providers might be more efficient and effective as a result of changes to how the regulator is funded is not proven. The benefits to RPs from lower borrowings costs as a result of regulation are less relevant now because since the financial crisis lenders are more focused on the availability of high quality assets as a security in order to offer competitive deals rather than relying on the benefits of regulation. Also there are now non-registered providers, albeit of smaller size that develop less, that now also have access to government capital funding.

A regulator that is not directly funded by government would be more likely to seek to move away from its core purpose if that opportunity arises and consequently to expand its activities and costs. The reference to transparency arrangements in the discussion paper needs further detail to make the case that the regulator would be accountable to RPs.

If DCLG require the regulator to charge fees then a flat fee of approximately £1000 could generate a significant income to supplement the grant in aid budget. However, we are concerned that this would be at the expense of providing landlord services.

2 *Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?*

The cost of the Regulator should be fully funded through grant-in-aid. The regulator's corporate overheads are likely to remain irrespective of the quantity or quality of the regulation and RPs are unable to influence these overheads.

Regulatory activities are undertaken for the benefit of the government and should be funded by the government. The government could consider providing all support functions through the sponsoring Department.

The cost of reactive regulation by its nature cannot be budgeted for by the regulator despite various early warning systems developed over time. Therefore consideration could be given to the cost of reactive regulation being paid for by RPs that do not comply with the Governance and Viability Standards. An effective regulatory framework should not see many such examples.

3 *Do you agree we are taking the right approach to developing the principle?*

The above has made the case for not charging fees.

4 *Do you agree with the proposed approach to initial registration fees?*

We think there is no case for charging any fees. The grant-in-aid budget could include a provision for a certain number of registrations based on an estimated average cost for each.

- 5 *What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?*

The government encourages a range of diverse RPs to flourish in the RP sector. The grant-in-aid budget could include a provision of an estimated number of registrations based on an estimated average cost.

- 6 *Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?*

We think there is no case for charging any fees. Option 3 is more consistent with the regulatory framework. All RPs with G1 and V1 assessments should not pay, and other RPs with different ratings should pay an escalating level of fees in line with any reactive regulation undertaken. The fees should not be based on the number of units.

- 7 *Do you agree with the proposed approach to local authority providers?*

We think there is no case for charging any fees to local authorities, nor is there a case for fees charged to other RPs which would then subsidise the regulation activities in respect of local authorities. Our tenants would be likely to have a strong view on this approach.

- 8 *Do you agree with the principle set out for a minimum annual fee?*

As noted above, if fees are charged then a flat fee of, maybe £1,000 for all RPs, could be applicable.

- 9 *Do you think that we should introduce an element of banding in the fee regime and if so why?*

We think there is no case for charging fees. However, if it is necessary then RPs who do not have a G1 or V1 rating should pay an escalating level of fees in line with any reactive regulation undertaken. This is to reflect that the stewardship of non-G1/V1 consumes more regulatory resources.

- 10 *Do you agree with the proposal to charge the annual fee at group level?*

We think there is no case for charging fees. However, if the Regulator must charge fees then they should be charged to individual RPs in order that the fees are completely transparent to tenants.

- 11 *Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?*

We think there is no case for charging fees. However, if the Regulator must charge fees then we agree with the proposal.

- 12 *Do you agree with the proposed approach to transparency and accountability?*

There is no detailed information in paragraphs 56, 57 and 58 about this question. There is no robust commitment that the Regulator will be accountable to the fee-payer. There is a danger in that the Regulator will prepare a complicated cost structure to reflect different aspects of the regulatory framework, and that this may lead to an increase in costs.

- 13 *Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?*

If the Regulator does charge fees the timing of fee invoice is not an issue for PCHG.

- 14 *Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?*

It is likely that for smaller and specialist RPs the fees will become a significant amount of additional burden.

- 15 *Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?*

The fee would impact on resources for front-line services in order to pay fees and/or impact on development capacity. If, for example, the total regulation cost of £12.5m was sourced from RPs then they will forgo a capital programme of £250m per annum (all inclusive borrowing cost at 5% would equate to £12.5m).

- 16 *Do you have any further comments on the initial proposals set out in the discussion paper?*

The RPs already pay fees to the trade body, the Housing Ombudsman and credit rating agencies. The regulator's fee is an additional burden with a disproportionate impact.

## **Business Assurance Manager**

Case House, 85-89 High Street  
Walton-on-Thames, Surrey, KT12 1DZ

Penge Churches HA is a small registered provider working in SE London. We have only 264 homes in management. Our views on the proposals regarding fee charging are set out below:

Question 2:

We think it would be reasonable for Government to continue to fund at least the Strategic & Management, Assurance & Analysis, and Support functions related to regulation – rather than for the full burden of these costs to fall on registered providers.

Question 6:

We agree with option 4 i.e. that the fee should be set in line with the number of units owned by a registered provider.

Question 8:

We accept that there should be a minimum fee but this should be no more than the £300 suggested.

Question 9:

We do not think an element of banding would be a good idea but a simple per unit calculation should be used, including for providers with fewer than 1000 units. i.e. we would not want to be charged the same as an association with 950 units.

Question 13:

Invoicing at the beginning of the financial year would be acceptable as long as the cost is known by the end of the previous calendar year to enable budget setting.

Overall we would want to stress that any additional costs must be proportionate to the level of regulatory engagement and service provided by the HCA, which in the case of a very small provider like Penge Churches HA is minimal. This will represent an additional cost to us at a time when we are trying very hard to make best use of our resources for the benefit of our tenants in our local community.

Kind regards

Chief Executive  
Penge Churches HA  
[www.pengechurchesha.org.uk](http://www.pengechurchesha.org.uk)

Phoenix Community Housing welcomes the opportunity to comment and provide views on the potential of a fee charging scheme for social housing regulation.

Please see our response below to the consultation questions. Should you have any queries or require additional information, please do not hesitate to contact me.

Kind Regards

Service Improvement & Scrutiny Manager

**Phoenix Community Housing**  
[www.phoenixch.org.uk](http://www.phoenixch.org.uk)

Hi Tim

In responding to the discussion paper on charging fees for regulation I'm just going to provide Sentinel's stance rather than respond to the detailed questions as our views would have been reflected in the Placeshapers response to you.

Our view is that a charge would be acceptable if it improves the regulatory service.

Regards

-----  
**Company Secretary**  
**Sentinel Housing Association**

The Government is trying to save money, good for them but the target they have selected is being overwhelmed. I have a monthly battle to get my unpaid Trustees not to quit. Our Almshouses are mainly listed, cost a fortune to Maintain and grants are diminishing off the map. We need positive help, not fees.

Sorry for the rant but I do not have time for this.

Chair United Charities

This e-mail details Teign Housing's response to the consultation paper on charging fees for regulation.

**Question 1** Do you think that there is an in-principle case to charge fees for regulation?

Yes. It is reasonable that our model mirrors that of regulation in other sectors. The argument that providers receive a number of benefits from being part of a regulated sector is completely accepted. As an organisation that has recently re-financed we understand and appreciate the value of regulation when seeking new funding, primarily for the confidence that this gives the lenders and the consequent added value this provides to the cost of borrowing.

**Question 2** Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

Yes, ideally the Regulator should be as independent of Government as possible. These proposals appear to only cover current operating costs of around £12 million. For the Regulator to be effective and able to respond to an ever changing environment it has rightly, recognised the need to attract and retain high calibre staff. Successful organisations need to have the financial capacity to react to change and basing operating costs solely on current levels seems to deny this. There is still some way to go to refresh the organisation with the calibre of staff desired and to fill an unacceptably high vacancy rate. To set fees at a level that could hinder organisational improvement and good performance does not seem the best way of progressing.

**Question 3** Do you agree we are taking the right approach to developing the principles?

Yes.

**Question 4** Do you agree with the proposed approach to initial registration fees?

Yes. A fixed fee as proposed seems the best option.

**Question 5** What other factors should we consider in setting the initial registration fee?

What level of initial registration fee would not discourage new entrants?

Covering costs should be an absolute minimum. Perhaps an additional amount reflecting the turnover of the proposed new entrant could be a way of further maximising income.

**Question 6** Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

Yes and yes. The principle of fees based on homes owned is already accepted practice for fees elsewhere in the sector e.g. National Housing Federation membership. Interestingly, the cost of NHF membership for us is not that far off what we are likely to be charged. There seems to be undue resistance from some about paying for regulation yet acceptance of fees for other organisations.

**Question 7** Do you agree with the proposed approach to local authority providers?

No, this initial view seems overly sensitive and cautious. You are the housing regulator covering RP's and LA's, this is a source of income and they should be charged. It is unlikely that your regulation role will be diminished for LA's in the foreseeable future therefore fees should be set at a level to at least recover costs.

**Question 8** Do you agree with the principle set out for a minimum annual fee?

Yes.

**Question 9** Do you think that we should introduce an element of banding in the fee regime and if so why?

No.

**Question 10** Do you agree with the proposal to charge the annual fee at group level?

Yes.

**Question 11** Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

Yes.

**Question 12** Do you agree with the proposed approach to transparency and accountability?

Yes. Absolutely vital for the integrity of the Regulator that it is bound by the standards that it expects of those that it is regulating. Additionally it would be helpful if as part of this process if the Regulator is able to identify and explain, preferably in cash terms, the value it brings to the sector in reduced borrowing costs.

**Question 13** Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?

Yes.

**Question 14 , 15,**

No

**Question 16** Further comments.

The introduction of fees will change the nature of the relationship between providers and the Regulator. Might there be a need for an arbitration/appeals process in the event of challenge against regulatory decisions?

Kind regards  
**Chief Executive**

Teign Housing, Millwood House, Collett Way, Newton Abbot, TQ12 4PH

Please see below The Abbeyfield East London Extra Care Society Ltd H3860 response to Charging Fees for Social Housing, a discussion paper;-

*Q1. Do you think that there is an in-principle case to charge fees for regulation?*

Yes, this is becoming the norm for all regulation. However, as a residential home, I think, your charges should reflect the fact that;-

- a) we are also regulated by CQC
- b) your input compared to theirs is minimal.

*Q2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?*

Some cost should be funded through grant-in-aid.

*Q3. Do you agree we are taking the right approach to developing the principles?*

I would question these principles on the following grounds;-

- 1) I can see no reason for an initial registration fee to cover work that is already taking place
- 2) The fee should be based on number of units, but as in Q1. I feel there is a distinction to be made between residential home units and others.
- 3) I can see no reason for local authorities to be treated differently to other providers.

*Q4. Do you agree with the proposed approach to initial registration fees?*

No. See answer to Q3

£10,000 to an association like us with an annual turn over just over £1m is very significant. Large providers will scarcely notice it.

*Q5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?*

If local authorities are to be excluded because of your limited involvement, I would suggest residential homes for the elderly should be similarly treated as your involvement with us is limited, if not more so. The standards you set would already be demanded by CQC, and the local authorities who are our customers.

*Q6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?*

We would strongly favor direct attribution even better. CQC would cover us in all respects and you would be relieved from covering an area that is, like hospitals, outside your usual remit.

*Q7. Do you agree with the proposed approach to local authority registered providers?*

No see previous comments.

*Q8. Do you agree with the principle set out for a minimum annual fee?*

Definitely favor banding - otherwise the charges you would make could put 44 room residential dementia homes like us who work on tight margins out of business. Yet we provide a service that is not large enough to meet national needs.

*Q9. Do you think that we should introduce an element of banding in the fee regime and if so why.*

See above.

*Q10. Do you agree to the proposal to change the annual fee at group level?*  
Depends how you define your groups - Abbeyfield collectively rather than individual societies might be acceptable.

*Q11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?*  
No real comment. If we were registered for only part of a year it would be because we have closed.

*Q12. Do you agree with the proposed approach to transparency and accountability?*  
The greater the transparency the better. Especially as to believe it would show your involvement with us to be minimal.

*Q13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?*  
No comment.

*Q14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?*

*Q15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?*

*Q16. Do you have any further comments on the initial proposals set out in this discussion paper?*

Q14 - Q16. As indicated several times, I believe residential care homes are a special case, where levels of your work is done or could be done by CQC and local authority customers. The work you have done with us to date is minimal.

Regards

Chair of Trustees  
The Abbeyfield East London Extra care Society Ltd

Please see responses below from The Abbeyfield Society. Please direct any further correspondence to Melanie Snape.

Q1. No

Q2. N/a

Q3. N/a

Q4. N/a

Q5. Any level of fee will clearly discourage new entrants.

Q6. N/a

Q7. Do not agree. If fees apply, they should apply to Local Authorities as well.

Q8. No

Q9. No

Q10. If fees have to be charged then it should be at group level.

Q11. No

Q12. N/a

Q13. If fees have to be charged the timing of invoicing is not relevant.

Q14. N/a

Q15. We are a charitable organisation and if we have to pay fees the ultimate effect will be that there is an increase in the charge to residents.

Q16. No

Regards

Chief Operating Officer

Abbeyfield, St Peter's House, 2 Bricket Road, St Albans, Herts, AL1 3JW

I apologise for contacting you after the consultation period has technically closed but my board wish to make a simple point:

If and when fees are charged it will raise expectations of the regulator and RPs will expect the sort of responsiveness and performance criteria that the regulator expects of them.

Regards

*Company Secretary and Head of Legal/Regulation  
The Wrekin Housing Trust*

Dear Sir

I appreciate this reply is after the desired response date but I submit a few comments on behalf of a small Almshouse Trust in rural Dorset.

Understanding the financing issues you face in these budget restricted times I would however point out two issues that are of great concern to us:

- Since we are already registered with the HCA (A0069) we assume we would not have to pay a registration fee which in our case would represent over 50 % of our total annual income? However I put forward a request that other Almshouse Trusts, many of whom will be of a similar size - we only have four units housed in a Grade 2\* Jacobean building - who are not so registered would find it near impossible to fund such a fee and maintain viability. We have been very fortunate to have been in receipt of grant aid from your predecessor the Housing Corporation - enabling the Trust to achieve the Decent Homes Standard - without which the Tregonwell Almshouses would certainly be at risk.
- An annual fee of £300 would represent an increase of some 35% on our expenditure budget, being fixed costs required annually to Statuary and other bodies, restricting again the Trusts ability to maintenance costs associated with our much loved but ancient building and ensuring our elderly Residents have good accommodations in their twilight years.

We believe that the Trust continues to fulfil a worthwhile role within our community and earnestly request that the HCA & TSA consider carefully these points at the consultation phase to ensure that this voluntary sector is not sacrificed.

Sincerely

Clerk to the Trustees

pp and on behalf of the Tregonwell Almshouse Trust

As requested, we're responding to your discussion paper on HCA fees. We don't have a fundamental problem with the introduction of fees, as we clearly benefit from being regulated, but we would make the following points:

- we agree that the most appropriate basis for determining the level of annual fee should be based on the number of properties the organisation owns
- we accept that if the minimum fee is restricted to the level proposed (£300) the application of minimum fees would be an acceptable approach, but we don't feel that this would be equitable if the minimum fee was set at a much higher level
- We agree that if fees are charged, there will be a much greater need for transparency – and indeed accountability back to the organisations paying the fees, so it is essential that appropriate mechanisms are put in place to achieve this

I hope that our views are helpful

Chief Executive, Two Saints Limited,

This is simply to confirm that York Housing Association has read and agrees wholeheartedly with the Placeshapers response to the above paper. As a member of Placeshapers we would like you to consider their response as our individual Association's response too.

Thanks

Regards

**Chief Executive**  
York Housing Association

**Regulatory Framework Manager**

Homes and Communities Agency  
The Social Housing Regulator  
Maple House  
149 Tottenham Court Road  
London  
W1T 7BN

Date: 20.03.14

**HCA Consultation: Charging Fess for Social Housing Regulation**

Thank you for providing us with the opportunity to provide you with feedback on the proposed introduction of charging fees for the regulation of social housing. Our comments are as follows:

**1. Do you think that there is an in-principle case to charge fees for regulation?**

We can see how there might be justification for a contribution by RPs towards the cost of regulation, if additional charges result in:

- a) demonstrably improved Value for Money to our tenants, for example time-saving initiatives, whereby some of the administration or other tasks would be streamlined, or fall to the HCA, relieving some of the regulatory burden to the Association;
- b) improved quality of the regulatory service received, in terms of enhanced service level agreements, or on-line facilities, to justify the additional expenditure.

**2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

We believe that it is extremely important that central government continues to show direct input of public funding into the regulation of the housing sector. At the present time, in the midst of the Welfare Reforms and a shortage of affordable homes, more than ever Government must be seen to uphold commitment to the Social Housing sector. The implication of visibly withdrawing central funding support of the regulation of the sector would be very negative and we would suggest an increase in the grant-in-aid received by the Regulator.

**3. Do you agree we are taking the right approach to developing the principles?**

We agree that pre-consultation dialogue ought to assist the HCA in refining the principles of their approach. We do not however agree that funding of the Regulator should be withdrawn by DCLG. Any additional funding generated via a fees structure should supplement the existing resources of the Regulator, currently received as grant-in-aid.

**4. Do you agree with the proposed approach to initial registration fees?**

We believe an initial registration fee of £10,000 is too high and that this proposal should be reduced. It may serve as a barrier to entry. We do not agree with potential fees for de-registration as included at the beginning of the discussion paper.

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

A fee of up to £5,000 would be less discouraging.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

We agree that size of RP, based upon the number of units owned, should be a guide in determining fee levels, if they are introduced. However, there should be a sensible upper and lower cap on fee levels.

**7. Do you agree with the proposed approach to local authority registered providers?**

We believe that any fee proposal should apply to all regulated entities; however Local Authorities' contributions should be funded by central government and not result in a reduction of Local Authority resources.

**8. Do you agree with the principle set out for a minimum annual fee?**

We agree that there should be a sensible upper and lower cap to the fee structure, should one be introduced.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

We think that multiple banding could be an optional way to charge fees in proportion to an RPs' size, measured by number of units owned, as an alternative to a fee per unit approach. It should not be based on turnover. The bands would need to be fairly narrow however, in order to reduce the impact on a developing RP moving from one band into the next.

**10. Do you agree with the proposal to charge the annual fee at group level?**

We agree with this principle.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

We agree with this principle.

**12. Do you agree with the proposed approach to transparency and accountability?**

We agree that the Regulator would need to become more accountable to its customers, the RPs, under the proposal to charge fees. Although the discussion paper does not contain details about how RPs would be involved in the design and monitoring of the

delivery of these services, such involvement would be welcomed, particularly around regulation priorities, to ensure adequate value for money.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

We agree with this approach. However, the annual fee should be made known during the preceding October, to ensure that the cost can be adequately provided for within RPs' budgeting and financial planning cycles.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

No comments.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

We believe that the paper fails to take into account the public's perception, and the perception of the Housing sector, of the withdrawal of public funded regulation.

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

No further comments.

Please do not hesitate to contact me, should you have any queries or require further information on any of the above.

Yours sincerely,

**Executive Director of Corporate Resources**  
Estuary Housing Association Ltd

## **THIRTEEN GROUP**

### **RESPONSE TO HCA DISCUSSION PAPER – February 2014**

#### **CHARGING FEES FOR SOCIAL HOUSING REGULATION**

##### **Q1 – Do you think there is an in-principle case to charge fees for regulation?**

No – whilst the reasons behind the proposals are understood, there is also an argument that as this relates to **social housing** providers, regulation should continue to be (part) funded by the Government.

Registered providers are already suffering from reduced income and increased costs as a result of Government initiatives such as Welfare Reform, and the introduction of fees will ultimately have an impact on some of the most vulnerable members of society.

In addition, there are no obvious tangible benefits for providers as a result of paying fees. There is little evidence to back up the claim that providers receive lower borrowing costs from being part of a regulated sector. Most lenders would still do their own due diligence.

##### **Q2 – Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

The argument from Q1 applies.

If charges are to be applied, these should not cover reactive and enforcement activity, and/or non-compliant organisations should pay additional fees, perhaps capped, to reflect the fact that greater resources are directed at them.

##### **Q3 – Do you agree we are taking the right approach to developing the principles?**

Yes

##### **Q4 – Do you agree with the proposed approach to initial registration fees?**

(A fixed fee should apply to all successful applications for initial registration)

Yes. Potential £10k registration fee could prevent smaller organisations registering, but as organisations should be of sufficient size to ensure their viability and ability to protect public money, the charge should not be an issue.

HCA would perhaps need to consider other ways to support smaller organisations.

##### **Q5 – What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

As Q4 – feel that level is appropriate

**Q6 – Do you agree that provider size is a suitable basis for determining the level of the annual fee? Do you agree that social housing units owned is a suitable measure of size?**

Yes agree it is a suitable basis for determining the level of the annual fee.  
However, also need to consider those organisations with other arrangements such as supported housing contracts, which may have a reduced number of units but potential engagement with the regulator may be higher.

A system that takes risk/complexity issues into consideration would be most appropriate.

**Q7 – Do you agree with the proposed approach to local authority registered providers?**  
(ie that local authority providers are exempt from charges made to 'private' registered providers)

Initial feeling is that local authorities should make some contribution to fees, however accept the paper's argument that 'the per unit fee that could be charged to local authorities in relation to customer regulation only is so low that it would not be economical to recover.'

**Q8 – Do you agree with the principle set out for a minimum annual fee?**

Yes, though think £300 is too low.

**Q9 – Do you think we should introduce an element of banding in the fee regime and if so why?**

Feel there could be some merit in adopting an element of banding, as long as this did not increase complexity. Clarity on banding options would be useful.

**Q10 – Do you agree with the proposal to charge the annual fee at group level?**

Yes

**Q11 – Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year? (ie pay the full cost for the year)**

Yes

**Q12 – Do you agree with the proposed approach to transparency and accountability?**

Information on how the proposed charges/services compare with those of regulators of other sectors, eg. Health service, would be beneficial.

The HCA will also need to demonstrate value for money, and be clear on plans to improve services year on year.

**Q13 – Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes

**Q14 – Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

See Q4. Could be a marginal impact on specialist providers and/or smaller providers, however also need to ensure they are viable and able to protect public resources.

**Q15 – Are there any other potential impacts of charging fees on the sector that we have not considered in this paper?**

Impact on the relationship between the HCA and providers.

**Q16 – Do you have any further comments on the initial proposals?**

- Non-compliant and high risk organisations should pay additional fees, perhaps capped, to reflect the fact that greater resources are directed at them.
- For profit organisations should also pay a higher charge. The HCA grant enhances their 'bottom line' and although the homes they build might end up with a social provider, the positive effect of cash flow, sales certainty, low marketing costs and reduced prelims all pay a part in increasing their margins.
- The HCA needs to provide clarity on what providers can expect to see in return for payment of fees. Given that we are increasingly becoming a more complex and diverse sector, any assumption that the fees would simply replace the grant received from central government would be very short sighted and the HCA should use this opportunity to make the case for an improved service provision, setting out some of the outcomes that they would hope to achieve as a result of moving to a fee paying regime and in doing so ensure that the fees would top up rather than replace any grant.

A comparison here would be the move in the HE sector to students paying increased fees and hence expecting an improved service when in reality the fee from the student actually only replaced the grant received from central government. Granted this helped to ensure universities became more efficient but it is not clear that the HCA is in a position to do that.

## **CHARGING FEES FOR SOCIAL HOUSING REGULATION HCA DISCUSSION DOCUMENT**

On behalf of Four Housing I thank the HCA for the opportunity to respond to its discussion document on Charging Fees for Social Housing Regulation.

Before addressing the specific questions in the report, whilst we recognise the driver behind this is partly the ongoing drive to reduce public expenditure, we feel strongly that this is a further change that has most impact on some of the poorest members of our society, i.e. our tenants, who will ultimately end up paying for any imposed fee through their rents.

### **Q1 – Do you think that there is an in-principle case to charge fees for regulation?**

No. This is a further charge against registered providers who are already being hit by reduced income and increased costs as a direct result of other government changes, specifically the reduction in development grant and changes to Welfare Reform. If the HCA is to charge fees, the government should market test the whole service to ensure value for money.

### **Q2 – Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant – in – aid?**

If fees are to be charged there is a case for charging separately for intervention/ responsive type regulation if found proven, e.g. reactive and consumer regulation.

If fees are charged for the support functions, these services need to be market tested to ensure value for money.

### **Q3 – Do you agree we are taking the right approach to developing the principles?**

Yes, but what incentive is there for the HCA to reduce costs and/or improve efficiency on a year by year basis?

### **Q4 - Do you agree to the proposed approach to initial registration fees?**

Yes.

### **Q5 – What other factors should we consider in setting the initial registration fee?**

#### **What levels of registration fee would not discourage new entrants?**

We would support a small fixed fee for registration. The figure of £300 quoted in the document seems reasonable.

**Q6 - Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable reassurance of size?**

Whilst this proposal should be the simplest to implement, ideally if possible we would support a combined size/complexity of business/risk based approach.

**Q7 - Do you agree with the proposed approach to local authority providers?**

Yes.

**Q8 - Do you agree with the principle set out for a minimum annual fee?**

Yes.

**Q9 - Do you think we should introduce an element of banding in the fee regime and if so why?**

No - Fees should be based on clear size criteria, mixed with a complexity/risk element.

**Q10 - Do you agree with the proposal to charge an annual fee at group level?**

Yes except the document would need to be clear on the position where the group is not registered only the subsidiary.

**Q11 - Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes, we would support full year charging for part year's registration.

**Q12 - Do you agree with the proposed approach to transparency and accountability?**

No, the service should be market tested.

**Q13 - Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes.

**Q14 - Are you aware of any potential equality and diversity impacts on implementing fees? If so, what are they and how should we take them into account?**

No direct implications – although small registered providers will be more adversely effected.

**Q15 – Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we force them into account?**

The implementation of fees if introduced will change the nature of the relationship between Registered Providers and the Regulator, as in effect the Registered Providers will be paying for a service, and will expect increased accountability to them.

**Q16 – Do you have any further comments on the initial proposals set out in this discussion paper?**

Depending upon the size of the fee, there will be an impact on services to tenants and the amount of homes we build and as stated previously, this becomes yet another tax on the poorest in society.



## Franklands Village Housing Association

*The Estate Office  
Franklands Village  
Haywards Heath  
West Sussex  
RH16 3RS*

*Tel: 01444 413771  
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Email: [enquiries@fvha.org.uk](mailto:enquiries@fvha.org.uk)*

18<sup>th</sup> March 2014

Tim Sullivan  
Regulatory Framework Manager  
Homes and Communities Agency  
The Social Housing Regulator  
Maple House  
149 Tottenham Court Road  
London W1T 7BN  
Email: [consultation@hca.gsi.gov.uk](mailto:consultation@hca.gsi.gov.uk)

Dear Mr. Sullivan

Thank you for giving us the opportunity to express our views on the HCA proposals put forward in your discussion document “Charging Fees for Social Housing Regulation”. We are a registered housing provider with less than 1000 units. We are also members of SHAPE (Small Housing Associations Pursuing Excellence). SHAPE members have discussed the fee proposals and have agreed to co ordinate elements of their response. Though the views expressed in this response are very much our own, you may find that several SHAPE colleagues are making similar or identical points.

Please find below my Association’s thoughts on the consultation document:

Q1

There is an in principle case for regulation (provider pays) but there is also an in principle case against it:

- That the public is protected and so the public should pay
- That the government’s investment is protected so the government should pay
- That when the regulated pay for their own regulation they (especially the dominant players) can put undue pressure on the regulator both to keep fees down (eventually leading to poorer quality) and to water down regulatory judgements.

A Member of the



National  
Federation  
of Housing  
Associations

Registered as an Exempt Charity under the Industrial & Provident Societies Act 1965 No: 14582R  
Registered under Section 13 Housing Act 1974 No: L1680  
Registered Office as above

Q2

If fees are to be introduced some elements should continue to be funded through grant in aid. This particularly applies to those elements of regulation which include local authorities if the decision is taken to exclude them from any charges which are introduced. (consumer regulation and any others that apply). Looking at the list of activities (Table 2) other candidates for grant in aid are registration and deregistration, consents, strategy and management and a proportion of the support functions.

Q3

The items listed as being of particular relevance in developing a reasonable approach are acceptable: clear and succinct.

Q4

The question of charging for initial registration is quite complex and much depends on what type and size of organisations are likely to apply for registration in future. It is not something on which we feel qualified to comment at this stage.

Q5

**As above for Q4.**

Q6

If fees are to be charged then there is merit in basing the charges on something where data is easily obtainable, verifiable and therefore not open to dispute. "Number of social housing units owned" meets these criteria and it is tempting to select it as the preferred option. However, it takes no account of a number of important factors which will affect the financial burden of the fees on the organisation and the perception of "reasonableness":

- Some RPs charge much higher rents than others: either because of regional differences in "target" rents and/or because of the proportion of their homes now being let on affordable or intermediate rents of various kinds. A flat rate unit fee will impact much more on an RP in the North West with mostly social rented homes than it will on a provider in London or the south east providing affordable rented as well as social rented homes. Consideration should be given to basing fees on the rental and service charge income from the social housing units owned by each provider.
- The HCA has recently taken a new light touch approach towards small providers: those with less than 1000 units. As these small providers receive a lower level of regulatory input they should pay a lower level of fee in proportion to whatever charging criteria is eventually selected.

Q7

The answer to this question depends on whether or not those elements of regulation to which local authority housing is subject ( and the associated overheads) are paid for by grant in aid or not. If paid for by grant in aid the approach is reasonable: local authorities cannot be expected to pay for regulation that they are not subject to.

Q8

Rough calculations show that if the whole current cost of regulation (stated to be in the region of £12.5 million) were shared equally among all RPs with stock the unit cost would be about £4.90. This calculation is based on figures provided by the HCA from the statistical release 2013, which reveal that in 2012-13 RPs (including 124 shown as having no stock holding) owned 2,550,431 units.

At a unit cost of £4.90 the breakeven point for a minimum flat rate fee of £300 would be 61 units. If, say, half the cost of regulation were met by grant in aid the unit fee would be £2.45 and the break even position with a flat rate minimum fee of £300 would be 122. Given the cost of “individual” invoicing consideration should be given to raising the threshold below which a flat rate fee would apply – say to 250 or even to 500 units. A “breakeven” position at a higher level would streamline the invoicing process. Smaller Associations with upwards of, say 300 homes would, under your proposal, be above the minimum flat rate charge. At a unit fee of £4.90 an RP with 300 homes would pay £1,470 pa for regulation. One with 500 homes would pay £2,540. All this is in addition to fees they already pay for the Housing Ombudsman service and regulation by the Financial Conduct Authority.

Looking at the above figures it seems likely that if fees are introduced by the HCA many smaller RPs may look to deregister, particularly if they are not currently developing or intending to do so in the future. The implications of this need to be considered in terms of:

- The welfare of tenants
- The interests of stakeholders (particularly local authorities with nomination rights)
- The workload and costs it might generate for the HCA in handling applications for deregulation
- The long term impact on sector reputation

Q9

Given the arguments set out above and the points made in paragraph 46 of the discussion paper (smaller providers are regulated less intensively than larger ones) further consideration should be given to introducing a banding system for charging regulatory fees to providers with less than 1000 units. The proposal should not be dismissed at this early stage of the consultation process. So the answer to the question is provisional YES and the reasons are that it provides a mechanism for lessening the financial burden on those Associations that are regulated less intensively than the others.

Q10

This question is one that we have no informed views on, not being in a group.

Q11

This question is one of detail and has minimal financial impact so we have no comment.

Q12

Transparency and accountability is something we should all strive to achieve whether or not fees are charged.

Q13

The approach seems reasonable. If using DDs there should be an option to pay quarterly and spread the cost.

Q14

As many specialist and ethnic minority RPs are small, any charging regime that impacts adversely on small providers is likely to impact disproportionately upon them.

Q15

The potential impacts not considered in this discussion paper are:

1. The possibility of fees generating a demand for deregistration (see answer to Q8). Is this something HCA wants to encourage or to discourage?

How this is taken into account will depend very much on the HCA's perception of the risks what outcomes the HCA wants to achieve.

2. The potential for a few dominant providers to exert undue influence on the regulator because they are largely funding it. Under the proposed fee structure the 68 largest RPs pay over half the cost of regulation for the entire sector. There is a known risk, demonstrated by recent events in the financial services sector, credit rating issues in particular.

This risk should be mitigated by ensuring that no provider pays a proportion of the total regulatory bill sufficient to influence the regulator. One way to achieve this is to ensure that a substantial proportion of the overall bill is paid by grant in aid.

Q16

**The discussion paper makes no reference to the difference between “not for profit” and “for profit” providers.** This will be an increasingly important distinction in future as the sector diversifies and new intermediate types of rented housing come on the market. If fees are to be charged this could be an important distinction: for a start the “for profit” provider could offset the cost of fees against tax liabilities which the “not for profit” provider cannot.

**The discussion document makes the general point that charging for regulation is common practice in a number of business sectors. However there is no exploration of the success of this approach.** The public are aware of some notable failures of regulation in recent years (the banking sector and the press to name but two). It is not necessarily the case that the regulated paying for their own regulation yields positive results. This applies especially when a number of very large players dominate the market and there is a danger of the tail wagging the dog. The reputation of the social housing sector has so far remained relatively good and it is vitally important that it remains so.

**The discussion paper makes no reference to the many RPs that are also care providers and already pay regulatory fees to the Care Quality Commission.** Thought needs to be given to how that may impact adversely on such providers in terms of the overall burden of regulatory fees. This particularly applies to small providers with a foot in both camps who may get caught out by flat rate minimum charges from both regulators.

Yours sincerely,

Chief Executive

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## **HCA Discussion Paper: Charging fees for Social Housing Regulation**

### **G15 Response**

#### **1.0 Introduction**

- 1.1 The g15 group is not against the concept of the Regulator charging fees for Regulation; we understand and appreciate the value of effective, proportionate regulation, and acknowledge the pressure spending departments in Government are under in a period of constraint, but believe this changes the nature of regulation and our relationship with the regulator. This needs to be thought through in detail.
- 1.2 As part of the principle we do feel very strongly that fee income should not replace Government funding, but should supplement it to provide a higher quality of regulation in keeping with the challenging operating environment we are working in.
- 1.3 The total cost of the Social Housing Regulator (SHR), at £12.5m per annum, is substantial. Has any consideration been given to outsourcing the non-specialist Support Functions, such as HR, Facilities, Finance and IT? Value for Money of the Regulator will be an issue.

#### **2.0 Questions**

- 2.1 The g15 group supports the proposal to charge fees for regulation, as a means to improve the quality of the end product.
- 2.2 We think fees should supplement the Government funding, not replace it.
- 2.3 We think the principles outlined match the legislative requirements and reflect a practical and understandable approach to the proposition.
- 2.4 We agree that the proposal for a flat rate registration fee is the most practical of the options presented. Registration charges should be levied with the objective of full recovery. The SHR/HCA needs to determine whether it wants to encourage the registration of more small providers and to what end? If, full recovery discourages some applications, is that not desirable?
- 2.5 If the average cost of registration in recent times is £10,000, that should be the price of entry. Even the smallest applicant will have to pay much more than that in legal advice prior to application.
- 2.6 We agree with the proposal that the annual fee should be based upon provider size and social housing units owned.
- 2.7 We do not agree that Local Authority providers should be exempt from charges for consumer regulation. We reject the arguments around economic cost of recovery and would suggest that an annual fixed fee, paid by way of Direct Debit to reduce

transaction costs, should be levied against all Local Authorities, banded according to size.

- 2.8 We agree with the concept of a minimum annual fee, if that sum covers the costs for the SHR.
- 2.9 We would not recommend the introduction of a banding element in the fee regime, except in the instance of Local Authority fees for consumer regulation, where banding for size would make economic sense.
- 2.10 The proposal to charge Groups at Group level is sensible.
- 2.11 We agree with the proposed resolution of register membership, for a proportion of the year.
- 2.12 We do not think the proposal on transparency and accountability goes far enough. Publishing a regular transparency statement does not, in itself, deliver greater transparency (c.f. VFM Statements in the sector). Neither does consultation over the content of a Business Plan. In the spirit of consumer empowerment, the SHR should consider reserving a seat on the Board of the Regulation Committee for the sector trade body, the National Housing Federation, or extending the membership of the Regulation Committee to include, say, 50% representation from the paying providers. G15 alone will be contributing in excess of £2m pa to the running of Regulation and we suggest that merits a seat at the policy and strategy table. This measure will provide transparency and accountability without a conflict of interest.
- 2.13 The proposal for fee charging from the start of the financial year makes sense.
- 2.14 No comment.
- 2.15 None that we have not mentioned previously.
- 2.16 The changes to fee paying regulation feels simple at a strategic level but is likely to be much more complicated in the detail. We have not commented on issues like diversity and we have been bold on the cost of new entrants, but what isn't clear is what the Regulator wants to achieve in these areas. All we can say is that fee paying changes the nature of regulation and should be handled with care. If unintended consequences are to be avoided we recommend the change is thought through in detail and introduced carefully over time.

# **Charging Fees for Social Housing Regulation A Discussion Paper**

## **RESPONSE FROM GENTOO GROUP March 2014**

### **1.0 INTRODUCTION**

- 1.1 Gentoo welcomes the opportunity to respond to the HCA consultation paper – Charging Fees for Social Housing Regulation. The response represents the views of Gentoo Group and will firstly set out some general comments in relation to the discussion paper, followed by specific responses to the discussion questions.

### **2.0 GENERAL RESPONSE**

- 2.1 The proposal to move towards charging fees represents a diversion for social housing regulation which up until this point has not been deemed necessary. It is our view that the primary driver for charging fees is cost saving and a direct transference of cost from the regulator to the sector. In simple terms, this transference would be in the order of £12.5 million which the sector would have to find. There is a more fundamental question that needs to be answered which is ‘What is the required scope of regulation for the sector and how should that be funded?’ In the context of the focus on value for money and austerity we do not feel that this question has been answered adequately and there is an assumption that the regulator currently represents good value for money. If there is to be a move towards charging fees for regulation we would wish to see a breakdown of what we would get for our money. If for example the £12.5 million were to be charged pro rata on affordable housing ownership of 2.58 million social housing units that would be equivalent to £4.85 per unit. In Gentoo’s case this would translate to a fee in the order of £140,000. We remain to be convinced that this transfer of cost is justified.
- 2.2 Secondly there is very little reference to co-regulation in the paper and the extent to which this could be leveraged further in order to gain assurance without the need either for the current level of cost or the need to transfer that cost. In the Group’s case we are concurrently regulated by the FCA and Scottish Housing regulator

as well as being subscribing members of the Independent Housing Ombudsman Limited. If the proposed fee structure were to be approved then Gentoo's annual regulatory subscriptions would be in excess of £200,000. We would take further convincing that this level of fee represented value for money either for our customers or our stakeholders versus housing management or development services that could otherwise be provided.

- 2.3 The paper introduces a dilemma on the way the sector is regulated which is referenced in question 8. The paper states that the costs of consumer regulation are so low for local authorities that they are not economic to recover yet in our view there is an indirect imposition of governance costs on providers to ensure that consumer regulation is maintained. Furthermore the consumer standards are imposed through the regulatory framework and it is not optional for them to be ignored even if the regulator does not assume regulatory costs. This is a fundamental point that is lost in the discussion paper and there should be further research undertaken on the current costs of regulation borne by providers in terms of staffing and reporting – over and above the proposed fee structure.
- 2.4 If there is to be a fee structure there should be more thought and discussion over the wider benefits of regulation. There is scope to deliver much more to the sector on the basis of the information currently gathered in terms of assembling benchmarking data and disseminating best practice. This has been provided by previous regulators and could be further enhanced in collaboration with wider benchmarking vehicles.

### **3.0 SPECIFIC RESPONSES**

#### **3.1 Do you think there is an in principle case to charge fees for regulation?**

For reasons outlined in the previous paragraphs we do not feel the case has been made adequately. We accept that other regulators do charge fees for regulatory services. Within the FCA fee structure however there is also access to both the Financial Ombudsman Service and the Assurance Compensation Scheme in case of an organisation failure. We would therefore make the case that for fees to be applied, further areas may need to be

accommodated or replaced. It costs the Group £44,549 for example to be members of the Independent Housing Ombudsman service yet there is no mention of this within the regulatory fee structure. Furthermore there is little evidence or quantification of the value of the regulator in financial sector terms. In terms of our relationship with funders for example, the primary driver is whether we meet loan covenant tests not how we are regulated. We would wish to see more evidence on the value the financial sector places on regulation before agreeing to a fee structure.

**3.2 Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should be funded through grant-in-aid?**

In the light of our response to question 3.1, it is not clear which elements of the regulatory costs could be separated out for grant in aid. We could suggest that the proportionate element of costs currently spent on the independent housing ombudsman could be offset by grant in aid if it were the intention to proceed with fees. We would wish to see greater clarity however on which elements this would apply to. For example the costs of consumer regulation are already borne by the Group in terms of establishing and administering tenant scrutiny. In addition the costs of ensuring an adequate governance and risk team are also maintained by the Group. In short the costs of regulation have gone up indirectly. We would wish to see the greatest proportion of costs possible being maintained by grant in aid or alternatively see the overall costs of regulation reduce.

**3.3 Do you agree we are taking the right approach to developing the principles?**

The principles set out in the paper are generally reasonable although we are concerned that the costs of regulation seem to be increasing. There is also a liberal use of the word 'reasonable' which is notoriously difficult to pin down in terms of what is or isn't reasonable. We note the recent expansion of the regulation team to cope with more complex business models. We would point out that the expansion of business models is largely in response to Government policy around falling grant rates and the need to diversify in order to maintain housing supply. It seems perverse that unintended consequences of policy – i.e. greater

diversification and complexity should then have to be paid for by providers and this point is not adequately made in the principles.

**3.4 Do you agree with the proposed approach to initial registration fees? and**

**3.5 What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

For initial fees it would seem that the Option 3 – Flat fee is the most equitable subject to there being an upper limit in the fee. The paper refers to the average cost of registration as being around £10,000. Later in the paper a minimum annual fee is then proposed at around £300. Our concern would be that smaller organisations wishing to register may find a fee of £10,000 prohibitive as opposed to PLC developers who may be registering a part of their operation. It may be appropriate therefore to place a ceiling on registration fee with some relationship to size of applicant in order not to discourage small community based projects from registering.

**3.6 Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

This is probably the most equitable way to determine the annual fee level although it is possible to set fees on a graded level as is the case currently with the National Housing Federation (NHF) fee structure. In the NHF case, fees are set on the following basis:

Band	Per unit cost £	Base fee £
0 – 10	0	500
11 – 50	7.50	800
51 – 1,000	4.50	1,000
1,001 – 2,500	3.50	1,500
2,501 – 5,000	3.00	3,000
5,001 – 10,000	1.90	7,500
10,001 – 20,000	1.50	10,000
20,001 – 30,000	0.80	18,000
30,001 – 40,000	0.30	25,000
40,001 – 50,000	0.20	30,000
50,001 – 60,000	0.20	35,000
60,000 – 70,000	0.20	40,000
70,000 – 80,000	0.20	45,000
Every extra 10k units	0.20	£10k band steps

This allows a more proportionate build-up of the fee given the marginal cost of service or regulation would likely decrease as providers get larger.

**3.7 Do you agree with the proposed approach to local authority registered providers?**

In so far as the direct regulatory costs to local authorities are so low as to not be economically recoverable there is some rationale to the proposed approach. This does raise however a double standard issue in terms of the role of the regulator in relation to local authority housing versus registered providers. This is a point for future reference particular if (and probably when) Local Authorities are encouraged to increase their development activity.

**3.8 Do you agree with the principle set out for a minimum fee?**

A minimum fee is appropriate and the proposed fee level of £300 is not burdensome even for small providers. Our comments on the registration fee in Question 3.5 would also apply however.

**3.9 Do you think that we should introduce an element of banding in the fee regime and if so why?**

Our comments in question 3.6 again apply. It is possible to band and grade fee structures according to a more realistic view of engagement and the marginal cost of increasing stock numbers versus regulatory activity.

**3.10 Do you agree with the proposal to charge the annual fee at Group level?**

We would agree with the principle to charge annual fees at Group level. In our case, this is more reflective of the nature of regulatory engagement subject to banding comments made in previous questions.

**3.11 Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

This approach seems reasonable although we have no feel for the volume of providers that this would currently apply to and therefore the exposure either way. Our main concern would be if a Group were to restructure or merge but this point appears to be covered adequately in paragraph 51.

**3.12 Do you agree with the proposed approach to transparency and accountability?**

We agree with the proposals around transparency and accountability. We would also wish to see this reflected in the governance of the regulator however to ensure that there is some level of sector representation in the setting of objectives and ensuring an adequate level of scrutiny.

**3.13 Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

This would be in line with our current budgeting arrangements but we would wish to see as much advance notice as possible on the implementation of fees in order that we can factor in to budget and business planning processes.

**3.14 Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

The nature of the sector is that there are many providers or potential providers who offer small scale but specialist local services to vulnerable people or people from BME backgrounds. This must be considered thoroughly such that on the issue of

registration fees in particular, vulnerable groups are not prevented from joining or benefiting from the sector.

- 3.15 Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?  
and**
- 3.16 Do you have any further comments on the initial proposals set out in this discussion paper?**

Our comments of Questions 3.15 and 3.16 are picked up in Section 2 General Comments.

#### **4.0 FOLLOW UP DISCUSSION AND COMMENT**

For further discussion or clarification on our comments to this submission please contact:

Gentoo Group  
Emperor House, Emperor Way  
Doxford International Business Park  
Sunderland  
SR3 3XR

Accepted approach to regulation and fees and benefits of regulator for registered providers. Concern fees could be excessive and no indication of VFM for fees as a customer or how and when the fees levels will be reviewed.

In principle I am in favour of charging to ensure the regulator can provide a consistent and robust approach to regulation which ensures the financial integrity of the sector and high quality services to consumers.

An acceptance that there needs to be a fee charging structure in place but a query as to how we can ensure VFM. Also there is an argument that where it is reactive (eg failure to meet consumer regulation, the individual provider should pay the fees as otherwise you are penalised for being a high performer but paying the fees for those to be regulated that are not compliant



Golden Lane Housing

working in partnership with 

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Regulatory Framework Manager  
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21<sup>st</sup> March 2014

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## HCA Discussion Paper on Charging Fees for Social Housing Regulation

### Background

In response to the HCA discussion paper on charging fees for registration and regulation from April 2015 the following comments and responses are provided by Golden Lane Housing (GLH).

GLH is the charitable housing arm of Royal Mencap Society and provides specialised supported housing for people with a learning disability.

GLH is in the process of application to the HCA to become a Registered Provider.

### Consultation questions

The consultation questions in this paper are provided below. When answering the questions please state reasons for your answer and where you disagree with the proposals please make suggestions for alternative approaches.

1. Do you think that there is an in-principle case to charge fees for regulation?

The social housing sector is not necessarily comparable to other sectors where the regulator is paid for through fees. Other sectors include profit making organisations. Whilst the social housing sector is diverse, introducing fees does not reflect that social housing is provided by charitable and not for profit providers. The current grant-in-aid system should continue for charitable and not for profit providers.

2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

As outlined in 1. above there is a clear case to say regulatory costs should continue to be funded through grant-in-aid. Where the regulator regulates any for profit provider or part of their business then a case for charging may be appropriate.

3. Do you agree we are taking the right approach to developing the principles?

No comment.

4. Do you agree with the proposed approach to initial registration fees?

Making fees payable at initial registration has the potential to discourage registration particularly for small housing providers. This was certainly a factor that Trustees were mindful of when Golden Lane Housing took the decision to apply for Registered Provider status. Small providers have limited resources and income is primarily from rental income. This mean tenants pay and therefore in may cases the cost is picked up through the housing benefit system. The only alternative to passing costs to tenants being to reduce levels of resources that are available for delivering services.

5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

Small providers below 1000 units should be exempt. They fall under the same rational for not charging Local Authorities. If a charge is made it should be directly proportional to size.

6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

This seems a reasonable assumption if a charge is to be applied.

7. Do you agree with the proposed approach to local authority registered providers?

Local Authority registered providers should be charged. If there is no reason to make a charge they should not be part of the regulatory system.

8. Do you agree with the principle set out for a minimum annual fee?

The principal of an annual fee if this were to be introduced should follow the same principals as initial registration – directly proportional to size.

9. Do you think that we should introduce an element of banding in the fee regime and if so why?

Any banding should be based on proportional principals based on size.

10. Do you agree with the proposal to charge the annual fee at group level?

Any fee introduced should apply to the Registered Provider only. If there is a group structure where the group is registered then there is no reason the principals of fees should not apply to a group if they are introduced.

11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

No comment

12. Do you agree with the proposed approach to transparency and accountability?

No comment

13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?

No comment

14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?

In the supported housing sector in which Golden Lane Housing work a common approach to housing provision is to provide shared accommodation. This means that although ownership of properties could say be below 500, where bed spaces count as units even small providers could have over 1000 units. For providers who have shared accommodation therefore there will be an equalities impact if supported housing providers have to pay a disproportionately high fee based on beds paces (which the HCA count as units). This reinforces the point that the fees needs to be related to the number of properties and should be free for small organisations with less than 1,000 properties.

15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?

No comment

16. Do you have any further comments on the initial proposals set out in this discussion paper?

### **Further Comments**

- For the regulator to introduce fee charging then it is a reasonable expectation that the regulator will be better resourced and provide an efficient and effective regulatory service to all registered providers. How does the regulator determine what is a reasonable charge to make based on the service it provides and how will the regulator ensure value for money and be accountable to providers in demonstrating this?
- The benefits for the sector need to be better understood and spelled out by the HCA. Better rates on lending and increased reputation by the fact of being regulated are quite thin arguments on their own.
- HCA itself seem to acknowledge that by introducing fees that registered providers will have fewer resources to use for benefit of tenants and services.

Yours sincerely,

**Regional Business Manager**



18 February 2014

Regulatory Framework Manager  
Homes and Communities Agency  
1<sup>st</sup> Floor Maple House  
149 Tottenham Court Road  
London  
W1T 7BN

By e mail to  
[consultation@hca.gsi.gov.uk](mailto:consultation@hca.gsi.gov.uk)

Dear Sir

### **Charging Fees for social housing regulation**

Attached is our response to your consultation document.

Overall, we have no problem with the general principle of social housing providers meeting the costs of regulation. However, I feel that your proposals generally lack equity between small and large providers, and so lack equality of impact between residents. Your paragraph 46 says that you 'do not regulate (small providers) as intensively as (large) providers'. Yet your proposals for a flat rate initial fee, and an unbanded rate per unit for annual fees, both appear to ignore this, and therefore favour large providers at the expense of small providers.

Surely the overriding principle needs to be equality of treatment at resident level. I would suggest that you should be able to demonstrate that annual regulation fees would add no more than a tiny fraction of a percentage to residents' annual rental charges. And that the tiny percentage should be the same for a very small, small, medium, and large providers alike.

Chair  
Granby House (Youlgrave and District) Society

**Please reply to:** Ian Webster, Hopton Tower House, Main Street, Youlgrave, Derbyshire DE45 1UW. Tel: 01629 636836, or [ian.webster1954@gmail.com](mailto:ian.webster1954@gmail.com)

## Response of Granby House (Youlgrave and District) Society

### Charging fees for social housing regulation

Q	Topic	Your view	Our Response
1	In principle case for fees for regulation	There is a case	Agreed
2	Cover full cost	Some cost to be met by grant aid	You should avoid the extra complication of meeting some costs by grant aid
3	Right approach to principles	Reliability, etc	No, overriding principle should be equality of impact on residents – the ultimate beneficiaries of the service
4	Initial fee proposals	Fixed and flat fee	No. As a very small provider with 8 bed units, an initial £10,000 fee would have prevented our formation
5	Other factors		A minimum per unit initial fee is needed, say 0.5% per unit capital cost. Otherwise there will be no small new entrants.
6	Annual fee by provider size	Fee per unit	Per unit charge is right, but it should also be risk based. This is fairer, and provides a better incentive for providers.
7	LA providers	Don't charge	No. It cannot be right for private providers to subsidise LAs by meeting any LA related costs
8	Minimum annual fee	Have a minimum charge	A better solution is to levy no charge for very small providers, then a minimum charge. Or set the minimum as, say 0.1% of annual income.
9	Banded fees	No banding	No. You need to band fees, and more than two bands. Otherwise small providers subsidise large providers
10	Group fees	Levy fees at group level	Agreed
11	Part years	Charge as full year	Agreed
12	Transparency	Publish costs	Agreed, but where is the incentive for you to minimise your costs, and so your fees
13	Invoice at start of year		No. Gives you a huge cash flow advantage, at expense of providers.
14	Equality		No comment
15	Other impacts		You need to show what the impact will be on consumers. For us, your proposal would increase charges to residents by 0.5% a year
16	Other comments		Two issues. First your proposals generally appear to favour large over small providers. Second, you don't tell us size of the grant that fee income needs to replace.

## **CHARGING FEES FOR SOCIAL HOUSING REGULATION – DISCUSSION PAPER**

### **GRAND UNION HOUSING GROUP – DRAFT RESPONSE**

#### **Q1 Do you think there is an in-principle case to charge fees for regulation?**

A Grand Union Housing Group agrees that a stable social housing sector needs a strong, independent regulatory framework. If this can be improved by the introduction of a fee charging scheme then we would be in favour. However this is assuming that the charging of fees will:

- Provide some freedom from Government interference
- Enable the HCA to recruit better skilled staff who are able to understand, analyse and review the increasingly diverse activities registered providers undertake.

#### **Q2 Do you think fees should cover the full cost of the Regulator or that some elements of regulatory cost should continue to be funded through grant-in-aid?**

A It is important that any fee structure introduced is proportionate and seen to be justifiable. This may be difficult if it simply replaces current funding arrangements. We believe it should be possible to identify specific activities undertaken by the regulator which would continue to be funded directly through grant-in-aid. It is hoped that the introduction of fees will bring in some additional resources to the HCA, enabling greater supportive engagement from high calibre regulators.

#### **Q3 Do you agree we are taking the right approach to developing the principles?**

A Agree with the approach being developed.

#### **Q4 Do you agree with the proposed approach to initial registration fees?**

A Agree.

#### **Q5 What other factors should we consider in setting the initial registration fee?**

A No comment.

#### **Q6 Do you agree that provider size is a suitable basis for determining the level of the annual fee? Do you agree that social housing units owned is a suitable measure of size?**

A Agree.

#### **Q7 Do you agree with the proposed approach to local authority registered providers?**

A Agree.

**Q8 Do you agree with the principle set out for a minimum annual fee?**

A Agree.

**Q9 Do you think that we should introduce an element of banding in the fee regime and if so why?**

A Comfortable with proposal based on number of social housing units owned with a minimum fixed fee.

**Q10 Do you agree with the proposal to charge the annual fee at Group level?**

A Agree.

**Q11 Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

A Agree.

**Q12 Do you agree with the proposed approach to transparency and accountability?**

A Agree. However more detail will be needed as to how this will be achieved in practice.

**Q13 Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

A Agree. Presumably if fees are based on number of units, this would be the previous year end figure?

**Q14, Q15 and Q16**

A Nothing further to add.

Group Chief Executive  
Grand Union Housing Group

13 March 2014

## Charging fees for social housing regulation – discussion paper

### Consultation Questions

1. Do you think there is an in-principle case to charge fees for regulation?

No. The Regulator is not proposing any “added value” services in return for the fees payable, so this is essentially a cost to be taken from our rental income without providing any additional benefits to the tenants or the organisation. However, if this is introduced, we would want to see some guarantees that fees would not increase significantly without due consultation.

2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

We feel that significant elements of regulation should continue to be funded through grant-in-aid, particularly support functions and strategic management.

3. Do you agree we are taking the right approach to developing the principles?

Yes, consideration of the legislative requirements is the right approach.

4. Do you agree with the proposed approach to initial registration fees?

Yes, we agree with initial registration fees.

5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

No comment

6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

Units owned is a simple way of determining the level of fee payable, but it fails to take into account the ‘risk’ element of regulation. For example, a non-developing organisation would pose less risk than an RP who are pursuing a more diverse portfolio.

7. Do you agree with the proposed approach to local authority registered providers?

No comment

8. Do you agree with the principle set out for a minimum annual fee?

If the fee paying structure is introduced, the minimum annual fee would at least give some reliability to smaller providers but it is vital that this is set at a realistic level so as not to discourage new registrations.

9. Do you think that we should introduce an element of banding in the fee regime and if so why?

Potentially, but banding should be around risk rather than stock size. A large non-developing organisation will present the regulator with significantly less need for intervention than a small, diversifying organisation that is moving into new and untested areas.

10. Do you agree with the proposal to charge the annual fee at group level?

Yes.

11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

Yes.

12. Do you agree with the proposed approach to transparency and accountability?

Yes. The Regulator has clearly stated that they expect RP's to demonstrate transparency and accountability in the way they manage their finances so it is appropriate that they themselves do the same.

13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?

Yes.

14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?

No.

15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?

The regulator is currently operating on a third of the resources it had in previous years, and the potential for this to grow back is significant given the amount of consumer regulation that has been required in recent months – certainly not the back stop regulation that the Regulators resourcing was originally based on. What are the safeguards that fees will not increase significantly if regulation should change / expand in the near future?

There is also an argument here that we would struggle to demonstrate value for money to our tenants in terms of the way their rent money is spent. We would, in effect, be paying an additional fee without any additional benefits either to the organisation or our tenants.

16. Do you have any further comments on the initial proposals set out in this discussion paper?

No comment

# HCA Fees Consultation Responses

## Consultation Question Responses

Greenfields is a Community Gateway Association with more than 8,000 homes in Braintree District in the East of England. This consultation response has been put together by Greenfields' Board, staff on our Joint Leadership Team and residents from our established resident groups. Details of our members and more about we do can be found on our website [www.greenfieldsch.org.uk](http://www.greenfieldsch.org.uk).

Our detailed response to the questions in your document follows:

### **1. Do you think that there is an in-principle case to charge fees for regulation?**

While we see the parallels with other sectors who meet the cost of regulation, we are concerned about Value For Money principles here as this change will introduce an extra cost of regulation with no apparent savings elsewhere to offset this. We do not expect to receive any additional regulatory benefit over what we currently receive yet we will be paying an additional cost. There has been talk in the sector over the last year about "something for something", but it is unclear what further benefit would be gained for the additional cost.

As a result we are opposed to the introduction of a new specific fee for regulation from the HCA. Despite our opposition to a fee structure we have answered the other consultation questions to aid the consideration of the issues.

We have noted, and require more information to understand what changes the Regulator proposes to make to support the assertion that introducing fees will enable providers to better hold the HCA to account.

### **2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

We feel that it would be unfair if the full stated cost of regulation of £12.5m is passed on to providers.

We suggest a demand driven element where this is reasonable, i.e. pay for the services you use. As some of the services are for investigating poorly performing or failing organisations then any fee chargeable could be risk loaded so that these pay proportionately more as they use more of the regulator's attention. However we accept the reality that a failing organisation that demands attention is probably less able to pay for it - therefore continuing state/grant aid would probably need to be retained to meet these costs.

Regarding registration, there could be a basic charge with a top up met by grant aid; we would support this approach with not-for-profit providers however not with for-profit providers. If a business is intending to work for profit then we do not agree that it should receive a grant aid rebate on its registration or other costs.



We also believe that the consents function could be an individually chargeable activity with a quoted charge per consent requested as this is demand driven and could easily be tackled this way. Providers then choose whether to apply for a consent knowing the cost.

**3. Do you agree we are taking the right approach to developing the principles?**

We feel that value for money should play a more important role; given the HCA are strong proponents of VFM within the sector it is surprising that this does not feature as a principle in setting fees and charges.

**4. Do you agree with the proposed approach to initial registration fees?**

If initial fees are chargeable then we support the view on a flat fee for the reasons given. However as previously stated we do not feel that for profit providers should receive grant aid to reduce their costs.

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

We do not agree that £10,000 would necessarily be a barrier to entry. This is relatively low when compared to other significant costs connected with a new registration.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

If regulation fees were to be introduced, our preferred approach would be a risk based one, whereby those who represent the most risk and therefore attract the most regulatory attention, should pay the highest rates. While we do appreciate the regulator's argument that these might also be the least able to pay due to their circumstances, we feel that is a choice they make in following a more risky path.

The cost could be weighted according to the regulator's judgements of Governance and Viability which are routinely published by the Regulator. The paper mentions some concern that these are subjective judgements and that providers might challenge them more if they determine providers' costs of regulation, however it also states that the Regulator welcomes the accountability and ought to be able to justify judgements published.

On balance having read all options we believe that a flat rate per unit may be more workable, but weighted according to the regulators judgements. For example, £1 per unit for G1 / G2 / V1 / V2 which comply and £2 per unit for G3 / G4 / V3 / V4 that do not comply. This gives organisations a financial incentive to better manage themselves and we feel that a better managed sector ought to reduce overall regulatory costs.

Using the figures quoted in the discussion paper, an annual HCA budget of £12.5 million potentially equates to £5 per unit for 2.58 million social housing units. On a straight unit basis that equates to an annual regulation cost of £40,000 for



Greenfields and we cannot see how that could be justified as reasonable or represent value for money.

**7. Do you agree with the proposed approach to local authority registered providers?**

If it is decided to introduce a fee for regulation, then we consider it to be inappropriate for there to be no fee chargeable to local authority providers. All providers will receive some degree of regulatory activity and any fee structure determined should reflect this.

**8. Do you agree with the principle set out for a minimum annual fee?**

We support a minimum fee although £300 potentially feels too low and the charge should not be uneconomic to charge and collect.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

We concur with the view that any fee structure should be kept simple. Any banding of fee structures will necessarily favour either small or large providers at the expense of the other and we see no strong reason for either.

**10. Do you agree with the proposal to charge the annual fee at group level?**

We agree with charging fees at a group level, and that it should be left to the group to apportion costs across members.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

We agree with this proposal.

**12. Do you agree with the proposed approach to transparency and accountability?**

We agree that transparency and accountability is critical in introducing any charges for regulation, however there is not enough detail given in this discussion paper on how this will be achieved in practice and further detail, as suggested in the fuller consultation paper, will be necessary to understand how the Regulator hopes to achieve this.

If fees for regulation were to be introduced then we believe that there should be an independent panel or Committee responsible for the review and determination of fees, and that that panel should include representation from the housing sector.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

We agree with this proposal.



**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

We have not identified any potential equality and diversity impacts, unless BME providers require more or less regulation and therefore benefit or lose out through fixed fees.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

Our main concern is regarding the value impact of taking up to £12.5 million per year out of the housing sector.

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

None.





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**Title:** Charging Fees for Social Housing Regulation – a discussion paper

**Reference:**

**Contact:**

**Telephone:**

**Email:**

**Closing Date:** 21<sup>st</sup> March 2014

**Submission Date:** 21<sup>st</sup> March 2014

CONSULTATION RESPONSE

## **Charging Fees for Social Housing Regulation – a discussion paper**

### ***Halton Housing Trust Response***

#### ***Introduction***

1. The charging of fees for social housing regulation has significant implications for a cultural shift in the nature of the relationship between the Social Housing Regulator (SHR) and the organisations it regulates.

#### ***Question 1: Do you think that there is an in-principle case to charge fees for regulation?***

#### ***Commentary Q1***

2. At a very basic level, the Trust accepts the case for charging fees to regulate a 'traditional' social housing sector. However, the social housing sector has always been part of a much wider housing sector. As a result of business diversification the boundaries between the various parts of the overall sector are now increasingly blurred. Consequently the skills and resources required by the SHR are correspondingly diverse.
3. If the existing resource levels remain unchanged, this will merely represent a passporting of the £10 million regulatory costs from DCLG to the housing sector.
4. Consequently the charging of fees must be linked to additional resources to enable the SHR to fully fulfil its responsibility and importantly also provide the additional help and support as required from the housing sector as 'fee paying customers'. This will also require a review of the relationship between the SHR and the housing sector.
5. It is accepted that funders do take into account the assurance provided by the SHR. However having recently refinanced our experience is that less significance is attached to this in favour of their own detailed due diligence and ongoing monitoring arrangements. Furthermore funders may also place more credibility against an independent funded SHR rather than one which is paid from within the housing sector.

**Question 2: Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

**Commentary Q2**

6. We are concerned that the introduction of fees could over time result in the withdrawal of all government funding. It is apparent that the SHR is currently unable to adequately fulfil some elements of its role. As such a clear commitment to maintain grant-in-aid support must be part of any new fee charging regime.

**Question 3: Do you agree we are taking the right approach to developing the principles?**

**Commentary Q3**

7. We have a number of comments to make on the proposed approach. These apply similar principles that apply within the housing sector between landlords and their rent paying customers.
8. Under the proposals how and to whom the SHR should be held to account becomes less clear. Significantly there appears to be only limited acknowledgement the housing sector will be a fee paying customer.
9. Considering the focus upon Value for Money across the sector, we would expect to see similar VFM principles to apply to the SHR.
10. As fee payers we would expect the housing sector to have some input into the work of the regulator. This may be through a reference group or formal consultative forum.

**Question 4: Do you agree with the proposed approach to initial registration fees?**

**Commentary Q4**

11. We agree with the general concept of a flat fee being charged for registration.

**Question 5: What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

**Commentary Q5**

12. We would support an approach that recovered the actual costs incurred from the initial registration direct from the organisation. An alternative could be a banding system based upon the number of properties as well as a 'complexity premium' which reflected any non-standard elements to their business model.

**Question 6: Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

**Commentary Q6**

13. We would support the proposal for the fee level charged to be linked to the number of homes in management. However this basic approach does not offer value for money. It takes no account of those organisations that are well managed and as such require very little regulatory contact or support. This further highlights the importance of the SHR clearly demonstrating value for money as outlined in 9.
14. Whilst supporting the flat fee approach, a risk based 'premium' should also be considered. Housing providers that take on more risk present a risk to the sector itself as well as themselves. In view of this and the associated additional regulatory input required, consideration may be given for those organisations who take more risks to be expected to pay an additional fee element.
15. One alternative to the fee approach would be the application of a small levy on the rental income of social housing tenants. In doing so this becomes a service which the SHR is providing to those that benefit from having secure homes. The levy required is estimated to be around 0.1% of social housing rents.

**Question 7: Do you agree with the proposed approach to local authority registered providers?**

**Commentary Q7**

16. We would support the approach but only on the condition that grant-in-aid funding remains. This will prevent the need for cross-subsidisation of the services provided to Councils.

**Question 8: Do you agree with the principle set out for a minimum annual fee?**

**Commentary Q8**

17. We support this principle, on the understanding fee payers it is made fully clear the services received in return for the annual fee.

**Question 9: Do you think that we should introduce an element of banding in the fee regime and if so why?**

**Commentary Q9**

18. The Trust fully supports the view expressed in point 47 that any fee scheme

adopted should be as simple and easy to understand. Consequently we accept that banding would bring too much complexity into any fee setting regime.

**Question 10: Do you agree with the proposal to charge the annual fee at group level?**

**Commentary Q10**

19. We agree with this proposal

**Question 11: Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

**Commentary Q11**

20. We would support an approach that charges fees on a pro rata basis.

**Question 12: Do you agree with the proposed approach to transparency and accountability?**

**Commentary Q12**

21. Both principles are fundamental and need to reflect similar requirements as those which apply to the housing sector. We look forward to reviewing the detailed proposals when these are set out at the statutory consultation stage. Without these it is difficult to comment further.

**Question 13: Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

**Commentary Q13**

22. We agree with this proposal.

**Question 14: Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

**Commentary Q14**

23. The proposals will result in the shift of regulation costs away from the taxpayer to social housing customers. Many of these are socially and economically disadvantaged when compared to the consumers within other regulatory frameworks. Consequently it is essential any regulatory costs are kept to an absolute minimum to minimise the adverse impact on this group.

**Question 15: Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

**Commentary Q15**

24. The charging of fees fundamentally changes the relationship between the SHR and the housing sector. Increased scrutiny will be applied to the level and quality of services received. Consequently we would restate the points made in paragraph 10 of this response.

**Question 16: Do you have any further comments on the initial proposals set out in this discussion paper?**

**Commentary Q16**

25. There is no mention of fee increase limits. We would propose that any fee charging structure has a cap applied which is no more than the rent increase limits placed upon the housing sector.
26. We would propose fee charging be extended to those organisations that benefit from the SHR's work in the delivery of their business. The most notable of these are the financial institutions who could make a contribution based upon a proportion of the funds they have allocated to social housing facilities.

CONSULTATION RESPONSE

# **HAREFIELD PAROCHIAL CHARITIES**

## **DISCUSSION PAPER: CHARGING FEES FOR SOCIAL HOUSING REGULATION**

### **INTRODUCTION**

Harefield Parochial Charities is an agglomeration, created by the Charity Commission, of six ancient charities with common objectives to benefit the poor of the Ancient Parish of Harefield. These charities are:

The Countess of Derby's Almshouses Charity founded by a Will dated 24 December 1636.

The Mrs. Mary Ashby Charity (including Baldwin's gift) founded by a Will dated 24 April 1664.

The Solomon Burbery Charity founded by a Will dated 5 March 1697.

The Poor's or Fuel Allotment Charity established by an Inclosure Award under the Enclosures Act in 1813.

The Henry Goodman Charity founded by a Will proved on 20 May 1858.

The Ashford and Moore Charity founded by a Will proved on 10 April 1867.

Four of the endowments were financial, which are now worth about £74,000 which is restricted, but it provides dividend income each year. The other two endowments provided valuable physical assets.

The Countess of Derby's Almshouses Charity provided a beautiful little Grade II\* building erected in about 1680. Originally, it provided accommodation for 6 poor women of good character and a curate to say prayers for them every day and a schoolroom. It also provided £36.00 a year, £5.00 for each good woman and the curate and £1.00 for maintenance. Needless to say, the accommodation in this building has changed a lot with time, the latest occasion being in 2002 when the Trust received from the Housing Corporation, a social housing grant of £56,000 towards the conversion of the accommodation into two modern one-bedroom dwellings. The Trust also became a registered social landlord and received nominations for candidates for the vacancies in the newly converted building from the Council of the London Borough of Hillingdon.

Solomon Burbery was a last-maker and parishioner of St. Martins in the Fields, in London, who somehow acquired a small 12 acre farm, the Dairy Farm, on the edge of the village of Harefield. His endowment was to provide for his two sisters for their lifetimes and then for the poor of Harefield forever. The farm had been let on an agricultural holdings tenancy for a long time and the very modest rent received was used for the Trust's good works. However, in 2001 it was discovered that 2.5 acres of the farm site was developable.

It was only the fact that the Trust owned the site that allowed the Trustees to consider the project as no site cost, always an expensive element, was involved. Following consultations with housing services at the Council and the Almshouse Association the Trustees decided that new almshouses designed as family homes for people of Harefield would best satisfy Solomon Burbery's wishes. A development of 14 dwellings now known as Burbery Close and consisting of 2, 3 and 4 bedroom family homes was completed in 2007. The Council's housing services nominated candidates for the vacancies in the new housing and the appointment of residents. The Housing Corporation provided a social housing grant of £1.1 million and the balance of the funding came from a high street bank. On completion, the project was re-financed with a major loan from The Charity Bank and smaller amounts from two other charitable sources. The Trustees are able to service the not inconsiderable loan burden from income.

In 2009 the Burbery Close project received the Patron's Award of the Almshouse Association for an outstanding almshouse development. The Patron is HRH The Prince of Wales and he made the presentation to the Trustees.

The Trust has no employees and is run and managed successfully by six Trustees, all of whom live in Harefield and who work entirely upon a voluntary basis. In addition to the total of 16 social dwellings the Trust also has a football pitch and a cricket ground that were constructed on Green Belt paddocks of the farm. These are let to the village clubs, both of which needed additional facilities and were having to rent remotely.

It is highly unlikely that the Trust will undertake any further developments in the foreseeable future as it has no more land for building or buildings to convert for future projects. There will therefore be no requirements for further social housing grants.

## **THE NEED FOR REGULATION**

Harefield Parochial Charities is not the only almshouse charity to have received social housing grant aid for their projects so any proposal for charging fees for the regulation of social housing must be dealt equitably with small providers as well as with housing associations that can own up to 25,000 dwellings or more (e.g. Genesis Housing Association).

Since Harefield Parochial Charities became a registered social landlord in 2002 and now a registered provider, it has submitted on time its audited accounts and made the requisite regulatory and statistical returns each year to the relevant Regulator as applicable at the time.

No comments on the adequacy or otherwise of the Trust's performance or governance has been received in the past 12 years. From this the Trustees are led to conclude that what they have been doing for so long must be considered satisfactory. What in fact the Regulator has done each year to serve the likes of the Trust and how much this has cost is quite unknown.

It is accepted however that Trusts like ours with small numbers of dwellings and limited resources exist in a totally different realm to those housing associations with colossal holdings. These must have large numbers of staff, extensive office premises with support functions such as HR, facilities, finance and IT and more experience in governance. Regulating these organisations must require large numbers of staff to match them.

On the other hand, in spite of the Housing Corporation performing its regulatory functions satisfactorily from 1964 to 2008 without charging fees, one must conclude that as the provisions in The Housing and Regeneration Act 2008 (as amended by the Localism Act) ("the Act") permits the social housing regulator to raise fees from registered providers and applicants for registration to cover the costs of its work, the Government obviously wishes this to happen ultimately. In view of this, the consultation exercise would seem to be a thinly veiled means of enlisting support for this.

Without any indication of the general order of fees that might be charged for the functions that the Regulator might provide for the Trust it is difficult for the Trustees of Harefield Parochial Charities to respond meaningfully to the consultation questions posed. With this caveat and need to recognise the size of eligible almshouse trusts, responses have been made.

## **CONSULTATION QUESTIONS**

### **1. Do you think that there is an in principle case to charge fees for regulation?**

*No. No sound or justifiable case for charging fees has been made.*

### **2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

*Without any indication of the likely regulatory costs this is not a reasonable question to pose when hitherto the service has been provided for so long without needing to charge fees.*

### **3. Do you agree we are taking the right approach to developing the principles?**

*Yes, but more guidance on likely costs arising would be helpful.*

### **4. Do you agree with the proposed approach to initial registration fees?**

*The range of possibilities for raising fees presented in the discussion highlights the concerns of the Trust. Its preference is for fees based on size. The Trust's only experience with such fees is those raised by the Independent Housing Ombudsman Scheme. This has a charge for each eligible unit.*

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

*Again, size must bear on this. £10,000 for a Trust like ours would be punitive and a great deterrent.*

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

*Yes, to both questions.*

**7. Do you agree with the proposed approach to local authority registered providers?**

*With the Regulator's limited role in relation to local authorities the proposed approach is reasonable.*

**8. Do you agree with the principle set out for a minimum annual fee?**

*The principle and quantum for a minimum annual fee is agreed.*

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

*It is felt that banding is essential, provided that the bands are not too broad. A 1,000 units is considered too broad in the case of Harefield Parochial Charities and similar almshouse charities...*

**10. Do you agree with the proposal to charge the annual fee at group level?**

*Yes.*

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

*Yes*

**12. Do you agree with the proposed approach to transparency and accountability?**

*Yes.*

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

*Yes.*

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

*The Trustees are not aware of any potential equality and diversity impacts.*

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

*The Trustees are not aware of any other potential impacts of charging fees.*

**16. Do you have any further comments on the initial proposals set out in this discussion?**

*No, but it may just be better to exclude almshouse charities from the fee charging regime proposed on account of the very limiting size of these.*

HpcHCAfeesconsultation.doc  
21.3.2014

# Charging Fees for Social Housing Regulation

February 2014

## 1. Do you think there is an in-principle case to charge fees for regulation?

No. There is a conflict of interest that arises where an organisation has to pay for its own regulator/watchdog. The effectiveness of the watchdog could be questioned if it is funded by the organisation it is monitoring.

A fairer system would be to charge a fee only where the association chooses to develop property outside of the social envelope either for full sale or intermediate rent etc; this presents more risk for the organisation.

## 2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

Fees should not be paid for by associations, social objectives should be grant funded. There is no mention in the discussion paper about how the fees might be used to increase resources to provide regulation.

## 3. Do you agree that we are taking the right approach to developing the principles?

No. the regulator will spend more of their resources on associations with lower governance and viability ratings and should not be charged the same as compliant landlords.

## 4. Do you agree with the proposed approach to initial registration fees?

No. A flat fee would be unfair for smaller associations and would not reflect their potential use of the regulator's resources. Any fees should be set at a proportionate level for smaller providers.

## 5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

The size of organisation and impact of setting the level at the average cost should be taken into consideration. The impact on increasing tenants' rents or decreasing services should be taken into account.

## 6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

In principle, however it is not fair to charge a standard fee based on size where this is set *irrespective* of their use of the regulators' resources.

**7. Do you agree with the proposed approach to local authority registered providers?**

Yes we agree that local authorities should not be charged.

**8. Do you agree with the principle set out for a minimum annual fee?**

No. Fees for small, non-developing associations should be lower or they should be exempt.

**9. Do you think we should introduce an element of banding in the fee regime and if so why?**

No. If larger associations pay higher fees they could exert more influence over the regulator. There is the further risk that if larger associations perceive that they do not have enough influence that they might decide to de-register.

**10. Do you agree with the proposal to charge the annual fee at group level?**

Yes\*

**11. Do you agree with our proposed approach to the annual fee when the provider is only on the register for a proportion of the year?**

No

**12. Do you agree with the proposed approach to transparency and accountability?**

Yes\*

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes\*

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

The potential impact of charging fees leading to increased rent levels needs to be taken into account. Payment of fees will either impact on an organisations rent levels or they will cut back services to compensate for the extra costs.

Potential equality impacts on smaller associations needs to be considered. In addition non-compliant landlords may be charged the same as compliant landlords who take up less of the regulator's time and resources.

There may also be impacts if fees are linked to costs or risks – this might lead to organisations hiding issues.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

Please see responses to the questions above. Consideration should also be made about setting a minimum size of organisation before imposing fees, i.e. associations with less than 250 or 500 properties should be exempt.

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

The paper is not clear what the benefits are to organisations that would be available following the introduction and payment of fees.

\*Please note that replying yes to these questions does not imply that we agree to the proposal to introduce fees for regulation.

## **Response by Hastoe Group to the Charging fees for social housing regulation – A discussion paper**

Hastoe is the country's leading developer of affordable rural housing for rent and shared ownership. We build high quality homes that allow local people to remain in the communities in which they grew up. In just over 50 years we've worked with more than two hundred villages.

### Q1. Do you think that there is an in-principle case to charge fees for regulation?

Hastoe is supportive of the principle of charging fees as a mechanism to make the Regulator more accountable to the sector. We agree that the introduction of fees is an opportunity to improve the effectiveness of the Regulator and make it independent from the Communities and Local Government department.

We welcome the HCA's commitment to greater transparency and scrutiny. Hastoe shares the concerns of others in the sector that the Regulator must be adequately funded to achieve its Fundamental Objectives.

### Q2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

Hastoe would support the Regulator in making a case for removing all or part of its grant-in-aid if we had assurances it would keep the income generated from fees and would have full discretion on how the money was spent and over its regulatory priorities.

### Q3. Do you agree we are taking the right approach to developing the principles?

We agree that the Regulator's fundamental objectives along with the other legislative requirements are the right basis for developing a fees regime. The factors for assessing reasonableness also look right. Above everything the fees regime should enable the Regulator to more effectively meet its fundamental objectives and benefitting the sector. Greater emphasis should be given in the principles to maintaining the independence of the Regulator.

### Q4. Do you agree with the proposed approach to initial registration fees?

The Regulator states that 'The legislation allows the Regulator to set different fees, and to make different provision for different cases or circumstances'. In our view this provision should be applied when setting initial registration fees.

It would seem unfair if a small, not for profit housing provider were to be expected to pay the same registration fees as a large provider which intends to make a profit. In our view there should be a transparent fees structure for registration that could be flexibly applied according to the amount of work the regulator would be required to carry out upon registration and beyond.

Q5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

In our view the Regulator should set a different level of fees for providers established to make a profit. Hastoe is not opposed to organisations that aim to make a profit but the different level of risk they present to the social housing sector should be reflected in the fees regime.

Q6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

Yes. Stock size is probably the least bad option for setting annual fees.

Q7. Do you agree with the proposed approach to local authority registered providers?

We understand the intended approach to registration fees unless grant-in-aid was to be removed altogether and then they would probably need to make an annual contribution. Local authorities should in any case be expected to reimburse the Regulator for the costs of intervention following a breach of consumer regulations.

Q8. Do you agree with the principle set out for a minimum annual fee?

Yes on the proviso that the fee remains affordable for the very small providers many of whom are in the rural housing sector.

Q9. Do you think that we should introduce an element of banding in the fee regime and if so why?

We support the Regulator's proposal for treating providers with less than 1000 units and to not apply banding for those with more stock.

Q10. Do you agree with the proposal to charge the annual fee at group level?

Yes but the Regulator should carry out an impact assessment to ensure its fee structure does not favour Group structures and inadvertently discriminate against smaller, independent providers.

Q11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

Yes.

Q12. Do you agree with the proposed approach to transparency and accountability?

We would welcome more detail on how accountability would be increased under a fees regime. The Regulator could in our opinion go beyond the commitment made in the paper to consult and be open to challenge, which it already does. We would also like to see more detail on how the Regulator would ensure it remained independent from government, the sector and other stakeholders. We would also welcome a public statement on how the regulator would drive value for money in all its activities.

Q13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?

Yes

Q14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?

Smaller providers, many of whom serve minority groups and rural communities, might potentially be adversely and disproportionately affected by the proposals. In our view the Regulator should carry out an impact assessment before publishing its statutory consultation document. The Defra Rural Proofing Guide should be used for this purpose.

Q15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?

There are issues for the Regulator on how it would deal with larger providers after the introduction of fees which we'd like to see addressed in future proposals. Larger providers might expect greater influence on the Regulator in return for paying a larger proportion of the fees. There is also the question of how an independent Regulator would face up to a provider who saw itself as 'too big to fail.'

As stated above the Regulator needs to consider the reasonableness of treating profit making and not for profit providers the same in the fees regime.

Q16. Do you have any further comments on the initial proposals set out in this discussion paper?

It would be helpful to have clarity on the proposed date of the introduction of fees as soon as possible. We would like to see a timetable set out early in 2014-15 which allowed sufficient time for the Regulator develop their proposals and consult with the sector and allow ample notice to providers before fees were charged.



Response to Homes & Communities Agency's discussion:

## CHARGING FEES FOR SOCIAL HOUSING REGULATION

*Response to:*

*Tim Sullivan, Regulatory Framework Manager*

*Homes and Communities Agency*

*The Social Housing Regulator*

*Maple House*

*149 Tottenham Court Road*

*London W1T 7BN*

[\*consultation@hca.gsi.gov.uk\*](mailto:consultation@hca.gsi.gov.uk)

1. Do you think that there is an in-principle case to charge fees for regulation?

As not-for-profit organisations which are focussed on delivering the strategic housing objectives of local authorities, I would question whether in fact there is a good case in principle to charge fees for their regulation. However, I accept, being completely pragmatic, that if there is a need for all government departments to reduce costs or attract further income, the sector may well have to contribute to the cost of regulation. Certainly, I accept that robust regulation is key if the sector is to maintain its generally good reputation, particularly with lenders.

2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

If fees are to be charged, I feel this should cover the cost of regular, normal regulatory engagement. However, where the Regulator has a stronger intervention role, perhaps because of higher risk or because of particular problems, I feel this should continue to be funded by grant-in-aid.

3. Do you agree we are taking the right approach to developing the principles?

If fees are to be applied, then the principles are sound.

4. Do you agree with the proposed approach to initial registration fees?

The proposed flat fee approach seems to be sensible in terms of initial registration.

5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

You might want to consider differentiation between not-for-profit and for-profit organisations.

6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

It seems fair that annual fees are set according to number of social housing units.

7. Do you agree with the proposed approach to local authority registered providers?

Yes, this is fair bearing in mind the more limited service provided to local authorities.

8. Do you agree with the principle set out for a minimum annual fee?

If the key point of charging fees is to cover costs, then it is sensible that there is a minimum annual fee.

9. Do you think that we should introduce an element of banding in the fee regime and if so why?

The introduction of banding seems to unnecessarily complicate the situation.

10. Do you agree with the proposal to charge the annual fee at group level?

Again, for simplicity, I agree that for group structures, it would be sensible to have a single annual fee at group level.

11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

It makes sense that a whole year approach is taken in respect of fees, rather than trying to invoice a proportion of the year which has been subject to registration.

12. Do you agree with the proposed approach to transparency and accountability?

Yes.

13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?

Yes.

14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?

No specific comments.

15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?

No specific comments.

16. Do you have any further comments on the initial proposals set out in this discussion paper?

No specific comments.

6 March 2014

**By email: [consultation@hca.gsi.gov.uk](mailto:consultation@hca.gsi.gov.uk)**

Tim Sullivan  
Regulatory Framework Manager  
Homes and Communities Agency  
The Social Housing Regulator  
Maple House  
149 Tottenham Court Road  
London  
W1T 7BN

Dear Mr Sullivan

## **HCA CONSULTATION: CHARGING FEES FOR SOCIAL HOUSING REGULATION**

Please see set out below our response to the questions raised in your recent consultation paper:

### **1. Do you think that there is an in principle case to charge fees for regulation?**

The main rationale given for the principle of fees seems to be that the beneficiary of the regulation should bear the cost. This free market principle of fee charging to the beneficiary of a service is not unreasonable provided the principle is applied equitably, consistently and transparently.

In this case the principle is undermined in a number of ways by the justification in the consultation document. One main shortcoming is that the benefits of regulation have not been comprehensively identified. The main identified benefit of regulation (in the consultation document) is lower borrowing costs. On that point it is clear that the perceived strength of regulation is a credit influencing factor that can have positive or adverse effect on costs of funds. As such, in a regulated environment, it is key that regulation is effective and adequately resourced. RPs primarily develop social and affordable properties utilising borrowings with the aim of improving social, economic and environmental impact rather than increasing distributable profits. If this is one of the key principles which underpins the basis of fee charging there would be a clear case for either differential fee pricing between those RPs who develop and those non-developing that access HCA grant for example, or it could also provide a strong basis for retention of grant in aid approach as it can be argued that the state and its populace are the main beneficiaries of debt funded investment, not individual RPs. Other benefits highlighted in the consultation are vague, for example improved reputation and the examples of fee charging cited in other sectors do not necessarily provide comparable benchmarks due to the profit as oppose to non profit orientation of those organisations. In conclusion there is not a strong case to charge fees in the way in which the case has been presented.

**2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant in aid?**

If the principle of the beneficiary of regulation bearing the cost can be more clearly supported (by evidencing of the benefits of regulation) then there is a clear rationale for the basis of fee charging to be split accordingly ie the partial option. Identifiable routine regulation, associated support functions and regulation associated with social and affordable housing development for example should be funded through grant in aid with the other activities of the regulator, primarily those associated with non-compliance issues, and new registrations should be charged on an activity/transactional basis.

**3. Do you agree that we are taking the right approach to developing the principles?**

The principle of the free market has not been consistently factored into the case and the protection of social value has not been explicitly factored into the consultation proposals despite that being the key strand of the recent consultation process on the new regulatory environment. The principle of simplicity is only valid in so far as it produces equitable outcomes for fee payers. The beneficiary of regulation is a key principle included and is valid if demonstrated, as are the principles of reliability and ease of verification.

**4. Do you agree with the proposed approach to initial registration fees?**

A fixed or flat fee should not apply, nor a fee based on organisational size, but a differential fee depending on work and resource required to enable the registration would be a more appropriate basis.

**5. What factors should be considered in setting the initial registration fee? What level of initial fee would not discourage new entrants?**

It is difficult to see how existing providers directly benefit from new entrants. The main beneficiary(s) are the new provider's stakeholders and tenants, the state and society in following through the social, economic and environmental impact argument. As such the initial cost should be borne by a mixture of grant in aid and the provider themselves in full. With respect to the overall level it should be based upon time and resource requirement as oppose to a loss leader set to ensure new entrants are not discouraged.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee? Do you agree that social housing units owned are a suitable measure of size?**

There could be a core element of the overall fee based around the concept of the beneficiary of regulation and sector risk met through either grant in aid or a combination of grant in aid, with direct attribution basis for any remaining charges levied on providers (depending on regulatory engagement with them). Provider size and unit numbers are not necessarily a sufficient basis to derive fee levels and are not a good indicator of risk or core regulatory requirements. Stock composition and development programme size and composition for example provide better indicators of risk, as do current viability and governance gradings.

**7. Do you agree with the proposed approach to local authority registered providers?**

The principles outlined above should apply with a risk and resource based fee charged.

**8. Do you agree with the principle set out for a minimum annual fee?**

There may be a de minimis level of core regulation that would drive a minimum fee level. Provided the fee was broadly proportionate to the regulatory resource involved then the principle would be acceptable provided that it could be evidence that the provider was benefitting from the regulation. If the risk and rewards were so low as to be close to the costs of recovery of the fee then it would be likely that grant in aid method should apply to this cohort of providers in full.

**9. Do you think we should introduce an element of banding in the fee regime and if so why?**

Only in so far as this is consistent with and could complement the principles of the free market, variable registration fees, and no local authority and minimum fees as outlined above. If the banding was simply a mechanistic way of making the charging process simpler to administer then no.

**10. Do you agree with the proposal to charge the annual fee at Group level?**

A single charge basis is administratively the most effective and is in the main consistent with the principle of the beneficiary of the regulation being charged. As the group parent is required to be the controlling mind of the group through the code of governance then this would seem reasonable provided there is sufficient transparency in the fee note to charge those costs on within the group so that subsidiary boards and officers understand the basis and rationale for any fees on charged to them.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Agreed that there would be no refund.

**12. Do you agree with the proposed approach to transparency and accountability?**

Yes.

**13. Do you think that annual invoicing towards the beginning of each financial year is appropriate?**

Yes.

**14. Are you aware of any potential E&D impacts in implementing fees? If so what are they and how should they be taken into account?**

None.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so what are they and how should we take them into account?**

As highlighted above the free market principles of charging for services and the wider society benefits of social and affordable housing and the regulation thereof have not been consistently considered in the paper. The downside risk of inadequately resourced regulation has also not been factored in to the case and the concept of how any such costs would be dealt with through any fee process, whether that applied to individual landlords or whether there was a regulatory issue which contributed to a sector-wide downgrade of credit rating for example.

**16. Are there any further comments on the initial proposals set out in this discussion paper?**

There is no explicit reference in this paper to any linkage between existing and future regulatory ratings and fee charging, other than that in theory there would be some linkage if a direct attribution approach was taken.

In the case of the regulation of value for money performance, for example, the current focus on stop/go type regulation on disclosure or non-disclosure of self assessments and their related content does not at the moment necessarily create any sector wide incentive for less forward thinking providers to aspire to operate at a more optimal level in this area. Whether some linkage to fees is an appropriate mechanism to drive different behaviours is a debatable point but there could be some mechanism to reward more compliant, high performing providers for their performance with preferential access to grants, lower fees etc with the prime cost of any costs of regulatory engagement being borne by those who are less compliant.

If you have any queries or wish to discuss any of the points made please don't hesitate to contact me.

Yours sincerely

**Executive Director Business Resilience**

## **Hexagon Housing Association's response to the discussion paper entitled 'Charging fees for Social Housing Regulation'**

Hexagon Housing Association is pleased to be able to comment on the proposal to charge fees for social housing regulation. For ease of reference, we will follow the format of your questions.

### **1. Do you think that there is an in-principle case to charge fees for regulation?**

No. Since the creation of the regulator, regulation has always been paid through Government and funded through taxation.

In our view, the paper does not outline any convincing case why this should change. On the suggestion that this occurs in other sectors, the difference of course is that in those other sectors, the bodies being regulated are profit-making. We are not aware of any comparable regulatory fee charging that applies to not for profit organisations and these are not outlined in the paper.

Whilst it may be true that there were borrowing costs benefits arising from the existence of regulation, the primary impact of that is that Government can provide less grant to housing associations to build new housing. In that sense the benefits of regulation are not exclusive to housing associations.

### **2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

(see above). We believe that the full cost of regulation should be met through taxation, rather than fees to the regulated.

### **3. Do you agree we are taking the right approach to developing the principles?**

No. We would be particularly opposed to the suggestion that grant-in-aid funding would be replaced entirely by fee charging to the regulated.

### **4. Do you agree with the proposed approach to initial registration fees?**

Although we are not generally in favour of charging the regulated, we can see that there might be some logic in applying a fixed fee to the initial registration.

### **5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

As we are currently registered and do not have enough information on what the barriers might be to new entrants, we have no opinion on this point.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

We are opposed to the general principle of charging the regulated, however, if there were to be a mechanism for charging, we are not completely convinced that provider size or number of units is a reasonable proxy for the fee level.

We say that because some large associations have relatively simple and straight-forward businesses and some medium and smaller associations have much more complex businesses that would suggest there would be a higher level of regulatory involvement.

**7. Do you agree with the proposed approach to local authority registered providers?**

We don't think the case is made to charge nothing to local authorities. Although the regulator's role is limited, the regulator does have a regulatory function which needs to be funded. In that context it does not seem logical to exclude them.

**8. Do you agree with the principle set out for a minimum annual fee?**

We are opposed to the principle, but if a fee is to be levied, it would seem fair that all providers contribute something.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

The suggestion of banding as outlined would seem to overly complicate any fee structure proposed.

**10. Do you agree with the proposal to charge the annual fee at group level?**

It would seem sensible to base any fee charging structure at group level.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

The annual fee proposal sounds reasonable.

**12. Do you agree with the proposed approach to transparency and accountability?**

This is perhaps our most fundamental disagreement. We think that the regulator's future work programmes and priorities should not be influenced by the views of those who may themselves be put under heightened scrutiny, and payments, particularly for those paying large fees, opens up that risk. As an aside, we think it would be helpful if the HCA published a regular transparency statement about their costs and their approach to achieving value for money whether or not there is a fee paying structure paid for by the regulated.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

If an annual fee is to be levied, it is not particularly important to us at what stage in the year we are invoiced.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

We do wonder whether the proposal is simply driven by a desire to reduce Government's expenditure and to shift the cost onto housing associations to achieve this. We do not, however, think the Government spending austerity in of itself is a good enough reason to change the way that the system has worked for the past 40 years.

We are particularly concerned at the suggestion that the introduction of fees would be expected to increase accountability to the sector. The notion that as providers would be paying for regulation, they would expect greater challenge on areas, seems to us to be a very dangerous and slippery slope threatening the independence of the regulator fundamentally. Anything that compromises the regulator's independence should be avoided in our view.

# Charging Fees for Social Housing Regulation

home  
group

## Home Group's Input to Charging Fees for Social Housing Regulation Consultation

25<sup>th</sup> of March 2014

Dear *TIM*

### Charging Fees for Social Housing Regulation a Discussion Paper

Many thanks for the opportunity to respond to your consultation on charging fees to cover the cost of social housing regulation. We recognise that this issue has been on the horizon for sometime and welcome the opportunity to set out our views on how the future fee charging system should work.

Home Group is the fifth largest social housing developer in the country. We house more than 120,000 people a year in 55,000 homes across 200 local authority areas in England, Scotland and Wales. We are keen to share our views on how the fee charging system should be developed and the reconfigured relationship between the sector and the regulator that should accompany this.

Home Group believe the introduction of a fee charging model should involve:

- A relationship with the regulator that safeguards the sector's impence;
- No additional regulatory burdens;
- A guarantee of regulatory quality;
- The application of annual fees in a fair and consistent way;
- A banded structure based on provider size to calculate the level of fees;
- The encouragement of new entrants to maintain competition with the sector.

I hope our suggestions will provide a valuable perspective in determining future structure of the fee charging model. I would welcome the opportunity to discuss our views in greater detail.

Yours sincerely, *n*

Chief Executive  
Home Group

## **1. Do you think that there is an in-principle case to charge fees for regulation?**

Home Group has no objection in principle to the HCA levying fees to cover the cost of regulation. We support the desire to bring the regulator in line with other sectors and to shift the burden of regulation from the taxpayer to the sector.

We feel that a fee charging system should be accompanied by a relationship with the regulator that safeguards the sector's independence and guarantees the quality of regulation. In this instance it is important that the HCA's approach gives the sector the flexibility it needs to remain innovative and does not involve additional regulatory burdens.

The introduction of fees should be used to create the conditions necessary for the sector to flourish. We feel this approach founded on independence and regulatory quality would strengthen the regulator's effectiveness and improve the sector's performance.

## **2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

Whilst we feel that fees should be used to cover the full cost of regulation, it is important to recognise that this has limitations. The social housing sector is already funded by central government, which mitigates the ability of the new fee charging model to reduce the burden on the taxpayer.

A mixed approach to funding based on fees and grant aid is not desirable as this would add unnecessary complexity and fragmentation to the system. It is not fully clear what would be gained by maintaining grant aid for certain funding areas.

It is right in principle for the sector to bare the burden of the funding regulatory costs and that the approach to social housing regulation should be consistent with other sectors.

## **3. Do you agree we are taking the right approach to developing the principles?**

Home Group broadly approve of the HCA's approach in developing the principles. However we are sceptical about the principle that Local Authorities should not pay an annual fee.

We feel that the rules should apply to all providers consistently and without exception. Local Authorities should be required to pay an annual fee in line with other providers as a matter of fairness.

## **4. Do you agree with the proposed approach to initial registration fees?**

Home Group support the HCA's proposed approach to initial registration fees. We particularly welcome the proposal not to require providers already registered with the regulator - or registrations resulting from mergers or amalgamations - to pay an initial registration fee.

We also agree that fees should be proportionate, so as not to deter new entrants to the market.

We feel it is important that the market remains competitive and that there a sufficient number of providers to maintain diversity and innovation in the sector.

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

We feel that the initial registration fee should apply to new entrants only. This should be used as a mechanism to test the market for new entrants.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

Home Group believe that a banded structure based on a stock size should be used to calculate the level of annual fees. This would work by introducing series of differential fees levels that assign costs based on the size of an organisation's stock portfolio – as a consequence organisations with a larger housing stock would pay higher fees and vice versa. This would reflect the differential costs levels involved in regulating different providers and ensure that the fees levied are fair and proportionate.

We also believe this will make sure new entrants are not discouraged from entering the market. This is essential in order to safeguard innovation, diversity and competition within the sector.

In short we believe a banding system based of provider size would be the most equitable fee charging model that will maintain the market's competitiveness

**7. Do you agree with the proposed approach to local authority registered providers?**

We feel that Local Authorities should have to pay a banded fee based on stock size flat fee like all other providers. This will make sure the system is fair and consistent.

**8. Do you agree with the principle set out for a minimum annual fee?**

We agree with the proposal for fees to be determined on the basis of a banded charge underpinned by a minimum fee.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

Home Group take that view that the introduction of a banding system based on stock size would ensure that fees reflect the cost of regulation involved and that they are distributed in a fair and proportionate way. This will mean that those organisations with the broadest shoulders bear the greatest burden.

**10. Do you agree with the proposal to charge the annual fee at group level?**

We support the HCA proposal to introduce a single fee at group level. Charging separate fees for the separate entities within a housing group would place group providers at an unfair disadvantage in comparison to single entity providers.

It would discourage diversification of activity which is something that should be promoted within the sector.

It is our considered view that this approach would be the most fair, simple and transparent by recognising the commercial reality of group organisations. This would also acknowledge the streamlining of regulatory activity resultant from the grouping of different organisations.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Home Group thinks that providers should pay the full cost of the annual fee in the year they register or de-register. This fairly reflects the administrative costs of registration and avoids a complex system for calculating refunds for different providers. It also creates a level playing field with a clear set of guidelines and expectations.

**12. Do you agree with the proposed approach to transparency and accountability?**

We feel that transparency and accountability are critical to upholding the sector's confidence in the HCA as a regulator, and in achieving value for money.

The suggestion of showing a clear relationship between the fees levied and the costs they relate to is essential to safeguard the trust between the regulator and the sector. The sector should be thoroughly consulted about any proposed changes to fees and have an active role in the process.

In addition it should also be able to challenge the proposed approach and calculation of fees if they are deemed unreasonable or inappropriate.

We feel that it is also right, fitting and proper that the regulator should be accountable to the sector for the fees it charges. Transparency and accountability is a two way process.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

The process for invoicing an annual basis April to 31st March each year is agreeable to Home Group, as it is commensurate with our existing financial arrangements. Moreover the fee charging system NHF membership is based on a similar model and is already familiar to many in the sector.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

Home Group is not aware of any such impact.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

We think that the fee charging model should be accompanied by a guarantee of regulatory quality. This should be backed up by a system whereby there are clear consequences if this quality is not met.

## **HCA Fees discussion paper.**

12<sup>th</sup> February 2014.

### **Background to respondent.**

Homesdale (Woodford Baptist Homes) Ltd. was established in 1947 by a Baptist Church keen to address the significant social, environmental and medical problems faced by the large numbers of elderly women living in post war Britain. It was, and remains to this day, a faith based Charity serving the local community primarily within the London Borough of Redbridge. In the present day, we run an 18 bed Residential Care Home with 70 Sheltered Housing units for the frail, vulnerable elderly (HAG funded in the late 1970's) on the same single site.

### **Response.**

I am personally rather disappointed with the whole tenor of your consultation document. You invite responses based on "closed questions" after arguing your case as to why or as to why not, a particular approach should be adopted. This is not effective "consultation". It is clearly a thinly veiled cost saving exercise to reduce a Government overhead, which it wishes to shed from the public purse?

#### *1. Do you think that there is an in-principle case to charge fees for regulation?*

No. We provide a public service open to all members of the community. I use the Public Library whilst my neighbour does not but, as far as I am aware, there are no plans to make only the users pay? I live in a road with no streetlights but I pay for them to be run in my neighbour's road as they are needed on his more dangerous road? We provide in our particular case a service for the entire community across the entire socio-economic spectrum and so your argument is fundamentally flawed.

#### *2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?*

The latter - explained in the argument above.

#### *3. Do you agree we are taking the right approach to developing the principles?*

No. A typically "easy option/one size fits all" approach which fails to recognise the true diversity of delivery options within the sector. We already pay substantial CQC fees for the Care Home and Domiciliary Care Service let alone the FCA for our I & P roots. In these cases there is however a clear benefit for our residents but in the case of the fee you are "consulting" over, there is no benefit to them whatsoever. All of the benefits you list in paragraph 5 on page 4 simply do not apply to us as a static non-expanding organisation. It is another overhead and in this case, a flagrantly unnecessary one!

#### *4. Do you agree with the proposed approach to initial registration fees?*

No. An embryonic organisation would simply find this another overhead cost to be found. The flat fee proposal is once again an application of another "line of least resistance" principle.

#### *5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?*

I can to some extent support your view stated earlier in the document that "Fee income

*matches expenditure on the performance of the Regulator's functions; Each fee is reasonable and proportionate to the costs to which it relates".* The simple experience of this organisation is that we receive nothing from the HCA and so consequently, applying your principle, a fee of £0 would be entirely appropriate in our particular circumstance?

*6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?*

No, not as crudely as you are suggesting. We would pay the same for our 70 units as another Association with 999 using your suggestion. If the fee was £1,000 we would raise £14.29 from each of our residents whilst the other Association would charge £1. How can we reasonably support such an unfair approach?

*7. Do you agree with the proposed approach to local authority registered providers?*

No. We fail to understand any of the arguments you put forward. The movement relies on us all working together to serve the entire community. There is no logical argument within your paper to exclude LA providers.

*8. Do you agree with the principle set out for a minimum annual fee?*

No. The fee should be charged on the basis of the service or benefit received by our residents. The principle adversely affects smaller organisations.

*9. Do you think that we should introduce an element of banding in the fee regime and if so why?*

No. Same argument as that to Q6 applies.

*10. Do you agree with the proposal to charge the annual fee at group level?*

No comment as we have no experience of any kind of group structure.

*11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?*

No comment as we have been operating since 1947 and have no experience of the type of part-year activity you mention.

*12. Do you agree with the proposed approach to transparency and accountability?*

No. It is unclear how we could judge value for money. You currently accept the data and provide nothing. Your proposals fail to suggest any change to this approach. I last recall the Housing Corporation arriving for a monitoring visit in the mid 1970's – we have heard nothing since!

*13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?*

No. We run our financial year on the basis of the calendar year. (In addition, profiled accounts require monthly application of fees throughout the year if they are to not distort the financial picture of the organisations financial health?)

*14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?*

Yes. There used to be many faith based small HA's – they are all being slowly swallowed up by larger organisations because of lots of small changes like the one you are consulting on.

This is an assault on the Religious Freedom of the population. We have the solution to many of the problems with no shareholders or paid Directors ensuring the lowest Care Home fees in London? I accept it is the “unintended consequence” but once again the spiritual and religious dimension is being flattened by shortsighted policies, which are simply not thought through? I think our forefathers would be horrified if they could see what finally became of the initiatives they started? Perhaps we should all feel a little ashamed?

*15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?*  
I fear, through reading the flaccid arguments you have proposed, that you have no knowledge or understanding of how small HA’s operate.

*16. Do you have any further comments on the initial proposals set out in this discussion paper?*

I feel a “reality check” is needed before you proceed further with this exercise. Small HA’s can ill afford any increase in any overheads. I would be delighted to welcome you to the Homesdale Complex to show you what we achieve at first hand. Regrettably, after I have sent this, I rather doubt I will be granted even the courtesy of a reply?

On behalf of Homesdale (Woodford Baptist Homes) Ltd

[www.homesdale.co.uk](http://www.homesdale.co.uk)



**The Hyde Group**  
Making a lasting difference

# The Hyde Group response: Charging fees for social housing regulation

**March 2014**

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The Hyde Group (Hyde) is a leading provider of affordable housing and makes a significant contribution to meeting housing needs and improving people's quality of life. The Hyde Group owns or manages around 50,000 homes and houses over 95,000 residents. Hyde provides a range of social housing products ranging from general needs, intermediate housing products and supported housing.

Hyde is one of the largest housing association groups working in England, owning or managing homes in London, Kent, Surrey, Sussex, Hampshire, the East of England and East Midlands.

We welcome the opportunity to respond to the Homes and Communities Agency's consultation on charging fees for regulation. We agree in principle that housing associations should contribute to the cost of regulation. However, any such contribution should result in an improved regulatory regime, cover only the costs directly associated with the regulatory activity, and should be transparent, proportionate and provide good value for money.

Without improving regulation the new fee regime will simply mean less money invested into new and existing affordable homes. Should the fee regime not provide these improvements the Government should reassure the sector that the money it thus saves are ring-fenced for investment in affordable housing in other ways, such as via grant.

We make these points in more detail in our submission below.

We also set out below our proposals for a variable or tiered fee regime which is in line with the Regulator's key operational principles of regulation being risk based and proportionate and focussed on those providers that are more complex or exposed to greater risks<sup>1</sup>. This tiered regime would see all providers pay a minimum annual fee, with those requiring additional support

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<sup>1</sup> Regulating the Standards, HCA, January 2014

or intervention from the Regulator paying more. We set out this proposal in more detail below.

We only addressed those consultation questions which we felt were most appropriate for us to comment on.

## Consultation response

### Fee charging principles

#### Q1. Do you think that there is an in-principle case to charge fees for regulation?

- We agree that if the sector's contributions result in an improved regulation, housing associations should contribute to the cost of regulating social housing.
- We agree that housing associations derive benefits from being part of a regulated sector but do not feel that the comparison with other regulated sectors is fair. Private providers in other regulated sectors meet the cost of their regulation from their profits, along with other costs of doing business.
- Housing associations are not-for-profit providers. We invest any surplus we make into our core function of managing homes and building new housing. The Regulator's fee would come out of the surplus and reduce our investment in our core functions.
- All registered providers will have to find additional operational savings or reduce the amount of investment into new and existing homes in order to meet the burden of funding the regulator.

#### Q2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

- We strongly feel that the fee should only meet the costs related to the regulatory activity and not include back-office functions such as support functions and Strategy and Management functions. We feel that it would be appropriate for these costs to continue to be met by the Government through grant-in-aid.

#### Q3. Do you agree we are taking the right approach to developing the principles?

- We feel that there is a crucial distinction between the social housing sector and other regulated sectors where the regulation fee is met from the providers' profits. We therefore feel that the principles on which the Regulator has based its fee regime for the social housing sector (SHS) should differ from those used in the sectors where the regulated providers are for-profit companies.

- The fee regime for the SHS should be based on the principle of improving the housing standards and increasing the number of homes the SHS delivers.
- The Regulator should review the principles and set out later this year in its proposals how, along with the principles of reasonableness, the fee regime could improve the standards and help the SHS to build more homes.

### **Initial registration fee**

#### **Q4. Do you agree with the proposed approach to initial registration fees?**

#### **Q5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

- We welcome the Regulator's assurance that there will be no retrospective registration fees for providers already registered with the Regulator. We also welcome the assurance that registration fees will not apply for new registrations resulting from amalgamations, mergers or transfers from or between registered providers.
- We do not have any comments on the initial registration fee proposals.

### **Annual fee**

#### **Q6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

#### **Q8. Do you agree with the principle set out for a minimum annual fee?**

#### **Q9. Do you think that we should introduce an element of banding in the fee regime and if so, why?**

#### **Q10. Do you agree with the proposal to charge the annual fee at group level?**

- We note that the Regulator makes a distinction between routine regulation and retrospective and consumer regulation.
- We agree that the limited number of providers who require additional regulation beyond the routine assurance-based regulation incur additional costs to the regulator. We therefore propose that those providers who require it should meet the cost of additional regulation.

- Notwithstanding our comments above, and if the Regulator did not wish to take a risk-based approach to fee setting, we agree that the number of units owned is a good determinant for the annual fee.
- Banded fees could also offer a reasonable approach. Banding would give the providers some certainty about the future levels of fees as they plan their growth strategies.
- We also agree with the principle of a minimum fee and feel that £300 could be considered a reasonable minimum annual charge.
- We also agree with the principle of charging fee on a group level rather than subsidiary level.

**Q12. Do you agree with the proposed approach to transparency and accountability?**

- If the sector is to meet the cost of regulation, the SHS must receive some assurances about how the fees are used to regulate the sector. We therefore welcome the proposal to provide fee payers with a detailed calculation of their fee.
- To derive maximum value out of its limited budget the Regulator should adopt the same approach to driving up value for money and generating efficiencies that it expects the sector to adopt, and which some providers like Hyde have already adopted,
- The Hyde Group has over the last three years undergone a substantial programme of change to reduce our overheads and other costs, and increase our surpluses.
- As part of this programme we reduced our back-office and overhead costs from 13 per cent to below ten per cent of our turnover. This is part of our commitment to invest more of our tenants' rent back into our core activities of managing and building homes.
- Along with the detailed individual fee statement we therefore would expect the Regulator to provide the sector with an annual statement which demonstrates how the Regulator uses the fees it collects to improve and streamline its regulatory function.
- If the Regulator does not adopt a risk-based approach as described above its annual review should also demonstrate how the Regulator prioritises its resources and interventions on high risk areas and more complex providers.

**Q15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

- Any fee regime introduced should set out any planned annual fee increases. If the annual fee is to increase, we would expect the limit to be in line with the maximum allowable annual rent increases which from 2015 will be CPI +1%.
- The Regulator should commit to consult with the sector on any variation in the level of service or fee beyond the limits it agrees with the SHS before the fee regime is introduced.
- As raised above, we feel strongly that if the burden of financing the Regulator will be met in the future by the sector, and if the changes do not improve regulation and the standards, the Government should ring-fence any money it would have granted to the Regulator for investment into affordable housing, for instance via the Affordable Homes Programme.

For further information about The Hyde Group and this response please contact Elena Scherbatykh, Lead Policy and Research Analyst, on 020 3207 2771 or [elena.scherbatykh@hyde-housing.co.uk](mailto:elena.scherbatykh@hyde-housing.co.uk)

## **RESPONSE TO DISCUSSION PAPER ON CHARGING FEES FOR REGULATION**

### **1. Do you think that there is an in principle case to charge fees for regulation?**

There is an “in principle” case for good quality regulation which will benefit the sector as a whole. If the introduction of fees is required to deliver good regulation then the principle of charging is accepted.

Good quality regulation involves establishing clear principles which are consistently applied coupled with support and guidance with compliance. Fees are justified if they are necessary to achieve this outcome. There would be no good case for fees if they were used to expand the scale and remit of regulation so as to become intrusive and directive in terms of strategy and operational management as seen in previous years

### **2. Do you think that fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

There is a good, principled, case for distinguishing between different types of regulatory activity when considering charging. Broadly this distinction is between routine regulation applicable to all and reactive regulation applicable only when an infringement or other difficulty has arisen.

It is reasonable to charge for activities of general application. There is however no equity in charging all providers for actions which are undertaken in relation to the activities of individual providers. Further, there is a difficulty in the principle of charging the subject of an enforcement action for the cost of that action arising out of the potential conflict which this creates. The cost of acting as “Policeman” to the sector should be borne from central funds.

### **3. Do you agree we are taking the right approach to developing the principles?**

The principles outlined in the Consultation paper are incontrovertible.

In relation to the factors suggested as relevant to reasonableness we have reservations about the inclusion of the benefit of regulation due to the difficulty in quantifying this factor and the potential for this impact to vary between providers.

#### **4. Do you agree with the proposed approach to initial registration fees?**

Of the three options canvassed, (direct cost attribution, size-related and flat fee) the option of a flat fee appears to be preferred primarily because of the practical difficulties presented in administering the other options.

While we would accept that the cost and uncertainty created by direct cost attribution outweigh the benefit of such a system the same arguments do not apply to a size-related fee. Although size is not the sole factor determining the work required in dealing with a new application it is clearly one of the main factors, it is readily determined, involving no additional work and it will produce some measure of equity between applicants. We accept that this would not be a perfect approach but it is less imperfect than a flat fee which makes no attempt to distinguish between applicants.

The consultation draft does not differentiate the position of private providers. We think that in the case of private providers the fee approach must be full cost recovery.

#### **5. What other factors should we take into account in setting the initial registration fee? What level of initial registration would not discourage new entrants.**

We think that the fee level must reflect the cost of processing new applications. It is not reasonable that existing providers should subsidise new entrants.

We do not think that the indicative fee of £10,000 is either unreasonable nor is it at a level which we would expect would deter any serious entrant to the sector.

#### **6. Do you think that provider size is a suitable basis for determining the level of the annual fee? Do you agree that social housing units owned is a suitable measure of size?**

We agree that it is right to discount direct attribution as too expensive to implement and a flat fee as plainly inequitable.

We think that a risk based approach is likely to be controversial in view of the lack of empirical certainty in assessing risk.

We think that a fee based on size strikes the correct balance between fairness and practicality. We do not, however, think that unit numbers is a sufficiently sophisticated basis for assessing size. Units in some markets represent a far greater value both in terms of rental income and capital worth than in other areas.

Turnover as a measure has the drawbacks identified in the paper we would therefore suggest gross income from rents as a more accurate indicator of true size which avoids the reservations expressed about turnover. It is also a figure which is readily available.

**7. Do you agree with the proposed approach to local authority registered providers?**

Yes, we think that it is consistent with the approach which we have acknowledged in Q2 above.

**8. The annual fee should be subject to a minimum amount which would be payable by all private registered providers, regardless of size.**

We agree with the principle that all fees have to be at a level that it is economic to recover.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

We think that a combination of a minimum fee and fees set at on a basis which genuinely reflects the economic size of the provider is sufficient to achieve equity.

**10. Do you agree with the proposal to charge the annual fee at a group level?**

We think that this is the only equitable approach, Groups are regulated as such and must pay a single fee based on group size.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year.**

The argument advanced for not charging a proportion of the annual fee in the first year loses impact in view of the fact that there is to be an initial registration fee in any event. We think that the first year fee should be apportioned in the interests of fairness.

The argument for not refunding part year fees on de-registration is reasonable given the context that there would be no new fee for the new entity.

**12. Do you agree with the proposed approach to transparency and accountability?**

The paper promises transparency but does not deal with how accountability will be delivered.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach.**

Yes.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so what are they and how should we take them into account?**

Registered Providers who specialise in meeting the needs of groups with protected characteristics are usually smaller providers. It will be necessary to ensure that the burden of fees does not fall disproportionately on smaller providers or groups with consequent impact on customers with protected characteristics.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so what are they and how should we take them into account?**

The Regulator should be aware of the subtle shift in the nature of its relationship with Providers which fee charging may engender. Providers who are paying significant sums for regulation will have a reasonable expectation of a response to requests for advice and guidance.

**16. Any further comments?**

None

18 March 2014

Tim Sullivan  
Regulatory Framework Manager  
Homes and Communities Agency  
The Social Housing Regulator  
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149 Tottenham Court Road  
London  
W1T 7BN  
Emailed to: [consultation@hca.gsi.gov.uk](mailto:consultation@hca.gsi.gov.uk)

Dear Tim

## **CHARGING FEES FOR SOCIAL HOUSING REGULATION**

Thank you for providing Iroko Housing Co-op with the opportunity to respond to the February 2014 discussion paper on Charging Fees for Social Housing Regulation.

Iroko Housing Co-op is a Registered Provider of housing and has just 59 units. Our landlord, Coin Street Secondary Housing Co-op (CSS) is also registered with the HCA.

Under the HCA fee proposal it would appear that primary and secondary housing co-ops would be required to pay a registration fee and an annual fee.

We cannot see that the arrangement relating to those housing co-ops that operate in secondary structures would be specifically covered by the proposals relating to group structures set out in the discussion paper and would welcome clarity on this point.

Our landlord, CSS, has no other income other than from the rent it receives from its three primary co-ops. This would effectively mean, in its current form, tenants of primary co-ops paying the annual charge twice. It is our view that, if fees are developed, secondary housing co-ops and their primary housing co-ops should be regarded as part of a group structure and pays a single annual charge (but only where the total stock size is greater than 1,000).

The proposal suggests the application of a fee would enable the HCA to acquire resources in specific areas of work. We feel that further details of what resources are proposed would need to be clear during the statutory consultation so that the regulator can demonstrate the fee payers are getting value for money.

We would respond to your specific questions as follows:

1. Do you think that there is an in-principle case to charge fees for regulation?

We agree that for some housing organisations the environment in which they work and the activities they choose to undertake makes them more complex to manage and regulate. In the interests of all registered providers and the reputation of the housing sector we acknowledge the need for the regulator to develop the right range of skills and capacity to be effective in these increasingly complex areas of work. However as is recognised later in the paper a great many smaller housing organisations, such as Iroko Housing Co-op are not complicated

and as a consequence receive the lightest of touches from the regulator. **We feel that as a general principle all registered providers with stock in excess of 1,000 should be charged a fee for regulation.**

2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

**We consider a healthy, capable and competent housing regulator to be in the wider interests of the economic and social health of the nation in developing and maintaining good quality affordable housing for current and future generations. Our position is that all or a significant part of the regulatory costs should be met by grant in aid.**

3. Do you agree we are taking the right approach to developing the principles?

- A fixed fee should apply to all successful applications for initial registration. **No. Our preference would be for option 2 as it is fairer on small housing organisations. Registered providers with stock fewer than 1,000 units should be exempt.**
- The annual fee payable by a registered provider should be set by reference to the number of social housing units owned by that provider. **Yes, for those providers with stock in excess of 1,000. Registered providers with stock fewer than 1,000 units should be exempt.**
- The annual fee should not apply to local authorities. **We have no opinion on this matter.**
- The annual fee should be subject to a minimum amount which would be payable by all private registered providers, regardless of size. **No. We believe that this should be banded and registered providers with stock fewer than 1,000 units should be exempt.**
- For groups the annual fee should be set at group level rather than for each individual entity on the register. **Yes. Although we are not clear whether the proposals relating to the treatment of group structures also applies to secondary housing co-ops.**
- Providers should pay the full cost of the annual fee for the year that they are on the register when they register or de-register. **We have no opinion on this matter.**

**We do not agree that new registrations arising out of amalgamations, mergers or transfers of engagement from or between existing registered providers should be exempt. Many of these are likely to be complex in nature and require a regulator with the skills, capacity and range of competencies that the fee charging arrangement proposes to address.**

4. Do you agree with the proposed approach to initial registration fees?

**Registrations from providers with stock fewer than 1,000 units should be exempt.**

5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

**We have no opinion on this other than that providers with stock fewer than 1,000 units should be exempt.**

6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

**Yes. As identified in the discussion document the regulator does less work with the smallest providers (under 1,000 units) and we agree that a flat fee approach would not be proportionate to the cost and benefits received from being part of a regulated sector.**

7. Do you agree with the proposed approach to local authority registered providers?

**We have no opinion on this.**

8. Do you agree with the principle set out for a minimum annual fee?

**No. We believe that this should be banded and registered providers with stock fewer than 1,000 units should be exempt.**

9. Do you think that we should introduce an element of banding in the fee regime and if so why?

**Yes. We believe that registered providers with stock fewer than 1,000 units should be exempt.**

10. Do you agree with the proposal to charge the annual fee at group level?

**Yes. Although we believe that registered providers with stock fewer than 1,000 units should be exempt.**

11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

**We have no opinion on this.**

12. Do you agree with the proposed approach to transparency and accountability?

**Yes.**

13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?

**Yes.**

14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?

**We are concerned that many smaller housing organisations working with groups of people with specialist needs will end up meeting a disproportionate cost of regulation and would encourage the Homes and Communities Agency in its statutory consultation to consider this aspect of the proposal.**

15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?

**No.**

16. Do you have any further comments on the initial proposals set out in this discussion paper?

**In developing its fee proposals the regulator will need to set out in the consultation how much it will cost to administer its fees (on a per RP basis) and how it will demonstrate value for money to the fee payers annually.**

In summary we do not consider the introduction of any fee structure to be appropriate for smaller housing organisations (those with a stock size of less than 1,000 homes). We are particularly concerned about the proposed registration fee for new providers, which in our view would substantially stifle the ability of small housing organisations to start up. We believe that the introduction of flat rate annual fee and registration fees for new providers would likely have a disproportionate impact on the cost of running specialist housing organisations, such as those for people with mental or physical disability and black and ethnic minority housing.

We feel that in the discussion about fees for the regulator the voice of smaller housing organisations should not be drowned out by larger housing organisations hoping to have the proposed fees for their regulation subsidised. Many larger organisations are by their very nature more complex; risky and will be more dependent on the regulator than small housing providers. We think this is an important consideration in developing this discussion.

We hope this is helpful to you and look forward to future correspondence and consultation on this matter.

Yours sincerely

**Iroko Housing Co-op Chair**  
c/o Coin Street Community Builders  
Coin Street neighbourhood centre  
108 Stamford Street  
South Bank  
London  
SE1 9NH

## IRWELL VALLEY HOUSING ASSOCIATION

### Response to the Homes and Communities Agency Discussion Paper: Charging Fees for Social Housing Regulation

#### Question 1:

**Do you think that there is an in-principle case to charge fees for regulation?**

#### Response:

We acknowledge that legislation permits the Social Housing Regulator to raise fees from Registered Providers (RPs) and applicants for registration to cover the costs of its work. However, we do not agree with the principle of charging fees for regulation.

#### Question 2:

**Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

#### Response:

If fees are to be charged to the sector, it would only seem reasonable if the annual fee covered the basic regulatory functions and engagement between the regulator and a provider on an annual basis. We believe that additional funding should be provided from Government in terms of grant-in-aid for the Regulator's reactionary work such as investigating allegations of serious detriment or working with organisations that are experiencing difficulties.

#### Question 3:

**Do you agree we are taking the right approach to developing the principles?**

#### Response:

If fees are to be charged to the sector, we agree with the principles for a fixed fee to cover initial registration and that a minimum fee should be in place for the annual fee. We would also agree with the approach in that the annual fee should be paid in full, regardless of whether an organisation de-registers during the year.

However, we do not fully agree with the principle of setting an annual fee entirely in line with the number of units. As pointed out by the Regulator, the sector is becoming increasingly diverse and is entering riskier times as grant is reduced and the pressure to develop has increased. Therefore, different RPs require varying levels of regulatory engagement dependent upon the complexity of their structure and the amount of risk their portfolio offers. The Regulator already understands that it has to focus its resources and energies on the RPs that have the greatest risk appetites and/ or have development programmes, in particular those organisations with limited headroom to support the materialisation of risks within their own matrix. Therefore, we support a case for regulation to be charged in relation to an RPs size and risk, rather than an approach that just charges in relation to stock size. In conjunction with this we also think that if an organisation has a G1 governance grading there should be a reduction in regulatory fee to reflect the reduced level of regulatory engagement they are likely to experience.

We also think that it is unfair to not levy any charge against local authorities as set out in Table 4. Whilst we appreciate the Regulator's current role in relation to consumer regulation is a 'backstop' approach only, the Regulator clearly spends a proportion of their time dealing with issues within this area. In light of the three Regulatory Notices that have been issued since October 2013, it is clear that the Regulator does still have a role in consumer regulation and will have to devote considerable energies to such investigations. In line with local authorities having been deemed liable for Housing Ombudsman Service fees, it seems only fair that there should be a nominal fee for local authorities to cover for their regulation in this area, if this is not to be covered by grant-in-aid.

#### **Question 4**

**Do you agree with the proposed approach to initial registration fees?**

#### **Response:**

Should fees for regulation and registration be introduced, we agree that there should be a fee charged for initial registration and that this should be charged on a sliding scale depending on the size of the new organisation.

#### **Question 5:**

**What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

#### **Response:**

Unless covered by grant-in-aid, it would seem reasonable to expect that new applicants would fund their own cost of registration.

#### **Question 6:**

**Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

#### **Response:**

As previously indicated we do not fully agree with the full annual fee level being purely set on provider size. As outlined in the discussion paper, a number of organisations are more complex in their set up, have larger risk appetites and distinctly riskier operations. In particular those organisations that have non-core activities outside of the sectors' traditional areas of operation and/ or large development programmes. These organisations clearly require more intensive regulatory engagement and, therefore, it would be a fairer system that they pay more for the time the Regulator engages with them. To avoid this being a cumbersome way of administering the charge, we suggest the use of a sliding scale which took into account size **and** risk. A further reduction could be applied for organisations that have a G1 Governance grading.

To help organisations to budget, a transparent sliding scale approach would give providers a clear indicator as to what annual fee they are likely to pay. Providers will already be aware of the level of engagement that the Regulator has with them and if their areas of operation are about to become more riskier, they will also be aware and have discussed the implications for the level of regulatory engagement and within a sliding scale fees regime based on size and risk, they will be aware that they have to

budget for increased regulatory fees. To prevent issues with a provider's risk level changing during the year, this could be alleviated by providers paying in arrears for their regulation based on their engagement with the Regulator during the financial year.

**Question 7:**

**Do you agree with the proposed approach to local authority registered providers?**

**Response:**

As indicated in our response to question three, we do not agree that local authority RPs should be exempt from paying an annual fee. In line with local authority registered providers being charged for the Housing Ombudsman Service there is an in-principle case for local authorities to pay towards regulation should fees be introduced. Obviously any annual fee should be in line with the percentage of the cost of the Regulator that is attributed to consumer regulation.

**Question 8:**

**Do you agree with the principle set out for a minimum annual fee?**

**Response:**

If fees are to be introduced, the principle of a minimum annual fee seems reasonable.

**Question 9:**

**Do you think that we should introduce an element of banding in the fee regime and if so why?**

**Response:**

As already detailed in our response to question six, we think that a sliding scale based on size and risk would be appropriate with a reduction for organisations achieving a G1 governance grading.

**Question 10:**

**Do you agree with the proposal to charge the annual fee at group level?**

**Response:**

If fees are to be introduced, charging a single fee at group level seems appropriate. To avoid issues with a sliding scale it would be up to the group to agree how to aggregate the cost of the fee across the members of the group.

**Question 11:**

**Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

**Response:**

Yes, it would seem reasonable for a provider to pay for the full year as it is presumed that there would be engagement with a provider as part of the de-registration process. Although, if paying in arrears, the provider could be charged up to that point in the year and for any de-registration administration.

**Question 12:**

**Do you agree with the proposed approach to transparency and accountability?**

**Response:**

Yes, we do agree that an introduction of a fee for regulation would require the Regulator to be more accountable to providers in terms of costs and outcomes.

**Question 13:**

**Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

**Response:**

As detailed in our response to question 6, if fees are to be introduced, we support a fee charging system on a sliding scale based on size and risk charged on an annual basis. Due to the nature of this fee structure, charging annually in arrears would be more appropriate when the regulatory engagement has taken place for the year based on the provider's level of risk and governance grading.

**Question 14:**

**Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

**Response:**

No, we are not able to identify any potential equality and diversity impacts in implementing fees to providers. Although, as discussed in the paper, a number of smaller organisations could be put off from applying to register as a result of the initial registration fee. Smaller organisations tend to cater for more specialised housing needs which could have a differential impact on these organisations.

**Question 15:**

**Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

**Response:**

No, we have not identified any further potential impacts of charging fees to providers not already identified in the paper.

**Question 16:**

**Do you have any further comments on the initial proposals set out in this discussion paper?**

**Response:**

No further comment.



## Charging Fees for Social Housing Regulation

### Isos Response

Thank you for the opportunity to comment on your proposals for charging fees for social housing regulation.

The following is our response:

#### **1. Do you think that there is an in-principle case to charge fees for regulation?**

Clearly there is a case for charging fees as the possibility of charging fees is permitted by the Housing and Regeneration Act 2008. We do however feel that this is an unfortunate time to be considering the introduction of fees given the especially challenging financial environment in which the social housing sector is currently operating.

Whilst we accept that there is an argument for regulated bodies to bear some of the costs of regulation, given the benefits they derive from being in a regulated sector, we consider that there remains a compelling case for regulation to be funded through general public expenditure, given that regulation of social housing exists to protect publically-funded assets.

#### **2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

As discussed in response to question 1, the Department for Communities and Local Government (DCLG) must 'continue to pay their fair share' rather than asking social landlords to pay the full cost of regulation.

#### **3. Do you agree we are taking the right approach to developing the principles?**

We largely agree that you are taking the right approach to developing the principles, however, it is important to recognise that fees need to be proportionate to the level of scrutiny that a provider needs (some need more than others). As you state, one of your principles is to ensure that:

*"Each fee is reasonable and proportionate to the costs to which it relates".*

It is important that providers that undertake 'riskier', for profit activities are charged higher fees. Logically, they will require more scrutiny than landlords who primarily undertake more 'traditional' housing and asset management activities.



#### **4. Do you agree with the proposed approach to initial registration fees?**

Yes, especially that providers already registered with the HCA and also new registrations resulting from amalgamations or mergers will not be required to pay an initial registration fee.

#### **5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

We agree with the proposal that charging a flat fee for initial registration is the most sensible option. Perhaps the initial registration should be higher if the provider in question operates more risky, for profit activities (e.g. if parts of the business or group concentrated solely on high risk, for profit activities).

#### **6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

Fees should be charged based on both the size of the social housing stock owned and the risk that a provider poses. Therefore, we do not agree with your proposal. A combination of Option 3 'Risk based' and Option 4 'Fee based on provider size' will be more appropriate.

Provider size alone *is not* a suitable measure to determine the level of annual regulation fee.

Annual fees should be based around an assessment of the relative risk that different providers represent. As you state in your consultation document, a fee generated using Option 3 is likely to be closer to the proportion of cost incurred by the Regulator in regulating such higher risk providers.

As you clearly stipulate in a recent publication (*Regulating the Standards 2014*), you have a risk framework by which you can ensure that your resources are deployed appropriately and proportionately to registered providers.

Your proposal that the annual fee payable by a registered provider should be set by reference only to the number of social housing units therefore contradicts statements you make in other documents. The number of social housing units owned does not reflect risk, the types of activities that a provider undertakes and therefore the level of regulation and scrutiny that are needed as a result.

#### **7. Do you agree with the proposed approach to local authority registered providers?**

Fees should be charged based on both the size of the social housing stock and the risk that a provider poses. Local Authority landlords, and many



housing associations do not undertake risky, for profit activities and therefore should all pay a smaller regulation fee than those that do.

**8. Do you agree with the principle set out for a minimum annual fee?**

It seems sensible that there is a basic minimum fee. The fee level should rise in increments, based on size of stock and the level of risk associated with a provider's structure and the range of activities they are involved in.

I.e. Fees should vary based on the level of scrutiny and regulation that is needed.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

We do not agree with your proposal that you should not introduce an element of banding in any fee regime. As discussed in response to previous questions, an annual fee should reflect both the stock size and the risks posed by a landlord.

Banding is essential to ensure that providers are charged a regulation fee that is proportionate to the amount of scrutiny they receive from the regulator. As discussed in response to question 8, the annual fee level should rise in increments, based on size of stock and the level of risk associated with a provider's structure and the range of activities they are involved in.

For example, it would be highly unusual for landlords owning the same number of social and affordable homes to be charged the same fee if some of them required far more scrutiny and regulation because of the 'for profit' activities undertaken by part of their group.

**10. Do you agree with the proposal to charge the annual fee at group level?**

We agree that charging a fee at group level would be the simplest and most sensible approach and would simply reflect the 'combined stock size and risk' of each provider.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

We agree that providers should pay the full cost of the annual fee for the year in which they either register or de-register.

**12. Do you agree with the proposed approach to transparency and accountability?**

We certainly agree that if providers are to be charged fees then they should have more influence over governance and policy making. We welcome the



fact that you intend to consult providers in drawing up your business plan in order to provide input into the Regulator's future work programme and priorities. We would like this to be delivered through a suitably robust accountability mechanism, including for example a representative forum drawn from the social housing sector.

Transparency on costs and their relationship to the annual fee charged will be necessary to demonstrate why providers are being charged different fees. As discussed in response to question 9, an element of banding to reflect different levels of scrutiny and regulation is essential.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

It is logical that fees are charged for the period 1 April to 31 March each year and that invoicing happens towards the beginning of each year as it makes budgeting easier for most landlords.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

We are not aware of any adverse impacts in relation to the protected characteristics outlined in the Equality Act 2010.

To ensure that the fees charged are 'fair', they need to be proportionate to the level of regulation and scrutiny that a provider receives.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

Until the level of the annual fee is proposed or decided, we are unable to comment on any potential financial or social impact its introduction may have.

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

To reiterate, provider size alone is not a suitable measure to determine the level of annual regulation fee.

A combination of Option 3 'Risk based' and Option 4 'Fee based on provider size' will be more appropriate.

Fees should be charged based on both the size of the social housing stock and the risk that a provider poses.



Fees charged should to be proportionate to the level of scrutiny that a provider needs (some need more than others, depending largely on the risk associated with the activities they undertake).

**Title:** **HCA: Charging Fees for Social Housing Regulation: A Discussion Paper**

**Contact:** **Governance and Compliance Manager**  
**First Ark Group including Knowsley Housing Trust (KHT)**

**Or**

**CEO First Ark Group**

**Closing Date** **21<sup>st</sup> March 2014**

**Submission Date** **19<sup>th</sup> March 2014**

## **First Ark Group**

The First Ark Group comprises of Knowsley Housing Trust, Vivark, One Ark and KHT Services Limited. Knowsley Housing Trust is the largest housing provider in Knowsley, working in the 5<sup>th</sup> most deprived borough in the UK. KHT provides homes to 25,000 people.

We welcome the opportunity to respond to the discussion paper for the introduction of feed for social housing regulation.

Consultation Question	KHT Response
<p><b>1) Do you think that there is an in-principle case to charge fees for regulation?</b></p>	<p>Any introduction of regulatory fees for Housing providers will require a re-prioritisation of funding. Overall the current cost of the regulatory functions is defined as £12.5 million within the consultation document. The application of the fee will require RP's to divert spend away from other functions such as new home building and or core housing management costs. Rather than being a new investment in the housing sector the introduction of the charges represents a government cut with no suggestion that this money will be recycled into other strategic priorities such as new affordable housing build programmes.</p> <p>This is at a time when other government legislation has increased costs for registered providers – impact of recovery of bedroom tax collection and the associated challenge of increasing voids for larger properties. In addition the contraction of public services as a result of Austerity cuts has demanded adaptations of services to support neighbourhood and community sustainability for our customers all creating additional pressures for investment. At the same time the sector has risen to the challenge of alternative approaches for investment in new social housing.</p> <p>Ultimately the costs of regulation will be a direct cost to social housing tenants – a group that is often socially and economically disadvantaged. Unlike other regulatory models (Utilities) the costs will fall exclusively to societies most economically disadvantaged. In addition tenants have very little direct access to the HCA and already pay via landlord registration to the Housing Ombudsman for consumer complaints.</p> <p>The introduction of fees will create a complex relationship between the regulator and its customers (as fee payers), government (as a quasi-government body), financiers and consumers. The discussion paper fails to robustly resolve this or how the direct application of fees will improve the regulatory model and provide 'value' for RP's.</p>
<p><b>2) Do you think fees should cover the full</b></p>	<p>We believe that if fees are introduced then some grant in aid contribution should</p>

<p><b>cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?</b></p>	<p>continue to be made to reflect the complex relationship between providers, regulators and government.</p>
<p><b>3) Do you agree we are taking the right approach to developing the principles?</b></p>	<p>The HCA is following the statutory requirements for implementing the fee. Table 3 highlights the legislative requirements for the approach it fails to include any reference to end user (tenant) and their expectations in relation to a directly charged for service.</p>
<p><b>4) Do you agree with the proposed approach to initial registration fees</b></p>	<p>The impact of an initial fixed registration fee (around £10,000) will be felt disproportionately by smaller providers and could potentially act as a barrier to small landlords embarking on the transition journey to becoming an RP.</p>
<p><b>5) What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?</b></p>	<p>No additional comments</p>
<p><b>6) Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?</b></p>	<p>Size based on social housing units provides the simplest mechanism for calculation of the annual fee but does not fairly reflect the complexities of regulation based upon risk (HCA preferred approach) and thus the actual regulatory cost per organisation is not being collected within basic principles of value for money. The costs of regulation for complex situations such as Cosmopolitan would therefore be charged across the sector – this fails to provide value for money for organisations that fully comply and provide little regulatory challenge to the regulator.</p>
<p><b>7) Do you agree with the proposed approach to local authority registered providers?</b></p>	<p>Yes, this reflects their different relationship with the HCA and the focus on consumer standards only. Although adoption of this approach validates the continuation of grant in aid for the costs of the regulation attributable to consumer standards</p>

<p><b>8) Do you agree with the principle set out for a minimum annual fee?</b></p>	<p>The minimal fee is an administration cost for registration and we would therefore welcome clear transparency for this flat fee.</p>
<p><b>9) Do you think that we should introduce an element of banding in the fee regime and if so why?</b></p>	<p>Without specific proposals on the nature and cost differentials for banding it is difficult to comment on their introduction. However although banding presents increased complexity to the administration process for fee collection the approach does offer an opportunity, if based on regulatory ratings and risk assumptions, to charge based on the regulatory oversight required for each provider.</p> <p>The banding approach outlined in the consultation appears to solely focus upon size and fails to incorporate the risk agenda.</p>
<p><b>10) Do you agree with the proposal to charge the annual fee at group level?</b></p>	<p>Yes although it is not clear how this arrangement will work for RP's such as KHT who sit within an unregulated parent model (First Ark).</p>
<p><b>11) Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?</b></p>	<p>It would not be difficult to implement a pro rata approach for the costs based on date of registration / de-registration.</p>
<p><b>12) Do you agree with the proposed approach to transparency and accountability?</b></p>	<p>The introduction of fees presents a new relationship between the RP and the HCA, where the HCA becomes reliant on the RP funding to deliver the government regulatory requirements. This changing dynamic in relationship presents an opportunity for blurred transparency and accountability – the regulator becomes dependent on the regulated.</p> <p>The production of a regular transparency statement is welcome but it is unclear what individual RP's or HCA led consultation forums will operate in the context of disagreement about the fee process and what the ultimate escalation or sanction from</p>

	<p>either party will be. We are also unsure what the process of redress would be under a fee paying model if a Landlord considered that their regulation had not been fulfilled appropriately. We welcome the opportunity to discuss this further in the formal consultation paper.</p>
<p><b>13) Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?</b></p>	<p>yes</p>
<p><b>14) Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?</b></p>	<p>Social housing supports a wide range of customers including a disproportionately high number of socially disadvantaged. The introduction of fees for registration represents an indirect taxation to this group.</p>
<p><b>15) Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?</b></p>	<p>No additional comments</p>
<p><b>16) Do you have any further comments on the initial proposals set out in this discussion paper?</b></p>	<p>Currently the HCA is under immense pressure to undertake its regulatory functions as demonstrated by the recent VFM assessments. However this proposal does not provide additional resource but rather directs existing costs to the provider so there will be no additional capacity for enhanced regulatory services.</p> <p>We consider that the regulator has a duty to ensure that that the regulatory functions do not place undue administration and additional costs to RP's as this limits the capacity for the sector to deliver value for money.</p>

## **Comments by Linden First Ltd (Reg No 4752) on the Regulator's Discussion Paper 'Charging Fees for Social Housing Regulation'**

Our comments are on each of the questions set out in the Discussion Paper

### **1. Do you think that there is an in-principle case to charge fees for regulation?**

Yes. But see our answer to 3 below.

### **2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

As the consultation paper makes clear, a key argument for levying fees on regulated bodies is that they benefit from the regulation. The state also benefits from good regulation. Therefore a proportion of the costs should continue to be met by the Government.

### **3. Do you agree we are taking the right approach to developing the principles?**

Not fully. Although Linden First (LF) acknowledges the validity of a number of points made in this section of the Discussion Paper, we do not fully accept an implied premise behind this consultation, namely that it is possible to deal in separate sequential steps with firstly questions of 'principle' and secondly the practical question of 'how much might it mean for our organisation?' LF takes the view that there is a contingent relationship, or an iteration, between these two questions, which should be explicitly recognised by the Regulator: our views on the principles, certainly the importance we place on them, will be influenced by the proposed answer to 'how much?'

### **4. Do you agree with the proposed approach to initial registration fees?**

Questions 4 & 5 are inextricably linked together. We have therefore put all our comments under 5

### **5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

The enormous problem with a flat fee approach is that the Regulator is likely to find itself registering organisations of wildly different sizes – from the miniature Community Land Trust with <10 homes to, for example, a partial or full LA stock transfer of several thousand homes. Even accepting that there are some more or less fixed costs associated with registration we do not see how a single flat fee can be justified. The indicative flat-rate registration fee of £10k would without doubt prove to be a barrier to entry for very small organisations such as Community Land Trusts. LF suggests that if an initial fee is introduced it should cover both the actual registration process and say the first two years of being registered, when both the newly registered entity and the Regulator are settling into their new relationship, and the new registered provider is probably taking on its first homes.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

LF favours Option 4 – a fee based on provider size, as measured by the number of social housing units owned or managed - qualified by an element of Option 1. With regard to Option 1 we believe there is some merit in the direct attribution of costs where a failure by a provider to meet its regulatory obligations results in enhanced regulation; we feel the argument that in certain enhanced regulation cases the financial viability of a provider would be made worse by the increased fee levels overstates the likely impact of attributing costs.

**7. Do you agree with the proposed approach to local authority registered providers?**

This question is mis-phrased. The essence of the question is not about Local Authority providers as such but about whether bodies for which the Regulator's only remit is light-touch consumer-regulation, which is funded by grant-in-aid, should not be required to pay fees. Subject to this re-phrasing, the proposal is agreed.

**8. Do you agree with the principle set out for a minimum annual fee?**

The principle of a minimum fee is agreed. However it is difficult to give a final answer to this question without having any idea of the size of organisation to which the indicative minimum annual fee of £300 would apply to. Please see our comments on question 3 above.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

No strong views

**10. Do you agree with the proposal to charge the annual fee at group level?**

Yes if the Group's primary activity, measured by turnover or social housing units, is the management or development of regulated social housing. Care will need to be taken with how this is expressed in order to ensure that measures of a 'group's' size are always confined to its size as a provider of social housing and are not inadvertently widened beyond this activity. LF is thinking here of its own circumstances. Measured by turnover, it is a de minimus member of a group whose plc parent is not a registered provider and therefore it would be unjustifiable to relate fees to the wider Group turnover.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes

**12. Do you agree with the proposed approach to transparency and accountability?**

Yes

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

Our comments on Question 5 relate in part to barriers to entry, and as such are relevant to assessing potential equality & diversity impacts

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

None to suggest

**16. Do you have any further comments on the initial proposals set out in this discussion Paper?**

None

livin's response, March 2014

Charging fees for social housing regulation (discussion paper)

Section	Question	Page Number	Comment
1. Introduction	1. Do you think that there is an in-principle case to charge fees for regulation?	4	Yes – to ensure the status and reputation of the sector is maintained/benefits of lower borrowing costs continue. That must be seen however in conjunction with the purpose of introducing fees being to pay for more regulatory resources. We do feel that no case has presently been made to show how the introduction of fees would add value to regulatory activity. In addition fees would need to complement, not replace, government funding as industry diversification, in turn, requires regulatory diversification/specialism which is likely to come at increased cost for the HCA.
2. Approach to developing a fee structure	2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?	8	Government aid should continue and additional fee income then enables the diversification agenda to be addressed alongside added value and improved governance. Without a breakdown of the table 2 costs it is difficult to comment on what proportion of grant-in-aid applies to each regulatory activity.
	3. Do you agree we are taking the right approach to developing the principles?	9	Yes mostly. The legislative requirements are clear and the alternative approaches proposed alongside each requirement are flexible enough to show consideration of most options. One area not mentioned however is improving regulation/capacity to regulate/diversify which ought to be fundamental to implementation of fees.
3. Initial Registration Fees	4. Do you agree with the proposed approach to initial registration fees?	11	We can see the logic of all options. The flat fee proposal is a reasonable option (doesn't put off applicants and provides certainty) but any total sum of initial and annual fees structure would need to be sufficient to enable the HCA to continue to perform its regulatory functions and add value.

	<p>5. What other factors should we consider in setting the initial registration fee?</p> <p>What level of initial registration fee would not discourage new entrants?</p>	11	<p>We have no particularly strong views but a high fee may serve as a barrier to smaller Organisations (as mentioned in the discussion paper).</p> <p>This depends on the size of the new entrant and their financial capacity.</p>
4. Annual Fee	<p>6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level?</p> <p>Do you agree that social housing units owned is a suitable measure of size?</p>	14	<p>Yes.</p> <p>Social housing units are a suitable measure of size. This method is relatively simple to predict and collect.</p>
	<p>7. Do you agree with the proposed approach to local authority registered providers?</p>	14	<p>Clarification in the final consultation document would be welcome to explain how this will work in practice – particularly whether grant-in-aid would continue to cover the cost of consumer regulation although the current proposals suggest some level of subsidy will be payable by private providers.</p>
	<p>8. Do you agree with the principle set out for a minimum annual fee?</p>	15	<p>We have no objection to a minimum annual fee and any sum would need to ensure added value (in accordance with answer 4 above).</p>

	9. Do you think that we should introduce an element of banding in the fee regime and if so why?	15	We are not particularly clear on the specifics of any banding proposal or how banding is any more complex than a charge per unit. Without such detail it is difficult to respond to this question but we do recognise that banding can, depending on the fees payable, appear unfair to those incurring significantly more cost for the sake of having an additional unit or two.
	10. Do you agree with the proposal to charge the annual fee at group level?	16	Yes. The cost is the same it is per unit in any event whether as part of a group or not.
	11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?	16	Yes. Regulatory cost has already been incurred and de-registration is voluntary.
6. Further information	12. Do you agree with the proposed approach to transparency and accountability?	17	Yes. Transparency and accountability would naturally have to follow from the Regulator in the event of the introduction of fees. The detail to be published as part of any consultation would inform our view as to the specifics of the regulatory approach and we would be particularly interested to understand how value for money would be established.
	13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?	17	Yes. This is no different to other annual fees and charges and assists in budgeting requirements.

	<p>14. Are you aware of any potential equality and diversity impacts on implementing fees?</p> <p>If so, what are they and how should we take them into account?</p>	17	<p>No. The size of an Organisation is not a protected characteristic and there are no other protected groups which are engaged in our view as part of this discussion.</p>
	<p>15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper?</p> <p>If so, what are they and how should we take them into account?</p>	17	<p>Yes.</p> <p>Charging fees in the event of grant-in-aid being withdrawn appears not to add any value. Fees payable must be reflective of the quality of regulation and any consultation will need to be transparent in terms of the direct cost of regulation to providers and those costs attributable to grant-in-aid. Table 2 could give cost per activity and how it will be intended that each activity be funded to assist in a better understanding.</p> <p>Whilst not expressly mentioned in the discussion document we have no doubt that the calculation of appropriate initial and annual fees will take into account the likely income to ensure costs are adequately covered.</p> <p>We expect that the Independence of the Regulator will be tested in the event of the introduction of fees but that this issue will be considered in more detail in consultation.</p>

	<p>16. Do you have any further comments on the initial proposals set out in this discussion paper?</p>	<p>17</p>	<p>Yes.</p> <p>If fees are introduced we would anticipate having more of a say in how the regulator operates. Proposals to enable on-going engagement would be welcome in any consultation document (consultative groups being set up).</p> <p>It may assist the HCA and industry generally in our efforts to achieve added value and better governance if fees are introduced as there would be an argument that the industry and regulation of it would become more independent from government.</p>
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## Charging fees for social housing regulation

### L&Q's response to the Homes & Communities Agency

March 2014

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#### Introduction

L&Q is one of the largest providers of affordable housing in the UK, managing over 70,000 homes across London and the South East of England. We work with more than 90 local authorities to:

- Provide affordable homes for people who cannot afford to rent or buy in the open market.
- Provide a range of housing products for the intermediate market, including shared ownership and intermediate market rent.
- Provide a range of supported housing services, both directly and through external organisations.
- Develop properties for outright sale to cross subsidise social housing.
- Manage student, key worker and market rent accommodation.
- Invest in community development and regeneration schemes for existing properties and those transferred from local authorities, to improve the quality of life in local neighbourhoods.

#### Response

We welcome this opportunity to comment on the potential for a fee charging scheme for social housing regulation.

We support the general principle of fee charging and would be prepared to pay some of the costs of regulation. As the social housing world continues to change, and providers continue to react and adapt, we believe it is important that the sector is effectively regulated in order to provide comfort to our lenders and other stakeholders. Fee paying for regulation demonstrates the commitment of the sector to the principles of good governance and financial strength that the regulatory framework enshrines. Fee paying will also allow providers to contribute to the effective delivery of regulation and gives longer term certainty for the regulator and the framework within which we are operating.

However, with any paid service comes the responsibility to provide value for money. There would need to be a regulation service that is both different and enhanced from what is currently provided in order to meet the evolving needs of the sector. It is important for the HCA to set out this new regulatory service offer to ensure that it can add real value.

It is not just providers themselves that benefit from economic regulation. Government also gains benefits from regulation that protects historic public subsidy and promotes access to private finance thereby minimising government contributions to new social housing supply.

Regulators in other sectors exist with shared costs e.g. in Healthcare, the Care Quality Commission's fees received last year equated to 25% of Government grant received and in Energy, despite regulating large profit-making companies OFGEM was in receipt of Parliamentary funding (ca. 15% of fees received). Government derives very significant benefits from regulation and we oppose any proposals where the sector would be expected to bear all or most of the costs.

- 1) Do you think that there is an in-principle case to charge fees for regulation?

Yes, however it is important for the HCA to support this by setting out a new service offer that demonstrably rises to the challenges of greater complexity in the sector than what is currently being provided. We do not believe the consultation document sets out such an offer. The regulator also needs to be able to demonstrate more directly how its risk based operational model is properly aligned with the actual risks that exist and that appropriate levels of assurance on compliance are being gained from providers, whatever their size.

- 2) Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

We can see from other sectors that regulatory costs can be shared between fees and government funding.

As capital funding to the sector has already significantly decreased, we would not want to see the introduction of fees simply replacing existing funding.

Providers are not the only beneficiaries from regulation, so should not be expected to meet all the regulatory costs. The Government is one of the key beneficiaries of a stable, regulated housing sector - gaining protection of historic public sector investment as well the ability to continue investing and attracting private finance to support housing ambitions for the future - so should continue to pay a significant part of the costs of regulation.

- 3) Do you agree we are taking the right approach to developing the principles?

Yes. This also allows registered providers to influence standards and the framework within which we are operating.

- 4) Do you agree with the proposed approach to initial registration fees?

Yes. We agree with an approach that is simple and transparent.

- 5) What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

In setting any fee, levels should reflect the responsibility of the regulator to discharge its duties and how easy or difficult it would be to gain assurance of potential providers' ability to comply with governance and financial viability standards at the point of (or after) registration.

Registration fees should take into account the diversification of the sector and risks that different types of new provider bring with them. This may mean, in time, a variable fee needs to be introduced for more complex registrations.

- 6) Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

We understand that using size is a common/simple method for attributing costs in the sector. However, we do not necessarily agree with the assumptions made for ruling out other options - e.g. other sector regulators do not charge per customer and smaller organisations often require more regulating – we recognise that alternative options should still be discussed.

The regulator needs to reflect the sector is now diverse as we operate in a more risky environment, by diversifying our activities to achieve our social purpose.

- 7) Do you agree with the proposed approach to local authority registered providers?

We recognise the limitations the regulator has in its remit over local authorities. Should that remit be expanded the issue of fees should be revisited.

- 8) Do you agree with the principle set out for a minimum annual fee?

Yes.

- 9) Do you think that we should introduce an element of banding in the fee regime and if so why?

We agree with an approach that is simple and transparent, however we do not necessarily agree that smaller organisations require less intensive regulation.

- 10) Do you agree with the proposal to charge the annual fee at group level?

Yes. This approach would be simple and transparent.

- 11) Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

Yes.

- 12) Do you agree with the proposed approach to transparency and accountability?

This is a key concern for us and in our view will be critical to the success of the scheme. We think the proposals in the discussion document are in the right general direction although will need to see more information before we are comfortable. An effective approach would allow providers to influence standards and the framework within which they are operating. It would also allow the HCA to clearly set out their new (costed) offer and provide specific mechanisms for accountability. A secondary benefit of an effective approach to transparency would be to provide an opportunity for the regulator to be given more independence from government. We would expect to see very fully worked up proposals on transparency in the formal statutory consultation that will give us a high degree of confidence that the regulator will be capable of being transparent and accountable in an appropriate manner.

- 13) Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?

Yes.

- 14) Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?

Specialist housing providers (e.g. BME) tend to be small and local, so would need to ensure fees are proportionate in order to not discourage and keep these valued organisations in the regulated sector.

- 15) Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?

We feel there is a need to have safeguards in place to prevent increases in fees beyond the rent increase levels used by providers.

- 16) Do you have any further comments on the initial proposals set out in this discussion paper?

We agree that it is important to have the right funding mechanism agreed for social housing regulation, however we believe that the proposed start date of April 2015 may be too soon to implement, bearing in mind potential regulatory framework changes.

Unless it is possible to set out final proposals, have the relevant fees for each provider set, the new regulatory framework in place with its revised operational model explained and costed, and a fully developed approach to transparency in



place by the end September 2014 – the proposed start date should be postponed until at least April 2016.

## Charging Fees for Social Housing Regulation

### Longhurst Group response

Q1) *Do you think there is an in-principle case to charge fees for regulation?*

The government has the power to do this and given the current economic position may well choose to do so. However, the impact will be to reduce funds available for investment in new homes and the loss of that investment could seriously out-weigh the benefit of a modest cut in departmental spending.

Q2) *Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?*

It follows from our response to Q1 that we do not see the advantage of this idea and therefore would hope that the minimum amount of costs should be passed to RPs. If the charging of fees is implemented then the only possible benefit would be if the amount raised was additional and enabled the regulator to fund a better quality regulation agenda such as it has been trying to address recently. If we simply have to fund all regulation we fear that the government will have no check on its desire to impose more and greater regulatory burdens in future and we will become mired in red tape. We do recognise that fees for new not for profit organisations seeking registration should be modest.

Q3) *Do you agree we are taking the right approach to developing the principles?*

The one which seems to be missing is a more explicit value-for-money principle given that regulations can be added to more easily than reduced.

Q4) *Do you agree with the proposed approach to initial registration fees?*

If initial registration fees are implemented then it seems unfair to charge new not-for profit entrants but not Local Authorities; there should be some assessment of the scale of the entity involved.

Q5) *What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?*

If registration fees are introduced then it may well be sensible to allow some form of discounting for specialist organisations which may be registered in exceptional circumstances; otherwise a flat fee seems the fairest option.

Q6) *Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?*

This method (fees based on social housing units) makes it easy to charge, gives funding certainty to the HCA and puts the burden on those more established organisations. However, as with other unit based formulae (ombudsman etc) it means that those who are subject to intensive scrutiny and therefore cost more to regulate are paying the same as everyone else. That seems perverse. We recall that the Act allows the HCA to charge for specific work with certain regulatory cases and to require providers to pay costs of investigations etc. There should be clarity about who pays for this in future especially if in effect we are simply paying another special property tax.

Q7) *Do you agree with the proposed approach to local authority registered providers?*

No we don't agree with this. It seems to be a political decision more than anything else. For example, it seems unlikely to us that the gas servicing problems which have been prominent in consideration of the "serious detriment" issue have been solely experienced by tenants of RPs and not those of LAs.

Q8) *Do you agree with the principles set out for a minimum annual fee?*

If fees are implemented a minimum annual fee approach would be the preferred option.

Q9) *Do you think that we should introduce an element of banding in the fee regime and if so why?*

No we feel this is unnecessary.

Q10) *Do you agree with the proposal to charge an annual fee at group level?*

If fees are implemented then we agree that an annual fee at group level would be the most appropriate approach.

Q11) *Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?*

If fees are implemented then this seems sensible.

*Q12) Do you agree with the proposed approach to transparency and accountability?*

This is a very brief statement of what will undoubtedly be a challenging area for the regulator and the regulated. In particular there is nothing to stop government piling on new regulation and the only debate allowed is how this is paid for. Also the issue of comparing the costs (benchmarking) and effectiveness with other regulatory type functions / bodies needs to be addressed.

*Q13) Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?*

If the payment of fees is implemented, it should be invoiced in time for budgets say in January but the payment should be quarterly in advance: that is April, June, September and December.

*Q14) Are you aware of any equality and diversity impacts in implementing fees?*

We are not aware of any except that it may be that some specialist organisations may tend to be smaller and hence the fixed fee element would be a higher proportion of their charge.

*Q15) Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?*

We are concerned about the impact on housing provision. If the full running costs of the HCA (about £12 million) are charged this means, on average, about 1,500 less homes each year can be funded. Is this a good return for government who will be saving a very small sum?

*Q16) Do you have any further comments on the initial proposals set out in this discussion paper?*

We are interested in understanding more about how the performance of the regulator will be assessed and how VFM will be transparently demonstrated and benchmarked. If there isn't a competitive process in selecting who performs the role of regulator then this becomes even more important as there is not initial selection or choice based on comparable criteria.

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Regulatory Framework  
Manager  
Homes and Communities  
Agency  
The Social Housing  
Regulator  
Maple House  
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London  
W1T 7BN  
Email only

Date:21/03/2014

Dear Sir

Re: Charging Fees for Social Housing Regulation – Discussion Paper

Thank you for giving Merlin Housing Society the opportunity to comment on this consultation document.

We recognise that these draft proposals could have a significant impact for Merlin as a developing housing provider. For this reason we have sought feedback across the business in order to give full and constructive feedback.

#### About Merlin

Merlin Housing Society is an Industrial and Provident Society with charitable objectives and registered with the Homes and Communities Agency (HCA). With over 8000 homes to rent, Merlin is the largest social housing provider in South Gloucestershire.

The district remains the main focus of our work and we continue to work in partnership with South Gloucestershire Council, other agencies, and the wider community, to deliver high quality services for our customers.

1. Do you think that there is an in-principle case to charge fees for regulation?

Yes, in principle we agree with the case for charging fees for regulation, bringing the HCA in line with other agencies. However we believe that grant in aid should still contribute towards regulation costs.

2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

We believe that fees should be covered by a combination of fees and grant in aid.

3. Do you agree we are taking the right approach to developing the principles?

A fixed fee should apply to all successful applications for initial registration

We believe an application should attract a fee whether successful or not

The annual fee payable by a registered provider should be set by reference to the number of social housing units owned by that provider. We believe that fees should reflect both number of units and risk profile.

The annual fee should not apply to local authorities.

We believe that local authorities should pay a cost associated with regulation.

The annual fee should be subject to a minimum amount which would be payable by all private registered providers, regardless of size.

We agree but this should be set at an amount relative to other sectors regulation costs.

For groups the annual fee should be set at group level rather than for each individual entity on the register.

We agree if risk is considered as part of the fee.

Providers should pay the full cost of the annual fee for the year that they are on the register when they register or de-register.

We agree providers should pay the full cost

4. Do you agree with the proposed approach to initial registration fees?

We agree with the flat fee for registration

Additional Questions: What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

We believe that initial registration fees could be subsidised with grant in aid funding to ensure flat fee does not prevent barriers to smaller organisations who are seeking to register.

5. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

We agree with the fee based on provider size option that includes a weighting on size and risk.

6. Do you agree with the proposed approach to local authority registered providers?

We disagree. Even if local authorities are subject to a different fee basis they should still contribute towards regulation outside of grant in aid funding.

7. Do you agree with the principle set out for a minimum annual fee?

We agree with the principles.

8. Do you think that we should introduce an element of banding in the fee regime and if so why?

We believe an element of banding should not be introduced.

9. Do you agree with the proposal to charge the annual fee at group level?

We think a group level charge should be implemented. This should be considered if part of fee is weighted to risk profile of business as well as number of units owned

10. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

We disagree with the approach and believe it should be on a pro-rata basis

11. Do you agree with the proposed approach to transparency and accountability?

Yes we agree with the approach and principles. We understand the requirement for the regulator to publish regular transparent statements on cost, use of resources, outcomes and how value for money is being achieved. We believe this will further develop relationships between the sector and regulator.

12. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?

We think this is appropriate and fits in with our financial year reporting.

13. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?

We believe that there may be a risk to smaller organisations who house specific groups such as BME or women fleeing domestic violence. These organisations could be more adversely affected.

Yours sincerely

Chief Executive  
Merlin Housing Society



We're committed to using plain English. If you think any part of this letter doesn't make sense, let us know so we can improve.

## **Metropolitan response to HCA charging fees for social housing discussion paper**

Metropolitan welcomes the opportunity to comment on this discussion paper and outline our views on what the relationship between a fee-funded regulator and the social housing sector might be.

### **1. About Metropolitan**

Metropolitan is a leading provider of integrated housing services, care and support and community regeneration. We manage over 38,000 affordable homes for rent and sale, along with a range of care and support services. In total we service over 80,000 customers across London, the East of England and the East Midlands.

Metropolitan is a member of the National Housing Federation and the g15, which represents London's 15 largest housing associations and houses one in 10 Londoners.

### **2. Relationship between a fee-funded regulator and the social housing sector**

Metropolitan has responded to relevant consultation questions below. However, firstly we would like to make a broader comment on the current regulatory system in social housing.

A shift to a fee-funded regulatory system marks a fundamental change in the relationship between providers, the regulator and government. Metropolitan would accept such a change, but only if it was accompanied by a corresponding reform in this relationship which guaranteed effective regulation of the sector.

Social housing is becoming more complicated, with variable rent levels and tenancy lengths and a shift away from benefit income. Grant income is declining and providers are increasingly expected to focus on more commercial activities, such as expansion into market sale or rent sectors, to provide the revenue streams to fund new developments and deliver our social programmes.

Many providers also offer other services, such as care and support or employment services, which are outside the scope of housing regulation. These are often core to businesses' offer, but add to the complexity of business models, risk profiles and governance structures.

Given this increasing complexity, the regulator needs the skills to understand modern providers' businesses and accurately assess their financial viability and governance. The regulator also needs the freedom and flexibility to respond and adapt to the changing nature of providers.

At present, Metropolitan does not believe that the regulator is afforded this flexibility from government. We feel the regulator is performing conflicting roles of regulating providers alongside having to meet demands from, and constraints of, government. Whilst a fee-funded system would increase costs for the sector, we feel it would provide an opportunity to give the regulator the independence and flexibility to focus on regulating the sector, and retaining the necessary skills to do so.

We urge DCLG and the regulator to come forward with proposals for reform of their own relationship. Such proposals should outline how the regulator is accountable to providers for the quality of the regulatory service it provides, alongside clarifying its independence from government.

### **3. Responses to consultation questions**

Metropolitan has responded to the questions posed in this discussion document as outlined below.

Question 2. Metropolitan believes the regulatory would only be afforded sufficient flexibility and independence if it looked to recoup the full cost of its regulatory function from providers, rather than a mixture of provider funding and funding from grant-in-aid.

Question 3. Metropolitan agrees with the proposed principles, but we would urge the regulator to consider the issues we raise in Section 2 of our response above.

Questions 4 and 5. Metropolitan agrees with proposals for a flat rate initial fee, however we are minded to agree that £10,000 may be too high and may act as a barrier to new providers. It is important the regulator provides clarity on the level of an initial fee as early as possible to allow providers to factor this into their budgets.

Questions 6, 8, 9, 10, 11. Metropolitan supports proposals for an annual fee based on the number of units a provider has. Using other measures, such as turnover, would penalise providers with large community regeneration or development programmes, as well as those delivering services in parts of the country with higher than average house prices.

We support the principle for a minimum annual fee, irrespective of the size of a provider. We also agree that the charge should be levied on a per-unit basis, rather than banded, so long as this does not add undue administration costs for providers and the regulator when assessing and reporting the number of units.

Metropolitan agrees groups should be charged the annual fee at the level of the group rather than for each individual provider within a group. As with the initial fee, we urge the regulator to provide as much clarity as possible on the level the fee will be set at so providers can include this within their budgeting processes.

Question 7. Metropolitan believes local authorities and ALMOs should face the same regulatory charges as other social landlords.

For more information on this response, please contact **Public Affairs Manager**

**CONSULTATION**

# Charging Fees for Social Housing Regulation

**MIDLAND HEART RESPONSE**

March 2014



# Charging Fees for Social Housing Regulation

## Consultation Response

### About Midland Heart

Midland Heart is a large social housing, care & Support and regeneration group with over 32,000 homes across a variety of tenures and the largest operating across the Midlands. This includes over 21,500 general needs properties; over 2,000 shared ownership homes and a significant care and support provision of nearly 6,500 units. Every year we invest more than £100 million in improving homes, building new ones and making neighbourhoods more desirable and sought after places to live in.

Altogether, we provide services in 55 local authority areas working alongside our customers and their communities to understand and support the issues that are important to them. We use our resources to respond to local need and champion local causes whilst delivering the benefits of a larger organisation and ensuring a voice for our customers. As well as providing and maintaining homes for over 70 000 people, our work involves, supporting those who need help to live independently, assisting in regenerating communities and neighbourhoods and assisting individuals to discover their own abilities.

Year on year, we have invested over £100 million in improving homes, building new ones and making neighbourhoods more desirable and sought after places to live. One of our core objectives as a housing provider is to ensure that people continue to live independently.

### Introduction

Midland Heart welcomes the opportunity to feedback views on the proposals outlined in the HCA's recent discussion paper on fees for social housing regulation. We acknowledge that the key drivers behind these proposals are driven by a number of factors, both legislative and practical.

In particular, we recognise and agree with Julian Ashby's comments to the effect that the sector has now become more complex and that providers have begun to diversify into other activities and that, as a result, the regulatory functions will now need to match these changing and sometimes challenging circumstances.

However, whilst we broadly accept the proposals suggested, we would nevertheless like to highlight some concerns and queries arising from the approaches suggested. Foremost, we are concerned that regulatory independence could be potentially impaired if registered providers were fully meeting the costs and paying the HCA to regulate those providers and this is stressed further in our detailed responses below.

**Detailed Responses:**

The discussion paper published in February has helpfully offered a number of questions for the sector and stakeholders and therefore, as far as possible, we have structured our responses accordingly.

**Question: 1**

**Do you think that there is an in-principle case to charge fees for regulation?**

Yes, subject to the sector receiving value from regulation and the regulator taking steps to ensure that there is operational independence (also see our response to Q.2).

**Question: 2**

**Q.2 - Do you think fees should cover the full cost of the regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

Our preferred approach is that costs should be met through 50% by the sector and then 50% through grant-in-aid. As well as lessening the impact on the sector so that resources may be more fully targeted towards providers core activities, we also feel that this would substantially contribute towards maintaining confidence in operational independence in the regulator. Essentially, we believe that there should be an assurance in the independence of the regulatory functions and that these could be potentially impaired if registered providers were fully meeting the costs and paying the HCA to regulate those providers.

**Question: 3**

**Q.3 - Do you agree we are taking the right approach to developing the principles?**

In response to the broad approach to developing the principles as outlined in the discussion paper, we accept that the regulator is broadly taking the right approach. However, we also feel that the HCA will need to explain in greater detail how they are going to evidence the benefits of regulation.

**Question: 4**

**Q.4 - Do you agree with the proposed approach to initial registration fees?**

The proposed approach of a flat fee for an initial registration appears to be reasonable, as long as the regulator does not set a fee at a level that could potentially discourage and be an obstacle to small providers wishing to register. As an alternative, a lower fee for smaller providers might be considered instead.

**Question: 5**

**Q.5 - What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

No further comments.

**Question: 6**

**Q.6 - Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

Yes, we agree that provider size is a suitable basis for determining the annual fee level. In addition, we also agree that the number of social housing units owned is an appropriate measure of size, providing that measure is clearly defined.

**Question: 7**

**Q.7 - Do you agree with the proposed approach to local authority registered providers?**

Yes, in principle, so long as the HCA is saying that there are no re-occurring activities for local authority providers. If on the other hand this should not be the case, then the proposal would not appear reasonable and local authorities should pay a fee that is commensurate with that activity.

**Question: 8**

**Q.8 - Do you agree with the principle set out for a minimum annual fee?**

Yes, we agree with this.

**Question: 9**

**Q.9 - Do you think that we should introduce an element of banding in the fee regime and if so why?**

We do not think that there is a strong case for this because smaller provider size does not necessarily mean that there is less regulatory effect.

**Question: 10**

**Q.10 - Do you agree with the proposal to charge the annual fee at group level?**

On balance, this approach seems reasonable.

**Question: 11**

**Q.11 - Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes, we agree with this approach.

**Question: 12**

**Q.12 - Do you agree with the proposed approach to transparency and accountability?**

Yes, we agree with this proposal.

**Question: 13**

**Q.13 - Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

In response to the primary question we are comfortable with the invoicing approach proposed.

With respect to the issue of non-payment as raised in the discussion paper, we suspect that in reality the number of cases would be very small but that, if they occurred, would initially be treated as a debt claim. If payment had still not been made after six months, the final sanction would surely be to de-register the provider and then publish the result which would consequently then impact on that providers funders.

**Questions: 14/15/16**

**Q.14 - Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

**Q.15 - Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

**Q.16 - Do you have any further comments on the initial proposals set out in this discussion paper?**

Q. 14 - We are unaware of any potential equality & diversity impacts in implementing fees.

Q.15 - We are unaware of any other potential impacts on charging fees that have not been covered in the4 discussion paper.

Q.16 - As a last thought: Whilst registered providers are stakeholders, another key stakeholder within the sector are our lenders. We wonder therefore to what extent these proposals have been shared with other stakeholders, and in particular the funding community.





**Moat response to the *Charging fees for social housing regulation* discussion paper**

March 2014

**Contact**

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## About Moat

Moat is a housing association providing affordable homes in thriving communities for people in the South East of England. For over forty years we have delivered high quality general needs homes for social rent, Affordable Rent, retirement and independent living. We also have a strong low cost home ownership offer, with an excellent track record in helping people into homeownership. We are one of the Homes and Communities Agency's development partners and currently develop over 500 new homes per year.

## Consultation response

- As the discussion paper notes, the sector is becoming more diverse and complex, and is attracting new for-profit and not-for-profit entrants. Now is the right time to look at ways of ensuring that the regulator has the right skills and capacity to enable effective regulation.
- However, we remain opposed to a fee for social housing regulation. Our position can best be summarised through the following observations:
  - o A fee for regulation should only serve as a means to improve the quality of the end product. Yet we have found little evidence of a causal link between sector-funded regulation and better quality regulation.
  - o As the quality of regulation is largely dependent on adequate and stable resourcing, we believe that government funding, through grant-in-aid, continues to be the best source of income for the regulator.
  - o We feel strongly that a fee for regulation should not be used to replace government funding – either in full or in part. The primary remit of this discussion should not be to identify savings to government expenditure, but to ensure that the regulator is capable of doing its job effectively through adequate resourcing.
  - o By implementing a fee, we have serious concerns about the potential for levy-creep over time. It is our view that, if a fee was to be applied, it should serve only to supplement grant-in-aid funding.
  - o We are concerned about the overall question of regulatory independence. The discussion paper's preferred option, which would base the fee on provider size, may result in the unintended consequence of giving larger providers greater weight and access to officials on regulatory matters. Indeed, it would seem natural to give these providers some degree of oversight or guarantee of quality in return for their money, such as through a seat on the Board of the Regulation Committee. Conversely, if providers were given a substantial influence over the structure of the system, that reduction in independence would make the system less credible, and could significantly erode confidence.
  - o We remain uncomfortable with the premise of developing a fee regime that is modelled on principles taken from other regulatory fee regimes.

Given the social purpose of the overwhelming majority of providers in this sector, it is our view that comparisons to the regulatory systems of profit-making sectors are inappropriate in this context.

- We would be open to the possibility of treating for-profit providers in the social housing sector differently, in which case we would not be opposed to fees for regulation for these providers only.
- Overall, we do not believe that fees for regulation would be an appropriate way forward for the sector. At a time when resources are increasingly being used to plug gaps left through changes to subsidy and the welfare system, it is our view that a charge of this nature would add a further burden at the wrong time.
- We are also apprehensive about the possibility of levy-creep over time, which would pass the cost of regulation on to providers without necessarily protecting the resources of the regulator.

19 March 2014



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Dear Tim

### **CHARGING FEES FOR SOCIAL HOUSING REGULATION**

Thank you for providing Mulberry Housing Co-op with the opportunity to respond to the February 2014 discussion paper on Charging Fees for Social Housing Regulation.

Mulberry Housing Co-op is a Registered Provider of housing and has just 56 units.

We do not consider the introduction of any fee structure to be appropriate for smaller housing organisations (those with a stock size of less than 1,000 homes). We are particularly concerned about the proposed registration fee for new providers, which in our view would substantially stifle the ability of small housing organisations to start up. We believe that the introduction of flat rate annual fee and registration fees for new providers would likely have a disproportionate impact on the cost of running specialist housing organisations, such as those for people with mental or physical disability and black and ethnic minority housing.

The proposal suggests the application of a fee would enable the HCA to acquire resources in specific areas of work. We feel that further details of what resources are proposed would need to be clear during the statutory consultation so that the regulator can demonstrate the fee payers are getting value for money.

We would respond to your specific questions as follows:

1. Do you think that there is an in-principle case to charge fees for regulation?

We agree that for some housing organisations the environment in which they work and the activities they choose to undertake makes them more complex to manage and regulate. In the interests of all registered providers and the reputation of the housing sector we acknowledge the need for the regulator to develop the right range of skills and capacity to be effective in these increasingly complex areas of work. However as is recognised later in the paper a great many smaller housing organisations, such as Mulberry Housing Co-op are not complicated and as a consequence receive the lightest of touches from the regulator. **We feel that as a general principle all registered providers with stock in excess of 1,000 should be charged a fee for regulation.**

2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

**We consider a healthy, capable and competent housing regulator to be in the wider interests of the economic and social health of the nation in developing and maintaining good quality affordable housing for current and future generations. Our position is that all or a significant part of the regulatory costs should be met by grant in aid.**

3. Do you agree we are taking the right approach to developing the principles?
- A fixed fee should apply to all successful applications for initial registration. **No. Our preference would be for option 2 as it is fairer on small housing organisations. Registered providers with stock fewer than 1,000 units should be exempt.**
  - The annual fee payable by a registered provider should be set by reference to the number of social housing units owned by that provider. **Yes, for those providers with stock in excess of 1,000. Registered providers with stock fewer than 1,000 units should be exempt.**
  - The annual fee should not apply to local authorities. **We have no opinion on this matter.**
  - The annual fee should be subject to a minimum amount which would be payable by all private registered providers, regardless of size. **No. We believe that this should be banded and registered providers with stock fewer than 1,000 units should be exempt.**
  - For groups the annual fee should be set at group level rather than for each individual entity on the register. **Yes. Although we are not clear whether the proposals relating to the treatment of group structures also applies to secondary housing co-ops.**
  - Providers should pay the full cost of the annual fee for the year that they are on the register when they register or de-register. **We have no opinion on this matter.**

**We do not agree that new registrations arising out of amalgamations, mergers or transfers of engagement from or between existing registered providers should be exempt. Many of these are likely to be complex in nature and require a regulator with the skills, capacity and range of competencies that the fee charging arrangement proposes to address.**

4. Do you agree with the proposed approach to initial registration fees?
- Registrations from providers with stock fewer than 1,000 units should be exempt.**
5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?
- We have no opinion on this other than that providers with stock fewer than 1,000 units should be exempt.**
6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

**Yes. As identified in the discussion document the regulator does less work with the smallest providers (under 1,000 units) and we agree that a flat fee approach would not be proportionate to the cost and benefits received from being part of a regulated sector.**

7. Do you agree with the proposed approach to local authority registered providers?

**We have no opinion on this.**

8. Do you agree with the principle set out for a minimum annual fee?

**No. We believe that this should be banded and registered providers with stock fewer than 1,000 units should be exempt.**

9. Do you think that we should introduce an element of banding in the fee regime and if so why?

**Yes. We believe that registered providers with stock fewer than 1,000 units should be exempt.**

10. Do you agree with the proposal to charge the annual fee at group level?

**Yes. Although we believe that registered providers with stock fewer than 1,000 units should be exempt.**

11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

**We have no opinion on this.**

12. Do you agree with the proposed approach to transparency and accountability?

**Yes.**

13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?

**Yes.**

14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?

**We are concerned that many smaller housing organisations working with groups of people with specialist needs will end up meeting a disproportionate cost of regulation and would encourage the Homes and Communities Agency in its statutory consultation to consider this aspect of the proposal.**

15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?

**No.**

16. Do you have any further comments on the initial proposals set out in this discussion paper?

**In developing its fee proposals the regulator will need to set out in the consultation how much it will cost to administer its fees (on a per RP basis) and how it will demonstrate value for money to the fee payers annually.**

We feel that in the discussion about fees for the regulator the voice of smaller housing organisations should not be drowned out by larger housing organisations hoping to have the proposed fees for their regulation subsidised. Many larger organisations are by their very nature more complex; risky and will be more dependent on the regulator than small housing providers. We think this is an important consideration in developing this discussion.

We hope this is helpful to you and look forward to future correspondence and consultation on this matter.

Yours sincerely

**Mulberry Housing Co-op Chair**  
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Coin Street neighbourhood centre  
108 Stamford Street  
South Bank  
London  
SE1 9NH

21<sup>st</sup> March 2014

**Response:**

## **Charging fees for social housing regulation**

**A discussion paper**

**Summary of key points:**

- The Federation is opposed to the introduction of regulatory fees for non-profit registered providers.
- Fees would extract much needed cash from housing associations at a time when they need to deliver better homes for existing tenants and more homes and services for local people as government funding for these is significantly cut back.
- The comparison with regulation of the privatised utilities is not appropriate because the companies in these sectors are profit-making bodies. A more appropriate comparison is the charity and not for profit sector where the Charity Commission does not levy fees.
- At a time of increasing complexity and risk, the Federation believes that the Regulator does need access to more specialist capabilities and real control over its resources. However, given financial constraint across the public sector we recognise this has been difficult to achieve in totality to date.
- If fees were to be introduced then our members are clear that funds raised should be applied to strengthening the Regulator's capabilities. The Federation is very concerned that fees would simply be deducted from the Regulator's grant-in-aid funding from the Treasury, meaning that there would be no service improvement.
- There is a strong argument for charging an annual fee to for-profit providers in view of the special regulatory challenge that their profit-making nature will present.
- If an annual fee is introduced, it should cover routine regulatory activity in the area of governance and financial viability. It should not cover areas in which the regulator's role is essentially reactive, such as consumer regulation and the use of enforcement powers. Nor should it cover sunk costs, for example where applications from prospective providers fall by the wayside.
- Proposals for more transparency and accountability about the way the Regulator uses its resources are welcome. Indeed there is a strong appetite from housing associations for this. But these developments can and should be taken forward irrespective of whether fees are introduced or not.

## **1. Introduction and background**

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The National Housing Federation is the voice of affordable housing in England. We believe that everyone should have the home they need at a price they can afford. That's why we represent the work of housing associations and campaign for better housing. Our members provide two and a half million homes for more than five million people. And each year they invest in a diverse range of neighbourhood projects that help create strong, vibrant communities.

The Housing and Regeneration Act 2008, which abolished the Housing Corporation and replaced it as social housing regulator by the Tenant Services Authority, provided for the new regulator to charge fees. The power, which was transferred to the HCA by the Localism Act 2011, has been the subject of discussion from time to time, but has never been acted upon.

However, the HCA has now issued a discussion paper setting out how a fee regime might work. The HCA's intention, if the decision is taken to proceed, will be to issue a formal consultation later in 2014. The earliest possible start date for a fee system in April 2015, although even this is very demanding and allows very little room for slippage.

## **2. Federation's views**

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The Federation is opposed to the introduction of regulatory fees. We believe that it will increase financial and administrative burdens on the sector (and indeed on the regulator), thus reducing resources that could otherwise have been applied to increase the delivery or improve the management of housing for persons in need. In exchange for these drawbacks, it offers no countervailing benefits: specifically, it is highly unlikely that it will increase the resources available to the regulator. Consequently the prospect for the sector is that it will receive the same regulatory service as at present, except that now it will be paying for it.

We do not accept the parallel with other regulated sectors. The crucial difference is that in other sectors, typically the company (or its parent body) is a profit-making entity. This means that when the fees are taken from the proceeds of the business, the result is to reduce the funds available for distribution to shareholders as profit.

Contrast the position of private registered providers. These bodies are, overwhelmingly, housing associations and as such they are non-profit bodies. Their surpluses, accordingly, are not distributed to shareholders; they are retained within the organisation and applied to its legal purposes. In other words, fees are in effect paid by the organisation's beneficiaries – chiefly, tenants and potential tenants of sub-market housing.

The discussion paper is quick to draw parallels with other regulated sectors, and states that the “usual regulatory model” is for regulated bodies to pay fees that fund “all or most” of the cost of regulation. But the paper does not point out an important exception to this statement, namely that charity sector. The regulatory body, the Charity Commission, is funded by the taxpayer and does not charge an annual fee; nor does it charge for registration.

Because charities, by definition, operate for public benefit (like housing associations), and are, again by definition, non-profit bodies (like housing associations), we suggest that the Charity Commission is a much more relevant comparator than bodies such as Ofwat and Ofgen, which regulate commercial companies.

We therefore remain of the view that the principle of levying regulatory fees is fundamentally misjudged, and we call on Government and the regulator to abandon the proposal.

Before moving on to the practicalities of how a fee system might operate, we wish to underscore the point that although regulatory fees will deprive the sector of resources, they will not bring any increased resources to the regulator.

Although the benefits of regulation to the sector are hard to assess, and we think that those specified in paragraph 5 of the discussion paper are somewhat speculative, we do accept that effective regulation is important to social housing providers and we agree that the regulator needs sufficient resources to do its job properly. Indeed, if we thought that the payment of fees would increase regulatory resources, we might, very reluctantly, agree with their introduction notwithstanding our objections to the principle involved.

Yet it seems clear that this will not be the case. Any income derived from fees will be set off from the Treasury grant that HCA receives. The net effect, therefore, will be that the resources available for regulation will be unchanged, but the burden of providing them will be shifted – at least in part – away from the taxpayer and imposed instead on the beneficiaries of housing associations work: tenants housed on the basis of need, and persons in need of the sub-market housing that associations provide.

Although we are opposed to a fee system for non-profit registered providers, we can see an arguable case for charges for registering new providers, and a strong case for fees for for-profit providers. We consider these issues below.

### **Operation of a fee-based regime**

The HCA estimates the cost of its regulatory work as being in the order of £12.5 million each year. With approximately 2.5 million social housing dwellings in the HA sector, this implies, on the face of it, an annual fee in the order of £5 per unit.

However, even if the principle of fees is accepted, there is a strong case to be made that certain activities should continue to be funded by central Government:

- While the cost of registering new providers can be recouped through a separate system of fees, the HCA is also engaged in dealing with enquiries from a wide range of persons and organisations about the possibility of becoming a registered provider. A high proportion of these enquiries do not lead to the registration of a new RP, so there is no mechanism through which the cost can be recovered from the organisation concerned. However, it would be inequitable to seek to recover it from existing RPs.
- There is a strong case for charging fees only to cover the costs of ongoing regulatory activity, so that the cost of responsive regulatory work is not met from fees. This would fall into two obvious categories:
  - Regulatory enforcement, which by definition is reactive and will apply to only relatively small parts of the sector (usually, to a single organisation or group), meaning that it would be unfair to recover the cost from the wider sector, while seeking to recover it from the provider concerned might involve worsening the position of an organisation that may be facing serious difficulties; and
  - Consumer regulation, where the HCA has no routine engagement with providers.

### **To whom should fees apply?**

The scope of the fee-paying obligation should depend on the nature of the organisation concerned and the type of regulatory engagement the HCA has with it.

Local authority landlords, for example, have a very limited engagement. They are not subject to regulation regarding governance and viability; in other words they are outside the scope of the HCA's routine regulatory activity. The HCA's role will be limited to consumer regulation and very occasional enforcement; if these activities are not to be funded by fees, it follows that local authority RPs should not be required to contribute.

For-profit providers are a very different case. At present, they are an insignificant part of the sector: a couple of dozen bodies, mostly very small. But it is possible that they increase rapidly, both in size and number, and that they will impose on the regulator demands of a different order of magnitude than those of regulating non-profit housing associations. Already we have seen a discussion paper from the regulator about the issues arising from the disposal of stock by for-profit bodies, and it is very likely that as this part of the sector grows and matures it will present many further challenges.

It is essential that the additional costs of regulation are borne by the for-profit bodies that generate them.

We acknowledge, however, that at this initial stage the for-profit part of the sector remains so small that HCA lacks any evidential base for quantifying the additional costs of regulating it. We therefore accept that to begin with, for-profit bodies should pay fees on the same basis as non-profit providers. However, the HCA should commit, from the outset, to monitor closely the cost of regulating for-profits with a view to introducing, as soon as possible, a differential fee system that reflects the additional costs.

### **Calculation of fees**

Regarding the calculation of fees, we share the HCA's preference for a simple mechanism. However, the Federation's own experience of charging fees shows that this is not always easy to achieve.

We agree that if stock numbers are to be a factor in the calculation, this should be based on social housing units only. While, in most cases, a self-contained "unit" is relatively straightforward to define, there will be issues about the treatment of bed-spaces in shared housing. However, these are points of detail that can await the formal consultation if the fee proposal goes further.

### **New Registered Providers**

The aim should be to set registration fees at a level that meets the regulator's full costs of registration, and we do not think that such a charge will be a major barrier for legitimate registrants. It will, however, have the useful effect of concentrating the mind of potential registrants and discouraging bodies from seeking registration until they have put together an effective business plan, including access to adequate funding.

Because of the special challenge of for-profit providers, it may be appropriate to set a higher charge for registering these organisations, provided the HCA can demonstrate that the costs tend to be higher.

We note that the HCA currently devotes significant officer time to preliminary and exploratory discussions with potential registrants. We accept that these discussions are not really part of the registration process, and in any case that a high proportion of such enquiries do not ultimately lead to a registration at all, so it is unlikely to recover the cost through registration fees.

However, we think it is reasonable for HCA to seek to limit its costs in this area and we therefore urge that it should seek to avoid entering into substantive discussions until the organisation can demonstrate that it has undertaken significant work to develop its proposal. It should not be the function of the HCA to advise, assist in or support the process of developing a proposal; indeed, it should firmly resist any pressure to do so. This approach will not be an obstacle to serious applicants, because they will already be aware of the need to work up their ideas; but it will deter frivolous or ill-thought-out enquiries and avoid the waste of HCA officers' time in discussing them.

### **Accountability**

We note Julian Ashby's remark that fees "are expected to increase accountability in the sector".

We should welcome steps by the HCA to demonstrate to the sector in a transparent way how it is using its resources as effectively as possible to deliver its objectives. This process should involve an opportunity for challenge to the HCA about its effectiveness and value for money at appropriate intervals, with which the HCA should engage in a positive and constructive way.

We look forward to working with colleagues at the HCA to develop such an approach, which would be a very welcome development whether or not fees are charged.

## **3. Response to consultation questions**

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Our responses to the consultation questions follow from our overall policy line as explained in the previous section.

Q1 Do you think there is an in-principle case to charge fees for regulation?

No. The sector is dominated by non-profit organisations, so the effect of fees would be to divert resources from the delivery of their public-benefit objectives. However, there is a strong case for charging a registration fee and an annual fee for for-profit providers, once HCA has had an opportunity to assess the additional cost that regulating these entities is likely to involve.

Q2 Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

Even if a fee system is introduced, there are strong arguments that some regulatory costs should still be met by grant-in-aid; in particular, issues that call for a reactive rather than a routine engagement by the regulator. There are likely to include consumer regulation and enforcement action. In addition, areas of sunk costs such as providing advice and support to prospective providers that do not ultimately register should not be borne by those already registered.

Q3 Do you agree we are taking the right approach to developing the principles?

If fees are to be introduced, yes.

Q4 Do you agree with the proposed approach to initial registration fees?

If fees are introduced, then we agree with a flat fee. However, consideration should be given to a higher flat fee for for-profit registrants on account of the higher costs likely to be involved in registering these bodies.

Q5 What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

Registration fees should be set at a level likely to cover the full cost of registering new providers. We do not think this will discourage legitimate bodies from registering, although it may deter ill-thought-out enquiries.

Q6 Do you agree that provider size is a suitable basis for determining the level of the annual fee? Do you agree that social housing units owned is a suitable measure of size?

The detailed design of a fees regime should await a decision on whether it will proceed. If an annual fee is introduced it should certainly be proportionate. If it is based on size of provider then the number of social units owned, subject to a suitable treatment of bedspaces in shared housing, would seem a reasonable starting point.

Q7 Do you agree with the proposed approach to local authority registered providers?

It depends which regulatory activities fees are intended to cover. If they are not intended to cover consumer regulation and enforcement action, then it will be logical to exclude local authority landlords from any liability to pay.

Q8 Do you agree with the principle set out for a minimum annual fee?

The detailed design of the fees structure should await a decision on whether it will proceed.

- Q9 Do you think we should introduce an element of banding in the fee regime and if so why?

The detailed design of the fees structure should await a decision on whether it will proceed. However, any fee regime will need to be simple and introducing a banding system has the potential to complicate matters.

- Q10 Do you agree with the proposal to charge the annual fee at group level?

Yes.

- Q11 Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

The HCA's proposal to charge the full year's fee is clearly the simplest approach.

- Q12 Do you agree with the proposed approach to transparency and accountability?

We are glad the HCA has acknowledged this issue and we look forward to seeing more detailed proposals. This is something that can and should be pursued whether or not fees are introduced.

- Q13 Do you think invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?

Yes, so long as the fee charging mechanism is transparent and predictable so that providers can budget for it.

- Q14 Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?

This is an important concern for associations that provide for particular groups. Many such specialist providers are small; some have a high proportion of shared accommodation. Care will need to be taken to ensure that fees do not have an unintended and disproportionate impact on these associations. The HCA should make

it clear that it invites representations from individual associations, or types of association, that wish to make a case that fees are having an undue impact.

- Q15 Are there any other impacts of charging fees on the sector that we have not considered in the paper? If so, what are they and how should we take them into account?

The paper suggests the annual extraction of up to several million pounds from the sector but makes no real attempt to quantify the effect on the ability of associations to provide and manage sub-market housing let on the basis of need. It should assess the likely impact of those in housing need, and it should make a case why the burden is more equitably borne by them than by the Treasury.

- Q16 Do you have any further comments on the initial proposals set out in the discussion paper?

None.

#### **4. Conclusion and recommendations**

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The Federation's overriding view is that the central proposal of the HCA paper – an annual fee for non-profit private providers – will bring no benefits for the sector, or even for the regulator, and should not be taken any further.

There is a strong case for charging fees to for-profit providers as soon as evidence can be assembled of the cost of meeting the additional regulatory challenge they pose.

But we reiterate that the core proposal is misconceived and should be abandoned.

## **HCA discussion paper: Charging Fees for Social Housing Regulation**

### **Response from North Hertfordshire Homes**

#### **Q1 Do you think that there is an in-principle case for charging fees for regulation?**

Yes, but only if it leads to improved regulation. Placing an additional cost on RPs without improving regulation will result in a net loss to us, reducing our capacity to meet our objectives with nothing in return. Whilst the document rightly highlights the greater accountability and scrutiny that charging will bring, this is not an end in itself and is only meaningful if it changes things for the better. Some cultural changes might help but better quality regulation needs to be properly resourced.

#### **Q2 Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

There is, in our view, still a role for the government in ensuring properly resourced and effective regulation as it benefits from the development of new affordable homes, the sound management of existing homes and from the work we do to support and improve communities.

#### **Q3 Do you agree we are taking the right approach to developing the principles?**

Subject to Q1 and Q2 above, yes.

#### **Q4 Do you agree with the proposed approach to initial registration fees?**

Yes

#### **Q5 What other factors should we consider in setting the initial registration fee? What level of registration fee would not discourage new entrants?**

Larger RPs have the capacity to absorb costs, so even if some of the costs of registration were recovered via the annual fee to existing RPs or via grant aid enabling the registration fee to be lower than £10,000 that would seem fair, and reduce the risk of discouraging registration applications from smaller organisations. £5,000 seems appropriate.

**Q6 Do you agree that provider size is a suitable basis for determining the level of the annual fee level? So you agree that social housing units owned is a suitable measure of size?**

Yes

**Q7 Do you agree with the proposed approach to local authority registered providers?**

Yes

**Q8 Do you agree with the principle set out for a minimum fee?**

Yes

**Q9 Do you think we should introduce an element of banding in the fee regime and if so why?**

No. Those at the lower edges of bands feel aggrieved, and those at the higher edges of bands gain arbitrarily.

**Q10 Do you agree with the proposal to charge the annual fee at group level?**

Yes

**Q11 Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes

**Q12 Do you agree with the proposed approach to transparency and accountability?**

Yes

**Q13 Do you agree that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes

**Q14 Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

No

**Q15 Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

No

**Q16 Do you have any further comments on the initial proposals set out in this discussion paper?**

No

Chief Executive

On behalf of the Board of NHH



North Tyneside Council

Head of North Tyneside Homes

Community Services Directorate  
North Tyneside Homes  
Quadrant West - 2nd Floor  
The Silverlink North  
Cobalt Business Park  
North Tyneside  
NE27 0BY

To: HCA Author: Head of North Tyneside Homes

Date: 19<sup>th</sup> March 2014

### **Response to HCA Discussion Paper: Charging Fees for Social Housing Regulation**

#### **Q1. Do you think that there is an in-principle case to charge fees for regulation?**

We note that the usual regulator model in other sectors is for the regulated bodies to fund part or all of regulation costs through fees. However we believe it would be difficult to justify passing the cost of regulatory fees onto our customers when the HCA has reduced consumer regulation to a level of the 'serious detriment test', rather than protecting consumer interests as regulators do in other sectors.

Furthermore as 65% of social renters (English Housing Survey) are in receipt of Housing Benefit we believe that continued government funding is an important principle of Social Housing Regulation, in order to best ensure value for money for the tax payer and for tenants.

#### **Q2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

If fees are to be introduced for social housing regulation, it is our view that the Government should continue to fund some activities through grant-in-aid to the HCA, particularly given that this is comparable with what occurs with regulators in other sectors (e.g. Ofcom).

We believe that this grant-aid would best be used to support areas of work where benefits of the HCAs work are felt more widely than individual providers (for example 'strategy and management' activities) and where full cost recovery could prove a detriment to the HCA's objective of '[supporting] the provision of social housing sufficient to meet reasonable demands including encouraging and promoting private investment in social housing" (for example in 'registration / deregistration' and 'constitutional consents' activities)

**Q3. Do you agree we are taking the right approach to developing the principles?**

The approach to developing the principles appears to be fair.

**Q4. Do you agree with the proposed approach to initial registration fees?**

We agree that a flat fee would appear to be the most appropriate to approach to initial registration fees. However, we would question why the HCA would only charge for successful applications, particularly in light of the fact that only 40% of initial applications progress to stage 2 of the registration process. While the discussion document outline that it is the second stage which requires the vast majority of work, the first stage is clearly not cost neutral. We would take the view that a two stage assessment process before registration should be reflected in payments at each stage regardless of outcome. This approach would in our view still meet with the principles set out in the discussion document.

We note that as Local Authorities are subject to compulsory regulation and therefore do not go through an application process they will not be required to pay for initial registration. This would be more understandable if the fees with regard to registration were understood in terms of 'assessment' (as suggested above) rather than 'registration' per se.

**Q5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

The discussion paper cited the average cost of processing applications for registration at £10,000 (have checked whether this is averaged out over all applications or just successful applications).

While the cost would be reduced slightly if proposals above were adopted, we believe that these costs would remain prohibitively high to new smaller entrants to the sector. Lowering the cost by using annual fees from those already on the register would we believe not be 'reasonable', as the benefits of this activity would not be felt by those paying. We believe that using grant-aid in this instance would be appropriate as it supports "fundamental HCA objectives of supporting provision of social housing sufficient to meet reasonable demands".

**Q6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

We believe that provider size would be an appropriate basis for determining the level of annual fee at this stage, and that social housing units owned would be a suitable measure.

However we would welcome future work looking into the appropriateness of introducing more direct attribution with regard to work relating to reactive regulation.

We also believe that there is a case for flat / one off fees with regard to constitutional and disposal consents.

**Q7 Do you agree with the proposed approach to local authority registered providers?**

While we welcome the approach to Local Authorities we are concerned about the implications and potential consequences of the proposal. By not charging Local Authority RPs a fee for their role in consumer regulation we believe the HCA is sending out a clear message that consumer regulation is of marginal importance. We believe it is therefore difficult to justify passing the cost of regulation onto the consumer.

**Q8 Do you agree with the principle set out for a minimum annual fee?**

Yes.

**Q9 Do you think we should introduce an element of banding in the fee regime and if so why?**

We believe that the fixed per unit charge as outlined in this paper offers greater clarity and simplicity than a banding scheme would.

**Q10 Do you agree with the proposal to charge the annual fee at group level?**

Yes, the approach appears to be fair and to meet the principles proposed within this discussion document.

**Q11 Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year.**

Yes, the approach appears to be fair and to meet the principles proposed within this discussion document.

**Q12 Do you agree with the proposed approach to transparency and accountability?**

We welcome the proposed approach with regard to transparency on the costs of regulation, we are concerned that this discussion paper does not set out how the HCA proposes to hold itself accountable in terms of its role, remit or the quality of its work to the sector and to tenants.

**Q14 Are you aware of any potential equality and diversity impact in implementing fees? If so, what are they and how should we take them into account**

No

**Q15 Are there any other potential impacts of changing fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

No

**Q16. Do you have any further comments on the initial proposals set out in this discussion paper?**

In looking at the introduction of fees for regulation the HCA should be open to discussion on what the sector and customers can expect of them. Customers may be happier for the cost of regulation to be passed on to them if there was greater consumer regulation. Costs of HCA regulation appear to be very low given the value (or is it turnover) of the sector.

We would also welcome reassurance as to how fee levels will be increased in subsequent years.

20 March 2014

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**By email to [consultation@hca.gsi.gov.uk](mailto:consultation@hca.gsi.gov.uk)**

### **Charging Fees for Social Housing Regulation**

Please accept this letter as North West Housing Services' response to your recent discussion paper.

North West Housing Services (NWHS) is one of the UK's largest providers of services to housing co-operatives and small housing associations. Please note that the views expressed in this document are those of NWHS and do not necessarily reflect the opinions of individual member organisations who may submit their own responses.

Our responses follow the numbering of your consultation questions.

1. While legislation allows fees to be charged, we believe that the costs of regulation should be borne by the Government. This is because the provision and regulation of social housing benefit the nation.
2. For the same reason, if fees are to be charged, they should be supplemented by grant-in-aid.
3. You are taking the right approach to the development of the principles.
4. The proposed initial registration fees are excessive and will deter the development of community-based and co-operative housing providers. This conflicts with government policy in other areas and with the concepts of mutualism, localism and the Big Society.

5. No comments.
6. Yes, we agree that provider size is a suitable basis for determining the level of the annual fee and that the number of social housing units owned is a suitable measure of size.
7. No comments.
8. We accept the principle of a minimum annual fee but believe that a fee of £300 is excessive for very small housing providers.
9. We agree with the proposed approach to banding and, in particular, to the proposed lower charge for providers with fewer than 1,000 units.
10. No comments.
11. We agree that providers should pay the full annual fee when they de-register during the year but suggest that the fee should be paid pro-rata when registering to assist smaller providers starting up.
12. We agree with the proposed approach to transparency and accountability.
13. We agree that invoicing on an annual basis towards the beginning of each year is appropriate.
14. No comments.
15. No comments.
16. No comments.

Yours sincerely

**Director of Policy and Performance**

## Charging Fees for Social Housing Regulation

### Response to the discussion paper issued by the Homes and Communities Agency in February 2014, from Nottingham City Homes

Nottingham City Homes (NCH) is an Arms Length Management Organisation (ALMO) managing and maintaining over 28,500 tenant and leasehold properties on behalf of Nottingham City Council, as well as on behalf of other landlords. NCH is the largest housing provider in Nottingham. NCH has a new build social housing programme, including for properties directly owned by NCH. As an ALMO, NCH is wholly owned by Nottingham City Council, a local authority.

Views from Nottingham City Council have been obtained in the preparation of this response and are included here.

In the responses below not all questions have been responded to. Where there is no response to a particular question it can be assumed that we are expressing no view at this time.

*Q1) Do you think that there is an in-principle case to charge fees for regulation?*

We do not believe that there is. Fundamentally this is a transfer of costs to the providers of low cost housing from the current provision by central government as grant-in-aid. In reality, that transfers the cost to tenants and residents, who are, for the vast majority, a very low income group.

Paragraph 4 of the discussion document makes the point that in other sectors the regulatory cost is all or mostly met by the industries concerned. The important difference is that those organisations requiring regulation in those industries are in the 'for profit' sector of the economy. This is not the case with the vast majority of organisations providing social housing.

In respect of the local authority / ALMO sector, we would also comment in relation to paragraph 5 as follows. Whilst it is the case that regulation offers the ability for providers to obtain finance at lower borrowing rates, this is not applicable to the local authority sector where a wide range of borrowing restrictions and other financial regulations, as laid down by central government, means that such borrowing options are not generally available.

*Q2) Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?*

Further to the points made regarding Q1 we believe that costs should continue to be met through grant-in-aid.

Central government seeks to encourage a wider range of bodies to be providers, and thus to seek regulation. It is not unreasonable to assume that full cost fees would serve as a barrier to organisations (especially smaller ones, or those from the voluntary or smaller charitable sector) seeking to enter this market. This would be regrettable. There is therefore an argument that the Government, in pursuance of its wider objectives, should continue to provide funding.

We are therefore of the view that regulatory costs should continue to be funded, at least to a considerable extent, through grant-in-aid.

*Q3) Do you agree we are taking the right approach to developing the principles?*

In principle we do not favour charging fees to the sector, but were fees to be charged, there would be a strong general expectation that fees raised should be used on meeting regulatory costs, not on other costs.

*Q 4, 5 & 6)*

- *Do you agree with the proposed approach to initial registration fees?*
- *What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?*
- *Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?*

The points made in paragraph 18 Table 4 and paragraph 19, regarding local authorities non-payment of the annual fee and exclusion of an initial registration fee to the local authority is welcomed by us given our broader comments about this.

Any fixed fee should not be set at a level that serves to be a barrier to registration. It seems likely that covering costs of around £10,000 may well be prohibitive for smaller, or 'niche' providers to meet. This in itself is an argument for continued financial support for the work of registration from the Government, in furtherance of the government's wider housing objectives.

A concern for NCH as an ALMO is the issue of where a fee may become liable where the ALMO may develop a small number of homes under their own ownership as a number of ALMOs, (including NCH) have started to do. We would be concerned that this could require a level of registration fee that would be disproportionate per unit of accommodation, when the remaining (the vast majority) of the stock the ALMO is responsible for is in ownership of the local authority and thus potentially covered by a different charging regime. We would ask the HCA to look closely at the impact of this situation, with a view to ensuring costs are minimised.

*Q7) Do you agree with the proposed approach to local authority registered providers?*

Yes.

Moreover, because of the financial framework that local authorities and ALMOs work within (which is strongly regulated by central government rules on borrowing, rent setting and other matters) issues of risk are considerably reduced when compared with parts of the social housing sector that can borrow commercially. This means that regulatory costs should be proportionate. We note that this is recognised in paragraph 43 and 44 and welcome the analysis set out here.

We therefore agree with the proposed approach to local authority registered providers.

*Q8) Do you agree with the principle set out for a minimum annual fee?*

Given the broader principle that we are not in agreement with a charging requirement, this is reasonable.

*Q10) Do you agree with the proposal to charge the annual fee at group level?*

Comments above about ALMOs holding property under their own ownership are pertinent here. This may be where an ALMO with a small stock under its own ownership could be regarded as part of the larger group that is itself the local authority as a social housing owner, and therefore the approach to regulation that applies to the local authority should apply to the ALMO. Once again though, this would not be necessary were fees not to be levied.

*Q12) Do you agree with the proposed approach to transparency and accountability?*

Given the broader principle that we are not in agreement with a charging requirement, the general approach to transparency as set out here is supported.

This response has been submitted by Nottingham City Homes and it is hoped that these comments are of help. If further information is required about the contents of this response please contact:

**Business Improvement and Development Team  
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NG1 7BA  
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March 21<sup>st</sup> 2014

**Notting Hill Housing Trust**

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NottinghillHousing

Mr Tim Sullivan  
Regulatory Framework Manager  
Homes and Communities Agency  
The Social Housing Regulator  
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By email only to: [consultation@hca.gsi.gov.uk](mailto:consultation@hca.gsi.gov.uk)

14 March 2014

Dear Mr Sullivan

**DISCUSSION PAPER – CHARGING FEES FOR SOCIAL HOUSING REGULATION**

Thank you for the opportunity to comment on this document.

We have considered your proposals here at Notting Hill and we have prepared a response to the specific questions that you have raised.

A copy is attached.

Yours sincerely

**Group Finance Director**

## **Discussion Paper 'Charging Fees for Social Housing Regulation' Response from Notting Hill Housing Group**

### **Introduction**

This response is provided by Notting Hill Housing Group. Notting Hill Housing is a Group of housing organisations headed by Notting Hill Housing Trust, a charitable Registered Provider of social housing. We also have a second Registered Provider within the Group, Notting Hill Home Ownership. Taken overall, the Group provides around 27,000 homes, of which around 25,000 are social housing.

Notting Hill was founded in 1963 and operates almost exclusively in London.

### **1. Do you think that there is an in-principle case to charge fees for regulation?**

We are not clear as to why there should be an in-principle case for charging fees for regulation at this point. Notting Hill has been regulated by the Homes and Communities Agency and its predecessors for around 40 years and, to date, no fees have been charged for this. Our application at the time to be registered will have been made voluntarily and on the understanding that no fees would be charged for the regulation.

We are also a not for profit organisation set up solely to meet the needs of the housing for Londoners who cannot afford to access the housing market in this City. Any payment of fees will obviously reduce the efficiency of our operation and limit, to some extent, the number of homes that we can produce.

Although we do not pay directly for regulation, there are already many indirect costs in terms of meeting the requirements of the regulator. In the spirit of "co-regulation", we have to meet these costs. It does not seem unreasonable that the regulator should meet its own costs.

Although we comment further on your proposals below, you should appreciate that they are made in the context of a view that fees should not be charged now anymore than they have been in the past.

### **2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

If the decision is taken to introduce fees, then there seems to us to be some logic that part of the cost of the regulator should continue to be borne by the Exchequer.

In addition, it seems that if regulated organisations are to make a contribution towards the cost of the regulation, then the regulator should expect to be accountable to the organisation paying its fees. Given that it will, of necessity, also be accountable to the Exchequer, it is likely that additional resources will be required to meet both sets of criteria.

### **3. Do you agree we are taking the right approach to developing the principles?**

If fees are to be charged, then this seems a good approach to developing the principles.

**4. Do you agree with the proposed approach to initial registration fees?**

Yes. We agree that a fixed fee should apply to all successful applications for initial registration.

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

Our view is that an initial registration fee of approximately £10,000 is far too high. There will be occasions when large organisations are applying to join the register and this will be reasonable. There will, on the other hand, be occasions when smaller locally based organisations wish to become Registered Providers. In these circumstances such a fee could be prohibitive.

In our view, the initial fee should be kept to a minimum - perhaps around £300.

Presumably, if the Homes and Communities Agency regulation function is to be financed by fees in future, the more organisations there are on the register, then the better the finances of the organisation will be. Given this, a discount to the initial registration fee will be appropriate.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

We agree that using 'Provider size' is a suitable basis for determining the level of the annual fee level and that the number of social housing units owned is a reasonable measure of Provider size.

**7. Do you agree with the proposed approach to local authority registered providers?**

It is difficult to comment on this. There seems no obvious reason why local authorities should not pay an annual fee, but if the statement made in paragraph 43 of the consultation document that a fee would be so low that it would not be economical to recover is correct, then this will seem a reasonable conclusion.

**8. Do you agree with the principle set out for a minimum annual fee?**

Yes. We agree that there should be a minimum annual fee.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

No, we do not believe that it is necessary to introduce an element of banding. Our view is that the fee based on an amount per unit underpinned by a minimum would be a reasonable approach.

**10. Do you agree with the proposal to charge the annual fee at group level?**

We agree with the proposal to charge the annual fee at Group level, but would have no difficulty if it were charged at Provider level.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes. We agree with the approach to the annual fees where a Provider is only on the register for a proportion of the year.

**12. Do you agree with the proposed approach to transparency and accountability?**

We have no comments on the proposed approach to transparency and accountability at this stage. We note that more detailed proposals will be set out when the pay statutory consultation document is issued.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

We agree that the following year's fee should be provided to Providers in October of each year.

On balance, however, we feel the option of fees being paid monthly by direct debit would be helpful and should be provided for, at least as an option.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

We are not aware of any potential equality and diversity impact in implementing the annual fee. Implementation of a high joining fee could, however, potentially discriminate against new organisations set up by minority groups.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

We do believe that the cost of the initial registration fee should be kept modest so that the HCA can encourage new entrants to the sector. In the past, new entrants have added to the diversity, creativity and vitality of the sector and we believe that the HCA should do the minimum to discourage this.

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

We have no further comments on the initial proposals set out in this discussion paper.

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20<sup>th</sup> March 2014

Dear Mathew,

### **Charging fees for Social Housing Regulation**

Thank you for the opportunity to comment.

Having carefully considered this issue I would suggest that you might consider a slightly different approach to that proposed. My apologies if this has already been assessed and rejected.

The approach would be to charge a levy on social housing rents, rather than a fee to individual landlords. The fee might be in the order of 0.1% of social housing rents. The basis for this proposal is that your work is designed to protect the long term interest of residents and that as such the amount should be seen as a cost not to the landlord but rather as a charge which is for the benefit of residents. It is a small but potential valuable reframe of the same issue. An approach of this type would have the advantages of making it clear that your clients are ultimately the resident, your income would rise as rents rise and the costs would be directly related to social housing properties managed.

By view is based on the simple premise that any fee based on units managed and identified as a cost of running an organisation will forever be under challenge. This proposal is, of course, the way in which the Ombudsman service is funded and although it will not stop the inevitable arguments about what is and is not value for money it might give you, as regulator, a slightly more independent position.

Best wishes,

**Chief Executive**

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**Response to HCA Consultation on  
Charging Fees for Social Housing  
Regulation – March 2014**

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## **Q1. Do you think that there is an in-principle case to charge fees for regulation?**

*The case for charging fees must be underpinned by the return on this 'investment'. Rather than anecdotal evidence about borrowing costs etc, there must be clear evidence and value to the RP sector on seeking to pay for regulation (reduced cost of borrowing, achievement of business objectives, supporting continuous improvement). This is in line with the need for our sector to demonstrate value for money.*

*In addition if fees are introduced, there must be clear transparency about future rises to prevent 'increases creeping in'. This may include discussions around and approval of any extension of services.*

## **Q2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

*One of the concerns is a perceived issue of conflict of interest if the very organisations you are trying to regulate become your income stream. This was one of the areas of debate when the banking industry collapsed (FSA). By splitting the cost there is an element of perceived independence. It might be that RPs fund the support service infrastructure, consents process, strategy and management, registration/ deregistration and maintaining the register. The actual cost of regulating the standards is then borne by government.*

*Another way of doing this is to charge a fixed cost for overheads (e.g. support services, strategy & management) depending on the size of RP and/or risk rating plus a unit cost for such items as registrations/de-registrations, consents etc. Then the regulating the standards bit could be funded by the Government. This might be a fairer way of doing so rather than a blanket charge.*

## **Q3. Do you agree we are taking the right approach to developing the principles?**

*Yes, plus there should be another principle in terms of efficiency savings on an annual basis. This will bring it in line with most RPs who have annual efficiency saving targets.*

*In addition there should be clear agreement on how the effectiveness of the HCA is judged so that RPs can be sure that they are receiving not only VFM but also that 'regulation is making a positive difference' to the RP and the sector as a whole.*

## **Q4. Do you agree with the proposed approach to initial registration fees?**

*Yes - This is the most reasonable of those offered as it appears that the level of work to register a 1,000 unit organisation is the same as registering one owning 10,000 units.*

## **Q5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

*No comment over and above Q4*

## **Q6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

*No – there is no correlation between the activity of the HCA and stock units. This approach appears to penalise those RPs who have embraced co-regulation and the need for good governance and sound financial management. Although we accept that an activity based fee (as suggested in the response in Q2) is not easy, the HCA should be sufficiently transparent to explain the reason for a provider's fee and be able to address any queries on fees from the provider.*

**Q7 Do you agree with the proposed approach to local authority registered providers?**

Yes.

**Q8. Do you agree with the principle set out for a minimum annual fee?**

Yes

**Q9 Do you think that we should introduce an element of banding in the fee regime and if so why?**

No.

**Q10. Do you agree with the proposal to charge the annual fee at group level?**

Yes

**Q11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes

**Q12. Do you agree with the proposed approach to transparency and accountability?**

*Yes and please see comments made in previous questions about the areas where this would be most welcome e.g. VFM, effectiveness*

**Q13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes

**Q14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

No

**Q15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

No

**Q16. Do you have any further comments on the initial proposals set out in this discussion paper?**

None



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Date: 7 March 2014

Mr Tim Sullivan  
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The Social Housing Regulator  
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By email to: [consultation@hca.gsi.gov.uk](mailto:consultation@hca.gsi.gov.uk)

Dear Tim

### **Response to consultation on charging fees for social housing regulation**

Having considered the paper, the Association's responses to the questions as set out are as follows.

- Q1 On balance it is felt that it is appropriate and commensurate with a lot of other regulators. It is, however, important that there is transparency in how the money is spent and it may introduce some interesting dynamics to regulatory engagement and the expectations of housing associations associated with this. In particular I feel associations would want to see an improved service rather than simply paying for the existing service.
- Q2 It is felt that the fee should cover some of the cost, in that there are some functions that should still be grant-led through the Department of Communities and Local Government.
- Q3 Yes.
- Q4 The flat fee option seems to be the most appropriate.
- Q5 It is felt that there should not be any other factors, in that the initial registration fee should be set around something that is calculable, ie the average cost for registration over the last two years at £10,000. Within the scheme of cost/benefits that would be associated with new registrations through mergers or acquisitions, this is a relatively small amount of money for an application to set up a new business and it is felt that in the majority of cases it is unlikely to be discouraging to new entrants.
- Q6 Yes.



Q7 In reading the document, it is noted that only the consumer regulation impacts upon local authorities and the point is made that this would therefore be negligible as a 'per unit' fee. However, in looking at the minimum regulatory fee proposals, I do wonder whether local authorities should at least have to pay this, but this is just musing at this point in time.

Q8 Yes.

Q9 No.

Q10 Yes.

Q11 Yes.

Q12 Yes.

Q13 Yes.

Q14 No further comments.

Q15 No further comments.

Q16 No further comments.

It is hoped that the above is useful but should you require any further detail or clarification please do not hesitate to give me a call.



19 March 2014

19 March 2014

Tim Sullivan  
Regulatory Framework Manager  
Homes and Communities Agency  
The Social Housing Regulator  
Maple House  
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Emailed to: [consultation@hca.gsi.gov.uk](mailto:consultation@hca.gsi.gov.uk)

Dear Tim

## **CHARGING FEES FOR SOCIAL HOUSING REGULATION**

Thank you for providing Palm Housing Co-op with the opportunity to respond to the February 2014 discussion paper on Charging Fees for Social Housing Regulation.

Palm Housing Co-op is a Registered Provider of housing and has just 27 units. Our landlord, Coin Street Secondary Housing Co-op (CSS) is also registered with the HCA.

Under the HCA fee proposal it would appear that primary and secondary housing co-ops would be required to pay a registration fee and an annual fee.

We cannot see that the arrangement relating to those housing co-ops that operate in secondary structures would be specifically covered by the proposals relating to group structures set out in the discussion paper and would welcome clarity on this point.

Our landlord, CSS, has no other income other than from the rent it receives from its three primary co-ops. This would effectively mean, in its current form, tenants of primary co-ops paying the annual charge twice. It is our view that, if fees are developed, secondary housing co-ops and their primary housing co-ops should be regarded as part of a group structure and pays a single annual charge (but only where the total stock size is greater than 1,000).

The proposal suggests the application of a fee would enable the HCA to acquire resources in specific areas of work. We feel that further details of what resources are proposed would need to be clear during the statutory consultation so that the regulator can demonstrate the fee payers are getting value for money.

We would respond to your specific questions as follows:

1. Do you think that there is an in-principle case to charge fees for regulation?

We agree that for some housing organisations the environment in which they work and the activities they choose to undertake makes them more complex to manage and regulate. In

the interests of all registered providers and the reputation of the housing sector we acknowledge the need for the regulator to develop the right range of skills and capacity to be effective in these increasingly complex areas of work. However as is recognised later in the paper a great many smaller housing organisations, such as Palm Housing Co-op are not complicated and as a consequence receive the lightest of touches from the regulator. **We feel that as a general principle all registered providers with stock in excess of 1,000 should be charged a fee for regulation.**

2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

**We consider a healthy, capable and competent housing regulator to be in the wider interests of the economic and social health of the nation in developing and maintaining good quality affordable housing for current and future generations. Our position is that all or a significant part of the regulatory costs should be met by grant in aid.**

3. Do you agree we are taking the right approach to developing the principles?

- A fixed fee should apply to all successful applications for initial registration. **No. Our preference would be for option 2 as it is fairer on small housing organisations. Registered providers with stock fewer than 1,000 units should be exempt.**
- The annual fee payable by a registered provider should be set by reference to the number of social housing units owned by that provider. **Yes, for those providers with stock in excess of 1,000. Registered providers with stock fewer than 1,000 units should be exempt.**
- The annual fee should not apply to local authorities. **We have no opinion on this matter.**
- The annual fee should be subject to a minimum amount which would be payable by all private registered providers, regardless of size. **No. We believe that this should be banded and registered providers with stock fewer than 1,000 units should be exempt.**
- For groups the annual fee should be set at group level rather than for each individual entity on the register. **Yes. Although we are not clear whether the proposals relating to the treatment of group structures also applies to secondary housing co-ops.**
- Providers should pay the full cost of the annual fee for the year that they are on the register when they register or de-register. **We have no opinion on this matter.**

**We do not agree that new registrations arising out of amalgamations, mergers or transfers of engagement from or between existing registered providers should be exempt. Many of these are likely to be complex in nature and require a regulator with the skills, capacity and range of competencies that the fee charging arrangement proposes to address.**

4. Do you agree with the proposed approach to initial registration fees?

**Registrations from providers with stock fewer than 1,000 units should be exempt.**

5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

**We have no opinion on this other than that providers with stock fewer than 1,000 units should be exempt.**

6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

**Yes. As identified in the discussion document the regulator does less work with the smallest providers (under 1,000 units) and we agree that a flat fee approach would not be proportionate to the cost and benefits received from being part of a regulated sector.**

7. Do you agree with the proposed approach to local authority registered providers?

**We have no opinion on this.**

8. Do you agree with the principle set out for a minimum annual fee?

**No. We believe that this should be banded and registered providers with stock fewer than 1,000 units should be exempt.**

9. Do you think that we should introduce an element of banding in the fee regime and if so why?

**Yes. We believe that registered providers with stock fewer than 1,000 units should be exempt.**

10. Do you agree with the proposal to charge the annual fee at group level?

**Yes. Although we believe that registered providers with stock fewer than 1,000 units should be exempt.**

11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

**We have no opinion on this.**

12. Do you agree with the proposed approach to transparency and accountability?

**Yes.**

13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?

**Yes.**

14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?

**We are concerned that many smaller housing organisations working with groups of people with specialist needs will end up meeting a disproportionate cost of regulation and would encourage the Homes and Communities Agency in its statutory consultation to consider this aspect of the proposal.**

15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?

**No.**

16. Do you have any further comments on the initial proposals set out in this discussion paper?

**In developing its fee proposals the regulator will need to set out in the consultation how much it will cost to administer its fees (on a per RP basis) and how it will demonstrate value for money to the fee payers annually.**

In summary we do not consider the introduction of any fee structure to be appropriate for smaller housing organisations (those with a stock size of less than 1,000 homes). We are particularly concerned about the proposed registration fee for new providers, which in our view would substantially stifle the ability of small housing organisations to start up. We believe that the introduction of flat rate annual fee and registration fees for new providers would likely have a disproportionate impact on the cost of running specialist housing organisations, such as those for people with mental or physical disability and black and ethnic minority housing.

We feel that in the discussion about fees for the regulator the voice of smaller housing organisations should not be drowned out by larger housing organisations hoping to have the proposed fees for their regulation subsidised. Many larger organisations are by their very nature more complex; risky and will be more dependent on the regulator than small housing providers. We think this is an important consideration in developing this discussion.

We hope this is helpful to you and look forward to future correspondence and consultation on this matter.

Yours sincerely

**Palm Housing Co-op Chair**  
c/o Coin Street Community Builders  
Coin Street neighbourhood centre  
108 Stamford Street  
South Bank  
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About Peabody

Peabody has been creating opportunities for people in London since 1862, when it was established by the American banker and philanthropist, George Peabody. Our mission is to ensure that as many people as possible have a good home, a real sense of purpose and a strong feeling of belonging.

We work solely in London, with a presence in the majority of London boroughs. We own and manage around 27,000 homes, providing affordable housing for over 70,000 people.

As well as bricks and mortar, we provide a wide range of community programmes for our residents and neighbourhoods, including help with employment and training, health and wellbeing projects, family support programmes, welfare benefits advice and activities for younger and older people.

We are committed to sustained investment in affordable housing, and recently issued a £350m bond to develop new homes, regenerate existing estates and provide more services. By 2015, we aim to provide around 1,000 new homes a year. Around 600 of these will be for affordable and social rent, and the rest will be made available on the open market to fund more social and affordable housing.

The Peabody Group is growing, and we recently welcomed Gallions Housing Association into the Group. Gallions manages around 6,500 homes, mostly in Thamesmead, south east London. Tilfen Land will join us in April, which will bring over 100 acres of developable land into the Group. This means that, for the first time in a generation, Thamesmead has been brought into a single, well-resourced ownership. We will invest an initial £225m in Thamesmead and, working in partnership with others, we will transform it into a vibrant place to live and work.

Our response

We are firmly of the view that regulation should be funded by government, although we would support an element of fee charging if these fees were used solely to fund service improvements.

However, if it should be decided to introduce fees to charge for regulation, our views on how this could be implemented most effectively are set out below.

Questions and answers

**Q1. Do you think that there is an in-principle case to charge fees for regulation?**

A1. We disagree that there is, in principle, a case to charge fees for regulation, and we believe the costs of regulation should be met entirely by central government.

We consider it vital that regulation is effective and proportionate, and is facilitated by a regulator with suitable skills and strong capacity.

The result of future fee arrangements must be a higher quality of regulation, demonstrated in particular by strong transparency and accountability arrangements (see A12 for more information on transparency).

**Q2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

A2. We disagree with the notion that fees should cover the full cost of the Regulator; the fees should be utilised for improvements to the service of the regulator.

**Q3. Do you agree we are taking the right approach to developing the principles?**

A3. We agree that the right approach is being taken with regard to developing the principles, given the legislative requirements.

**Q4. Do you agree with the proposed approach to initial registration fees?**

A4. We support the proposal of a flat fee for initial registration, and accept the reasons why the other two options are not preferred. The flat fee should be reviewed annually, and the forthcoming year's fee should be informed by past experience, without necessarily picking up any previous underage/overage.

**Q5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

A5. As noted in A4, the registration fee should cover costs. This represents good value for money, taken against the benefits of being a registered provider. A new entrant can make this judgement for themselves, and therefore in this context we cannot see any justification for discounting the initial registration fee.

**Q6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

A6. Although we favour a risk-based approach to calculating the annual fee, we agree that the 'simplicity' principle overrides this in favour of the number of social housing units owned. An alternative measure to using the number of dwellings as a measure of size would be to set the fee as a percentage of rents from social housing, which would make allowances for the varying rents across the country and the disparate level of target rent convergence.

**Q7. Do you agree with the proposed approach to local authority registered providers?**

A7. Although we disagree in principle that fees should fund regulation, and ought to be used solely to fund service improvements, if fees are introduced they should apply to all registered providers which benefit from regulation.

**Q8. Do you agree with the principle set out for a minimum annual fee?**

A8. We agree with the proposal for a minimum annual fee, set at a level to ensure that all fees are economical to recover.

**Q9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

A9. We support the proposal for a minimum fee, but would not support the introduction of banding into the fee regime.

**Q10. Do you agree with the proposal to charge the annual fee at group level?**

A10. Peabody Group's governance arrangements are centralised, and therefore we welcome the proposal for the annual fee to be charged at a group level.

**Q11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

A11. We support the proposal that fees are paid at the start of the year for the whole year, notwithstanding new registrations or de-registrations.

**Q12. Do you agree with the proposed approach to transparency and accountability?**

A12. Transparency arrangements should be adequate but not excessive, and it is useful to see the proposed approach with regard to transparency and accountability. However, the level of cost must assure a high quality of regulation; an annual transparency statement is unlikely to provide real and active accountability. We would welcome the opportunity for the sector to be more involved at a corporate governance level, and look forward to seeing the more detailed proposals promised at the statutory consultation stage.

**Q13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

A13. As above (see A11) – we agree with the proposal for fees to be paid at the start of the financial year.

For further information, please contact:



## **Charging Fees for Social Housing Regulation**

### **Response to the HCA Discussion Paper**

#### **Places for People**

March 2014

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## 1.0 Introduction

- 1.1 Places for People is one of the largest property management, development and regeneration companies in the UK. We own or manage over 148,000 homes and have assets of more than £3.3 billion. Our vision is to create aspirational homes and inspirational places. We have a long track record of successful development and a solid reputation for delivering large-scale development in towns and cities. Our approach goes much further than simply building homes. We look at what an area needs to be able to thrive — whether it is new schools, shops, leisure facilities, job opportunities, and access to learning and training or specialist support services. We were named Housebuilder of the year 2013.
- 1.2 We welcome the opportunity to respond to the HCA discussion paper on charging fees for social housing regulation. Any queries with regards to our response should be addressed to:

Group Chief Executive  
Places for People  
The White House  
10 Clifton  
York  
YO30 6AE

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## 2.0 Our views on the proposal to charge fees for social housing regulation

While there may be a valid rationale and some precedent for charging for regulation, this proposal has far-reaching impacts on the sector and requires a serious debate before proceeding. While also there may be potential benefits for the sector as a whole, such a change fundamentally changes the relationship between the Regulator and the regulated. It is within this overall context that our specific comments should be considered.

The paper should also address clearly **what** the HCA has responsibility for regulating and **why**. It is currently impossible to determine whether the regulation being provided can demonstrate that it delivers value for money. Most regulators in other sectors focus on a combination of price, quality, and investment. **We suggest that further work be done to specify, in clear and unambiguous terms, the exact scope and purpose of the HCA regulation function** (including being clear on what is out of scope and the relevant priorities accorded to key activities) in order to ensure those regulated are equipped to judge whether they are receiving a value for money service. This would provide much improved context within which to judge the following proposals.

The proposals put forward by the regulator would fundamentally change the relationship between the regulator and the regulated and give rise to some significant challenges – most notably around quality, accountability and transparency. **While we welcome the proposals made in this area we think they are too timid and insufficiently detailed to give us confidence that the mechanisms will be in place to improve the quality and competence of the regulator and deliver the enhanced accountability to registered providers and independence from Government we would expect to see in return for charging.**

Specifically we think the document fails to articulate the regulator's differing roles in relation to historic grant and new grant and thus does not give us confidence we understand the proportion of time, attention and investment the regulator intends to put into safeguarding historic grant as opposed to ensuring new developments are delivered.

In particular we suggest:

- **More thought is given to the mechanisms to deliver enhanced value for money**, including introducing regular public value for money self-assessment supported by regular confidential customer assessments.

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Given those regulated are required to report transparently on value for money it would be inconceivable that the same reporting requirements would not apply to the regulator.

- **Value for money is introduced as a key principle guiding the approach of the regulator in future.** We think the principle that the total cost of regulation should be reasonable and subject to regular independent scrutiny should be the primary principle. We also think there is scope to improve the value for money of the regulator and the sector through thinking about the shape and size of the sector – actively supporting moves to rationalise the number of housing associations, thus increasing their average size and efficiency. More complex groups should be managed by an informed and competent regulator (possibly outsourced to the private sector) that has been designed to be aligned with the complex needs of fast evolving broad based groups and with a clear agreed separation of regulated and other business activities.
- **The fundamental objectives at table 1 are revisited to recognise that, on most objective measures, objective b (meeting demand for social housing) has not been met for many years** and is unlikely to be met in the medium term (unless “reasonable demand” is explicitly defined).
- **The regulator reconsiders the proposed approach on banding. Banding would be fair and effective** – we do not accept that it brings added complexities – indeed broad bands may reduce annual fluctuations in fees as stock changes and reduce the recalculations required.
- The regulator reflects on the potential **impact of these proposals on investment and tenants**. If Government no longer funds the regulator then costs will impact on our business and our customers.
- **The regulator publishes the analysis** carried out to support the assertion that lower borrowing costs can be attributed to regulation in the sector.
- **The regulator conducts a series of group or bilateral discussions with CEOs of the housing associations** to explore the accountability issues that arise from the proposal to charge for regulation.

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### **3.0 Responses to the specific questions raised in the discussion document**

#### **1. Do you think that there is an in-principle case to charge fees for regulation?**

We recognise that an in-principle case to charge fees for regulation can be made, however, we note that there are many instances where regulation is not funded through fees (eg Ofsted) and we do not agree entirely with the case made. In particular we do not accept that lower borrowing costs can be directly and entirely attributed to regulation in the sector. We recommend that the regulator publishes the analysis carried out to support this assertion.

#### **2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

Our view is that charging fees fundamentally changes the accountability relationship between the regulator and those being regulated. Where fees are charged there is an inherent conflict of interest in the organisation to undertake work that delivers increased fees rather than an independent judgement. As is the case in many other sectors, there may be a case for charging fees for routine or formula based regulation (consents and registration) but funding the more subjective and contentious aspects from grant funding to ensure the independence of these processes.

#### **3. Do you agree we are taking the right approach to developing the principles?**

We think there is an important omission in the list of principles – value for money. We think the principle that the total cost of regulation should be reasonable and subject to regular independent scrutiny should be a primary principle. If charging is to be adopted then the regulator should be required to produce a regular public value for money self-assessment supported by regular confidential customer assessments that evaluate the quality of the regulator. If the regulator fails to deliver value for money those regulated should have the power to impose cost reductions and other efficiencies and operational improvements.

We also think there is scope to improve the value for money of the regulator and the sector through thinking about the shape and size of the sector – actively supporting moves to rationalise the number of housing associations, thus increasing their average size.

#### **4. Do you agree with the proposed approach to initial registration fees?**

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We are content with the approach proposed.

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

No comments.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee?**

We broadly agree with this approach and we are content with the mechanism proposed. We would recommend that a minimum fee is set to avoid the regulator incurring excessive costs when regulating very small providers.

Notwithstanding our support for the approach, we do not accept that the complexity of regulation is directly linked to scale. While we accept the case for larger social landlords to shoulder a more significant proportion of the costs we think the regulator should introduce banding. Beyond a certain size (say 30,000 units) the nature of regulation means that it is only marginally more costly to regulate a provider. In return for shouldering the lion's share of the costs we would expect the regulator to work closely with the larger RPs to improve the capability of the HCA and deliver a higher standard of regulation – in particular to the larger providers – than has been the case to date.

If Government no longer funds the regulator then costs will impact on our business and our customers. If the regulator adopted the approach set out in the discussion document, based on current costs, the annual regulation fee for Places for People would be in the region of £300,000 pa. That is the equivalent of losing the rent on 76 properties annually or foregoing the purchase of 700 boilers. We do not believe, at this level, the fee would represent value for money to ourselves or to our customers, in terms of the supposed benefits accruing from regulation or the customer service foregone.

**7. Do you agree with the proposed approach to local authority registered providers?**

While we agree in principle that local authorities should not be charged an annual fee, we do not agree that the cost of their regulation should be passed onto housing associations. Rather the cost of regulating local authorities should continue to be funded through grant aid thus defraying the overall cost that would have to be raised through charging fees.

**8. Do you agree with the principle set out for a minimum annual fee?**

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We agree that it is reasonable to set a minimum fee although we do not accept that a suitable registration fee would be likely to reduce investment (not least because there are a range of ways of attracting private investment into the sector short of new investors establishing stand alone registered providers). The proposed level seems very low. We would recommend an increase to £2,000 to £3,000.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

As discussed in our response to question 6, we are in favour of banding and do not accept that it brings added complexities – indeed broad bands may reduce annual fluctuations in fees as stock changes and reduce the recalculations required. Beyond a certain size (say 30,000 units) the nature of regulation means that it is only marginally more costly to regulate a provider, and we believe there should therefore be a maximum, as well as a minimum, cost of regulation. Banding may offer a fair and transparent way to address these concerns.

**10. Do you agree with the proposal to charge the annual fee at group level?**

No. Our view is that the fee should be charged at an individual organisation level.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

No comments.

**12. Do you agree with the proposed approach to transparency and accountability?**

Securing strong transparency and accountability is the most important challenge to arise from these proposals. The material included in the discussion document is too brief to provide any meaningful response and fundamentally, it fails to articulate what the HCA is regulating and why. While we note the regulators plan to set out further detail at the consultation phase we think there has been a missed opportunity and a serious risk that proposals in this area are not sufficiently debated and shaped by the sector before being finalised and consulted on.

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Given the complexity that the charging proposal introduces into the relationship between the regulator and housing associations we would recommend a series of group or bilateral discussions with CEOs of the housing associations to explore these issues further. Fundamentally those regulated will want to influence decisions about whether the nature and scope of any given activity is necessary to achieve its objectives. Additionally, we would expect the shift to fee charging to be accompanied by a step change in the independence and perceived independence of the regulator from Government and political interference.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

No comments.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

No comments.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

No comments.

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

The discussion document fails to articulate ~~what~~ the HCA has responsibility for regulating and why. It is thus impossible to determine whether the regulation being provided delivers value for money. Most regulators in other sectors focus on a combination of price, quality, and investment. **We suggest that further work be done to specify, in clear and unambiguous terms, the exact scope of the HCA regulation function** (including being clear on what is out of scope and the relevant priorities accorded to key activities) in order to ensure those regulated are equipped to judge whether they are receiving a value for money service.

We also think there is scope to improve the value for money of the regulator and the sector through thinking about the shape and size of the sector – actively supporting moves to rationalise the number of housing associations, thus increasing their average size and efficiency. More complex groups should be

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managed by an informed and competent regulator (possibly outsourced to the private sector) that has been designed to be aligned with the complex needs of fast evolving broad based groups and with a clear agreed separation of regulated and other business activities.

**Places for People**  
**March 2014**



**PlaceShapers response to HCA discussion paper:**

**“Charging fees for social housing regulation”**

**Background**

PlaceShapers is a network of over 100 community-based housing associations formed in 2008. Between us we own more than 725,000 homes and provide housing and support services to more than two million people. These include health services, social care and a range of other community services. Together we completed over 40,000 new affordable homes between 2008 and 2012 and we collectively plan to invest around £5bn to deliver a further 32,000 new homes by 2015. As an alliance, our views therefore represent those responsible for over a quarter of the sector’s housing stock. Details of our members and more about what we do can be found on our website: [www.placeshapers.org](http://www.placeshapers.org)

This submission represents the collective response from PlaceShapers to the key questions arising from your discussion paper. As the proposals will impact on our members to a varying extent, we have limited our response to general comments. Individually, some of our members will have submitted their own responses and in doing so will have set out in more detail what the proposals would mean for them if implemented.

**Our detailed response to the questions in your document follows:**

<b>Q1</b>	<b>Do you think that there is an in-principle case to charge fees for regulation?</b>
We agree in principle that there is a case to charge fees for regulation but only on the basis that this is not a substitute for government funding, that additional resources are used to further enhance the quality of regulatory services and that fees are introduced within the context of a clear contract setting out what the sector can expect in return. Our answers to subsequent questions provide more detail on these matters.	
<b>Q2</b>	<b>Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?</b>
We are concerned that far from increasing the resources available to the Regulator to enable it to respond more effectively to more complex regulatory needs, the introduction of fees could over time replace government funding with no consequent improvement in regulatory service. This we believe to be totally inappropriate at a time when housing associations are already trying to plug the gaps left by the squeeze on LA funding and welfare reform. As a result we believe strongly that if fees are introduced then some grant-in-aid contribution should continue to be made.	
<b>Q3</b>	<b>Do you agree we are taking the right approach to developing the principles?</b>
Yes, we do agree.	

<b>Q4</b>	<b>Do you agree with the proposed approach to initial registration fees?</b>
<p>We agree that a flat fee for initial registration is appropriate as proposed. However, we consider that a further type of new registration should be exempt from or subject to a reduced initial fee. This is where existing registered providers are setting up a new subsidiary entity. In such cases the regulatory assessment required will generally be a far different proposition from the need to evaluate an entirely new unknown business.</p>	
<b>Q5</b>	<b>What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?</b>
<p>Whilst we agree with the reasoning for the choice of a flat fee for initial registration as the proposed option, this could (as suggested) act as a barrier to small associations for whom a fee of around £10,000 would be felt disproportionately. One of PlaceShapers' core principles is belief in the continuing need for a diverse sector where housing associations of all shapes and sizes co-exist for the benefit of their communities. As such, we would hope that the support already provided to small associations by some larger providers would extend to assistance with initial registration costs where appropriate.</p>	
<b>Q6</b>	<b>Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?</b>
<p>Yes, bearing in mind the difficulties with other possible mechanisms, we agree that provider size provides the simplest and most equitable basis for determining the level of the annual fee. However, this may seem at odds with the basic principle of value for money for those associations that comply fully with standards and provide little regulatory challenge. Accountability for the way in which fee income is used for the benefit of the sector as a whole will be even more important with this approach.</p>	
<b>Q7</b>	<b>Do you agree with the proposed approach to local authority registered providers?</b>
<p>Yes, there is logic to not charging a fee to local authorities given their different and limited relationship with the HCA. However, adoption of this principle validates the need for continuing grant-in-aid for the costs of regulation attributable to consumer standards.</p>	
<b>Q8</b>	<b>Do you agree with the principle set out for a minimum annual fee?</b>
<p>Yes, we agree with the principle that there should be a minimum annual fee along the lines of that proposed.</p>	

<b>Q9</b>	<b>Do you think that we should introduce an element of banding in the fee regime and if so why?</b>
<p>Whilst an element of banding could potentially allow for some cost-based charging, we agree that this would overcomplicate the fee regime. As such, we do not support the banding of providers for fee charging purposes, particularly as the proposed per unit charge underpinned by a modest minimum fee of c£300 will in itself ensure that fees are more proportionate to regulatory costs for small providers.</p>	
<b>Q10</b>	<b>Do you agree with the proposal to charge the annual fee at group level?</b>
<p>Yes, we do agree.</p>	
<b>Q11</b>	<b>Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?</b>
<p>We agree that there should be no refund of fees following de-registrations for whatever reason. In the case of newly registered providers, we wonder if there is merit in considering the approach adopted by PlaceShapers when charging our modest subscription to new members? This is that new members joining between April and December in any year are charged the annual fee for that full year and are invoiced along with other members for the next year's payment in the following April. However, new members joining in January - March are charged the full in-year fee then but are not expected to make a further payment the following April in recognition of the their recent payment. In effect they therefore get up to 15 months for the price of 12. Given that newly registered providers will be charged the initial registration fee of c£10k as well as the annual fee for regulation it seems appropriate to consider waiving the need for the annual fee to be paid twice in quick succession.</p>	
<b>Q12</b>	<b>Do you agree with the proposed approach to transparency and accountability?</b>
<p>We agree completely with the need for the regulator to publish regular transparency statements about costs, the use of resources and how value for money is being achieved. This degree of accountability is paramount and will put the relationship between the regulated and the regulator on a new and more equal footing. We have concerns now about the extent to which some regulation staff are unwilling and / or unable to account for regulatory decisions as evidenced by our members' attempts to understand better the somewhat random and simplistic "partial compliance" assessments issued on value for money. As always, it is the outcome of activity that matters most and that is what we believe the sector will wish the HCA to be most accountable for. We look forward to the more detailed proposals on transparency that will be set out at the statutory consultation stage. As part of this we would welcome more clarity about how disagreements or disputes over the fee charging process and the quality of regulation received will be handled and what redress will be available if the service supplied is found wanting.</p>	

<b>Q13</b>	<b>Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?</b>
Yes, we do agree.	
<b>Q14</b>	<b>Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?</b>
Ultimately the costs of regulation will be a direct cost to social housing tenants a disproportionately high number of whom are socially and economically disadvantaged when compared to consumers of other regulatory bodies. It is essential therefore that any fees levied by the regulator are kept to the minimum.	
<b>Q15</b>	<b>Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?</b>
As we have already commented, the charging of fees will impact inevitably on the relationship between the regulator and the regulated and the perceived value of services received. This changing dynamic carries increased reputational risks for the regulator. Whilst safeguards would be needed to ensure continuing independence and objectivity, we wonder whether it is time to consider whether representatives of registered providers should have some role going forward in key appointments, investigations and complaints resolution? This would of course be consistent with the co-regulatory approach to regulating the sector.	
<b>Q16</b>	<b>Do you have any further comments on the initial proposals set out in this discussion paper?</b>
<p>Two further matters are worth mention / discussion:</p> <ol style="list-style-type: none"> <li>1. The paper does not make any explicit reference to fee increase limits. The assumption is that regulatory costs (or an agreed proportion of them) would be spread between registered providers according to the agreed framework. We wish to see assurances that fee levels would not increase in subsequent years beyond the rent increase limits applied to providers. This would ensure that regulatory costs are controlled within known limits and would provide certainty for budgeting purposes.</li> <li>2. It is arguable that the benefits of regulation extend beyond those claimed for providers themselves. In particular, funding institutions gain benefit from regulatory assurances on financial viability with a reduced need for direct scrutiny themselves. In these lean times, should they also be asked to contribute to regulatory costs?</li> </ol>	

## HCA Regulatory Fees Consultation Progress Housing Group Response

Below is Progress Housing Group's response to the questions raised in the discussion paper on fees, published by the HCA in February 2014.

1. Do you think that there is an in-principle case to charge fees for regulation?

Our view is that fees should not be charged although there is an acceptance that the introduction of fees may be inevitable. If fees are to be charged this will change the fundamental nature of the relationship between the regulator and the sector, in particular changing the "independent" nature of regulation as it is at present. Although some regulators do charge fees, this is not a universal approach. Ofsted, Charity Commission, Environment Agency are all examples of UK regulators who do not charge fees, with regulators such as Companies House, charging fees for specific services although these do not cover their entire cost.

2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

Our view is that fees should not be charged, however if some form of fee structure was to be introduced it should not seek to cover all of the costs of regulation. Further clarity would be required as to the cost of each regulated activity as set out within Table 2 of the consultation document. Without this detail a fully informed response cannot be provided, and in particular clarity regarding future cost control mechanism should be provided

If any charges are introduced a robust mechanism for managing cost and agreeing future cost increases should be clearly set out. The mechanism for setting fees should ensure that regulatory costs which are recovered by fees are controlled so as to minimise the effects of cost inflation.

3. Do you agree we are taking the right approach to developing the principles?

No – our assertion would be that the principle role of the regulator is to protect public investment in social housing as set out in the regulatory objectives. We feel therefore that this primarily for the public benefit and should therefore be funded as now by grant-in-aid.

4. Do you agree with the proposed approach to initial registration fees?

If a fee is to be charged it should be a flat rate which is in keeping with other regulators such as Companies House who for example charge:

£30 -100 for same day registrations (the lower figure applies if submitted electronically)  
£13 Annual return  
£10 Mortgage charge  
£10 Striking off the register

We see no reason why such an approach should not be taken by the HCA if fees are to be introduced.

5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

Fees should be reasonable and should attempt to strike a balance between not discouraging new entrants and over burdening the existing RP sector. In particular we feel that a distinction should be made between profit and not for profit entities.

6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

It is difficult to answer this question without some indication as to the cost of each option. Fees charged on size (number of units) would probably be the most equitable, subject to the criteria being equitable and further detail/consultation on the proposals prior to implementation. The principle of charging on number of units should broadly ensure that the cost per unit of regulation will not vary excessively from one provider to another, and broadly align with providers' capacity to pay.

7. Do you agree with the proposed approach to local authority registered providers?

No. We believe that contributions should be made by parties which directly benefit from the service to be provided and we believe that a distinction between RPs and local authorities is not appropriate in such circumstances.

8. Do you agree with the principle set out for a minimum annual fee?

This would depend on the level of the minimum fee to be charged.

9. Do you think that we should introduce an element of banding in the fee regime and if so why?

Yes in principle – but see our comments at number 15.

10. Do you agree with the proposal to charge the annual fee at group level?

Yes applying fees at a group rather than a subsidiary level would seem the most efficient way of administering the process.

11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

Yes

12. Do you agree with the proposed approach to transparency and accountability?

Yes but with further detail/consultation on the specific proposals and it to be delivered with genuine scrutiny/transparency.

13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?

Yes provided the costs are provided within the timescale outlined (October) so they can be budgeted for in the relevant financial year.

14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?

Any proposed fee charging framework should be reviewed to ensure that it does not have a disproportionate or unequitable effect on smaller and/or more specialist RPs. Further consultation/information is required.

15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?

It is obvious that the charging of fees will reduce the amount of money available within the sector to develop new homes and accommodation. There is a theoretical argument that fees to be charged on a banding basis could prove to be a disincentive to develop, depending on the width of the bands and the fee increase between the bands. It is therefore important that the introduction of a banding system takes into account any potential practical effect on development strategies across the sector.

16. Do you have any further comments on the initial proposals set out in this discussion paper?

None

14<sup>th</sup> March 2014

Regulatory Framework Manager  
Homes and Communities Agency  
Maple House  
149 Tottenham Court Road  
London W1T 7BN

HCA Consultation: Charging Fees for Social Housing Regulation  
Response from Radcliffe Housing Society

Thank you for providing the opportunity to express our views on the proposals put **forward in your discussion document "Charging Fees for Social Housing Regulation"**. We are a registered housing association with fewer than 1000 units and are members of the SHAPE (Small Housing Associations Pursuing Excellence) benchmarking group. SHAPE members have discussed the proposals and agreed to co-ordinate elements of their response.

**General comments**

- The discussion document makes the general point that charging for regulation is common practice in a number of business sectors. However there is no analysis of the success or otherwise of this approach. The public are aware of some high profile failures of regulation in recent years (the banking sector and the press to name but two). It is not necessarily the case that paying for regulation yields positive results.
- The discussion paper makes no distinction **between "not for profit" and "for profit" providers**. This will be increasingly important in future as the sector diversifies and new intermediate models of rented housing come on the market. **If fees are to be charged this could be an important distinction: the "for profit" landlord could offset the cost of fees against tax liabilities which the "not for profit" landlord cannot.**
- The nature of the sector. The housing sector consists of a wide spectrum of organisations of varied type and size with different social purposes. This contrasts markedly with the power supply or banking sectors where a small number of very large companies dominate the market by size and share and are in direct competition motivated by profit and shareholder return.
- Value for money. If the costs of regulation are borne by the organisations to be regulated it is an additional cost to be met by associations from rent income that is capped by Government guidelines.

Housing associations have depended on past Government funding through grant to provide new homes and services. There is therefore a case, especially given the **sector's good past track record**, that since the main purpose of regulation is to safeguard the Government's investment then the Government should continue to pay.

In the event that charging is introduced, then the system should be fair and equitable. Under the current proposals, local authorities will get a free service while associations will have to pay.

Q2

If fees are introduced some elements should continue to be funded through grant. This applies particularly to those aspects of regulation which include local authorities if they are (as currently proposed) excluded from charging. Looking at the list of activities (Table 2) other areas that should be part or fully met by grant are registration & deregistration, consents, strategy and a proportion of the support functions.

Q3

The principles and approach are acceptable being clear and succinct.

Q4

If charging is applied, charging for initial registration enquiries appears sensible. Many enquiries will either not result in a formal application or be abandoned at a later stage. It does not seem fair or reasonable that registered providers (associations) should meet those costs, especially as it is probable that an increasing number of future applications **will be from 'for profit' organisations**.

Q5

The charge should be set at a level that covers basic costs for straightforward administration but increases (based on a specified hourly rate) to deal with complex enquiries or organisation structures.

Q6

If fees are to be charged then there is merit in basing the charges on a clear objective basis that is not open to dispute. "Number of social housing units **owned**" meets this criteria and it is tempting to select it as the preferred option. However, it takes no account of a number of factors which will affect the financial burden of the fees on the organisation **and the perception of "reasonableness"**:

- Some associations charge higher rents than others: either because of regional **differences in "target" rents and/or because of the proportion of their homes now being let on affordable or intermediate rents of various kinds**. A flat rate unit fee will impact much more on an association in the north west with mostly social rented homes than it will on an association in London or the south east providing affordable rented as well as social rented homes. Consideration could instead be given to basing fees on the rental and service charge income from the social housing units owned by each landlord.

- The HCA has recently taken a new light touch approach towards small providers with fewer than 1000 units. As these associations receive a lower level of regulatory input they should pay a lower level of fee in proportion to whatever charging criteria is eventually selected.

Q7

The answer to this question depends on whether or not those elements of regulation to which local authority housing is subject ( and the associated overheads) are paid for by grant in aid or not. If fees are to be introduced then the system should be fair and equitable across all bodies to be regulated. Under the current proposals, Local Authorities will get a free service whilst associations will have to pay.

Q8

Rough calculations show that if the whole current cost of regulation (stated to be in the region of £12.5 million) were shared equally among all associations with stock the unit cost would be about £4.90.

At a unit fee of £4.90 an association with 300 homes would pay £1,470 pa for regulation if the full fee is charged. This is in addition to fees already paid for the Housing Ombudsman service and regulation by the Financial Conduct Authority.

If fees are introduced by the HCA many smaller associations may look to deregister, particularly if they are not currently developing or intending to do so in the future.

The implications of this need to be considered in terms of:

- The welfare of tenants
- The interests of stakeholders (particularly local authorities with nomination rights)
- The workload and costs it might generate for the HCA in handling applications for deregulation
- The long term impact on sector reputation

Q9

Given the arguments set out above and the points made in paragraph 46 of the discussion paper (smaller providers are regulated less intensively than larger ones) further consideration should be given to introducing a banding system for charging regulatory fees to providers with less than 1000 units. The proposal should not be dismissed at this early stage of the consultation process. So the answer to the question is a provisional YES since it provides a mechanism for lessening the financial burden on those associations that are regulated less intensively than the others.

Q10

No comment – we are not part of a group.

Q11

The full fee should be charged for the year; a refund or rebate system would be costly and potentially difficult to administer.

Q12

Transparency and accountability are absolutely necessary whether or not fees are charged, ideally supported by a value for money statement.

Q13

The approach seems reasonable. If using DDs there should be an option to pay quarterly and spread the cost.

Q14

As many specialist and ethnic minority associations are small, any charging regime that impacts adversely on small providers is likely to impact disproportionately upon them.

Q15

The potential impacts not considered in this discussion paper are:

- The possibility of fees generating a demand for deregistration (see answer to Q8). Is this something HCA wants to encourage or to discourage? How this is taken into account will depend very much on the **HCA's perception of the risks and outcomes** the HCA wants to achieve.
- The potential for a few dominant providers to exert undue influence on the regulator because they are largely funding it. Under the proposed fee structure the 68 largest associations pay over half the cost of regulation for the entire sector. The risk of these associations having undue influence could be mitigated by the costs of regulation being part met by grant to ensure that no provider pays a fee sufficient to influence the regulator and future judgements.

Yours sincerely

Chief Executive  
Radcliffe Housing Society

We researched this topic within the housing press and with the National Housing Federation when putting together our response to this discussion document.

The general opinion of those who have commented publicly on the discussion document is that any fees charged would need to be supplementary to continued support from the Department for Communities and Local Government (CLG). To be justified, any fees charged would need to result in an increase in resources for the HCA. It is clear, however, that the present exercise will not increase HCA's resources, and is essentially about shifting the burden onto housing associations and away from the Treasury. While we shall, therefore, engage with colleagues from the HCA about the current proposal, we do not believe that the proposal has any benefits for the sector as currently put forward.

Fees for regulation will not provide any additional homes and will do nothing to improve housing management. On the contrary: they will inevitably divert housing association resources away from meeting housing need.

Having reviewed the expert opinions of our staff on the matter, please find our position on the questions in the discussion document.

**1. Do you think that there is an in-principle case to charge fees for regulation?**

No. Housing associations are not for profit bodies, therefore any fees imposed will divert resources from meeting their social purpose. In principle regulation is a separate function. The confusion arises from the need to sustain effective regulation at a price affordable to government, and the link between regulation, and investment ratings, meaning regulation is a route to cheaper borrowing. That, however, is an economic argument rather than one of principle.

**2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

Consistent with our first answer, since regulation is to safeguard public investment, it should be funded by grant in aid.

**3. Do you agree that we are taking the right approach to developing the principles?**

Yes.

**4. Do you agree with the proposed approach to initial registration fees?**

A flat fee charge for initial registration would reduce the administration required to implement fees. The concern is that small housing providers would be burdened with the same cost as large providers.

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

The degree of diversification, and therefore regulatory engagement required. Relativity to the per unit charge. 0.1% of turnover should not deter new entrants.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of risk?**

Yes, though there is the issue of whether size should be based on size of social housing activity, particularly if the sector is being expected to cover 100% of regulation. No. Risk in the main arises from diversification

**7. Do you agree with the proposed approach to local authority registered providers?**

It seems reasonable that, in the event the HCA remained part funded through grant-in-aid, no charge is applied to local authorities.

However, if the HCA were to be funded entirely through fees, it would be inappropriate that registered providers should incur all of the cost.

**8. Do you agree with the principle set out for a minimum annual fee?**

Yes.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

We do not have a preference between a fee per unit or banded fee proposal.

**10. Do you agree with the proposal to charge the annual fee at group level?**

Yes

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes

**12. Do you agree with the proposed approach to transparency and accountability?**

Yes, as an initial concept. We welcome more detail about the proposed approach to transparency and accountability in the statutory consultation. We would be interested to see if the right to appeal regulatory decisions is included in the suite of transparency and accountability measures.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

No.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

We have nothing to add.

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

No.

**RAGLAN HOUSING GROUP  
RESPONSE TO HCA CONSULTATION  
ON CHARGING FEES FOR SOCIAL HOUSING REGULATION**

**Summary**

1. Raglan does not support the principle of charging fees for the regulation of registered providers. While we recognise that charging is common practice in the commercial sector, we feel that a different principle should apply to the regulation of non-profit providers, such as housing associations. Indeed the charity commission does not charge for its regulatory activities. Any fees will be met from rental income and will impact on service delivery to our customers and/or the development of new homes.

**Do you think there is an in-principle case to charge fees for regulation?**

2. No. We believe that this is not appropriate for non-profit making organisations; the cost should continue to be met by the Government.

**Do you think fees should cover the full cost of the Regulatory or that some element of regulatory costs should continue to be funded through grant-in-aid?**

3. Regulation provides assurance to the Government as well as to funders and other partners with which registered providers may work. If a fee system is introduced the cost of regulation should be shared by those who benefit from the regulatory activity.

**Do you agree we are taking the right approach to developing the principles?**

3. If an annual fee is introduced, it should ideally be proportionate to the risk status of each organisation, and so reflect the level of regulation required. However, we recognise that it may be difficult to set fees on this basis and that a fee based on number of social housing units may be easier to administer and provide greater clarity for RPs. We agree that, if fees apply, then there should be a separate fee for registration of a new registered provider.

**Principles for first registrations**

4. We support option 3 – that a flat fee should apply to first registrations. This would give certainty about the cost to organisations which are applying for registration.

5. We agree that any initial registration fee should not discourage potential applicants and could be set at a level that is in line with the FCA fee.

### **Principles for annual fees**

6. We support option 3 – risk-based. However, as set out above, we recognise that this may not be practical and agree that option 4 –based on number of social housing units would give some assurance to RPs about the level of fee they can expect when budgeting. We do not support overlaying this with banding as this will create an unnecessary level of complexity.
7. If fees are introduced for registered providers an appropriate level of fee should also be charged to local authorities. This would reduce the total cost of regulation borne by registered providers and avoid creating a two-tier approach. If there is no charge to local authorities then private RPs would be subsidising their regulation.
8. We agree that, if the fee is related to the cost of regulation, then a minimum fee should apply to all, regardless of size. We support the proposal to set the fee at group level.
9. If a provider is only on the register for a proportion of the year, they should nevertheless be subject to the full year's fee.

### **Do you agree with the proposed approach to transparency and accountability?**

10. We welcome the proposal to involve stakeholders in the drafting of the regulator's business plan. There needs to be clarity about how any fees levied are being used and registered providers will wish to be assured that they represent value for money. The provision of regular transparency statements by the regulator would be of value to registered providers whether or not a fee is introduced.

### **Do you think that invoicing on an annual basis towards the beginning of each year is an appropriate approach?**

11. An annual invoice issued each April, with advanced notification in October of the fee for the next financial year would provide a straight forward mechanism to support the budget preparation timetable for most registered providers. It would be difficult to budget if notification was any later than this.

## **Impact assessment**

12. We note that an impact assessment will be carried out and do not have any issues to highlight ahead of this.

## **Charging fees for social housing regulation: A discussion paper from The Homes and Communities Agency**

### **Response of The Riverside Group Ltd.**

#### **About the Riverside Group**

Riverside is one of the largest housing association groups in the country, owning and managing over 53,000 properties across England and Scotland. The Riverside Group Limited is the main asset-owning association in the group. In addition to providing general needs accommodation, Riverside delivers supported housing through a sheltered and supported arm of the business, Riverside ECHG (RECHG).

#### **Our response**

We welcome the opportunity to respond to the regulator's latest consultation and have answered the majority of the consultation questions in some detail.

Generally, Riverside is in support of the proposals and in agreement that the discussion paper is comprehensive.

There are a number of straightforward aspects of the proposed approach with which we entirely agree. These are as follows:

- The approach to local authority registered providers
- The principle set out for a minimum annual fee.
- The approach for the annual fee for a provider on the register for a proportion of the year.
- The proposal to charge the annual fee at group level – i.e. the level of the regulated entity.

However there are some important caveats to our support, and these are set out in detail below.

#### **Responses to the consultation questions**

##### **1. Do you think that there is an in-principle case to charge fees for regulation?**

Yes, we are generally in support of the in-principle case. However, the introduction of fees needs to lead to a fundamental re-examination of the relationships between Government and the regulator, AND the regulator and registered providers.

Fees must bring freedom for the regulator to manage, appoint and direct resources. The introduction of fees should not replace government funding, which has already been significantly cut. Current levels of Government funding should be locked in, with the additional income generated by fees providing the right resources for the growing complexity of regulation in an environment of increasing risk.

## **2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

No, fees should not cover the full cost. Whilst a significant part of the regulator's costs should continue to be covered by grant-in-aid – broadly at the current level – there is a clear case for part of the regulator's costs to be met by all providers through a system of fees, and part by the specific provider being regulated.

Fees should only be charged on the basis that the regulator has a more arms-length relationship with Government, leaving it up to the sector/ regulator to agree a 'top-up' fee level based on service provision, and ultimately leading to an improved quality of regulation.

The principle of the cost-split should be as follows:

- Government should continue to fund a significant proportion of the cost of the regulator, reflecting the value effective regulation brings to the taxpayer in terms of ensuring a forward supply of affordable housing. This would also meet the cost of local authority providers with Government grant-in-aid broadly remaining at current levels.
- The cost of additional services required to meet increasingly complex regulatory challenges should be met through fees levied on all registered providers (see below for further comments).
- The cost of specific regulatory intervention, following a breach in standards, should be met by the specific provider itself on a full cost recovery basis, except in a small number of cases where this may materially undermine financial viability.
- The cost of registration should be met by the organisation seeking registration.

## **3. Do you agree we are taking the right approach to developing the principles?**

We welcome this debate but the principles require further work. In particular there needs to be clarity around a new regulatory contract – the inter-relationship between Government, regulator and registered providers.

## **4. Do you agree with the proposed approach to initial registration fees?**

All registration costs should be met by the individual provider seeking registration, with no ceiling applied. This could either be on the basis of case by case cost recovery or a flat fee based on average registration costs. Far from being regarded as a barrier to registration, the cost of registration needs to reflect the rigorous processes required. It is not in the interests of a viable and effective sector to set the registration bar at an unrealistically low level.

In the case of smaller providers the period of cost recovery could be open to negotiation, with the initial fee being recovered over a number of years.

(This response also covers our answer to question 5 on initial registration fees).

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

Yes, however a more nuanced approach is recommended.

The number of units owned does not properly reflect the activity and risk profile of a provider (and thus the potential complexity of the regulatory relationship with a particular provider). Therefore, we believe that the financial turnover (social housing activity) of the registered entity is a more equitable basis for fee charging, and directly reflects capacity to pay.

In addition, given that many of the costs relating to regulation are fixed, and certainly do not increase in direct proportion to turnover, a banded approach to fee setting is proposed. So if fees are set in proportion to financial turnover, a variable unit rate could apply (per £Xm turnover), with the rate stepping down in bands as turnover increases. Whilst more complicated than a standard unit rate, once a formula is agreed, it would be relatively easy to apply. Such an approach would provide an appropriate balance between equity, capacity to pay and complexity of regulation.

(This response also covers question 9 on fee banding).

**12. Do you agree with the proposed approach to transparency and accountability?**

The charging of fees to providers should herald a significant shift in the relationship between Government and regulator, and regulator and registered providers. In particular:

- The relationship between Government and the regulator should be ‘arms-length’ in nature, as set out in the Housing and Regeneration Act. It should give the regulator more freedoms to undertake its tasks without operational oversight by Government, and with total transparency to its regulated entities. A code of practice should be drawn up, setting out the limits of the relationship and how it should work in practice, and minutes of formal meetings should be published.
- The relationship between the regulator and registered providers should be strengthened, in particular for those who are paying fees. In addition to an annual statement summarising the regulator’s activity, costs and value for money (taking into account what is asked of registered providers now in terms of meeting the VfM standard), a number of performance measures should also be agreed and monitored quarterly.
- There should be a sector member on the HCA’s Regulatory Committee (at least with observer status), probably nominated by a sector body to avoid conflicts of interest. A strengthened provider scrutiny panel with formal terms of reference should be established to monitor performance indicators, review the annual statement, and make recommendations on any changes to the fee structure, including any annual increases above the rate of inflation. The panel should also be able to recommend changes to the level of the regulator’s resources, to be reflected in the annual fee.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

No. Our proposed fee-setting mechanism balances complexity of regulation with the ability to pay in a fair way, meaning the cost of regulation should be affordable to any viable registered provider. Whilst our proposals on registration fees would inevitably lead to higher unit costs for smaller organisations, the regulator can mitigate this through phasing payments.

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

This proposal comes at a time when providers are under considerable pressure, with threats to their income streams and reducing grant rates. Any proposal needs to be seen in the context of the value for money standard, which means that merely substituting Government grant-in-aid for fees levied against providers is unacceptable. There must be a 'return' in the form of properly resourced and more accountable regulation, and a clear, transparent 'arms-length' relationship between Government and regulator within the framework of legislation

**Director of Policy and Communication**

**Director of Business Planning & Analysis**

**Chief Financial Officer**

**Group Director - Housing Services**

18 February 2014



**Sadeh Lok**  
Housing

Mr Tim Sullivan  
Regulatory Framework Manager  
Homes and Communities Agency  
The Social Housing Regulator  
Maple House  
149 Tottenham Court Road  
London  
W1T 7BN

Dear Tim

### CHARGING FEES FOR SOCIAL HOUSING REGULATIONS

The discussion paper has been discussed by the Board and we wish to offer the following feedback:

1. There is a case for charging fees for regulation.
2. Fees charged should cover the cost of regulation. However we would suggest that those overhead costs which add no value e.g. the support function could be retained by the HCA who could consider opportunities of utilising these as shared services and therefore need not be included in any proposed regulatory fee.
3. Agree that the right approach in developing the principles is being taken.
4. Agree a fixed fee should apply to all successful applications for initial registration.
5. £10,000 is a reasonable fee; it is up to the Regulator to demonstrate value for money.
6. Agree the provider size is a suitable basis for determining the annual fee level and that the number of social housing units owned is a suitable measure of size.
7. The annual fee should also apply to local authorities. Perhaps 50% of that for private registered providers.

Continued

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Continuation/2

8. Agree with the principle of a minimum annual fee.
9. Would not agree with an element of banding, this would create unnecessary complexity.
10. Agree to charge an annual fee at group level.
11. Agree that providers pay the full annual fee for the year when they register or deregister.
12. Agree with the proposed approach to transparency and accountability. We expect this to be no less than what is expected of us on transparency and accountability.
13. Agree that invoicing on annual basis should be at the beginning of each financial year.
14. We see no equality or diversity impacts on in the proposals.
15. The impact could be having to reduce services to our tenants. We note that the proposal comes at a difficult time for housing associations, which are facing great uncertainty due to the recent Welfare Reform changes, of which the negative financial impact has yet to be fully seen. This is yet another burden on an already challenged sector.
16. It is questionable whether regulation does result in lower borrowings as this has not been quantified.

We would recommend the annual fee be based on a provider's viability score for example V1's would be charged proportionately lower than a V2, V3 or V4 provider.

I trust the content of the letter is self-explanatory but do contact me if you would like to discuss anything in further detail.

Yours sincerely

Chairman

# Charging Fees for Social Housing Regulation

## Response to Discussion Paper

21 March 2014



## 1. Do you think that there is an in-principle case to charge fees for regulation?

1.1 *Charging Fees for Social Housing Regulation* (referred to as the discussion paper from herein) argues that there is an in-principle case for charging fees for regulation based upon two main premises:

- First, that the usual regulatory model in other sectors is for the regulated bodies to fund all or most of the cost of regulation; and
- Secondly, that Registered Providers (RPs) receive a number of benefits due to their membership of a regulated sector. Namely; lower borrowing costs, improved reputation and access to HCA and GLA grant.

1.2 The arguments put forward are not sufficient to make an in-principle case for the introduction of fees.

1.2.1 The regulatory model in other sectors is mixed between Government funding (Care Quality Commission, Charities Commission and Ofsted) and sector funding (Financial Conduct Authority and General Medical Council); therefore it is an over-simplification to argue that this is 'the usual regulatory model.' The characteristics and specificities of the sector must be taken into account when designing the regulatory regime. The FCA and GMC regulate industries where a number of private sector organisations operate which generate significant private profits; therefore it is easier to justify fees for regulation and registration.

1.2.2 RPs do benefit from being a part of a regulated sector, but their existence in the sector is to generate wider benefits for communities and society. It is not controversial to suggest that society benefits more from RPs than RPs benefit from HCA regulation. Suggesting that fees should be charged based on the 'benefits claim' does not recognise the not-for-profit and social purposes of providers and treats them as private, profit-seeking organisations.

1.3 An in-principle case can be made for charging fees for regulation based upon a different line of argument.

1.3.1 In order to successfully and robustly regulate the sector the HCA requires more resources. This would allow the regulator to provide more specialist and intensive support to providers. Both the regulator and providers have a vested interest in effective and supportive regulatory services.

- 1.3.2 Furthermore a more responsive and appropriate regulatory regime can be achieved if providers' influence over regulation is increased, and the regulator is granted greater independence from Government. Influence and control should reflect funding.
- 1.3.3 These arguments support an in-principle case for RPs contributing towards the cost of regulation and registration.
- 2. Do you think fees should cover the full cost or that some should continue to be funded through grant-in-aid?**
- 2.1 The discussion paper does not explicitly state whether fees should cover the full cost of regulation or not. It recognises that if fees are set too high it will have negative consequences for the provision of social housing. Discussions are on-going with the DCLG regarding a balance between fees and Government funding.
- 2.2 Replacing all Government funding with fees would be damaging to the social housing sector and the individuals and communities which benefit from its work. The fees required to replace all government funding would dramatically increase the cost of delivery in the sector.
- 2.2.1 The fees for registration and regulation for each provider would be at such a level as to discourage new providers from entering the market, and damage the ability of some existing providers to continue to provide services. Even large providers would be forced to reduce their charitable / social expenditure.
- 2.2.2 The resources available to the regulator would not be increased, thus it would continue to offer a limited service to the sector, whilst relying on specialist external organisations to deliver key functions.
- 2.3 It is therefore our opinion that fees should be used to complement continued grant-in-aid funding.
- 2.3.1 The correct balance would increase the resources of the regulator without significantly impacting on the viability of RP service provision; whilst still allowing Government to argue that the regulatory cost is now being shared.
- 2.3.2 Mixed funding would recognise the continued influence and control that, it is likely, Government will seek to wield over the regulator. Effective partnership between Government, the regulator and RPs will be central to providing a sustainable housing solution in the future.

### 3. Do you agree we are taking the right approach to developing the principles?

3.1 The discussion paper identifies four legislative requirements regarding fees and the regulator's fundamental objectives which will contribute to the stated principles for charging fees:

1. So far as is reasonably practicable, fee income has to **match expenditure** on the performance of the regulator's functions;
2. So far as is reasonably practicable, each fee is **reasonable** and **proportionate** to the costs to which it relates;
3. Providers can see the **relationship** between the amount of a fee and the cost to which it relates; and
4. The regulator's fundamental objectives are supported.

3.1.1 Matching income to expenditure would ensure that fairness is enshrined in the regime. However what will the protocol be if an unexpected difference is reported at year end, meaning that fees have been significantly higher than expenditure for the year? Will each RP be given a refund based on the amount paid? Will a credit be applied to the following year's fees? Administering this scenario would likely be time consuming and costly.

3.1.2 Linking the fees to the costs to which they relate is a commendable objective. This will not be achieved by the proposals put forward in the discussion paper to charge annual fees based upon number of units. The number of units under management does not directly correlate to the cost of regulation.

3.1.3 The issue of transparency is vital, to ensure that providers can ascertain whether the regulator's services represent value for money. However this is ineffective without established channels by which the regulator can be held to account by providers.

3.1.4 Ensuring that the new funding regime does not undermine the fundamental objectives of the regulator and the sector is crucial. Hence the issues of regulator resources and provider viability are of such importance.

3.2 The discussion paper identifies five factors as having particular relevance when considering the reasonableness of a fee regime:

1. Reliability – on the level of fee, to enable effective budgeting;
2. Simplicity – in terms of calculating and charging fees to keep the costs of operating the system down;
3. Easily verifiable – to minimise the likelihood of dispute;
4. Impact on fee payers - taking into account the likely impact; and
5. Benefits of regulation – taking into account the level of benefit that providers receive.

- 3.2.1 **Reliability** will be vital, particularly for smaller organisations, to enable robust and accurate budgets to be put in place. Reliability is however inherently opposed to the principle of the fee being proportionate to the costs of regulation. A solution which satisfies both concepts would be more appealing to the sector. This could be achieved by the provision of a detailed breakdown after year one of the fee regime explaining to each provider where exactly their fee was spent and outlining the regulator’s proposals for efficiencies for the year ahead.
- 3.2.2 **Simplicity** is desirable to ensure that the fee regime does not dramatically increase the cost of regulation immediately, as a result of its introduction.
- 3.2.3 **Easily verifiable** fees will prevent disputes and improve the likelihood of providers paying their full fees in a timely manner. A clear and engaging consultation process will support this.
- 3.2.4 Understanding the **impact on fee payers** of the new regime is essential. The regulator exists to support the delivery of social housing and this cannot be achieved without RPs. Any proposals which damage the viability of existing RPs or the incentives for new providers would be counter-productive.
- 3.2.5 Quantifying the **level of benefit that providers receive** is likely to be a difficult task with little reward. It is also likely that different providers will have vastly different experiences in this regard. A more productive factor might be to consider the level of benefit that providers deliver to their communities and society-at-large.
- 3.3 Two additional factors should be considered with regards to the reasonableness of any proposed fee regime:
- How the regulator will provide **justification** to individual providers and the wider sector for the fees that it has been paid for any given period; and
  - How will any regime be **enforced** at a reasonable cost?

**4. Do you agree with the proposed approach to initial registration fees?**

- 4.1 The discussion paper proposes that a fixed fee should apply to all successful applications for initial registration.
- 4.2 A flat registration fee will have significantly more impact on small providers with fewer resources. Therefore it will be important that the fee remains subsidised by grant-in-aid from Government in order to prevent potential providers from being discouraged from joining the sector.
- 4.3 However, according to the 'reasonableness factors' outlined above, a flat fee is more reasonable than direct attribution of registration costs or a fee based on the size of the organisation. We therefore agree with this proposal.

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration would not discourage new entrants?**

- 5.1 The average cost of processing applications for registration over the last two years is £10,000. The discussion paper recognises that setting the flat fee at this level would serve as a significant barrier to entry. Setting the fee lower than this would however require cross-subsidy from other RP's annual fees or continued grant-in-aid funding from Government.
- 5.2 Government and the regulator have a vested interest in new organisations entering the social housing sector and increasing the supply of social housing. It is clear that the full £10,000 cost of initial registration cannot be recovered without providing significant barriers to entry – particularly for small local organisations. Therefore grant-in-aid should continue to subsidise initial registration as an incentive to encourage new actors to enter the market.
- 5.3 Market research would need to be conducted gathering the views of new entrants to the sector to identify the level of fee that would not be prohibitive.

**6. Do you agree that provider size is a suitable basis for determining the level of annual fee? Is social housing units owned a suitable definition of size?**

- 6.1 The discussion paper proposes that the annual fee for regulation should be determined by provider size. To be implemented by charging a fee per social housing units owned. This is considered to

be proportionate and reasonable.

6.2 Provider size is not an accurate representation of regulatory burden or expense. Therefore deciding the annual fee based purely on size appears arbitrary, and fails to satisfy the principle that fees should relate directly to the costs of regulation.

6.3 It is also possible that annual fees based purely on size will influence the growth incentives of providers, as this would be an additional cost to factor into budgets and forecasts.

6.4 However, it may be that annual fees based on size are the least worst option considering the complexity of alternatives such as direct attribution of individual regulatory costs and a risk-based fee. It would be beneficial to include some added features to the size-based fee to mitigate some of the problems outlined above.

6.4.1 A cap on the annual fee should be set, above which no organisation will be expected to pay, regardless of size. We propose the cap to come into effect at 50,000 social units. This would negate the potentially harmful incentives against growing. Furthermore, where a large organisation takes over a smaller provider which may have been struggling, the regulator and the sector benefit. Tenants are guaranteed continuity of service and regulation of those units is easier because they have become part of a larger existing organisation. It would not therefore make sense for the annual fee to continue to increase exponentially as providers increase in size.

6.4.2 A reasonable alternative to a cap would be banding as discussed in section 9.

6.4.3 A system could be introduced whereby a discount is applied to the annual fee if judgements of V1 and G1 are consistently achieved for a specified number of years. This would provide an element of redress to well-run organisations which require little of the regulator's time.

6.5 If size is implemented as the determinant of the annual fee we propose that careful monitoring be put in place to ascertain the impact on the sector. This should then feed into a review at the end of year one conducted by the regulator and provider representatives to agree on future implementation.

## **7. Do you agree with the proposed approach to local authority RPs?**

7.1 The discussion paper proposes local authority RPs should be exempt from both the registration and annual fees.

- 7.2 Local authority RPs do not receive the economic and governance regulation which is applied to private RPs. This element of regulatory activity constitutes the majority of the time and expense expended by the regulator.
- 7.3 In a mixed-funding environment it is likely that initial registration and consumer regulation would continue to be subsidised by grant-in-aid funding from Government.
- 7.4 We therefore agree that local authority RPs should be exempt from both fees.
- 8. Do you agree with the principle set out for the minimum annual fee?**
- 8.1 The discussion paper proposes that the annual fee should be subject to a minimum amount payable by all private RPs, regardless of size.
- 8.2 A minimum fee will have the most significant impact on very small, local organisations. It will not affect larger organisations whose unit-numbers take them over the minimum threshold.
- 8.3 It is reasonable and proportionate to request a minimum fee for annual registration to cover basic costs such as maintaining the register and evaluating financial performance. A fee in the region of £300 should be affordable for very small organisations.
- 9. Do you think that we should introduce an element of banding in the fee regime and if so why?**
- 9.1 The discussion paper suggests that banding by size was considered as a way of making the annual fee more proportionate to the true costs of regulation. However it was rejected on the basis of being too complex and contravening the desire to keep the regime simple.
- 9.2 Banding would add complication and cost to the fee regime, but it has considerable merits in that it would increase proportionality and prevent disincentives to growth and expansion.
- 9.3 An interesting case study is Sanctuary's rescue of Cosmopolitan Housing Group this year. This action generated significant benefits to Cosmopolitan's tenants, the regulator and the wider sector, but under a fee regime without banding would have resulted in a significant increase in annual fee for Sanctuary. It would be negative for the sector if the fee regime implemented discouraged providers from taking such action in the future.

- 9.4 We therefore suggest that banding should form a part of the fee regime. Our proposal is:
- providers with less than 1,000 units are charged at a reduced per unit rate to reflect the lower level of regulatory engagement that they enjoy;
  - providers with between 1,000 and 20,000 units are charged at the 'normal' per unit rate as they represent the largest section of the market and therefore receive the most attention from the regulator; and
  - providers with more than 20,000 units are charged at a reduced per unit rate. This would encourage growth and reflect that larger providers are more likely to have established governance and finance protocols in place, and are also more likely to receive strict oversight from other bodies such as credit rating agencies and institutional lenders.
- 10. Do you agree with the proposal to charge annual fees at a group level?**
- 10.1 Charging fees at a group level is consistent with the principles of the fee regime being transparent and simple and we therefore agree with the proposal.
- 11. Do you agree that the full fee for the year should be paid even if the provider is only registered for part of it?**
- 11.1 This proposal is consistent with the principles of the fee regime being transparent and simple and we therefore agree in principle. A fair and equitable system would recognise that if a provider is registered for less than four weeks of the year it should not be required to pay the full annual fee.
- 12. Do you agree with the proposed approach to transparency and accountability?**
- 12.1 The discussion paper proposes three main methods for providing transparency and accountability to the sector and suggests that more detail will be provided at the statutory consultation stage.
- 12.1.1 The regulator would publish a regular **transparency statement** on costs and approach to achieving value for money.
- 12.1.2 The regulator would consult providers and other stakeholders in drawing up its **business plan**.
- 12.1.3 The regulator would provide **clear calculations** on exactly how individual fees for providers were decided upon.

- 12.2 The proposed approach to transparency and accountability is a positive start but, as is mentioned, is noticeably lacking in detail.
- 12.2.1 The regularity of the transparency statement requires definition. We propose every quarter.
- 12.2.2 Consultation on the business plan requires far more commitment from the regulator to actively involve providers. Consultation does not necessarily give providers any say over the final content of the plan. We would hope for a stronger commitment to reaching a joint statement of vision and values for the sector; including the role of the regulator.
- 12.2.3 A clear process for dispute and appeal should be included in the fee paying regime. This will be necessary if the calculations carried out by the regulator are found to be inaccurate. We would look for an independent body or panel to adjudicate in such a scenario.
- 12.3 This should be an opportunity for the HCA and providers to jointly articulate the role that the regulator will play in the sector in years to come. The resources currently available for regulation are inadequate considering the task at hand, and this requires a sustainable solution.
- 12.4 Much closer relationships between the regulator and providers should be developed, providing open dialogue, facilitating better cooperation and encouraging honest and constructive feedback. This would be the basis for more successful working partnerships which will be vital to maintaining the viability of the sector.
- 12.5 It is also important that fees are used to improve the in-house skills and expertise available to the HCA. Value for money will not be achieved if providers are still required to pay external specialist organisations for specific HCA requirements.
- 13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**
- 13.1 Invoicing on an annual basis based upon the financial year 1 April to 31 March appears sensible and clear. Informing providers of the fee amount in October provides sufficient time to include in budgets for the following year.
- 13.2 Requiring payment at the beginning of the year would also allow providers to budget for the year in entirety. This is more desirable than waiting until the end of the year and potentially facing a larger bill than had been budgeted for.

- 13.3 Invoicing at the start of the year also provides greater cash flow and budgetary control to the regulator, which should increase the service delivered to the sector.
- 14. Are you aware of any potential equality and diversity impact in bringing in fees? If so, what are they, and how take them into account?**
- 14.1 The social housing sector is very diverse, a fact which should be celebrated and encouraged. Organisations of varying sizes and specialisms are able to operate and deliver to their mission and social purpose. It is vital that any fee regime is not so onerous as to damage the viability of small organisations or prevent new niche providers from entering the market. If this were to occur, it would damage the diversity of the sector and potentially prevent people with specific characteristics from receiving the services they need.
- 15. Are there any other potential impacts not considered? If so, what are they, and how take them into account?**
- 15.1 How will the HCA justify the additional costs it will generate through monitoring and collecting fees to providers? The introduction of a fee regime will instantly increase the overall cost of regulation.
- 15.2 How will the financial viability of the HCA be affected by bad debt? There is a strong chance, particularly early in the regime, that the regulator will not be able to collect 100 per cent of the fees due.
- 15.3 What will be the escalation procedures for failure to pay? What enforcement options will the regulator have to bring to bear?
- 16. Do you have further comments on the initial proposals?**
- 16.1 Large providers will often have numerous agencies and bodies monitoring and judging the viability of their finances and governance arrangements. Lenders and credit rating agencies in particular play a key role in this, and they should be recognised by the regulatory regime.
- 16.2 Will the regulator take into account wider evidence of viability where it is present, and in such cases subject providers to 'lighter touch' regulation at a reduced annual fee?

- 16.3 The alternative is for providers to have to submit information to and pay multiple organisations for very similar viability and governance assessments. Not only does this represent inefficient use of resources but also represents a significant regulatory burden in terms of information collation and submission.
- 16.4 We would also like to raise the issue of for-profit providers in the sector. Although they currently comprise a very small proportion of provision, it is likely that this will increase in the future. There is the possibility that the regulatory challenges presented by such providers will be more onerous and complex than the not-for-profit sector. If, following careful monitoring and analysis this is found to be the case, we would hope that for-profit providers would be charged a higher annual fee to reflect the increased regulatory burden they represent.
- 16.5 Our key comments / questions are focused on three interlinked issues:
1. Will this reform increase the resources available to the HCA in a sustainable and cost-effective way?
  2. Will this reform grant the HCA greater independence from Government and provide the sector and individual RPs with established and effective channels of influence and dialogue?
  3. Will the HCA and the DCLG subject these proposals, and any future fee regime, to the highest standards of value for money – as currently required of RPs? And will this value for money assessment be transparent and robustly evidenced?

## **HCA FEES CONSULTATION SEVERNSIDE HOUSING RESPONSE**

In preparing this document, Severnside has requested views from its Board, Executive Team and senior staff.

Severnside is, of course, aware that the HCA has the power to charge fees and, like many other Registered Providers, has privately acknowledged that this was something that would inevitably be acted upon in due course.

It is clear from the tone of the consultation document that the HCA intends to introduce a charging regime regardless of the responses received. Would it not have been better for the HCA to be open about this at the outset rather than entering into what is, on the face of it, a false consultation process, albeit necessary because of statutory requirements?

We recognise the general economic pressures and the expressed need to shift costs from central government as part of the deficit challenge. In these circumstances, we have difficulty understanding why the need to levy charges is not expressly stated in the document rather than entering into an 'accountability' argument to justify the proposition.

The payment of fees would be more palatable to the housing sector if there was an assurance from the HCA that we would receive an enhanced service.

### **1. Do you think that there is an in-principle case to charge fees for regulation?**

There is probably a case in principle; however, this case would be strengthened if we had a choice of regulator which is the position in some sectors and service areas.

The proposed fee scale should take account of the fact that some organisations will bid for social housing grant and others not. For those who bid for grant, they should perhaps be charged a fee or "membership", rather than registration. However, there is no mention of the investment function in the table at pages 6/7 setting out the activities of the Regulator. Is this a deliberate omission or an oversight?

The fees that are levied must reflect the nature and scale of risk that a Registered Provider poses and not be on a per unit basis.

### **2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

Whilst having grant-in-aid is good it means that as a sector, we are not in control.

Some fees should definitely stay as grant-in-aid. A standing charge to all

RPs could encourage some providers to do little self-regulation and expect the HCA to do more for the money they are paid – a potential negative outcome.

Under the current regulatory regime the HCA will be setting the rules as well as regulating Registered Providers (RPs). Will the HCA be splitting its overheads between the setting of regulations and monitoring compliance? It is suggested that RPs should only be responsible for paying fees in respect of monitoring compliance and relationship management. The cost of setting regulations should still be paid for from central government funds.

It is important that the risk based approach to regulation continues and this should be reflected in the fee charging regime – risky RPs will be monitored more closely by the regulator and this should be paid for directly by those RPs.

**3. Do you agree we are taking the right approach to developing the principles?**

The document states that the HCA will be transparent, not that it will offer VFM. It is interesting that this has been left out of the principles.

We see no reason why local authorities should not pay a fee, particularly if they are receiving social housing grant to develop new homes. Nor do we think that the fee should be set by reference to the number of social housing units owned – a risk based fee structure is preferable.

If a per unit basis is adopted, this should be based on an average number of hours of engagement and, in the event that this limit is not reached in one financial year, a credit could be allocated for the following financial year.

The calculation of the credit to be given does not need to be exact, but be banded to reflect whether there have been low/medium/high levels of engagement – links to the suggested risk based approach to fees.

**4. Do you agree with the proposed approach to initial registration fees?**

Yes in principle, but note you have taken the simple option on paper but omit many variables. You could adopt a staged fee where, dependent upon the current and development plans, the fee is appropriate to that level. Although mentioned later in the document, you omit items such as staffing, geographic spread, group structures etc.

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

We consider using a combination of the matters referred to in paragraph

29 would be most appropriate in setting the fee.

There is no justification for the proposed £10k figure; it would be interesting to know what costs were included in arriving at this figure.

A fee based simply on the size of an RP does not take account of an individual RPs risk profile as, where there is a very diverse business structure, there is likely to be an associated higher level of regulatory engagement and it is only fair and equitable that this is reflected in the fees paid.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

Please see comments above and, if only it were that simple. What would be the stock incremental unit breakpoints for charges? The smaller providers could find themselves swallowed up by larger providers and the quality of service provided reduced to tenants. Will the number of units be just numbers or take account of type as well, sheltered, one bed, four bed etc?

**7. Do you agree with the proposed approach to local authority registered providers?**

What is the difference in the work carried out by any individual provider? One in, all in seems more appropriate, particularly where social housing grant is received. The work should be looked at not the type of organisation where it sits.

Is the sole reason for this suggestion that Local Authorities are being told to reduce costs significantly by Government, and the HCA does not want to be seen to prevent this, hence charge only the private Registered Providers? This does not seem appropriate, even if understandable.

The Housing Ombudsman is consulting on extending its charging regime to include Local Authorities, why would the HCA adopt a different approach? It is recognised that 39% of Local Authorities were not supportive of this change. However, 47% were supportive of the proposal which suggests that implementing a charging regime would be feasible and perhaps more attractive than the HCA seem to anticipate.

**8. Do you agree with the principle set out for a minimum annual fee?**

Yes in principle, but in this case, why not charge Local Authorities?

**9. Do you think that we should introduce an element of banding in the fee regime and if so what?**

Yes, but we consider this would be of limited benefit. The proposal of 1000 units is low and again, it would be interesting to understand the rationale for the suggested £300.

**10. Do you agree with the proposal to charge the annual fee at group level?**

Yes, in principle. If payment of fees is progressed then this may be a logical way forward. However, there is the possibility that this may impact on the future development of associations and how they structure their business to try and minimise registration costs.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year.**

Yes, in principle as otherwise there would be too great an administration burden.

**12. Do you agree with the proposed approach to transparency and accountability.**

Yes, but we do wonder whether in reality this will tell us very much. Also, we understand the wish to provide value for money and be open to scrutiny but, who will do that scrutiny, who will pay and what sanction is there if the HCA is found wanting?

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

This is logical, but to implement just six months after fees are communicated does not allow an organisation with a financial plan spanning more than one year to include this additional cost in their plans for the next year and longer term financial plans. This will be aggravated even further if in the future the Regulator begins charging RPs on the basis of matters referred to in paragraph 10 of the paper.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

An initial Impact Assessment was no doubt carried out in conjunction with the preparation of the consultation document and we presume should form the basis upon the proposals that are put forward. However, clearly given the customers that RPs serve, the requirement that RPs pay fees reduces the monies available to provide services to meet the often high needs of our customers.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

Our customers will expect us to justify the fee that is paid – it will be essential that we can inform our customers on the value for money that is provided by the HCA and the quality of the proposed transparency

statement that is published by the HCA will be of paramount importance.

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

If fees become payable, the sector will expect a higher quality of staff and engagement than at present – ie an enhanced service.

If an RP has received positive feedback on its own self-regulatory processes and manages a well performing organisation, why should that organisation pay fees to the Regulator to help those who have less well defined strategies and plans, monitoring and compliance regimes? Credit should be given by way of monetary reward to those RPs who do not take up the time of the regulator in providing oversight.

How will value for money be assessed, if a Registered Provider does not think it is getting good value for money, what redress will there be and will we be able to seek an alternative assurance provider to the HCA?

It is suggested that the costs of intervention should be centrally paid for - perhaps this is where the HCA should continue to depend on government funding - as is the case with Ofsted, etc.

Chief Executive  
Sevenside Housing

21 March 2014

Phil Yorke BA (Hons) FCIH  
Chief Executive

20 March 2014

Tim Sullivan  
Regulatory Framework Manager  
H.C.A  
Social Housing Regulator  
Maple House  
149 Tottenham Court Rd  
London  
W1T 7BN

Dear Mr Sullivan

### **Consultation on Fee Charges for Regulation**

I am writing in response to your consultation paper.

In regard to the specific consultation questions I can comment as follows:

1. In principle case for fee charging?

Yes - but the analogy with other industries is not quite accurate. The majority of Registered Provider income comes from rents, and indirectly a good proportion of rent does come through housing benefit from the taxpayer, and of course many tenants are taxpayers. Fee increases should, as a minimum, be subject to similar limits as rent increases.

2. Full cost recovery?

Some elements of regulation should continue to be funded through grant-in-aid, for example where new legislation is brought in that affects regulation and subsequently costs.

3. Developing the Principles - a right approach?

A registration fee combined with an annual fee seems to be a sensible approach.

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Continued.....

4. Annual fee level based on size and number of units?

This does seem proportional and in particular supportive of smaller associations.

5. Transparency and accountability

In seeking to recover costs through fees, there is an innate difficulty for the HCA to demonstrate that costs apportioned are reasonable and that efficiency and effectiveness are driving costs in the right direction. It is not clear how, if providers are paying for regulation, they will be able to scrutinise and potentially challenge regulation costs.

In addition to the above points, where the Regulator has to formally intervene with a provider, there must be a significant increase in cost, which arguably should be borne by the provider that necessitates the intervention and it may be possible to introduce a flat fee for such circumstances.

Yours sincerely

Chief Executive



**SYHA's response to HCA discussion paper:  
"Charging fees for social housing regulation"**

<b>Q1</b>	<b>Do you think that there is an in-principle case to charge fees for regulation?</b>
There is a case to charge fees for regulation but this should not be a substitute for Government funding. Additional resources should be used to further enhance the quality of regulatory services.	
<b>Q2</b>	<b>Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?</b>
The introduction of fees should not replace Government funding with no consequent improvement in regulatory service. We believe strongly that if fees are introduced some grant-in-aid contribution should continue to be made. One of the main purposes of regulation is to protect the government subsidy that has been invested in Associations. The Government, and not tenants, should pay for this.	
<b>Q3</b>	<b>Do you agree we are taking the right approach to developing the principles?</b>
Yes, we agree.	
<b>Q4</b>	<b>Do you agree with the proposed approach to initial registration fees?</b>
Yes, we agree.	
<b>Q5</b>	<b>What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?</b>
We have no view on this.	
<b>Q6</b>	<b>Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?</b>
Yes to both. This is the only fair approach. Any other system means some tenants are subsidising other tenants.	
<b>Q7</b>	<b>Do you agree with the proposed approach to local authority registered providers?</b>

Yes, we agree.	
<b>Q8</b>	<b>Do you agree with the principle set out for a minimum annual fee?</b>
Yes, we agree..	
<b>Q9</b>	<b>Do you think that we should introduce an element of banding in the fee regime and if so why?</b>
We do not support the banding of providers for fee charging purposes for the reasons given in 6 above.	
<b>Q10</b>	<b>Do you agree with the proposal to charge the annual fee at group level?</b>
Yes, we agree.	
<b>Q11</b>	<b>Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?</b>
Yes, we agree.	
<b>Q12</b>	<b>Do you agree with the proposed approach to transparency and accountability?</b>
We agree completely with the need for the regulator to publish regular transparency statements about costs, the use of resources and how value for money is being achieved. This degree of accountability is paramount and will put the relationship between the regulated and the regulator on a new and more equal footing.	
<b>Q13</b>	<b>Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?</b>
Yes, we agree.	
<b>Q14</b>	<b>Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?</b>
We have no view.	
<b>Q15</b>	<b>Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?</b>
We have nothing to add.	

**Q16**

**Do you have any further comments on the initial proposals set out in this discussion paper?**

Two further matters are worth mention / discussion:

1. We believe the HCA is currently under-resourced and that quality has suffered. Fee income from associations should supplement existing resources to ensure the HCA can do a proper job on regulation.
2. Fee increases should be capped at CPI + 1%.

# Charging fees for social housing regulation



## Response to HCA discussion paper

### 1. Introduction

Sovereign Housing Association owns and manages around 36,000 homes in south and south west England. Encompassing four large scale voluntary transfers, Sovereign has exploited its financial strength to meet housing need, becoming a key developer across the region. In 2012/13, Sovereign developed over 1,000 new homes, and acquired almost 1,400 from other housing associations as part of their stock rationalisation programmes.

The overwhelming majority of Sovereign homes are provided for social rent. However, there are also over 6,000 other homes of which around 3,800 are shared ownership and former shared ownership. Sovereign manages 380 non-social rented homes on behalf of other housing organisations; and Sovereign Living Ltd, a non-charitable registered subsidiary of Sovereign Housing Association owns 142 market rented properties. Almost all of Sovereign's non-social homes are both owned and managed by Sovereign Housing Association.

Sovereign is rated A1 by Moody's, and AA by Standard and Poor's, amongst the highest credit ratings for any HA. These ratings reflect both the underlying strength of the business, and the robust approach to risk and treasury management that is embedded in the Association's governance structure.

### 2. General remarks

At Sovereign we recognise the need to discuss the role and scope of the regulator and tied to this is the need to debate where their funding comes from in the future. As we have stated in previous consultation responses, Sovereign would support the proposals to pay fees for regulation if they come hand in hand with the increased resources required to deliver an increasingly sophisticated approach, capable of recognising the diversity of skills and experience in the sector. However, the current proposals appear to be about shifting the cost of regulation towards the housing sector and away from the Treasury, and in our view do not address the need to build on the Regulator's approach.

For example, one recent unwelcome change in regulation has been the reduction in general sectorial analysis emerging from the HCA. This was an aspect of the Regulator's work that assisted HAs to manage in times of increasing complexity and greater risk; the ability to re-introduce these measures might help to make plans to charge for regulation more acceptable.

It is also interesting to note that the suggested changes are likely to increase the risk of the regulator becoming subordinate to social housing providers, who will be paying for their services. This, in turn, risks undermining the Regulator's independence and effectiveness. We also note that this paper appears to be based on the assumption that it is appropriate for social housing residents to pay for the regulator's service through their rental payments. In our view, this assumption is open to challenge. We believe that the whole of society benefits from the provision of social housing, and that its regulation should ideally be paid for through general taxation. Measures such as these proposals, which reinforce a movement away from

this position, emphasise the private nature of the landlord/tenant relationship, and weaken the arguments in favour of housing associations engaging with a wider social agenda.

### **3. Responses to discussion questions**

**Q1: Do you think that there is an in-principle case to charge fees for regulation?**

Although we may question the in-principle case, we accept that, in the current climate, there is a justification for expecting the sector to pay towards its regulation. The HCAs regulatory functions are essential for our sector; however we believe that many housing providers, Sovereign included, would be more willing to pay regulatory fees if this ultimately led to the HCA providing a wider, more value-adding service.

**Q2: Do you think fees should cover the full cost of the regulator or that some elements of regulatory costs should continue to be funded through grant-in aid?**

We feel it is important to raise here that housing providers and their tenants are not the only people who receive the benefit of the social housing sector being regulated. Social housing provides a service which the whole of society benefits from, therefore we believe that all or some of the fees for regulation of the sector should be the responsibility of the tax payer.

**Q3: Do you agree we are taking the right approach to developing principles?**

Yes we agree with the fundamental approach to developing principles.

**Q4: Do you agree with the proposed approach to initial registration fees?**

Yes, we agree with this approach.

**Q5: What other factors should we consider in setting the initial registration fee/ what level of initial registration fee would not discourage new entrants?**

We think that the set fee of £10,000 is fair and that new providers wanting to become registered providers should be expected to have the financial capacity to afford this fee. This fee seems appropriate to the costs incurred and would mean that existing providers were not shouldering the costs of the registration of new providers.

**Q6: Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

This would seem to be the most straightforward approach but may not be the fairest. The size of a housing provider does not necessarily mean that it will require more of the regulator's time and/or expertise and does not determine the complexity of the provider. Some large providers have businesses that are more straightforward than some smaller provider's and using size alone would penalise these organisations unfairly. Instead, we suggest that the fees paid by providers should take account of the comparable complexity of their range of operations and financial structures.

There could be various triggers which would determine the complexity of a provider. For example organisations that have a wider borrowing rule, are likely to require a higher level of regulatory expertise.

Also, it is likely that the more complex an organisation is, the lower the proportion of their turnover attributable to general needs social housing will be. In a system based on linking fees to organisational complexity and risk, the diversity of cash flows may be a useful trigger for higher regulatory fees.

**Q7: Do you agree with the proposed approach to local authority registered providers?**

Yes we support this approach if, as suggested, the cost of consumer regulation would continue to be funded through grant-in-aid. If the cost of consumer regulation did not continue to be funded through grant-in-aid we do not think it would be appropriate for housing associations to be subsidising local authorities.

**Q8: Do you agree with the principle set out for a minimum annual fee?**

Yes, we agree with this principle.

**Q9: Do you think that we should introduce an element of banding in the fee regime and if so why?**

We do not believe banding should be based on size, as a provider's size doesn't necessarily correlate with how complex their financial arrangements and business are. We believe that any banding should be based on the complexity of a provider, please see our response to question 6 for more information.

**Q10: Do you agree with the proposal to charge the annual fee at group level?**

Yes, this approach seems the most straightforward and will aid transparency. More mergers may occur in the near future due to the external environment that providers are operating in and making this function as straightforward as possible would support this.

**Q11: Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes, we believe that this would be the easiest and most straightforward way to manage this.

**Q12: Do you agree with the proposed approach to transparency and accountability?**

Yes, we agree that it is important for providers to fully understand which services they receive from the regulator so they can assess if these offer value for money. We also suggest that a clear contract of terms is devised so providers can see exactly what services, interaction and support they can expect to receive from the regulator. We suggest that this could be linked to the regulatory engagement plan which is currently being used.

**Q13: Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes, we believe that this would be the most straightforward approach to invoicing.

**Q14: Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

We are not aware of any potential equality and diversity impacts.

**Q15: Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

We continue to have reservations about whether or not it is appropriate for registered providers to pay for their own regulation. Although we recognise the pragmatic argument in favour of payment we would also suggest that, like health and education, social housing provides a benefit to society as a whole and can be viewed as a public asset (in fact, the Regulator, clearly views social housing as a social asset, rather than the private asset of each HA). We would therefore question the appropriateness of the HCA, in its role as a guardian of public assets, charging only social housing residents for regulation.

**Q16: Do you have any further comments on the initial proposals set out in this discussion paper?**

We would like some clarification over what would happen to any surpluses that may be created and how increases in fees will be managed in the future. We would also like some clarification of what mechanisms may be put in place to allow providers to question the value for money or quality of the services they will pay for.

Mr T Sullivan  
Regulatory Framework Manager  
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The Social Housing Regulator  
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18 March 2014

Dear Mr Sullivan

Charging Fees for Social Housing Regulation

Please find below Spectrum Housing Group's response to the HCA discussion paper:

**1. Do you think that there is an in-principle case to charge fees for regulation?**

We think that there is an in-principle case to charge fees based upon the benefits received from regulation; the usual regulatory model in other sectors and the permission of the Housing and Regeneration Act to do so; and the ability of the regulator to establish the right level of resources to effectively regulate the sector. However, we would wish the fees charged to registered providers to be in addition to the grant-in-aid currently provided by DCLG.

We would like for formal service standards and dispute resolution mechanisms to be agreed in advance.

**2. Do you think the fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

We think that the fees should cover some of the costs of the Regulator, but that some elements of regulatory costs such as all or part of the registration application assessment so as not to deter applications; and the reactive and consumer regulation costs should continue to be funded by grant-in-aid as these are not applicable to all. If grant-in-aid is not available for reactive regulation costs, the providers in receipt of such interventions should cover the costs.

**3. Do you think we are taking the right approach to developing the principles?**

We think that the approach to developing the principles for charging fees is reasonable when also taking into account the factors of reliability, simplicity, easily verifiable, the impact on fee payers and benefits of regulation which are of importance to providers. However, we would like to see the Regulator demonstrate value for money in its proposal.

**4. Do you agree with the proposed approach to initial registration fees?**

We agree that a fixed fee should apply to all successful applications for initial registration regardless of size.

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

We think that the initial registration of merged, amalgamated or those entities who have transferred engagements should also be charged given that the process and cost for assessing and approving the merger, amalgamation or transfer is not provided for elsewhere in the discussion document.

Given that the average cost of processing applications for registration is around £10,000, we feel that an initial registration fee which would not discourage new entrants is £10,000 (if the costs cannot be met by grant-in-aid.)

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

We agree that provider size is a suitable basis for determining the level of the annual fee and that social housing units owned is a suitable measure of size.

**7. Do you agree with the proposed approach to local authority registered providers?**

We agree with the proposed approach to local authority registered providers only on the basis that consumer regulation for all is funded by grant-in-aid.

**8. Do you agree with the principle set out for a minimum annual fee?**

We agree that the annual fee should be subject to a minimum amount which would be payable by all private registered providers, regardless of size.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

We think that the present proposal of a minimum fee plus a per unit charge ensures that the fee level is proportionate to costs and keeps the scheme simple.

**10. Do you agree with the proposal to charge the annual fee at group level?**

If the fee structure is based upon a minimum fee plus a per unit charge, and the assurance is given by the regulator that regulatory activities are streamlined with engagement at group level, then we agree with the proposal to charge at group level.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

We disagree with the approach to pay the full cost of the annual fee for the year for those registering and think that this should be done on a proportionate basis from the time of registration to the end of the financial year, or included within the initial registration fee. This will also discourage a bottleneck of applications approaching year-end. However, we feel that those de-registering during the year should not receive a refund given that the de-registration application assessment would have incurred costs which would not otherwise be recovered. The annual costs recoverable by the regulator would also be skewed.

**12. Do you agree with the proposed approach to transparency and accountability?**

We agree with the proposed approach and look forward to further detail at the statutory consultation stage.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

We agree that this is an appropriate approach but would ask that an indication of fees is communicated in September/October of the preceding year to aid budget preparation.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

We are not aware of any potential equality and diversity impacts.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

We demonstrably embrace co-regulation and have an active and effective resident scrutiny arm of our formal governance structure. Will allowance be made for such regulatory assistance being provided to the regulator when charging for regulation moving forward?

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

We would be very interested to be involved in the drafting of the consultation paper or indeed, to act as a model/pilot for the charging mechanism.

We would like to see customer representation on the board or provision of a customer 'sounding board'.

We would also like to agree service standards to be provided by the regulator; for dispute resolution mechanisms to be agreed; and certainty over increases in costs to be agreed via an established price index.

Please do not hesitate to contact me if you wish to discuss our response further.

Yours sincerely

**Head of Governance & Legal Services**

## **Symphony Housing Group – Response to Fee Consultation**

### **1. Do you think that there is an in-principle case to charge fees for regulation?**

We accept that there is now more risk within the sector which requires a review of the regulatory approach. However, not simply a cut in government spending passed on to registered providers.

If registered providers are to be liable for regulatory fees, the charge should be subject to an annual review, benchmarked and should demonstrate value for money.

### **2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

The group suggests the Regulator should consider splitting fees for services provided. Such as a basic fee covering regulation activities which applies to all providers and a separate fee for additional services such as consumer regulations, reactive regulation, consents and administering fees. Or as an alternative, providers to pay for services around the economic standards and consumer regulation to be Government funded.

### **3. Do you agree we are taking the right approach to developing the principles?**

We do not disagree with the approach being taken by the HCA. However there is no reference in the approach to:

- Accountability, to whom and how the Regulator will be held accountable
- Customers; the fees will be covered by rents therefore should customers be involved in the governance of the Regulator?

### **4. Do you agree with the proposed approach to initial registration fees?**

We agree with the initial approach to registration fees but feel that a flat fee would penalise small organisations. A fee based on the size of an organisation may be more appropriate.

### **5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

We suggest that fees need to be based on the size of the organisation and complexity of the provider. Fees should be based on cost, but the cost of registration should not be subsidised by other registered providers.

### **6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

We agree with this basis but have raised some discussion points:

- The fee should cover core services only
- A blanket approach may not be sophisticated enough as it does not take into account the complexity of managing some schemes compared to others
- The approach does not take into account local variation of rents (London vs. North West)
- There is potential for organisations who take on greater risks to pay an increased fee.

### **7. Do you agree with the proposed approach to local authorities?**

We disagree that local authorities should pay different fees, local authorities should contribute to the cost of regulating the sector.

### **8. Do you agree with the principle set out for a minimum annual fee?**

We agree with a minimum annual fee, providing the Regulator gives clear expectations to members of what they are to receive for the fee. We would hope for additional services to compensate for an additional fee.

## **Symphony Housing Group – Response to Fee Consultation**

### **9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

We agree with the introduction of banding, to ensure smaller registered providers pay a fair share of regulation costs. It is a term recognised and accepted by the sector.

### **10. Do you agree with the proposal to charge annual fees at group level?**

Yes, we agree with this proposal.

### **11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

We agree that the Regulator should charge an annual fee despite a provider being registered for a proportion of the year.

### **12. Do you agree with the proposed approach to transparency and accountability?**

We agree with the Regulator's approach, however would invite further explanations of how the Regulator would provide this information to their stakeholders.

### **13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes, we agree with this approach.

### **14. Are you aware of any potential equality and diversity impacts on implementing fees? If so, what are they and how should we take them into account.**

During our discussions, the following points were raised:

- Charging fees potentially penalises those living in social housing and benefits tax payers.
- If there is a flat charge based on units then it will impact more on customers and organisations where rental income is less i.e. The North.

### **15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper, if so what are they and how should we take them into account?**

None noted.

### **16. Do you have any further comments on the initial proposals set out in this discussion paper?**

During our discussions, the following points were raised:

- The approach is increasing the taxation of the poor, and set to benefit all other tax payers not living in social housing
- Limited concern for the customer of registered providers, as the document focuses on recovering the cost to the Regulator
- If the sector are paying for the Regulator, how will we and our customers get to hold the Regulator to account?
- Actual fees to be paid by registered providers should be specified for a period of time (e.g. 3 year period), to allow providers to include in their business plans and budget accordingly.

**HOMES & COMMUNITIES AGENCY  
CONSULTATION RESPONSE  
'CHARGING FEES FOR SOCIAL HOUSING REGULATION'**

TCUK Homes is a very small registered provider (RP number 4756), which currently has 45 units of supported accommodation in development and 25 affordable rent empty homes refurbishments in the pipeline. We expect to grow at a rate of around 25 units per year over the next three years.

<b>Consultation Question</b>	<b>Response</b>
1. Is there an in-principle case to charge fees for regulation?	It is fair to say that perceived benefits to housing providers include lower borrowing costs (lenders take comfort from the fact that providers are part of a regulated sector) and regulation helps to protect the <b>sector's reputation. It also gives provider's</b> access to HCA and GLA grant.
2. Should fees cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid	Although there are perceived benefits to housing providers, regulation serves to ensure Value for Money is obtained from public investment in social housing and to guard against the misuse of public funds. Therefore, some elements of regulatory costs should continue to be funded through grant-in-aid to contribute towards the costs of reactive and consumer regulation.
3. Are we taking the right approach to developing the principles?	The factors included in the consultation paper – reliability, simplicity, easily verifiable, impact on fee payers and benefits of regulation are appropriate. It is essential that charging fees does not create uncertainty and too big of a financial burden, particularly for small scale providers. Value for Money should also be an explicit factor, as the Regulator must be accountable for both costs and benefits of the service it provides.
4. Do you agree with the proposed approach to initial registration fees?	A flat rate fee would be simple to administer but would not be the most proportionate to costs. The average cost of processing applications for registration over the last two years is around £10K. It seems unfair that small organisations would be treated the same as large providers and be required to absorb these costs. This

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	could be a potential barrier to registration.
5. What other factors should be considered in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?	Similar to the annual fee, the fee for registration should be based on the size of the organisation. This is more aligned to the factors identified in section 17 (pages 8 and 9) of the consultation paper. A registration fee based upon the number of social housing units owned should form the basis of determining the registration fee.
6. Do you agree that provider size is a suitable basis for determining the level of annual fee?	Yes, the provider size is the most appropriate option for determining the level of annual fee. The direct attribution option would create unnecessary uncertainty and bureaucracy. The flat rate fee could cause considerable financial difficulty for small providers and the risk-based approach would be too subjective and incur more cost.
7. Do you agree with the proposed approach to local authority registered providers?	<b>Given that the Regulator's role is limited to considering breaches of the Regulator's consumer standards, it is fair to exclude them from paying a fee.</b> However, on the same basis, housing providers should not have to pay for regulating consumer standards. It would be unreasonable to expect them to have to pay for a service that is provided for free to LAs. Regulating consumer standards should continue to be funded through grant-in-aid (see response to Q2).
8. Do you agree with the principle set out for a minimum annual fee?	Yes, it seems reasonable to identify a fee that is economical to recover and based on the costs incurred in maintaining each provider on the register.

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9. Do you think that we should introduce an element of banding in the fee regime and if so why?	Yes, a banding element should be used to ensure that fees are more proportionate to costs than solely basing fees on a per unit fee. Providers with less than 1,000 social housing units should have a fixed fee or a lower per unit charge. Although the consultation paper suggests that it may appear to be contrary to the principle of 'simplicity' it is more aligned to the principle of 'impact on the fee payer.' Section 33 of the consultation paper (page 12) states 'Furthermore as we do less work with the very smallest providers our view is that a flat rate fee approach would fail to be <b>proportionate to costs</b> ' and a banding element should be adopted to reflect this reduced work demand.
10. Do you agree with the proposal to charge the annual fee at group level?	Agree. A fee set at a group level rather than for individual entity on the register will reduce unnecessary bureaucracy and cost.
11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?	Disagree. There should be a part year refund. Housing providers who decide to de-register should not have to pay the full cost of the annual fee for the year.
12. Do you agree with the proposed approach to transparency and accountability?	Yes, there must be a transparency statement about costs incurred and approach to VfM. Drawing up a <b>business plan to provide input into the Regulator's</b> future work programme and priorities is also welcome. As part of this business plan, I would expect to see activities to drive down operating costs to keep the regulation fees low and stakeholder engagement

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	mechanisms to hold the Regulator to account for its performance.
13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?	Agree that invoicing at the beginning of each financial year is an appropriate approach.
14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?	A flat fee for all organisations to register may result in very small, niche providers being unable to register. In turn, this could result in the minority communities or user groups serviced by these providers being adversely affected (for example through an inability to access finance or grant for specialist housing)
15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?	Not aware of any
16. Do you have any further comments on the initial proposals set out in this discussion paper?	Will the regulation fees levied be subject to an annual increase? If so, what safeguards will be in place to ensure that any increase takes account of the operating environment and can demonstrate good value for money?

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**General Manager, TCUK Homes**  
**11.3.14**

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Mr Tim Sullivan  
Regulatory Framework Manager  
Homes & Communities Agency  
The Social Housing Regulator  
Maple House  
149 Tottenham Court Road  
London W1Y 7BN

18<sup>th</sup> March 2014

Dear Mr Sullivan,

Thank you for giving us the opportunity to express our views on the HCA proposals put **forward in your discussion document "Charging Fees for Social Housing Regulation"**. Thame & District Housing Association Ltd is a registered housing provider with less than 1,000 units. We are also members of SHAPE (Small Housing Associations Pursuing Excellence). SHAPE members have discussed the fee proposals and have agreed to co-ordinate elements of their response. Though the views expressed in this response are very much our own, you may find that several SHAPE colleagues are making similar or identical points.

Q1

There is an in principle case for regulation (provider pays) but there is also an in principle case against it:

- That the public is protected and so the public should pay
- **That the government's investment is protected so the government should pay**
- That when the regulated pay for their own regulation they (especially the dominant players) can put undue pressure on the regulator both to keep fees down (eventually leading to poorer quality) and to water down regulatory judgements.

Q2

If fees are to be introduced some elements should continue to be funded through grant in aid. This particularly applies to those elements of regulation which include local authorities if the decision is taken to exclude them from any charges which are introduced. Looking at the list of activities in Table 2, other candidates for grant in aid are registration and deregistration, consents, strategy and management and a proportion of the support functions.

Q3

The items listed as being of particular relevance in developing a reasonable approach are acceptable: clear and succinct.

Q4

The question of charging for initial registration is quite complex and much depends on what type and size of organisations are likely to apply for registration in future. It is not something on which we feel qualified to comment at this stage.

Q5

As above for Q4.

Q6

If fees are to be charged then there is merit in basing the charges on something where data **is easily obtainable, verifiable and therefore not open to dispute. "Number of social housing units owned" meets these criteria and it is tempting to select it as the preferred option.**

However, it takes no account of a number of important factors which will affect the financial **burden of the fees on the organisation and the perception of "reasonableness":**

- Some RPs charge much higher rents than others: either because of regional **differences in "target" rents and/or because of the proportion** of their homes now being let on affordable or intermediate rents of various kinds. A flat rate unit fee will impact much more on an RP in the north west with mostly social rented homes than it will on a provider in London or the south east providing affordable rented as well as social rented homes. Consideration should be given to basing fees on the rental and service charge income from the social housing units owned by each provider.
- The HCA has recently taken a new light touch approach towards small providers: those with less than 1000 units. As these small providers receive a lower level of regulatory input they should pay a lower level of fee in proportion to whatever charging criteria is eventually selected.

Q7

The answer to this question depends on whether or not those elements of regulation to which local authority housing is subject (and the associated overheads) are paid for by grant in aid or not. If paid for by grant in aid the approach is reasonable: local authorities cannot be expected to pay for regulation to which they are not subject.

Q8

Rough calculations show that if the whole current cost of regulation (stated to be in the region of £12.5 million) were shared equally among all RPs with stock the unit cost would be about £4.90. This calculation is based on figures provided by the HCA from the statistical release 2013, which reveal that in 2012-13 RPs (including 124 shown as having no stock holding) owned 2,550,431 units.

At a unit cost of £4.90 the break-even point for a minimum flat rate fee of £300 would be 61 units. If, say, half the cost of regulation were met by grant in aid the unit fee would be £2.45 and the break even position with a flat rate minimum fee of £300 would be 122.

Given the cost of **" individual" invoicing consideration should be given to raising the threshold below which a flat rate fee would apply – say to 250 or even to 500 units. A "breakeven" position at a higher level would streamline the invoicing process. Smaller Associations with upwards of, say 300 homes would, under your proposal, be above the minimum flat rate charge. At a unit fee of £4.90 an RP with 300 homes would pay £1,470 pa for regulation. One with 500 homes would pay £2,540. All this is in addition to fees they already pay for the Housing Ombudsman service and regulation by the Financial Conduct Authority.**

Looking at the above figures it seems likely that if fees are introduced by the HCA many

smaller RPs may look to deregister, particularly if they are not currently developing or intending to do so in the future. The implications of this need to be considered in terms of:

- The welfare of tenants
- The interests of stakeholders (particularly local authorities with nomination rights)
- The workload and costs it might generate for the HCA in handling applications for deregulation
- The long term impact on sector reputation

Q9

Given the arguments set out above and the points made in paragraph 46 of the discussion paper (smaller providers are regulated less intensively than larger ones) further consideration should be given to introducing a banding system for charging regulatory fees to providers with less than 1000 units. The proposal should not be dismissed at this early stage of the consultation process. So the answer to the question is a provisional YES and the reasons are that it provides a mechanism for lessening the financial burden on those Associations that are regulated less intensively than the others.

Q10

This question is one that we have no informed views on, not being in a group.

Q11

This question is one of detail and has minimal financial impact so we have no comment.

Q12

Transparency and accountability is something we should all strive to achieve whether or not fees are charged.

Q13

The approach seems reasonable. If using Direct Debits there should be an option to pay quarterly and spread the cost.

Q14

As many specialist and ethnic minority RPs are small, any charging regime that impacts adversely on small providers is likely to impact disproportionately upon them.

Q15

The potential impacts not considered in this discussion paper are:

1. The possibility of fees generating a demand for deregistration (see answer to Q8). Is this something HCA wants to encourage or to discourage?  
How **this is taken into account will depend very much on the HCA's perception of** the risks what outcomes the HCA wants to achieve.
2. The potential for a few dominant providers to exert undue influence on the regulator because they are largely funding it. Under the proposed fee structure the 68 largest RPs pay over half the cost of regulation for the entire sector. There is a known risk, demonstrated by recent events in the financial services sector, credit rating issues in particular.  
This risk should be mitigated by ensuring that no provider pays a proportion of the total regulatory bill sufficient to influence the regulator. One way to achieve this is to ensure that a substantial proportion of the overall bill is paid by grant in aid.

Q16 General comments:

- **The discussion paper makes no reference to the difference between “not for profit” and “for profit” providers.** This will be an increasingly important distinction in future as the sector diversifies and new intermediate types of rented housing come on the market. If fees are to be charged this could be an important **distinction: for a start the “for profit” provider could** off-set the cost of fees against tax liabilities which the “not for profit” provider cannot.
- **The discussion document makes the general point that charging for regulation is common practice in a number of business sectors. However there is no exploration of the success of this approach.** The public are aware of some notable failures of regulation in recent years (the banking sector and the press to name but two). It is not necessarily the case that the regulated paying for their own regulation yields positive results. This applies especially when a number of very large players dominate the market and there is a danger of the tail wagging the dog. The reputation of the social housing sector has so far remained relatively good and it is vitally important that it remains so.
- **The discussion paper makes no reference to the many RPs that are also care providers and already pay regulatory fees to the Care Quality Commission.** Thought needs to be given to how that may impact adversely on such providers in terms of the overall burden of regulatory fees. This particularly applies to small providers with a foot in both camps who may get caught out by flat rate minimum charges from both regulators.

Thank you for considering our views.

Yours sincerely

Chief Executive

## HCA Discussion Paper Responses.

From Honorary Secretary.

The Abbeyfield Sodbury Vale Society Limited.

Very small provider. 10 studio units with en-suite facilities for the lonely elderly.

### **Question 1.**

Yes, there is a good argument to charge fees at a reasonable level for regulation.

### **Question 2.**

Some elements should still be covered through grant funding. These would be those such as reactive and consumer regulation. Registration and the necessary data collecting and regulation for this basic function could be through fees, with investigation into problems and complaints covered by grants. We should not have to fund, or part fund, investigations into ourselves or possible misdemeanours by others.

### **Question 3.**

The principles developed seem to be very fair, sensible and comprehensive.

### **Question 4.**

Whilst the principle and reasons seem good I have strong reservations related to the possible size of the fee. See the answer to Question 5.

### **Question 5.**

The amount mentioned for an initial registration fee is, to my eyes, horrific!! We are only a very small provider. There is no way that we could ever have envisaged starting with that level of initial registration fee.

I agree that a flat rate fee is sensible, but wonder if there is a place for three or four different banding levels depending on the eventual size envisaged by the applicants, as, surely, the costs of administering it are greater, the larger the size of the applicant.

### **Question 6.**

Regarding the annual fee, I am sure that provider size is a suitable basis and that social housing units is a suitable measure of size. This is routine information for you as part of your regulatory process, and therefore simple (and cheap) to apply.

### **Question 7.**

Certainly Local Authorities have their own complex regulatory functions, as we know to our cost, because our Authority also tries to regulate us through their Supporting People function. They are among many including Abbeyfield and the Financial Conduct Authority who add to our problems with much reporting. I agree, however, that it would not be cost effective to claim from them, especially if this part of your function might be covered by grants.

### **Question 8.**

As a very small provider this level of fee strikes horror into my heart!!! I estimate that a pro rata fee would be in the region of £5.00 per unit, working on your costs of £12,500,000.00 for 2,580,000 units. If balanced across the board this would equate to a fee of £50.00 for us and we would be paying the equivalent of a provider with 60 units. I suggest that a small provider is already hit harder than a large one as advice for us is always relatively more

costly per unit. Also we, and others like us, have smaller profit margins, and are more likely, as we are, to be run by non-professional volunteers who are unpaid, and who are also trustees with a duty to keep costs down. I would therefore suggest that any minimum fee is very much reduced, say £100.00 at the most

**Question 9.**

I agree that banding adds complications, and it would make no difference to us if there is to be a minimum fee. However it could be helpful to those small providers who are not quite as small as us.

**Question 10.**

It obviously makes sense to charge for a group as a whole, but what constitutes a group? As an independent Society under the Abbeyfield banner do we count as part of that group? I guess that the managed Societies that have merged into, and are administered by the National Abbeyfield Society do.

**Question 11.**

Yes, I think this approach is very fair as most, if not all, of the work involved will have been done, and possible even more as a result of registering or deregistering.

**Question 12.**

Yes, your proposals seem to be satisfactory.

**Question 13.**

Yes, this timing will suit most people, but, as always, not all. Our financial year starts on 1<sup>st</sup> October, so it will not allow us to budget for a new amount, but I guess that there will be no huge increases year on year, so most sensible financial departments will be able to estimate their costs reasonably accurately.

**Question 14.**

No. I see no problems from our point of view.

**Question 15.**

No. I see no problems from our point of view.

**Question 16.**

No. It seems straightforward and well thought out.

# HCA Proposals to Charge Fees for Regulation Housing Plus Consultation Response

## **1) Do you think that there is an in principle case to charge fees for regulation?**

- Does seem that already decided to implement.
- There is a clear legal framework for charging.
- Charging would provide consistency with other regulators however just because other organisations, based largely in commercial environments (i.e. water, energy etc) charge, should the same apply to the social sector?
- The principle of taxpayer support for social housing is very important and we feel strongly about this. Charging for registration and regulation could be the “thin end of the wedge”.
- Providers and their customers will need to be assured that they are getting Value for Money from their fees.

## **2) Do you think fees should cover the cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

- As stated above, the principle of taxpayer support for social housing is very important. Maintaining some form of Government funding is essential both “in principle” and, more practically, to help control costs to providers.
- It should be noted that the legislation does give the regulator the powers to charge for other services (such as research or providing advice) but that the HCA has “no plans” to introduce fees for these services. Charging for regulation could provide a precedent for these charges.

## **3) Do you agree we are taking the right approach to developing principles?**

- The principles of Reliability, Simplicity, Easily Verifiable, Impact on Fee Payers and Benefits of Regulation are clearly set out.
- Suggest that Cost Effectiveness or Value for Money needs to be added and there needs to be more emphasis on the impact on tenants who will ultimately pay via their rents and charges.

## **4) Do you agree with the proposed approach to initial registration fees?**

- As proposed, providers who are already registered will not be charged a fee. This seems fair.
- The preferred proposal of a flat fee is administratively simple and would help with budgeting for any organisation planning to register. However, need to recognise that “one size does not fit all” and different organisations will have different levels of income and complexity.
- The size of the fee is key. There is a need to balance affordability and simplicity. Smaller or specialist providers may be put off registering by a large fee and there is a case for a lower fee or some form of banding approach for smaller providers.

## **5) What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

- Affordability for the provider should be a consideration based on their organisational complexity, actual and projected income, existing assets etc.

**6) Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

- The preferred proposal of a flat fee is administratively simple and would help with budgeting provided that an announcement on fee levels is made sufficiently early in the budget setting cycle.
- Most providers have some units that are not classed as “social” (i.e. shops, student accommodation, market rent etc). These need to be included in any calculation of regulatory fees.
- On option for further consideration may be a hybrid of a flat fee plus cost per unit. This may strike a better balance between the different proposals.

**7) Do you agree with the proposed approach to local authority registered providers?**

- The argument for not charging local authority landlords is well set out and logical. However, this, once again, demonstrates a lack of “level playing field” between housing associations and local authorities. As local authorities will receive some benefit from the service, it is appropriate to consider a reduced fee level for them.

**8) Do you agree with the principle set out for a minimum annual fee?**

- The principle is clear but the level of £300 equates to 62 properties (based on the costs and sector stock numbers used elsewhere in the consultation paper). It would be interesting to see how many providers this level of fee actually affects.

**9) Do you think that we should introduce an element of banding in the fee regime and if so why?**

- The argument for banding is reasonably persuasive as this balances simplicity with proportionality. It would also be fairly straightforward to administer. A realistically set minimum fee would reduce the need for banding.

**10) Do you agree with the proposal to charge the annual fee at group level?**

- Yes. In a group structure, the ultimate regulatory responsibility lies with the parent organisations so it is appropriate that fees are charged at this level.

**11) Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

- This seems appropriate. However it should be made clear that this is the case at registration so that prospective providers are fully aware of the approach.

**12) Do you agree with the proposed approach to transparency and accountability?**

- In principle, yes. However, need to see more details on the proposed approach to how the sector’s views are being taken into account. It will be interesting to see how the regulator demonstrates Value for Money.

**13) Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

- Yes provided that the amount is known sufficiently in advance of this so that it can be properly reflected in budgets.

**14) Are you aware of any potential equality and diversity impacts in implementing fees? If so what are they and how should we take them into account?**

- It would be interesting to see any impact assessment or equality analysis on these proposals and to see the comments of BME and specialist providers.

**15) Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

- It would be interesting to determine the views of tenants and other customers on the proposals.

**16) Do you have any further comments on the initial proposals set out in this discussion paper?**

- There is no detail of how any annual increase in fees will be calculated. Will this be on the basis on inflation (Retail or Consumer Price Index?) or some other formula.

Tim Sullivan  
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18<sup>th</sup> March 2014



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Dear Tim,

### **Charging Fees for Social Housing Regulation.**

Please find below our response to your consultation document.

#### **Q1 Do you think that there is an in-principle case to charge fees for regulation?**

No, we do not think that there is an in-principle case for charging fees. We do not see that Social Housing is the same as other regulated sectors. RP's do not fully control their income streams, our rents are capped and the 'additional' funds from affordable rents are ring-fenced for use for only one purpose, development.

Not all providers access grant and it is questionable whether the financial sector draws as much comfort as it once did from the presence of the regulator, certainly the messages from Organisations such as Moody's point to decreased confidence in the regulator. Further we suspect that should the regulator begin to lose grant-in-aid and have this replaced by fees then the financial sector may see this as a negative and a loss of the implied Government backing of the sector.

#### **Q2 Do you think fees should cover the full costs of the regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

Some elements should continue to be funded as not all providers benefit from all functions. In terms of reactive regulation it feels as though the whole sector is forced to pay for those who fail to comply or are failing organisations.

#### **Q3 Do you agree we are taking the right approach to developing the principles?**

If charging fees is inevitable then the approach seems reasonable. However we feel that charging by size only fails to address the levels of risk and complexity within business models for different organisations.

**Q4 Do you agree with the proposed approach to initial registration fees?**

We believe that a flat fee is the most transparent and appropriate method.

**Q5 What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

£10k seems a high level of fee, however as some of the new entrants will be for profit providers would this discourage them? Would a two tier fee structure for non-profit and for-profit providers be more appropriate?

**Q6 Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

A fee based solely on size is a very simplistic methodology, however if it is accepted that size equals the number of social units owned then this is clear and easily understood. Perhaps a better measure would be one that looks both at size but also with a measure of risk.

**Q7 Do you agree with the proposed approach to Local Authority registered providers?**

No, as Local Authorities begin to develop new homes of their own they should be subject to the same fees as RP's.

**Q8 Do you agree with the principle set out for a minimum annual fee?**

Yes we support the principle of a minimum annual fee if it is at the levels proposed, otherwise from a Value for Money point of view it would be difficult to support this for a 'small' provider who has limited regulatory engagement.

**Q9 Do you think we should introduce an element of banding in the fee regime and if so why?**

We believe that banding introduces an unnecessary level of complication into the process.

**Q10 Do you agree with the proposal to charge the annual fee at group level?**

Yes as this would again remove an unnecessary level of complication from the process.

**Q11 Do you agree with our proposed approach to the Annual fee when a provider is only on the register for a proportion of the year?**

Yes we believe that this reflects the amount of work required in the registration and de-registration scenarios.

**Q12 Do you agree with the proposed approach to transparency and accountability,**

The answer to this relates back to question one. We believe that the problem with providers paying is that transparency will not stop the regulator awarding themselves ever larger budgets and just passing on the costs to people that have no choice in paying. To prevent this you should probably give providers the right to veto the regulators budget, but then the regulator loses independence, so it is best that the costs are met by government who can then veto their budgets if necessary.

**Q13 Do you think that invoicing on an annual basis towards the beginning of the financial year is an appropriate approach?**

We are happy with this approach as it helps with our budgeting process.

The Society hopes that this feedback will prove useful in formulating a consultation document.

Yours sincerely,

**Chief Executive**

# Charging Fees For Social Housing Regulation – A Discussion paper

## Thrive Homes Response

### Consultation Questions

#### 1. Do you think that there is an in-principle case to charge fees for regulation

There is legislative provision to charge providers therefore; it does not matter whether providers believe that there is a case to do so. Providers pay for other forms of evaluation e.g. Credit Ratings so payment for regulation is not inconsistent.

However, a paid service needs to provide clear benefits to those who are regulated and pay for this. There is acknowledged value in lower borrowing costs and the confidence that a regulated entity provides to the capital markets. As credit ratings and the value of an individual organisation's covenant become more key to the cost of debt, care must be taken to ensure that current benefits are not regarded as 'fixed' and that there should be scope to scale regulation and fees appropriately.

Post implementation of fees, consideration must be given to the balance of influence of the interested parties

- Political influence based on historic public funding of social housing and the limited level of future funding
- Registered providers
- Lenders
- Consumers

and whether a compact needs to be developed to ensure that an appropriate balance is maintained.

Consideration should be given to the role of providers in developing the compact to ensure that the regulator hears directly from its customers their views of the benefits/challenges of being part of a regulated sector and offers the opportunity to explore the role of regulation in a more complex operating environment – what works well and what gets in the way.

#### 2. Do you think fees should cover the full cost of the Regulator of that some elements of regulatory costs should continue to be funded through grant-in-aid?

Part of the rationale for regulation is the protection of government investment in social housing – other investors in the sector make their own arrangements to protect their investment and therefore it seems that some sharing of costs with government through grant-in-aid would be appropriate.

An annual membership that covers all aspects of ‘normal’ regulatory engagement would be a simple way to charge and would enable transparency about the cost of provision of the regulatory service. However, it seems more appropriate that registration and deregistration are paid for separately by those organisations seeking to do so.

### 3. Do you agree we are taking the right approach to developing the principles?

The issues identified in para 16 and 17 represent an appropriate approach to developing the principles for charging.

### 4. Do you agree with the proposed approach to initial registration fees?

A flat fee for registration would seem the simplest approach.

<p><b>A fixed fee should apply to all successful applications for initial registration</b></p>	<p>Yes but consideration should also be given to making a charge when registration has not been successful or withdrawn as the regulator could easily incur as much cost in this exercise.</p>
<p><b>The annual fee payable by a registered housing provider should be set by reference to the number of social housing units owned by that provider</b></p>	<p>This is an accessible method of charging the fee that can be based on annual returns. Inevitably this means that the burden of payment will fall on the largest providers who may then seek to influence the evolution of regulation.</p> <p>While this methodology is attractive due to its simplicity, the regulator has developed a risk based approach to regulatory engagement and it might be appropriate to offer some kind of ‘discount’ for organisations maintaining higher regulatory ratings – this would provide customers with a route to engage with the more strategic management of the organisation.</p>
<p><b>The annual fee should not apply to local authorities</b></p>	<p>No – while it is recognised that the regulator has a more limited relationship, the principle that regulation is paid for should be applied across the board and a suitable fixed fee applied unless it is clear that the cost of this is covered by grant in aid. Otherwise a fixed fee such as that proposed for small registered providers might be appropriate to reflect the limited role that the HCA has.</p>
<p><b>The annual fee should be subject to a minimum amount which would be payable by all private registered providers, regardless of size</b></p>	<p>Yes- there must be a level below which the costs of regulation are the same irrespective of numbers of units and where it is economic to collect the fee.</p>

<b>For groups the annual fee should be set at group level rather than for each individual entity on the registered</b>	If fees are based on numbers of units, then this seems appropriate.
<b>Providers should pay the full cost of the annual fee for the year that they are on the register when they register or deregister</b>	This seems appropriate.

**5. What other factors should we consider in settling the initial registration fee? What level of initial registration fee would not discourage new entrants?**

The HCA is required to ensure that the initial registration fee should be set at a level that will not deter organisations seeking to enter the sector however this fee should be sufficient to cover the cost of the process and be at a level that will act as a hurdle so that only those with serious intent will bother to apply. Consideration should be given to making the fee non-refundable.

The proposed £10k seems reasonable and it would be interesting to understand what types of organisation would find this a barrier to entry and in turn whether, given the regulatory focus on financial viability, it is appropriate for the regulator to be encouraging such organisations to become registered providers. Working with existing providers might be a more appropriate option for such organisations.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

A fee based on the number of social units would seem appropriate as this is easily determined and transparent. It does however mean that a few large providers will bear the bulk of the costs and care must be taken that these providers do not unduly influence the approach to regulation as a result.

**7. Do you agree with the proposed approach to local authority registered providers?**

Providing that the cost of consumer regulation for local authority housing is covered by grant in aid this would seem appropriate however, the regulator must ensure that if this eroded this aspect of regulation is not being subsidised by other registered providers.

**8. Do you agree with the principle set out for a minimum annual fee?**

Yes, there should be a minimum fee for small providers for the service that they receive as the per unit fee is unlikely to cover the costs in such cases.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

Banding could be appropriate however care would need to be taken in introducing this as there is potential to penalise providers at the margins of bands.

Perhaps some taper based on risk profile could apply to providers who are just over the 1000 unit size.

**10. Do you agree with the proposal to charge the annual fee at group level?**

Yes – this seems to be the simplest approach.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes – providers contemplating registration/de-registration or other events that might impact on the level of fees payable would understand that there is a commitment for the year as this is the simplest approach for the HCA to administer.

**12. Do you agree with the proposed approach to transparency and accountability?**

This proposal is welcome as it is important to its reputation/credibility that the regulator behaves in ways that mirror its expectations of those that it regulates.

As stated earlier in the response, providers must have an opportunity to influence regulation once fees are being paid to ensure that an appropriate balance of interests, including the regulators independence, is maintained.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

No.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

No.

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

Providers will need assurance that incurring this cost results in real benefit to the sector and that they will be able to influence how regulation develops. There is understandable concern that this is the first step in reducing grant in aid. Should this crystallise without any sector benefits, then the regulator may face credibility issues with both providers and lenders.

CE – Thrive Homes



**town&country**  
housing

20<sup>th</sup> March 2014

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Dear Mr Sullivan,

## **CHARGING FEES FOR SOCIAL HOUSING REGULATION**

Town and Country Housing Group welcomes the opportunity to comment on the above discussion document.

We have carefully assessed the proposals and have produced the attached response. Our main concern is the possibility that the fee charging arrangements could in future result in reduced government funding to the HCA and therefore may not result in improved regulation.

We would welcome further opportunities to engage with the regulator on the issues covered in the discussion document.

Yours sincerely,

Business Services Director  
Town and Country Housing Group

# Charging Fees for Social Housing Regulation – a Discussion Paper

## 1. Do you think that there is an in-principle case to charge fees for regulation?

We do not feel that there is an in-principle case to charge fees for regulation. Registered providers exist to produce social value by providing affordable housing. This benefits both the customers of registered providers and the taxpayer, for example by helping to keep the housing benefits bill down. Registered providers are therefore delivering a public service and as such we feel that the regulation of the sector should continue to be publicly funded.

In our view there is a major difference between the regulation of the social housing sector, which is non-profit making and exists to provide social value and the regulation of other bodies such as gas, electricity and rail companies, which are profit making companies.

One of our other concerns is that the fees collected from providers could be used to make up for reductions in government funding and therefore will not result in improved regulation. We have not seen any information from either the HCA or the CLG to reassure providers on this matter. We would welcome such reassurance.

Our responses to the remaining questions in the discussion document should be viewed in the light of our overall opposition to the principle of charging fees. However, our approach is that if fees are to be charged then they should be applied in an equitable manner, which does not over-burden providers both in terms of the level of fees and their administration.

## 2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

As stated above, we feel that regulatory costs should continue to be funded through grant-in-aid for the reasons already stated. If fees are to be charged then we would like these to complement rather than replace government funding. The fees could therefore be used to genuinely improve the regulation of social housing.

## 3. Do you agree we are taking the right approach to developing the principles?

If fees are to be developed then we agree with the general approach that is being taken, including the factors used to determine the reasonableness of the fees.

## 4. Do you agree with the proposed approach to initial registration fees?

We agree that a flat rate fee for registration is the least complex and most transparent fee charging mechanism for initial registration. However, if such a fee is to be introduced then in our view there should be a charge to organisations that have been unsuccessful with their application for registration. The charge could be set at a much lower figure than for those organisations that are successful. This would recognise that there is a certain level of administration involved regardless of whether the application is ultimately successful.

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

It would be worth considering splitting the flat rate fee into a separate fee for each of the two stages of the process. This would mean that only those organisations proceeding to the second stage of the process would have to pay the second stage fee. This may help to reduce the risk for smaller organisations as they would know that they would only be faced with paying the full fee if they successfully get through the first stage and go on to the second stage.

A figure of £10k for the average cost of registration would be prohibitive for the very smallest organisations. We wonder whether there is a case for streamlining the registration process in order to reduce the cost of the process.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

We agree that provider size is the most appropriate basis for calculating the annual fee.

**7. Do you agree with the proposed approach to local authority registered providers?**

No, we do not agree with the approach. Our view is that the annual fee should also apply to local authorities. Whilst we accept that local authorities are not subject to the same level of regulation as private registered providers, they do nevertheless benefit from some of the activities of the regulator listed on pages 8 and 9 of the discussion document (e.g. strategy and management). Private registered providers would in effect be subsidising local authorities.

**8. Do you agree with the principle set out for a minimum annual fee?**

Yes, we agree with the principle of having a minimum annual fee, otherwise it may be uneconomical to collect fees from the very smallest providers.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

No, we do not think that banding should be introduced as this would result in increased complexity. Also, it might be seen as unfair if for example a provider is only just above the upper level of the banding and therefore is faced with a higher fee.

**10. Do you agree with the proposal to charge the annual fee at group level?**

Yes, we agree that the annual fee should be charged at group level as this will reduce complexity and also reflects the fact that most regulatory activity takes place at the group level.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes, we agree that providers should be charged for the full year if they de-register part way through the year. If this were not the case then presumably this might leave a shortfall in HCA budgets which could then impact on the fees charged to other providers. We also agree that new registrations should be charged for the full year.

**12. Do you agree with the proposed approach to transparency and accountability?**

Yes, we agree with the proposed approach to transparency and accountability. However, we also feel that the regulator should specifically set out the outcomes that will be achieved from the fees and the specific benefits that will be realised. Ideally, registered providers should have some input into identifying the outcomes and benefits that will accrue from the fees.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes, we agree with the approach of invoicing at the beginning of the financial year. It would be important for providers to be notified of the new fee levels by the preceding October in order to help providers plan their budgets.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

We are not aware of any potential equality and diversity impacts in implementing fees.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

We are not aware of any other potential impacts of charging fees on the sector.

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

We have no further comments on the proposals.



## **CHARGING FEES FOR SOCIAL HOUSING REGULATION HCA DISCUSSION DOCUMENT**

On behalf of Tyne Housing Association, I thank the HCA for the opportunity to respond to its discussion document on Charging Fees for Social Housing Regulation.

Before addressing the specific questions in the report, whilst we recognise the driver behind this is partly the ongoing drive to reduce public expenditure, we feel strongly that the imposition of charging fees will have most impact on some of the poorest members of our society, i.e. our tenants, who will ultimately end up paying for any imposed fee, through their rents.

### **Q1 – Do you think that there is an in-principle case to charge fees for regulation?**

No. This is a further charge against registered providers who are already being hit by reduced income and increased costs as a direct result of other government changes, specifically the reduction in development grant and changes through Welfare Reform. Additionally we would argue that the fees would impact unfairly on smaller Housing Associations and their tenants since smaller associations gain much less benefit from registration in terms of grant funding and consequently from advantageous borrowing conditions. The key argument stated in the discussion paper is therefore not applicable to small (sub 1000 unit) housing associations, which are generally not in direct receipt of grant.

### **Q2 – Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant – in – aid?**

If fees are to be charged there is a case for charging separately for intervention or responsive regulation if cause is found proven, e.g. reactive and consumer regulation. Alternatively penalty charges applied where intervention is justified may be another means of collecting funds. However this would lead to a need to develop a review/appeals procedure, probably independent of the HCA.

If fees are charged for the support functions, these services need to be market tested to ensure value for money. Perhaps support functions should be marketed outside of the regime and paid for by the support recipient.

### **Q3 – Do you agree we are taking the right approach to developing the principles?**

Yes, but what incentive is there for the HCA to reduce costs and/or improve efficiency on a year-by-year basis?

**Q4 - Do you agree to the proposed approach to initial registration fees?**

Yes.

**Q5 – What other factors should we consider in setting the initial registration fee?**

**What levels of registration fee would not discourage new entrants?**

We would support a fixed fee for registration. The figure of £5,000 seems to us reasonable.

**Q6 - Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable reassurance of size?**

A per unit fee would appear to us to be the only sensible and workable means of applying fees. Though even this, for the reasons stated above seems toughest on the smaller providers and their tenants.

**Q7 - Do you agree with the proposed approach to local authority providers?**

This is a qualified yes, recognising that the regulators role is equally limited for smaller providers.

**Q8 - Do you agree with the principle set out for a minimum annual fee?**

Yes.

**Q9 - Do you think we should introduce an element of banding in the fee regime and if so why?**

Because of the reasons stated above, we believe that there is a strong case for banding, with lower per unit fees for smaller providers.

**Q10 - Do you agree with the proposal to charge an annual fee at group level?**

Fees, if adopted, should be applied to all registered entities.

**Q11 - Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes, we would support full year charging for part year's registration.

**Q12 - Do you agree with the proposed approach to transparency and accountability?**

Yes.

**Q13 - Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes.

**Q14 - Are you aware of any potential equality and diversity impacts on implementing fees? If so, what are they and how should we take them into account?**

1. Small registered providers will be more adversely effected.
2. Providers that primarily (or exclusively) provide housing with support for vulnerable people will be adversely effected.

Exemptions for supported housing units would alleviate the impact.

**Q15 – Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we force them into account?**

The implementation of fees if introduced will change the nature of the relationship between Registered Providers and the Regulator, as in effect the Registered Providers will be paying for a service, and will rightly expect increased accountability to them.

**Q16 – Do you have any further comments on the initial proposals set out in this discussion paper?**

Depending upon the size of the fee, there will be an impact on services to tenants.

CEO Tyne Housing Association Ltd.

## **Title Response by Viridian Housing to the Homes and Communities Agency**

### **Discussion Paper: - Charging Fees for Social Housing.**

#### **Question 1**

Do you think that there is an in principal case to charge fees for regulation?

#### **Response**

It is recognised that the usual regulatory mode in other sectors is for the regulated bodies to fund all or most of their regulation through fees. Viridian recognises that being part of a regulated sector brings with it benefits in the form of lower borrowing costs because lenders take comfort from this fact. Likewise regulation helps protect the sector's reputation by addressing concerns about poor governance and in the worse case scenario assist failing providers to resolve potentially difficult situations via assisted mergers. For these reasons it is recognised that there is an "in principal" case to charge fees for regulation. However, the question is will the charging of fees affect the relationship between Regulator and Provider and if so how will this manifest itself and be managed? Furthermore, how will the Regulator demonstrate accountability and transparency in the setting of fees to ensure fees are commensurate with the services delivered?

#### **Question 2**

Do you think fees should cover the full costs of the Regulator or that some elements of regulatory costs should continue to be funded thorough grant- in- aid?

#### **Response**

Viridian are of the opinion that as the provision of national affordable housing is not completely independent of Government then Government should continue to meet part of the cost of regulation via grant –in –aid. Secondly, Government continues to influence elements of the regulatory framework in terms of rent policy and new build grant and for these reasons it should continue to part meet the cost of regulation.

#### **Question 3**

Do you agree we are taking the right approach to developing the principles?

#### **Response**

Viridian recognises that the approach taken to developing the principles for the fee regime must be in line with the legislative requirements set out under section 117 of the Housing and Regeneration Act as amended by the Localism Act. That said, it is important that the total amount received from fees is commensurate to the cost of the regulation function and that the methodology used for the setting of fees is reliable and easily verifiable. Regard should be had to the impact on fee payers in terms of the level set and lastly the level set, if possible, should be related to the benefits derived from regulation.

#### **Question 4**

Do you agree with the proposed approach to initial registration fees?

#### **Response.**

For the reasons set out in the discussion document, Viridian agrees that a flat rate for initial registration is preferable to the option of direct cost attribution or to a fee on the size of organisation.

#### **Question 5**

What factors should we use to consider in setting the initial registration fee?.

#### **Response**

The level of initial registration fee should be set at a level that will not discourage new entrants into the sector. However, it is appreciated that this may be difficult as this will vary on the size of an organisation and its financial stability.

#### **Question 6**

Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

#### **Response**

The discussion paper sets out four broad options on which the annual fee structure could be based including; -direct attribution of cost, flat fee, risk based or a fee based on provider size.

Viridian considers that the first three options are not suitable for the following reasons. Option one fails to provide certainty to providers as costs can vary from year to year depending upon the level of enhanced regulation received in any one year. Option two the flat rate; - whilst this option provides transparency and is simple to operate it would result in small providers paying the same as large providers and could give rise to disputes based on the proportionality of cost to benefits derived. Option three is risk based. Under this option, registered providers with high risks would pay a higher fee. However, determining the level of risk is a subjective matter as different organisations have different risk appetites and ability to cope with risks should they crystallise. Option 4, a fee based on provider size (i.e. number of social housing units owned) is a commonly used basis charged by other regulators. It is transparent and a simple approach to setting fee levels and for the reasons set out above, Viridian's preferred option.

#### **Question 7**

Do you agree with the proposed approach to local authority registered providers?

#### **Response**

The discussion paper sets out the rationale for not charging Local Authorities (LA) based on the fact that the regulation role with regard to LAs is limited to considering breaches of the

regulatory consumer standard where there is a risk of serious detriment to tenants. Given this limited role, the per unit fee would be so low it would not be economic to recover. On this basis it is acceptable not to charge. However, it is recommended that this option be kept under review should in the future, work related to this area escalate and warrant the introduction of a charge

### **Question 8**

Do you agree with the principle set out for a minimum annual fee?

### **Response**

The proposal to set an annual fee based on a fixed unit charge (social housing units) underpinned by a minimum fee in the region of £300 is supported by Viridian.

### **Question 9**

Do you think we should introduce an element of banding in the fee regime and if so why?

### **Response**

It is felt that introducing a banding system would add an element of unnecessary complexity to the fee structure with little benefit. The introduction of banding can present difficulties especially if the fee differential between the different bandings is quite significant. If a provider just comes within a higher banding because of say a 10% increase in stock size but as a result of this faces a 20% increase in fees this is likely to give rise to a challenge. The time and effort required to design a banding system that is perceived as fair and equitable is likely to out-weight the benefits to be gained.

### **Question 10**

Do you agree with the proposal to charge the annual fee at group level?

### **Response**

The rationale of charging a single fee at group level for registered providers is both reasonable and pragmatic given the fact that the Regulator would seek regulatory assurance for all registered group entities within a group by engagement with the group parent.

### **Question 11**

Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

### **Response**

Yes

### **Question 12**

Do you agree the proposed approach to transparency and accountability?

**Response.**

The intention of publishing a regular transparency statement about the costs of regulation and the HCA's approach to achieving value for money will allow stakeholders to hold the HCA to account. It is important that stakeholders can provide input into the Regulator's future work programmes and priorities especially at times of significant change within the sector.

**Question 13**

Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach ?

**Response**

Yes

**Questions 14 and 15**

Are you aware of any potential equality and diversity impacts in implementing fees ? If so what are they and how should we take them into account ?

Are there any other potential impacts of charging fees on the sector that we have not considered in this paper.?

**Response**

Viridian has no comments to make regarding the abovementioned questions.

Website: [www.wdh.co.uk](http://www.wdh.co.uk)  
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Text Relay calls welcome

Our reference:  
Your reference:

21 March 2014  
By email: [consultation@hci.gsi.gov.uk](mailto:consultation@hci.gsi.gov.uk)

Tim Sullivan  
Regulatory Framework Manager  
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Dear Tim,

### **Charging fees for social housing regulation Consultation**

Many thanks for the opportunity to comment on your consultation to consider charging fees for the regulation of the social housing sector. Wakefield and District Housing (WDH) have the following comments, where applicable, to the questions posed in the document.

#### **Q1 Do you think that there is an in-principle case to charge fees for regulation?**

In a climate of austerity where all Government departments are required to contribute to the general economic benefit, it is difficult to disagree with the principle of a business paying for services that it receives.

WDH believes that should charges be introduced then they should be directly linked to the service that it receives. This would ensure that a transparent discussion could take place with tenants who would be paying for the service.

#### **Q2 Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

The housing sector is through necessity becoming one that is increasingly complex. The principle of protecting social housing assets, for broader sector non-default reasons, as well recognising public grant investment, is acknowledged as long as it is proportionate.

In order to protect the social housing investment in an increasingly complex environment, regulators require a higher level of acuity and expertise. WDH would want to see any income from fees directed such that it secures the skills required to meet this challenge.



**Q3. Do you agree we are taking the right approach to developing the principles?**

Subject to the comments made in this response, the general approach appears sensible.

**Q4. Do you agree with the proposed approach to initial registration fees?**

A fixed fee may introduce a barrier to entry that is not intended, especially for smaller organisations, although it is acknowledged that the direct attribution method presents similar issues. Some kind of scale of fee linked to a group organisations turnover may better reflect the organisations ability to pay.

**Q5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

See Q4. WDH has no view on the level of fee appropriate.

**Q6 Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

WDH appreciates that size is one basis on which to determine fees, but is also strongly of the opinion that the fee should relate to the services being provided to facilitate a transparent discussion with those who ultimately are paying for the service.

In this regard WDH proposes that the fee is weighted based on an organisations regulatory judgement, thus making a direct and transparent link between the HCA input and cost. It is proposed that a level 1 weighting is zero with at least a 25% weight increase for each notch down the regulatory scale, meaning a level 4 organisation would see fees at least double those of a level 1 organisation.

**Q7 Do you agree with the proposed approach to local authority registered providers?**

No comment.

**Q8 Do you agree with the principle set out for a minimum annual fee?**

WDH agrees that a minimum annual fee should be set.

**Q9 Do you think that we should introduce an element of banding in the fee?**

WDH believes banding has some relevance. Although the regulator is only concerned with the social housing business, it is often the non-housing business that creates regulatory concern and impacts directly on the regulated element. Without banding it is possible that a Registered Provider could have a complex business but fewer social housing assets and as such take up a disproportionate cost to the HCA.

A banding mechanism that looked at turnover rather than housing asset numbers would go some way to addressing this anomaly and more fairly allocate fees to

regulatory input.

**Q10 Do you agree with the proposal to charge the annual fee at group level?**

Yes, and this further strengthens the point made at Q9

**Q11 Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes

**Q12 Do you agree with the proposed approach to transparency and accountability?**

Yes

**Q13 Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes

**Q14 Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

No Comments

**Q15 Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

No comments

**Q16 Do you have any further comments on the initial proposals set out in this discussion paper?**

No Comments

Thank you for the opportunity to comment on these proposals, we would be very happy to discuss any element of this paper should you require. We look forward to receiving the outcome of the consultation.

Yours sincerely

**Executive Director - Resources**



## **whg response to HCA discussion paper on charging fees for social housing regulation**

### **Q1. Do you think there is an in-principle case to charge fees for regulation?**

No – the present arrangements see the public money invested in social housing protected through the regulation services provided through the HCA. The funding of these arrangements through taxpayers funds see this cost distributed evenly across all sections of society.

These proposals would move funding to the rental income of registered providers which is paid for by some of the poorest people in society; disproportionately distributing these costs. This in turn is at a time where economic pressures such as the cost of living are already seeing people faced with significant financial challenges.

Furthermore, new building developments are now predominantly funded through these rental incomes and with a new rent regime these funds are being put under increased pressure. With Universal Credit also due to be introduced the full impacts of Welfare Reform are yet to be seen and this is likely to increase the pressures upon income streams that are already being stretched thinly across a number of priorities.

In other regulated sectors where fees for ongoing regulation are charged, the profits made by these organisations are distributed in many cases to shareholders. This is not the case for the activity carried out by registered providers where surpluses are retained and reinvested in the work of the organisation.

### **Q2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

As reflected in the above response, we feel that where a registered provider chooses to move away from core not for profit housing activity into perhaps more commercial activity, then in these cases there is an in-principle case for charging fees for this. With increased commercial focus comes an ensuing complexity of risks and requirements for regulation so as to not jeopardize the core social housing business.

### **Q3. Do you agree we are taking the right approach to developing the principles?**

We welcome the discussion paper and opportunity for consultation on the HCA discussion paper and options appraisal. However, we do strongly feel that there is no in-principle case to charge fees for regulation and do not feel the case for doing this has yet been set out or made.



**Q4. Do you agree with the proposed approach to initial registration fees?**

Yes – we feel that it is appropriate that where a registered provider makes a considered decision to register with the HCA that they should be asked for an appropriate fee. This would then cover the administration and requirements of registration, such as financial viability work that would be more detailed in its nature, especially in these initial stages.

**Q5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

We feel that any future policy direction of charging ongoing fees is more likely to influence a provider's decision to undertake the initial registration process. The initial fees are likely to be less of a concern than ongoing costs to be paid.

The registration fee paid should reflect the costs of registering any new organisation. There may be some exception/reduction for new specialist providers that could be factored in to any charging regime.

**Q6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

No – we strongly feel that the basis for determining annual fee levels should be aligned to the complexity of the organisation and the level of regulatory intervention or support required by the respective provider. This approach we feel would recognise the demand upon the regulators services and the risk posed by individual providers. In effect, charging proportionately for the level of work or support that the regulator provides.

A direct levy based on the size of the organisation may be the easiest to administer, but for our business it could mean (dependant on where the fee levels are set) we pay over £100k for, in effect, light touch regulation.

**Q7. Do you agree with the proposed approach to local authority registered providers?**

As a registered provider we do not have a strong view on this proposal.

**Q8. Do you agree with the principle set out for a minimum annual fee?**



Whilst we do not feel in principle that fees should be paid for by the sector we do appreciate that, if introduced, there is a need for a lower threshold for fees to make these economically viable.

**Q9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

As outlined within question six we feel that fees and banding levels should be set and determined by the complexity of a provider, their level of risk appetite and their potential exposure to risks, for example. These factors will determine the level of intervention by the regulator and hence the levels of demand on the service; factors to determine a banding fee regime.

**Q10. Do you agree with the proposal to charge the annual fee at group level?**

Whilst we broadly agree with the principle for the annual fee to be set at group level, we do however feel that this should also reflect the complexity of the organisation. For example, in a more federal group structure where subsidiary organisations have a strong degree of autonomy, we feel that the annual fee should be set in recognition of this more complex structure. In this example, the HCA involvement across various aspects of the group will be far more detailed than for more linear and streamlined group structures.

**Q11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

We agree with this approach.

**Q12. Do you agree with the proposed approach to transparency and accountability?**

Whilst we agree that the proposed approach provides transparency and accountability we feel that the fees paid for by each individual provider should be published.

**Q13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Notwithstanding our view that fees should not be levied, this is in line with arrangements with other trade bodies/regulators.

**Q14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**



As outlined in our response to question one, we feel that there are clear equality and diversity implications to this proposal. Current funding arrangements sees costs shared fairly amongst society. These proposals effectively see these costs ringfenced to the poorest people in our communities. Furthermore, these people generally live in areas with the highest levels of deprivation and generally have a range of complex needs, such as health conditions that affect their every day lives to a significant degree.

Rental income is also being used to provide services that may previously have been provided through funds such as Supporting People. Funds diverted to pay for regulatory services may compromise the delivery of these initiatives, for example.

**Q15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

We feel that there are further implications that have not been considered in this paper. In September 2013 the Communities and Local Government Committee published a report highlighting concerns as to whether the financial viability of registered providers is identified through the governance or financial ratings awarded by the HCA. The report and subsequent articles in Inside Housing noted the regulators awareness that a downgrade of a financial viability score may make borrowing more challenging for the sector.

We feel that these proposals will compound the conflict that the HCA has, seeking to balance the priorities of delivering an affordable homes programme, supporting the sector to secure financial facilities and also overseeing paid for regulatory activities.

The discussion paper outlines that it is not unusual for regulation to be paid for. However, the organisations cited such as Ofwat and Ofgem work with companies that make a significant profit from a wide range of customers. This is in stark contrast to registered providers who work with a disproportionately poorer customer base with surplus reinvested back into wider community regeneration activities and future development programmes, for example.

At present the regulator states that their purpose is to regulate and not to identify or offer a descriptive overview of a good service or provider. However, we feel strongly that if the service were to be paid for by the sector that this function should be provided. In light of the cost for the regulatory service it would be appropriate for more detailed, tailored feedback to be provided on regulatory documents such as the Value for Money statements; driving forward improvements within the sector.

**Q16. Do you have any further comments on the initial proposals set out in this discussion paper?**

We are grateful for this opportunity to contribute to the shape of the consultation the future funding regime of the regulatory function of the HCA.

We believe that the sectors majority voice through this consultation should be clearly heard and determine the final decision and future approach.

## Response to Charging fees for Social Housing Regulation.

1. Fees could be charged if proportionate to service(s) delivered.
2. Initially it could be a partial fee and partial grant in aid process that should be reviewed after 2 or 3 years to assess VFM and impact on organisations. However we do feel that this will be just the beginning of a 'total cost' fee based service.
3. The principles appear to be reasonable but the process needs to include the need to be transparent; reviewed and proportionate.
4. The direct attribution appears to be too 'messy' and involves a lot of administration.  
The fee based on size seems to be the fairest despite the fact that you state that 'very small organisations can cost significantly more'. The amount of 'very small' is probably also 'very small' but without your definitions its difficult to assess. A sliding scale would be a fairer way.  
The fixed fee is disproportionate to size.
5. The registration fee should consider size (which could be as simple as splitting between those with RASA and others). Other considerations may be about how you 'reward' organisations who do not have any areas of concern; developing organisations and maybe a phased introduction? £10,000 is certainly not a reasonable amount for smaller organisations under 1000.
6. Yes. The Risk based option is not clear exactly what it will be based on and could be very subjective.
7. Yes with a proviso that it will be reviewed after 2-3 years.
8. Dependent on the minimum fee this could be a disincentive for smaller providers and the result could be a number of de-registrations. The impact of this and the public perception of the both Providers as a whole and the HCA should be considered.
9. As per Q5, banding would need to be proportionate to size and the RASA cut off is a simple and fair way of doing so, with potential for 'add ons' such as development services or potential discounts for providers who have no areas of concern. This latter point would need some further discussion about the cost of providing services for those providers who have areas of concern and require more input from the regulator and those who don't.
10. Yes

11. Yes, otherwise it could be an expensive administrative job.

12. Yes, with more detail to follow.

13. Yes as it will reduce admin costs by all being set at the same time.

14. No

15. No

16. No



## **HCA charging fees for social housing regulation consultation**

### **Response of Waterloo Housing Group**

#### **Introduction**

Waterloo Housing Group welcomes the opportunity to respond to this consultation. We hope that our response is of use in taking forward the important issues highlighted in this consultation paper.

Our specific response to each consultation question is as follows:

#### **1. Do you think that there is an in-principle case to charge fees for regulation?**

Yes. This is consistent with other sectors, and there are clear potential benefits for those who are regulated as part of this process in terms of factors such as the confidence of lenders.

#### **2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

We recognise that revenue collected through fees could only be spent on regulatory activities and associated support functions. There is perhaps an argument though that as providers deliver a public good with wider societal benefits, some elements of regulatory costs (e.g. strategy and management) should be paid for through grant-in-aid arising from taxation.

#### **3. Do you agree we are taking the right approach to developing the principles?**

Broadly speaking the principles look right in terms of setting out a proportionate, reasonable approach, which is clear for providers and would-be registered providers.

#### **4. Do you agree with the proposed approach to initial registration fees?**

Yes. The proposed flat fee does seem the fairest approach, given the disadvantages as outlined of the two alternatives of direct attribution and fee based on the size of an organisation.

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

We need to ensure that there is no barrier to entry, but at the same time ensure that existing providers do not have to bear the cost of registration.

We would argue that there is a case for differential fees for not-for profit and profit-making providers however, not least because the latter's structures are potentially more complex.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

Although a risk-based annual fee has some attraction, we agree that there are some disadvantages of this approach as outlined in the paper (e.g. in terms of potential challenges as a result of this being a subjective matter, hard to budget for as risks change etc). Direct attribution and a flat fee have clear disadvantages, so a size based approach would be most sensible.

Basing this on turnover has some benefits, but this is variable, so the number of social housing units would be a relatively transparent and simple approach.

We would however make two suggestions:

- There is an argument for differential fees for not-for profit and profit-making providers however, not least because the latter's structures are potentially more complex as outlined in our response to question 5.
- The core fees charged should be based on an assumption of a provider's compliance with regulatory expectations. Where there is a failure to do so and a provider is found guilty of serious detriment, or an investigation results in a downgrade to a G3/4 or V3/4 rating, there is an argument for them having to bear the cost of the investigation and time spent on this regulatory engagement. We feel that this could have a deterrent effect and potentially provide additional reassurance to stakeholders such as customers and lenders. Clearly such a proposal would need to be supported by clear objective criteria but should in our view apply to all registered providers-including local authorities.

**7. Do you agree with the proposed approach to local authority registered providers?**

Given the more limited regulatory role in the case of local authority landlords (e.g. in terms of breaches of consumer standards) this approach seems sensible.

We would however refer to the suggestion made in response to question 6 above regarding failure to comply with regulatory requirements and our view that, should this proposal be adopted, it should also apply to local authority providers.

**8. Do you agree with the principle set out for a minimum annual fee?**

Yes. This makes sense and the proposed amount of £300 does not appear unreasonable.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

It is important to ensure that the approach is clear and straightforward for providers and potential providers. The preliminary proposal in this regard for an annual fee based on unit size with a minimum fee of £300 makes sense and is clear.

**10. Do you agree with the proposal to charge the annual fee at group level?**

Yes. This makes sense, is more straightforward and represents commercial reality.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes. This again is clear for providers to understand. Any possible disadvantage is outweighed by the fact that where this is as a result of mergers or restructurings although there would be no refund, equally there would be no charge for any newly registered entity.

**12. Do you agree with the proposed approach to transparency and accountability?**

Yes. It is important to enable providers to see what the fee has contributed to, and that the regulator is representing an efficient, cost-effective approach that offer clear value for money and minimising the burden of costs to the sector. Transparency is of key importance.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes. We agree that this seems a sensible approach and enables providers to plan accordingly.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

None directly, other than to ensure that the fees charged do not act as a deterrent to small providers who may be representing a particular customer base- for example providing homes to those from a BME background or those with a disability-and who could consequently be disadvantaged by not being able to achieve the benefits of regulation.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

None that have not been raised elsewhere in our response.

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

None other than to say that we hope our response is of use in taking forward this important consultation, and that we further look forward to responding to the statutory consultation later this year.

If you do have any queries about our response please contact the author below.

**Group Head of Policy and Communications**

**Waterloo Housing Group**

Thank you for the opportunity to respond to your discussion paper.

## **CHARGING FEES FOR SOCIAL HOUSING REGULATION**

**Watford Community Housing Trust** is not of the view that social housing tenants would be better served by moving funding from the current grant-in-aid from the Department of Communities and Local Government to the fee model set out in the discussion document, especially if this is intended as a replacement rather than a top up. The document is not entirely clear on this point.

These are our response to the questions asked in the discussion document.

### **1. Do you think that there is an in-principle case to charge fees for regulation?**

We are not of the view that there is an in principle case to change, unless any change is to enhance the regulation and services, not replace the grant-in-aid. Any argument that the sector should 'pay' for the benefits of regulation as it leads to, for example, lower borrowing costs is spurious. Lenders make their own assessments based on the individual housing provider's assets and performance. Regulation of itself does not confer security. The plan would appear to shift the cost burden of regulation away from central government to a sector which deals with the most vulnerable in society. The cost of any fee would be from rents, deflecting funds from building more affordable housing or from providing the added social value in the communities in which providers operate. Approximately 60% of social rent is actually paid by the state anyway, the balance of fees would come from the rent of predominantly the lowest earners in society. And that with the remit of the regulator having moved away from the consumer remit of its predecessor – tenants would pay more for less. The proposal would also appear contrary to the Government's Red Tape Challenge to reduce the burden on business. While it is true that many other industries have fee funded regulators, they tend to be in the for profit sector and in industries where you have choice whether you operate or not. Those regulators also have management structures with industry representatives, providing some accountability. With the current emphasis on Value for Money, this proposal is quiet on the subject, but we can see no added value from the proposed change.

### **2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

We remain of the opinion that primary regulation of the sector should continue to be funded by grant-in-aid. It may be appropriate to charge fees for added services such as consultancy, advice or research - but only for services that are voluntary and where there are competitors in the market. Any fees should only be to enhance the regulation, especially for the tenant, and with clear outcomes.

### **3. Do you agree we are taking the right approach to developing the principles?**

Rules for the sector are set by Government and the responsibility for ensuring conformity to those rules should therefore rest with government. If the sector is to directly pay for its own regulation then it must both have a say in those regulations and a say in how the regulator operates. There can be no reasonable argument for there to be an inequality between local authorities and other providers of social housing.

There are also some fixed costs of regulation for whatever the size of the organisation and any true spread of the costs could place an unmanageable burden on smaller providers.

**4. Do you agree with the proposed approach to initial registration fees?**

We can understand the idea of a fee, especially to deter time wasters, chargeable to applicants and not just to those accepted. A flat fee may be too simplistic approach though, with the cost of investigation very different for a small traditional model than a new and innovative model.

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?**

Some level of fee should discourage the time wasters, be proportionate to the complexity of the application, but not at such a level that it would discourage innovators.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

Your proposed option 4 appears more reasonable than the others but suggests a fee based on provider size base on social units owned. Many providers have mixed tenures, affordable, shared, market, managed for others etc. Any model would need to account for those variances. The management of a provider with a very diverse portfolio and business model may be a more complex business to manage and therefore higher risk.

An alternative may be a model based on rental income, or even funded from a small rent surcharge, if the intention is to use the funding to increase regulation and protection for the tenant, rather than a replacement of the grant-in-aid.

Option 1 is clearly unmanageable as it would not be possible to budget accurately. Option 2 would damage smaller providers and option 3 would be potentially subjective and may even encourage downgrading as a means of increasing fees.

**7. Do you agree with the proposed approach to local authority registered providers?**

There is no reason why local authorities should be treated differently. There should be a level playing field so that tenants of one type of provider do not suffer detriment.

**8. Do you agree with the principle set out for a minimum annual fee?**

A minimum fee seems reasonable, but at a level that does not penalize very small niche providers.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

Banding could add a further unfairness and your proposal seems reasonable (subject to the comment above).

**10. Do you agree with the proposal to charge the annual fee at group level?**

This does not seem unreasonable.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

While easy, there does not appear to be any equity in this proposal. Some mechanism for part years should be in place.

**12. Do you agree with the proposed approach to transparency and accountability?**

There is no evidence in this discussion paper suggesting any proposal of increased accountability over the present regime. There is no suggestion of increased involvement by regulated firm in the governance and no reassurance that, for example, subsequent fee increases would keep in step with rent increases.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

As rental income is not annual then a fee payable at the beginning of the year could present a cash flow burden. And the number of homes owned could fluctuate through the year, creating inequality. If a fee is charged, it should be calculated and charged monthly.

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

None specifically, although the payment of fees would take funding from the money providers use to provide care to many sectors of society in difficulty. Providers do more than just provide homes and the funding for those other services must come from the efficient use of their rental incomes.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

There is potentially an issue with the proposed approach and whether regulator has same level of impartiality if they are funded from those they regulate. And there is a danger that the very large firms will perhaps have too large an influence.

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

For providers who also provide care services there would appear to be the danger of layers of double charging being involved – fees to the Care Quality Commission for example.



Mr Tim Sullivan  
Regulatory Framework Manager  
Homes and Communities Agency  
The Social Housing Regulator  
Maple House  
149 Tottenham Court Road  
London  
W1T 7BN

Dear Mr Sullivan

**Re: Charging fees for Social Housing Regulation**

I refer to your consultation paper on the above scheme.

As a local authority that has retained its stock, your proposal not to impose an annual fee for regulation is welcomed. You will be fully aware that we are statutorily required to be both externally and internally audited (Accounts and Audit (England) Regulations 2011 and Local Audit and Accountability Act 2014).

Additionally, as we have robust tenant scrutiny arrangements in place, we feel that both the financial and consumer standards are effectively monitored.

I trust our comments are helpful to you.

Yours sincerely

**ASSISTANT DIRECTOR  
HOUSING AND REGENERATION**

**Gill Rowe LL.B (Hons) Solicitor  
Managing Director (People and Places)**

**Kim Webber B.Sc., M.Sc.  
Managing Director (Transformation)**

## **Response to HCA Fee Discussion Paper**

### **1. Do you think that there is an in-principle case to charge fees for regulation?**

As the sector has become more diverse and the engagement of the regulator, with many RPs, has reduced, the strength of the argument put forward by the regulator of the benefits provided are not as convincing as perhaps they would have been in previous years.

Greater focus is now on boards taking responsibility for regulation which is promoted as 'co-regulation'. This shift in emphasis means that there is a greater focus by boards on external/independent validation from the work of our customer scrutiny groups, internal and external auditors. Similarly, when organisations go out to borrow lenders and those in the bond market are much more strident in the assurances they require from the organisation itself as opposed to a second party.

However, on balance, some form of fee arrangement could be warranted but this, in our view, would have to demonstrate value for money, be open and transparent and be for additionality not for existing costs.

For Westward additionality would include a full complement of appropriately highly skilled staff who would be able to resolve major issues within the sector i.e. the Cosmopolitan and Ujima issues. At the moment we know that the HCA does not have a full complement of staff with the appropriate skills and is unable to attract and retain staff. We would also request with a full complement of staff more services of an advisory nature could be provided.

### **2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

Having reflected on this we do not think that fees should cover the full cost of the Regulator and some elements should be funded through grant-in-aid. Our rationale being that as the government wishes to see that their investment is delivering value for money then it is only appropriate that they contribute to the cost of regulation.

Equally, any fee that is paid to the Regulator will come from rental income which is partly customers' money and partly money coming from government through housing benefit. It could be argued that customers are paying twice for regulation; through taxes and their rent. We would also have to accept the opportunity cost – finance spent on fees can't be spent on new homes or better homes.

If this is not felt appropriate and the full cost of regulation is to be recovered from the sector then consideration should be given to the Regulator being given greater independence from Government.

**3. Do you agree we are taking the right approach to developing the principles?**

We agree with the principles but what is critical is how these are interpreted in relation to the fee each organisation will pay which is, we believe, the area of most contention.

**4. Do you agree with the proposed approach to initial registration fees?**

We suggest the proposed approach to initial registration fees needs further consideration. A flat fee maybe appropriate but it needs to be proportionate and we would be more in favour of a registration fee based on complexity or as you say 'novelty' and size. It would be interesting to note what proportion of organisations have come to the Regulator in the past 18months who are both small and novel.

**5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants**

We have looked at other factors which could be considered in the initial registration fee and propose that consideration could be given to an organisations % of turnover alongside complexity. The registration fee would, we believe, then be proportionate and not discourage new entrants.

Equally, not-for profit organisations should not be subsidising 'for profit' organisations and the registration fee should differentiate between the two.

**6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

After consideration of the above we do not believe this is a suitable basis for determining the annual fee level and are in favour of a fee system which focuses on a risk based approach, option 3. This would be in line with the approach currently taken to regulation within the Sector.

In our opinion a fee based on provider size does not appear to demonstrate value for money for those low risk organisations and favours those who are deemed high risk. Similarly, consideration does need to be given to whether an additional fee needs to be introduced if an organisation does create the Regulator further work.

This approach would work in a similar manner to the purchase of insurance and the fees of consultants who work with us. Also other Regulators such as the FCA (Financial Conduct Authority) and Company House charge a flat fee with extra costs for additional activity.

We do not believe that this would cause issues of uncertainty as this is how we currently work with insurers and consultants.

The issue is also raised about worsening the viability of an organisation but in reality we know that many of the cases that come onto the radar of the Regulator are not Cosmopolitan's and their underlying viability is not threatened.

**7. Do you agree with the proposed approach to local authority registered providers?**

We agree with this approach if grant-in-aid is to fund consumer regulation. However, if this cost is to be recovered we suggest that a fee which reflects the provision provided to local authorities should be charged.

**8. Do you agree with the principle set out for a minimum annual fee?**

We do agree with the principle of a minimum annual fee but would suggest that £300 is low and should be higher. This is based on our knowledge of current costs of consultants working in the sector and specifically those in external and internal audit.

**9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

We do not believe that the introduction of banding in the fee regime is appropriate and that any fee should be based on a risk based approach.

**10. Do you agree with the proposal to charge the annual fee at group level?**

We do not oppose the proposal to charge the annual fee at group level but we do believe that the fee should be based on a risk based approach not on provider size.

**11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

We agree with this proposal

**12. Do you agree with the proposed approach to transparency and accountability?**

We welcome the approach taken by the Regulator on transparency and accountability. There will need to be some consideration given to whom and how they consult with from the sector to ensure influence does not remain with a few i.e. a range of organisations should include large and small providers, high risk and low risk organisations. We do accept that this may be dependent on the final approach to fees.

**13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

This seems an appropriate approach.

**In Conclusion**

**14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

We are not aware of any potential equality and diversity impacts in implementing fees.

**15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

We are not aware of any other factors that you have not considered in the paper.

**16. Do you have any further comments on the initial proposals set out in this discussion paper?**

Although not opposed to a fee for additionality it does mean that this will be an extra cost to providers at a time when resources are continually under scrutiny. We accept that this may be a particular issue for small organisations and they along with all providers will need to be able to demonstrate to both boards and tenants that it demonstrates VFM.

Based on the current proposed approach to fees the annual fee for the Regulator would cost more than either our internal or external audit fee and this would definitely come under scrutiny.

Westward Housing Group would like to thank the HCA for providing the opportunity for us to present our views on this informal consultation document.



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20<sup>th</sup> March, 2014

By e-mail to [consultation@hca.gsi.gov.uk](mailto:consultation@hca.gsi.gov.uk)

Tim Sullivan,  
Regulatory Framework Manager,  
Homes & Communities Agency,  
The Social Housing Regulator,  
Maple House,  
149 Tottenham Court Road,  
London,  
W1T 7BN.

Dear Sir,

### **Response to Fee Consultation**

Q1: Do you think that there is an in-principle case to charge fees for regulation?

A: *Yes*

Q2: Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funding through grant-in-aid?

A: *Yes, we think that some elements of regulatory costs should continue to be funded through grant-in-aid.*

Q3: Do you agree that HCA is taking the right approach to developing the principles?

A: *Yes, it is*

Q4: Do you agree with the proposed approach to initial registration fees?

A: *No. A Flat Fee approach could inhibit new entrants to the market. New entrants are likely to be small players initially who are struggling to raise sufficient funds for their first project anyway and so any fee at this stage is likely to inhibit registration. It would be better to take a percentage of initial grant as the fee so that only successful applicants paid and it could be deducted from the total amount of initial grant or paid over say a 3 year period from the date of registration. A flat fee let's the applicant know what to budget for but at the time of the application every penny counts.*

Q5: What other factors should HCA consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

A: *As above: the initial registration fee could be a disincentive to new entrants. The fee would have to come from pre-development monies that are very difficult to raise. The HCA should apply a fee only when it is offering a grant that is subsequently taken up and it should be*

*deducted from the level of the grant at a specified percentage of that grant. That percentage could be scaled so as to be say 1% up to a grant of £500k and 2% for grants between £500K and £1,000K. With an absolute upper fee limit of £10K. That means that all unsuccessful applicants will be funded by annual fees paid by existing registrants.*

Q6: Do you agree that provider size is a suitable basis for determining the level of the annual fee?  
Do you agree that social housing units owned is a suitable measure of size?

A: *Yes: it would seem fair and simple because it would be based on information already collected by the HCA. However, the proposed solution is too blunt. It should be based upon something more appropriate to the circumstances of the provider such as number of bedrooms provided by the provider, not the number of units. Why should a provider of 10 one-bed flats pay the same as a provider of 10 three bed houses? Ideally the fee should be proportional to the projected annual rental income: there are north-south differences in rents for similar properties; rents may be for social or intermediate affordable housing. So, a formula based on a standard percentage of rental income projected for the coming year would be preferable (e.g.0.5% on rent projection for a 20 bed provider; 0.6% on rent projection for a 40 bed provider etc; or a flat amount per projected total rent based on a percentage of the rent projection)*

Q7: Do you agree with the proposed approach to local authority registered providers?

A: *Yes, while your contention in para 44 pertains and this is covered by grant-in-aid. However, should this change, and where rental income is derived directly from social housing upon which grant has been allocated, there should be no differentiation between one provider and another.*

Q8: Do you agree with the principle set out for a minimum annual fee?

A: *No. The systems outlined above would be fairer and not cost significantly more to collect. If the anticipated rental income is £x it is simple to collect a percentage of that based upon the returns that providers submit.*

Q9: Do you think that we should introduce an element of banding in the fee regime and if so why?

A: *Yes for reasons described above.*

Q10: Do you agree with the proposal to charge the annual fee at group level?

A: *No. This approach discriminates against the small provider. The large provider can afford a higher fee - or should be able to or else they shouldn't be in business.*

Q11: Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

A: *Yes.*

Q12: Do you agree with the proposed approach to transparency and accountability?

A: *Yes Transparency allows annual adjustment of fees if it is found that the banded approach we propose earns the HCA too much and they start making more in fees than is justifiable.*

Q13: Do you think that invoicing on an annual basis towards to beginning of each financial year is an appropriate approach?

A: *Yes.*

Q14: Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?

A: *Yes. Size and ability to pay affects providers. Hence the need for our proposal to band fees based upon size.*

Q15: Are there any other potential impacts of charging fees on the sector that the HCA has not considered in this paper? If so, what are they and how should the HCA take them into account?

A: *Has the HCA taken into account that some of the sector, especially among Community Land Trusts, actually falls within the voluntary sector?*

Q16: Do you have any further comments on the initial proposals set out in this discussion paper?

A: *No*

Yours faithfully,

Secretary to Wickham Community Land Trust

## Wigan and Leigh Housing's Response To The HCA Consultation: Charging Fees for Social Housing Regulation: Discussion Paper

**Question 1.** Do you think that there is an in-principle case to charge fees for regulation?

**Agree.** This would seem to be reasonable and an approach adopted in other sectors.

**Question 2.** Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

**None.** To some extent this depends on the level of fees to be introduced. For example, if the registration fee was to be set at the average cost of £10,000, then this would risk excluding some organisations. By having some elements of regulatory costs still funded through grant-in-aid, this may avoid those organisations from being discouraged from applying.

**Question 3.** Do you agree we are taking the right approach to developing the principles?

**Agree.** The key considerations are that there is transparency over the relationship between the amount of a fee and the costs to which it relates, and that each fee is reasonable and proportionate to the costs to which it relates. These factors would seem to be included within the proposed principles.

**Question 4.** Do you agree with the proposed approach to initial registration fees?

**Agree.** It is a reasonable principle that organisations seeking to become Registered Providers should pay an initial registration fee; although the level that this is would need to be set at a reasonable level that would not serve to exclude or discourage organisations from applying. However, it would be unfair if any of the costs of initial registration fees were borne by existing Registered Providers.

**Question 5.** What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

**None.** To set the fee as a standard fee based on the average cost of the registration process, which is £10,000, would appear excessive for organisations with less stock and lower turnover. There may be a case for having a banding approach to initial registration fees, so that smaller organisations are not discouraged from becoming Registered Providers.

**Question 6.** Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

**Agree.** This seems the fairest and most transparent way of calculating an individual Registered Provider's annual fee. From a budget setting and commitment planning perspective it would be useful to know the planned charge per unit in advance of the new financial year.

**Question 7.** Do you agree with the proposed approach to local authority registered providers?

**Agree.** This is entirely appropriate in light of the fact local authorities are only subject to consumer regulation by the HCA.

**Question 8.** Do you agree with the principle set out for a minimum annual fee?

**Agree.** However, it would be interesting to know how this minimum annual fee has been calculated and if there are any plans to review this.

**Question 9.** Do you think that we should introduce an element of banding in the fee regime and if so why?

**None.** It is difficult to say without sight of the proposed banding and whether these are narrow enough to not penalise organisations disproportionately where they fall into the lower threshold of a band. If wide bands are proposed, then the proposal to base fees on individual organisations is more appropriate.

**Question 10.** Do you agree with the proposal to charge the annual fee at group level?

**None.** No opinion.

**Question 11.** Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

**Agree.** As long as there is transparency and this principle is made clear to organisations, then we do not have an issue with the proposal.

**Question 12.** Do you agree with the proposed approach to transparency and accountability?

**Agree.** It is positive that any fee structure would be complemented by scrutiny to ensure that value for money is provided. We would welcome the proposal to publish a regular transparency statement about costs and the approach to achieving value for money, as well as the proposals on consultation in drawing up the HCA business plan.

**Question 13.** Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?

**Disagree.** From a budget setting and commitment planning perspective it would be useful to know the planned charge per unit in advance of the new financial year. If the level of fees is advised in advance of the financial year as proposed for year one, then the timing of the invoice is not an issue. It seems entirely reasonable that the invoice period should run from April to March.

**Question 14.** Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?

**None.**

**Question 15.** Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?

**None.**

**Question 16.** Do you have any further comments on the initial proposals set out in this discussion paper?

It is important to encourage housing organisations to become Registered Providers, with the potential to raise standards for tenants. Therefore, the fee needs to be set at a level that is both fair to all organisations, and encourages organisations to apply for registration.

Once the figure per unit is determined in relation to the annual fee, we would assume information will be shared with Providers on how this figure has been calculated and whether this is likely to be subject to future review.

## **A response from Magenta Living to the HCA document ‘Charging fees for social housing regulation – A discussion paper’**

### **Q1 – Do you think there is an in-principle case to charge fees for regulation?**

Magenta Living agrees with the sentiment that the housing sector is becoming increasingly complex. However, the principle of charging for regulation is not palatable when it means asking one of the poorest groups in society to fund that regulation. Other regulators in sectors where organisations are driven by profit, are mainly funded through contributions made by customers of all income levels whereas the ‘customers’ of registered housing providers, who tend to be the less well off, will be disproportionately affected by having part of their rental contributions put towards the cost of regulation. If fees were used for additional regulatory work then this would be slightly less contentious and somewhat more palatable if this was being suggested in this discussion paper to reflect the increasing complexity of the housing sector.

### **Q2 – Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

Magenta Living would understand if additional income was to be used to develop or improve on the existing regulatory service, but we would have far more concerns if fees were to replace the existing grant funding arrangements. To answer this question fully would require some indication of the costs involved and what level of service would be received. Magenta Living would be happy if consumer regulation were to be grant aided but as the number of cases of serious detriment appears to be low, using grant funding would make the system more difficult and complex and consequently probably more costly. Therefore it is not felt to be appropriate.

### **Q3 – Do you agree we are taking the right approach to developing the principles?**

Magenta Living would like to see further clarification of what benefits our customers would see from charging for regulation in the proposed future consultation document. However, if registered providers have to meet the cost of regulation the principles appear sound and Magenta Living agrees with a one off charge for ‘joining the club’ followed by pro rata charges based on stock size.

### **Q4 – Do you agree with the proposed approach to initial registration fees?**

In the interests of simplicity and transparency Magenta Living would prefer an initial one off flat fee to be charged.

**Q5 – What other factors should we consider in setting the initial regulation fee? What level of initial registration fee would not discourage new entrants?**

Magenta Living would suggest that a 2 tier system could be introduced with a lower fee level set for organisations with a stock size of up to 1000 units and a higher fee level agreed for larger organisations with a stock in excess of 1000 units.

**Q6 – Do you agree that provider size is a suitable basis for determining the level of annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

Magenta Living considers that it is not appropriate for the annual fee to be set based upon direct attribution, a flat fee or one based on risk factors. We do agree that if fees have to be levied for regulation then using the number of social housing units owned is a good starting point as the larger the organisation the larger 'risk' associated with them in most cases in any case.

**Q7 – Do you agree with the proposed approach to local authority registered providers?**

Having considered the arguments made in the discussion paper, Magenta Living agrees with the argument that fees should not apply to local authorities.

**Q8 – Do you agree with the principle set out for a minimum annual fee?**

Magenta Living agrees with the principle set out in the discussion document, provided the minimum fee was justified as being the 'cost' and the fee grew proportionately if a sized based fee model is used.

**Q9 – Do you think that we should introduce an element of banding in the fee regime and if so why?**

Magenta Living agrees that a standard charge based on the number of units owned at group level is more transparent than considering an element of charges based on bandings.

**Q10 – Do you agree with the proposal to charge the annual fee at group level?**

Magenta Living agrees that a standard charge based on the number of units owned at group level is the most appropriate method.

**Q11 – Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Magenta Living believes that all organisations should be charged for a full year's regulation even if they are only registered for part of the year.

**Q12 – Do you agree with the proposed approach to transparency and accountability?**

Magenta Living would like to see more clear and detailed proposals in the forthcoming consultation document before agreeing with the current arrangements for transparency which are a little too vague at present.

**Q13 – Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes

**Q14 – Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

Magenta Living believes that if the case for charging for regulation is proved then the thinking and principles detailed within the discussion document are largely sound and logical. However, as raised in response to the first question, the crux of the matter is whether or not the principle of charging for regulation places a disproportionate burden on those least able to afford it.

**Q15 – Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

Magenta Living would like to see the consultation document outline the advantages to customers in charging for regulation and more emphasis on how this represents value for money.

**Q16 – Do you have any further comments on the initial proposals set out in this discussion paper?**

No

# **Consultation Response**

## **March 2014**



# **Charging Fees for Social Housing Regulation**

## **WM Housing Group Consultation Response**

WM Housing is a mutually supportive group of housing associations organised on a federal basis, sharing resources and expertise for the benefit of its customers and to facilitate the effective delivery of services and new homes.

The Group consists of the parent organisation WM Housing Group, West Mercia Homes, Whitefriars Housing and Optima Community Association.

The Group manages more than 27, 000 homes across the West Midlands, Herefordshire and Worcestershire.

The Group is a large regional organisation and in addition, operates as the partner lead for the Spectrum Development Partnership, which works to utilise its strength in diversity to be able to deliver the provision of affordable housing across the whole West Midlands region.

### **WM Housing Group**

Barnsley Hall  
Barnsley Hall Road  
Bromsgrove  
B61 0TX  
Tel. 01527 664400

For further information on this response, please contact:

Head of Performance and Regulation

## **Charging Fees for Social Housing Regulation**

### **Question 1**

**Do you think that there is an in-principle case to charge fees for regulation?**

### **Response**

In principle we can see the approach as being a natural extension of policy from other areas. We do not agree with this but accept it may be an inevitable consequence. We do note, however, that the regulatory model of fees rather than grant-in-aid is often used where there is great emphasis on consumer protection, the financial sector being a relevant case in point. We do not feel the case for this is yet proven by the Homes and Communities Agency and would also expect any detailed consultation to highlight the actual financial benefits of regulation mentioned in paragraph 5. For example evidence that interest rates and access to funds are indeed improved for a regulated business.

Were fees to be introduced we would expect greater transparency of costs and budgeting to ensure the regulator delivered an efficient service in keeping with the statutory framework and the regulator's operating principles as discussed later on in the discussion paper and question 12. We would resist the fee regime becoming an ever increasing financial burden without clear evidence of benefits to the sector and the communities we serve.

### **Question 2**

**Do you think that fees should cover the full cost of the regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?**

### **Response**

We would clearly prefer any regime to reduce as far as possible the costs paid in fees. We would expect any fees to have clear links to the actual costs incurred for regulatory activities as opposed to any peripheral ones.

### **Question 3**

**Do you agree we are taking the right approach to developing the principles?**

### **Response**

Broadly yes. We would though like to see transparency as one of the principles with clear statements as to how the performance of the regulator would be set, measured and published.

### **Question 4**

**Do you agree with the proposed approach to developing the principles?**

### **Response**

As registration is compulsory for many we would prefer there to be no charge for this. This is particularly important as the sector continues to rationalise registrations

as wider group structures are developed in the interests of greater efficiency and service delivery to customers.

#### **Question 5**

**Do you agree with the proposed approach to initial registration fees?**

#### **Response**

We would expect you to consider a different approach to any initial costs for changes in registration as opposed to new registrations. Without seeing the detail of the £10,000 costs for registration, which seem high, it is hard to determine whether this is a barrier or not. Again as registration is compulsory and we are not convinced by the economic benefit arguments made in the discussion paper we would urge the regulator to show a detailed breakdown of costs and perhaps have a flexible approach to the level of the registration particularly for smaller providers.

#### **Question 6**

**Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

#### **Response**

No, whilst we accept size should have some influence on fee levels we believe risk should also be considered. We would advocate a system whereby the governance and regulatory judgement achieved, and as a result the potential regulatory risk, should be accounted for. So the costs for a G2, V2 provider would be higher than those for a provider of a similar size with a G1, V1 rating. We feel that this should be a noticeable amount both to encourage improvements and ensure the burden of fees reflects the work undertaken.

As the size, complexity and diversity of providers and groups changes we do not feel housing units alone should be a definer of size. Instead we would advocate using previous year's turnover and indeed the proportion of turnover on non-core activities, which we feel increases regulatory risk, as measures of size.

#### **Question 7**

**Do you agree with the proposed approach to local authority registered providers?**

#### **Response**

No. Whilst we could see a reduced rate because of the lesser role of regulation in local authorities, and indeed the opportunity for this to be grant-in-aid funded, we would oppose any proposal which saw the non-local authority providers subsidising regulation in local authorities.

Alternatively, if the argument is that fees are to cover economic and governance regulation as opposed to consumer standards, we would wish to see these costs

separated and our fees covering only these activities and not consumer standards to ensure equitable treatment.

### **Question 8**

**Do you agree with the principle set out for a minimum annual fee?**

### **Response**

In the absence of compelling arguments as to the economic benefits being regulated brings and no clarity as to how many providers a minimum fee would affect, it is hard to determine whether this would increase costs to larger providers or not. We would expect to see evidence that any minimum fee actually covered the costs of regulation and an amount to 'hedge' the risk of enhanced regulatory activity should a small provider find itself in difficulties.

### **Question 9**

**Do you think that we should introduce an element of banding in the fee regime and if so why?**

### **Response**

No. Whilst we see that there is more regulation of larger associations, we do not see evidence that this is directly proportionate. So can the regulator demonstrate that a provider with 20,000 homes receives more than 20 times the regulatory effort of a provider with 1,000 homes? This is particularly true if minimum fees are introduced in such a way that any provider size based fees are consequentially higher. We feel there might indeed be a case that smaller providers actually have a proportionately higher regulator cost per unit but would accept this would be unfair on them. So we would advocate a fixed fee per unit of size.

### **Question 10**

**Do you agree with the proposal to charge the annual fee at group level?**

### **Response**

This rather depends on individual group structures. Some are more federated than others. Were the regulator to use fees as an incentive to move towards structures which streamline regulatory activity and as a consequence reduce the benefits of locally accountable subsidiaries we would be strongly against this. On the other hand if it is to simply reduce the bureaucratic burden of fee collection we would be supportive. Much would depend on the comparative costs.

### **Question 11**

**Do you agree with our proposed approach to the annual fee when the provider is only on the register for a proportion of the year?**

### **Response**

Yes, although we resist the charge for registration and feel this proposal is a suitable compromise although it may lead to greater work volumes for the regulator if providers seek to register early in a particular or de-register later in the year.

**Question 12**

**Do you agree with the proposed approach to transparency and accountability?**

**Response**

Yes

**Question 13**

**Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

**Response**

Yes. We would also expect the regulator to adopt an approach to fee increases similar to that used by others, for example the formula for controlling rents or the television licence fee, to prevent unreasonable increases in any particular year.

**Question 14**

**Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

**Response**

No.

**Question 15**

**Are there any other potential impacts are charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

**Response**

No

**Question 16**

**Do you have any further comments on the initial proposals set out in this discussion paper?**

**Response**

No

## CHARGING FEES FOR SOCIAL HOUSING REGULATION

This is Wulvern Housing's response to the discussion paper issued by the Regulator on Charging Fees for Social Housing Regulation. This response is numbered to cover the first 12 questions in the paper.

1. We recognise that the Regulator makes a sound case for charging – that other regulators charge for their fees, that the sector receives some real benefits such as lower borrowing costs and protecting the sector's reputation. We also recognise the importance of the Regulator having additional resources to carry out its role effectively and the concerns raised by the Chair of the Regulatory Committee. At the same time the sector is struggling with the profound impact of changes to our funding, especially through welfare reform and any additional costs are a burden to our Business Plan and tenants. On balance we would favour charging fee subject to the following conditions:
  - a. That fees would create additional resource for the Regulator and not simply displace Government funding
  - b. That fees result in demonstrably improved performance by the Regulator
  - c. That the Regulator follows co-regulatory principles by being transparent about these additional resources will bring to its role
  - d. That the Regulator also follows co-regulatory principles by being far more accountable for its use of these additional resources and resulting performance than is proposes in the discussion paper. Accountability should be to landlords and tenants.

If these conditions are not met then our support for charging fees is withdrawn.

2. If fees are to be charged it is worth noting that other regulators charge for a proportion of their running costs only. In addition the Government, through its powers to direct the Regulator, which it uses, also sets additional requirements on the Regulator that may not be necessary for the Regulator in terms of their statutory objectives. Therefore Wulvern would only support fee charging if it was additional to the current Government funding.
3. We broadly agree the approach being taken should be based on legislative requirements and the principles outlined in our reply above.
4. Currently the discussion paper does not give enough information on the costs of registration for different sized applicants on which to make a judgment about the size and nature of a registration fee.
5. Later in the discussion paper it is revealed that the vast majority of providers are small organisations. There may need to be account taken of the impact on such small providers in setting the level of the fee.
6. The discussion around Annual Fee is a crucial one for the sector and one that will be important both financially and about how the regulator operates. Wulvern Housing agrees that a flat fee would be unfair and inconsistent with the principles set out earlier. There are merits in direct attribution of costs to providers that are too easily dismissed in the

## Wulvern Housing Response to the HCA Fee Charging Proposal

paper. It is simple, and commonplace, to assign overheads within organisations to demonstrate net cost of a service. This would have the advantage of assigning higher costs to providers who are not compliant with the Regulatory Framework and take up more of the Regulators time (and therefore money). An alternative may be to charge all providers with rating less than G1 and V1 a higher annual fee. However the underlying principle here should be that good landlords, who require less time, should pay less than landlords who require more time and attention.

7. Given that Local Authorities who are providers are not covered by economic regulation, and that this is the prime responsibility of the Regulator, it would be wrong to charge them the same annual fee as Housing Associations. However a small modest charge (of say £300) would be helpful in terms of ensuring there was accountability of the Regulator to Local Authorities, and their tenants, for their limited work with them. Excluding Local Authorities would run the risk of wrongly allowing Local Authorities to assume they were exempt from regulation.
8. If a fee is charged then there should be a minimum fee, and this should also apply to Local Authorities.
9. The discussion paper quickly dismisses banding for fees. It would be interesting to see why other membership-based housing stakeholders have banding for their fee structure.
10. We agree with the approach to Group Structures
11. We agree that the full annual charge is paid when a provider deregisters. However no case is made for new providers having to pay for a full year and this should be set as a proportion of the year.
12. The proposals for accountability of the Regulator are inadequate. Part of the argument for the Regulator charging fees is to increase the accountability of the Regulator to the sector for its work and its costs. Whilst the publishing of a VFM statement is welcome this should be happening anyway given the Regulator's emphasis on such returns from providers. There needs to be more structured accountability of the Regulator to both providers and tenants. As stated previously without a significant increase in such accountability (whilst respecting the operational independence of the regulator) there is no case for fees.
13. We have no further comments on the paper.



Wythenshawe  
Community Housing Group

Tim Sullivan  
Regulatory Framework Manager  
Homes and Communities Agency  
The Social housing Regulator  
Maple House  
149 Tottenham Court Road  
London  
W1T 7BN

4 March 2014

Dear Mr Sullivan,

Please find enclosed the response from Wythenshawe Community Housing Group (subsidiaries Parkway Green Housing Trust and Willow Park Housing Trust) regarding the discussion paper on 'Charging fees for Social Housing Regulation' February 2014.

Yours Sincerely

Nigel Wilson

Group Chief Executive

Subsidiary Companies



Willow Park T: 0800 633 5500 | Parkway Green T: 0300 111 0000

[www.wchg.org.uk](http://www.wchg.org.uk)

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**Q1. Do you think that there is an in-principle case to charge fees for regulation?**

There is an in principle case to charge fees, particularly in terms of consistency with other regulated sectors.

**Q2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant- in- aid?**

Fees should cover full cost, using as simple a metric as possible, to avoid over complicating the process and therefore creating additional cost as a result.

**Q3. Do you agree we are taking the right approach to developing the principles?**

No. You are in danger of over engineering the exercise.

**Q4. Do you agree with the proposed approach to initial registration fees?**

Yes. A flat fee seems sensible.

**Q5. What other factors should we consider in setting the initial registration fee?**

**What level of initial registration fee would not discourage new entrants?**

None. This is not material. Keep it simple and keep under review rather than trying to predict outcome in advance.

**Q6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?**

Yes, it seems fair to apportion on this basis, both in terms of regulation risk and the ability of providers to pay.

**Q7. Do you agree with the proposed approach to local authority registered providers?**

No. Either charge them or don't regulate them.

**Q8. Do you agree with the principle set out for a minimum annual fee?**

Yes. Again only if it is part of a charging mechanism which is simple to administer and doesn't become an unnecessary cost itself.

**Q9. Do you think that we should introduce an element of banding in the fee regime and if so why?**

No if it increases complexity of system , or yes if part of a charging mechanism which is simple to administer and doesn't become an unnecessary cost itself.

**Q10. Do you agree with the proposal to charge the annual fee at group level?**

Fees should be charged in a manner consistent with your approach to regulation, therefore if your engagement is at group level, fee charges should reflect this.

**Q11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?**

Yes.

**Q12. Do you agree with the proposed approach to transparency and accountability?**

Complete transparency is essential, as registered providers we should keep this under review.

**Q13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?**

Yes.

**Q14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?**

No.

**Q15. Are there any other potential impacts of charging fees on the sector that we have not considered in this paper? If so, what are they and how should we take them into account?**

No.

**Q16. Do you have any further comments on the initial proposals set out in this discussion paper?**

WCHG has no objection to the principle of charging registered providers a fee, as long as there is complete transparency in how the fees are being used and the regulator avoids the temptation to over engineer the “fee charging process”, potentially creating further cost as a result.

Perhaps to address these issues the HCA could publish a Value for Money “self-assessment” annually

- to demonstrate efficient use of providers fees
- to demonstrate how fees are being used to “add value” to the sector, and
- to show leadership in this significant area of government focus

## **Yorkshire Housing response to the discussion paper “Charging fees for social housing regulation”**

Yorkshire Housing is a large housing association, with around 15,000 affordable homes. We believe that a strong and effective regulator is of significant benefit to our sector.

1. Do you think there is an in-principle case to charge fees for regulation?

We agree that there is a case for charging fees and welcome the proposal for the regulator to work with providers and stakeholders to agree the right corporate priorities.

This creates an opportunity to expand resources and the level of expertise within the regulator, enabling it to be more responsive to the needs of the sector.

2. Do you think fees should cover the full cost of the Regulator or that some elements of regulatory costs should continue to be funded through grant-in-aid?

We believe that some elements of regulatory costs should continue to be funded by grant-in-aid. In particular:

- The costs associated with regulating local authorities, if they are not going to be charged. It does not seem fair for housing associations to pay for regulation of local authorities.
- The cost of registration, less the income from initial registration fees, if a full-cost recovery is not used. It does not seem fair for existing housing association to subsidise new entrants.
- Any costs associated with “passporting” government policy onto the sector. If government wishes to use the regulator to drive policy changes, this should be funded by government.

3. Do you agree we are taking the right approach to developing the principles?

Yes.

4. Do you agree with the proposed approach to initial registration fees?

We recognise the difficulty over direct attribution and fees based on size of organisation and therefore agree that a flat fee is the simplest approach.

We welcome the plan to exclude registrations arising from amalgamations, mergers and transfers of engagements between existing registered providers.



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5. What other factors should we consider in setting the initial registration fee? What level of initial registration fee would not discourage new entrants?

A fee of £10,000 sounds reasonable, and is likely to be a relatively small sum compared to other legal and set up costs for most organisations. However, it may be worth considering retaining an option to charge a lower fee in exceptional cases, for example if a very small (and simple) association sought registration and you were confident that it was not seeking to grow in size or complexity.

6. Do you agree that provider size is a suitable basis for determining the level of the annual fee level? Do you agree that social housing units owned is a suitable measure of size?

We agree that an annual fee based on provider size is the simplest and fairest approach.

In theory, the number of social housing units is a reasonable basis; however, as the range of housing provided by the sector alters, this may need to be reviewed. We are assuming that affordable homes would be included, but market rent, shared ownership and sub-market may not be. These add to risk. Similarly, properties that are managed but not owned may add to risk so it may be more appropriate to use total units owned and/or managed.

7. Do you agree with the proposed approach to local authority registered providers?

Yes, provided housing associations do not have to pay the associated regulatory costs.

8. Do you agree with the principle set out for a minimal annual fee?

Yes.

9. Do you think we should introduce an element of banding in the fee regime and if so why?

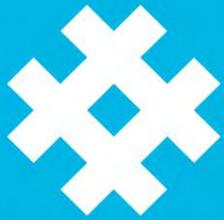
No.

10. Do you agree with the proposal to charge the annual fee at group level?

Yes.

11. Do you agree with our proposed approach to the annual fee when a provider is only on the register for a proportion of the year?

Yes.



**YORKSHIRE  
HOUSING**

12. Do you agree with the proposed approach to transparency and accountability?  
Yes. The increased accountability of the regulator would be welcome. We would expect such a co-funded regulator to be more independent of government.
13. Do you think that invoicing on an annual basis towards the beginning of each financial year is an appropriate approach?  
Yes.
14. Are you aware of any potential equality and diversity impacts in implementing fees? If so, what are they and how should we take them into account?  
No.

**Director of Resources  
Yorkshire Housing**

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