

Briefing Notes

Monday 29 January 2024

What are the key questions NEDs need to be asking in a more uncertain environment, with changing regulation?

Introduction



Will Perry, *Director of Strategy at the Regulator of Social Housing*

For the first session of 2024, Will Perry, Director of Strategy at the Regulator of Social Housing (RSH), attended to discuss “the RSH’s 2023 Sector Risk Profile and regulatory engagement. What are the key questions NEDs need to be asking in a more uncertain environment, with changing regulation?” This note should be read alongside the PowerPoint presentation slides also circulated.

Key points

Will began his talk by outlining three charts which highlighted the risks posed by the current challenging financial conditions for Registered Providers (RPs). The first was future rising interest costs for RPs to 2028 which had the impact of reducing financial capacity for RPs as more money had to be committed to covering the cost of debt. This cost is likely to increase as fixed interest rates expire in the next couple of years and are replaced with higher rates.

The second chart is increasing future repairs and maintenance costs through to 2028. Will considered the increase this year was likely due to inflation but there is still the commitment to complete fire safety remedial works which have not yet been undertaken.

The relation between these two charts is that the requirement for maintenance is growing whilst the financial capacity to deliver in the sector is decreasing. The impact of this is that RPs will be tempted to cut their development programme which will decrease their expenditure, but not immediately. The difficulty with this is that, in 3 – 4 years, questions may begin to be asked about why RPs are not using their financial capacity to deliver new affordable housing in the midst of a housing crisis and there may begin to be increased scrutiny around RP finances and value for money. Will concluded with the final chart that the delivery of new houses is forecast to fall – by 60,000 across the sector under the 2023 FFRs.

The headline is that, as soon in the charts, the requirements on RPs keep increasing but there is less money to meet these requirements which is creating more financial risk within the sector.

Additional risks

There is intense scrutiny on the sector in relation to stock condition and investment. The sector needs to focus on getting homes in a decent state and not exposing tenants to risk. The sector is owning this problem but there is still a major reputational risk. The sector has taken reputational damage and lost trust due to events such as Grenfell and Awaab Ishak's death. The sector needs to go through a rebuilding phase to win back this trust.

The changing political landscape also poses a risk to RPs. There will be a general election within 12 months and potentially a change in Government. There may be changes in policies relating to rent and there is no guarantee how grant funding and investment on decarbonisation will be handled. Due to this uncertainty, RPs are struggling to commit to any one cause. A new government could bring one fringe benefit - that any incoming Housing Minister of a newly elected government usually has a longer tenure. This consistency could provide greater clarity over future government policy for the sector.

Changing regulation also poses a risk. The new consumer standards under the Regulatory Framework are scheduled to be published in February which focus on the condition of homes and quality of services delivered to tenants. The RSH is not changing its focus on regulating governance and viability as they believe these are the keys to providing good services to tenants. The RSH's view is that there is little in the new standards that good landlords would not be doing anyway. The RSH will continue to operate on the basis that they set standards and then seek assurance from RPs on how they are meeting these standards.

Discussion

A question was raised about how the RSH will use the new Tenant Satisfaction Measures (TSMs) to inform its regulation. Will responded that the primary goal of TSMs is to give RPs a better understanding of how tenants are perceiving them on a regular basis and that the RSH will use them as a way to identify where RPs may not be meeting the standards expected of them. The RSH will not be publishing league tables or benchmarks based on TSMs and Will stressed that the best satisfaction will not equal the best grade, the RSH will also look behind scores to make sure the data has been fairly collected. If the data is inaccurate or improper, the RSH will begin asking questions.

A point was then raised that it is difficult for providers to continue development whilst investing in their stock as there are only a few levers to pull to free up the money. Will was asked how the risk of reduced development interacts with the strategic process of RPs managing their funds. Will replied that the biggest risk is that RPs begin to see development and investment as binary choices and that they must commit to one or the other. A material risk for the sector is that, in three years, when the sector's house building numbers are way down and is being judged by different policy makers who may not appreciate the pressures RPs are currently under, there may be questions asked about the sector's ability to provide the outcomes that society at large is looking for. The key thing is that RPs can justify their decisions and these decisions are made in a well governed and controlled environment with clear parameters. RPs also need to be flexible and adapt to the circumstances because, for example, since the latest data was collected, CPI has increased and many 2024 rent increases had previously been calculated on CPI only – so there may now be more scope to develop.

Will was then asked about how inspections will function now that the scope of the inspections is changing with the new consumer standards. In particular, how long the RSH will be on site and how the intention to speak to Chairs of RPs and Chairs of audit committees will fit in - when they may have less experience of operational service provision compared with other Board Members. Will stated that the new inspections are intended to be integrated and will cover all aspects of the new consumer standards. The RSH wants to look at knowledge of homes, performance, and how RPs know and engage with tenants. The RSH's view is that, by asking different questions of different people, they can get the assurance they need. In terms of time, it will take longer as the RSH is looking at more areas. The usual six weeks' notice will still apply but any reactive inspections could be on 48 hours' notice. The RSH will keep the process to a few days on site, but it depends on meeting cycles and then it will be a process of months for the RSH to review the data.

There was then discussion regarding the pilot inspections and whether there were any hints or tips from people who had been through a pilot. Will said that the pilots would be of limited help as the RSH had been trialling varying approaches they will choose between. They had also been focussing on local authorities rather than private providers. Will's key advice was to prepare properly. The focus is on systems, processes, and outcomes, knowledge of homes and tenants. He warned that some pilots ceased to be pilots and became reactive engagement cases. He also warned not to expect to be rated C1 as even the best RPs have room for improvement.

One point that was raised was about how the sector could recover from the reputational damage it has suffered recently and whether there could be any helpful immediate actions. Will said that the RSH is reluctant to focus on quick fixes and that reputational damage could only be recovered through continued good effort. The key was to focus on implementing policies and then celebrating when we deliver on them whilst acknowledging the flaws and that this would be a long-term process. He cautioned against looking for quick fixes as it could demonstrate to the public that the sector has not taken on board recent, high profile lessons.

It was then asked how the new TSMs could help with profiling better practice. Will responded that the TSMs are the RSH's contribution to fixing some service provision quality issues but, by themselves, will not solve all of them. They will give evidence on how most homes are good and tenants are satisfied. However, there will always be exceptions that are held up by the press and public as poor examples. The RSH will continue

to be honest and call things as they see them.

The discussion moved towards the impact of regulation on chairs and whether the approach is potentially unfair towards resident chairs, expecting them to be fully skilled up compared with others with different, perhaps relevant, sector experience – are the approaches to inspection too harsh? This would go contrary to the aim of having more engaged customers at Board level. Will responded that, ultimately, the RSH expects high standards of RP chairs and that background does not change the standards required. The RP would need to demonstrate that they have adequate support services to support this person but ultimately it is down to the RP to sort out how they deliver adequate leadership.

There were a couple of points raised in relation to information governance. In particular in relation to the standardisation of data. Will stated that, since NROSH, there is no distinct plan for the RSH to keep a database of housing conditions as it is more data than they would want for their role and they would not have the means to quality assure it. A question was then raised regarding attempting to improve data and one of the actions from the Better Social Housing Review report to develop a sector-wide data standard. Clearly, improving data was a key issue for RPs and this may result in individual RPs discovering their housing stock was in worse condition than previously understood. It was agreed it was better to understand the condition of the housing stock, even if that meant facing uncomfortable truths. The RSH would be looking for RPs to take this approach.

Join us for the next session:

Silence in our sector: Disabled lived experience at board level

When trying to do something new, unlearning and relearning are important, and when it comes to disability and disabled voices, it is often silence that rings the loudest, especially at board level. For this session, we invite you to learn from speakers with lived experience of trying to find accessible housing, and also those who are doing the work across various sectors to try and break the silence around the importance of, not only including disabled voices from the top down, but of turning words into tangible actions that positively impact the lives of both disabled employees and tenants.

Speakers:

Millie Hawes, Head of Just Purpose, *Fieldfisher LLP* and disability rights activist

Paul Roberts, NED and Independent Housing Consultant

Hattie Llewelyn-Davies, Chair, *Eastlight Community Homes* and Founder Member
NHS Disabled Directors Network (DNDN)

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