
**PROOF OF EVIDENCE OF RICHARD ST JOHN
WILLIAMS IN SUPPORT OF AN APPLICATION
SUBMITTED TO THREE RIVERS DISTRICT COUNCIL,
ON BEHALF OF BURLINGTON DEVELOPMENTS
LONDON LIMITED, FOR OUTLINE PLANNING
PERMISSION FOR THE PROPOSED DEVELOPMENT
OF LAND TO THE EAST OF OXHEY LANE,
CARPENDERS PARK, HERTFORDSHIRE – APPEAL**

PINS REF: APP/P1940/V/26/3378268

Background

- 1 My name is Richard Mark St. John Williams. I am a solicitor of the Senior Courts of England and Wales. I was admitted as a solicitor on 16 July 2001 having passed the Qualified Lawyers' Transfer Test earlier that year.
- 2 This Proof of Evidence has been prepared and is given in support of an application submitted to Three Rivers District Council (**Council**), on behalf of Burlington Developments London Limited (**Applicant**), for outline planning permission for the proposed development of up to 256 homes, housing with care, a children's home (for looked after children), together with associated access, parking, open space and landscaping, on land totalling approximately 12.7 hectares to the east of Oxhey Lane, Carpenders Park, Hertfordshire (**Proposed Development**). Of the 256 new homes, 50% (i.e. 128 new homes) are intended to be social housing, comprising 70% social rent and 30% shared ownership.
- 3 The evidence which I have prepared and provide for this appeal – PINS Ref: APP/P1940/V/26/3378268 - (in this proof of evidence, written statement or report) is true and I confirm that the opinions expressed are my true and professional opinions.
- 4 I have been involved in the social and affordable housing sector since September 1998, having worked at Devonshires Solicitors (1998–2005), Cobbetts LLP (2006–2013), DWF LLP (2013–2015), Trowers & Hamblins LLP (2015–2026) and Addleshaw Goddard LLP (2026–present). I have been a partner since approximately 2010. For a brief period in 2002 I was seconded to the Housing Corporation (the then regulator of registered providers of social housing (**RPs**) and predecessor to the Regulator of Social Housing (**RSH**)) as acting Head of Registry and Consents.
- 5 Each of Devonshires Solicitors, Cobbetts LLP and Trowers & Hamblins LLP were recognised with the legal directories to the UK legal profession as leading firms within the social housing sector for their work with RPs during my time with them, and Devonshires Solicitors and Trowers & Hamblins LLP continue to be recognised as leading firms.
- 6 My current firm, Addleshaw Goddard LLP, is recognised as the leading law firm advising funders to the social housing sector over that time, having advised on approximately 85% of the £135bn committed finance to the social housing sector, with the firm acting for lenders, investors and/or bookrunners. The firm acts for every active funder to the social housing sector and are the primary law firm to nearly all of them, and the sole law firm to several.
- 7 I specialise in providing corporate, governance, regulatory and charity law advice to clients operating in the social and affordable housing, social care and charity sectors. These clients can be RPs (both for-profit and non-profit), private sector clients (including developers and contractors) and local authorities. I have been recognised in guides to the legal profession in the United Kingdom for the last 18 years and am named as a leading lawyer within the social housing sector.
- 8 The nature of my role involves me providing strategic advice to the boards and executive teams of RPs and, as such, requires me to understand a range of issues relevant to them, including of the regulatory and funding regimes within which they operate.
- 9 I have been asked to provide this proof of evidence to:
 - (a) explain the role and objectives of the RSH and the Regulatory Framework within which RPs operate, including the way in which the Regulatory Framework and the housing

administration regime protect social housing assets and make the likelihood of a mortgagee exclusion clause ever being invoked very remote;

- (b) explain the purpose and significance of section 106 agreements and mortgagee exclusion clauses they contain in the context of the funding and delivery of affordable housing, including the current challenges facing RPs in acquiring affordable housing through the section 106 route;
- (c) explain (in relation to mortgagee exclusion clauses):
 - (i) the adverse consequences for both RPs and their funders of a “moratorium” period in a mortgagee exclusion clause exceeding three months. A moratorium period is a period during which, before selling section 106 properties on the open market, a funder must first try to sell those properties to another RP or the local authority; and
 - (ii) why in other respects the wording of a mortgagee exclusion clause is of crucial importance when determining the basis upon which housing assets are valued; and
- (d) summarise the feedback that the Applicant has received from RPs operating within the Council’s area regarding the appropriate length of the moratorium period.

Executive summary

- 10 The social housing sector has historically been very stable, with only a small number of RPs experiencing serious financial difficulty. This stability is attributable in significant part to the Regulatory Framework operated by the RSH, which possesses a range of tools — both informal and formal — to intervene where a RP encounters governance or financial difficulties. Informal measures include the imposition of regulatory requirements, the agreement of voluntary undertakings and the facilitation of mergers with or acquisitions by other RPs. Formal measures include the housing administration regime introduced by the Housing and Planning Act 2016 (**HPA 2016**), under which the RSH (with the consent of the Secretary of State) may apply to the court for a housing administration order, triggering a pause on enforcement of security by creditors. To date, no housing administration order has been made, and in every case of serious RP financial difficulty known to me, the RP’s social housing assets have been preserved within the sector through regulatory intervention without recourse to enforcement of security by mortgagees. I am not aware of any case in which a mortgagee exclusion clause has been triggered on account of a RP becoming insolvent. The Greater London Authority’s (**GLA**) own practice note accompanying its template mortgagee exclusion clause reaches the same conclusion, observing that the risk associated with a RP defaulting on a loan and affordable housing ceasing to be affordable is limited and is outweighed by the benefits of facilitating the delivery of affordable housing.
- 11 The terms of any mortgagee exclusion clause contained in a section 106 agreement are of critical importance to the ability of RPs to raise private finance. The social housing sector is heavily debt-financed, with the overwhelming majority of that debt being advanced on a secured basis. The basis upon which a RP’s housing stock is valued for security purposes has a very significant impact on the RP’s borrowing capacity. A valuation on the Market Value Subject to Tenancies (**MV-STT**) basis produces borrowing values approximately 50–70% higher than a valuation on the Existing Use Value – Social Housing (**EUV-SH**) basis. Whether a property can be valued at MV-STT depends upon the wording of the mortgagee exclusion clause in the relevant section 106 agreement. In particular, where the moratorium period (which is the period specified in the clause during which a lender must first use reasonable endeavours to dispose

of the affordable housing units to another RP (or the local authority) before being permitted to sell them on the open market) exceeds three months, lenders' valuers will normally restrict the valuation to EUV-SH, thereby materially reducing the RP's capacity to borrow against those assets. The National Housing Federation's (NHF) Property Finance Working Group and the GLA have each published standard mortgagee exclusion clauses which specify a three-month moratorium period, and this period is widely recognised across the RP sector as the established market standard.

- 12 The Applicant engaged directly with 11 RPs holding housing stock within the Council's area, as described in more detail in Mr Stevenson's Proof of Evidence. Of the 10 RPs that provided substantive responses, 9 confirmed that they would not accept a moratorium period of between four and six months (as is required by the Council), and that they would not be able to make an offer at a reduced value to reflect the restriction to EUV-SH. All 10 confirmed that a three-month moratorium period would be acceptable. The sole exception was Chime Housing (responding as Watford Community Housing Trust), which indicated that it had previously accepted such a period but described it as "not ideal" and noted that the adverse charging implications are amplified as schemes increase in size. The overwhelming weight of the evidence demonstrates that the Council's insistence upon a moratorium period of four to six months would deter RP participation and place the delivery of the 128 affordable homes proposed as part of the Proposed Development at material risk, in circumstances where no RP (save one, and that with express reservations) would acquire the affordable housing units on such terms.
- 13 The evidence of established market acceptance of the three-month moratorium period is further corroborated by the publicly accessible tracker maintained by the NHF's PFWG (see CD4.56), which records local planning authorities across England and Wales that have accepted the standard mortgagee exclusion clause (or the GLA's equivalent template clause) without amendment. As at the date of preparation of this proof of evidence, the tracker records that around 78 local planning authorities have accepted the standard clause, representing approximately 23% of all local planning authorities in England and Wales. However, there are important qualifications to these figures which, in my opinion, mean that the tracker very likely materially understates the true extent of acceptance of the three-month moratorium period. The tracker does not capture retrospective data and accordingly does not record local planning authorities that may have accepted substantially similar provisions prior to the tracker's establishment in about late 2022/early 2023. It records only those local planning authorities which have accepted the model clause in its entirety without any amendment, however minor, and therefore excludes authorities which have accepted the substance of the standard clause — including the three-month moratorium period — but with minor or immaterial drafting variations. Furthermore, the tracker is dependent upon RPs and their professional advisors voluntarily notifying the PFWG of completed agreements, and there is no obligation upon them to do so. It is therefore probable that the tracker under-represents the true number of local planning authorities which have accepted the three-month moratorium period.
- 14 The Council's own Affordable Housing Supplementary Planning Document (SPD), approved at its Executive Committee in June 2011 expressly recognises the purpose of mortgagee exclusion clauses as being to "*facilitate lending from financial institutions to Registered Providers by protecting the value of the lender's investment*". The Council's insistence upon a moratorium period of between four and six months is in direct conflict with this stated policy objective. As the RP responses overwhelmingly confirm, a moratorium period in excess of three months operates as a significant impediment to lending to the RP sector, because lenders will not accept such a period as consistent with the security requirements necessary to advance finance on acceptable terms. The practical effect of the Council's extended moratorium requirement is therefore to frustrate the very objective its SPD is designed to achieve.

- 15 In conclusion, the evidence set out in this proof demonstrates that the three month moratorium period proposed by the Applicant in the unilateral undertaking for the Proposed Development is consistent with established market practice, is supported by the standard clauses published by the NHF and the GLA, is corroborated by the PFWG tracker evidence demonstrating broad acceptance of the three-month moratorium period across a wide range of local planning authorities, and is endorsed by the overwhelming majority of RPs operating within the Council's area. The Council's insistence upon a moratorium period of four to six months is not supported by any evidence before this inquiry, is contrary to the Council's own stated policy, and would materially impair the ability of RPs to acquire and fund the affordable housing units to be delivered as part of the Proposed Development. The Applicant's proposed approach strikes the appropriate balance between the protection of affordable housing, the interests of RPs and their funders, and the preservation of the capacity of the RP sector to raise the third-party finance necessary to provide additional social housing.

Documents referred to in this proof of evidence

- 16 The following documents are referred to in this proof of evidence:
- (a) Three Rivers District Council's "Affordable Housing Supplementary Planning Document" Approved at Executive Committee June 2011 (CD3.8) (**Affordable Housing SPD**);
 - (b) The RSH's Governance and Financial Viability Standard – April 2015 (Appendix 1);
 - (c) The RSH's Governance and Financial Viability Standard Code of Practice – April 2015 (Appendix 2);
 - (d) The RSH's guidance on "Information required from registered providers" (latest update 11th March 2026) (Appendix 3);
 - (e) The RSH's Rent Standard – April 2026 (CD4.51);
 - (f) The RSH's guidance note "Our role and approach to regulating landlords" (29th February 2024) (CD4.55);
 - (g) The HCA's Regulatory Judgement on Cosmopolitan Housing Group Limited – L4375 (December 2012) (CD4.47);
 - (h) The RSH's Regulatory Judgment on South Yorkshire Housing Association Limited (June 2023) (CD4.60);
 - (i) The RSH's Regulatory Judgment on Origin Housing Limited (December 2023) (CD4.59);
 - (j) The RSH's Regulatory Judgment on Heylo Housing Registered Provider Limited (December 2022) (CD4.48);
 - (k) The RSH's Regulatory Notice of Grading Under Review on Heylo Housing Registered Provider Limited (March 2026) (CD4.50);
 - (l) A copy of the relevant page from the NHF's website with covering narrative on the form of the NHF's Example Standard Mortgagee Protection Clause (CD4.53);
 - (m) A copy of the NHF's Example Standard Mortgagee Protection Clause (CD4.46);

- (n) A copy of the relevant page from the NHF's website with covering narrative on the form of the GLA's Example Standard Mortgagee Protection Clause (Appendix 4);
- (o) A copy of the GLA's practice note on mortgage in possession clauses together with form of model wording (CD4.49);
- (p) Savill's report entitled UK Social Housing – May 2021 (Appendix 5);
- (q) Savills report entitled "Valuing a social housing portfolio: is MV-STT uplift what you need? (CD4.56);
- (r) Social Housing – Insight- Special Report dated July 2025 summarising analysis by Faithorn Farrell Timms, JLL and Savills (Appendix 6); and
- (s) The NHF's Private Finance Working Group Tracker (Appendix 7).

The Regulator of Social Housing's fundamental objectives

- 17 The RSH's fundamental objectives are set out in the Housing and Regeneration Act 2008 (**HRA 2008**) and comprise an economic regulation objective and a consumer regulation objective. As part of its economic regulation objective, the RSH is required:
- (a) to ensure that RPs are financially viable and properly managed, and perform their functions efficiently and economically;
 - (b) to support the provision of social housing sufficient to meet reasonable demands, including by encouraging and promoting private investment in social housing; and
 - (c) to ensure that value for money is obtained from public investment in social housing.
- 18 Reflecting its objectives, the RSH sets Regulatory Standards for RPs under two principal headings: economic standards and consumer standards. The application of each Standard depends upon the type of RP landlord and the particular activities it undertakes. The Standards set out expectations and outcomes that RPs must achieve. For example, the RSH's Rent Standard (see CD4.51) governs the setting, increase, and management of rents for properties let by RPs as social housing, with the rent for most social rent properties not exceeding rents prescribed by a set formula, with annual increases generally not exceeding CPI+1%.
- 19 The RSH operates a "co-regulatory" approach to regulation, under which the boards of RPs are responsible for their organisations and are held to account by the RSH for how they are run and the outcomes that they deliver.
- 20 The RSH has provided an overview of its role and how it approaches regulating landlords in its guidance note "Our role and approach to regulating landlords" (29th February 2024) (see CD4.55).

How the Regulator of Social Housing's Regulatory Framework mitigates financial risk to Registered Providers

- 21 The social housing sector has historically been very stable, with only a few incidences of RPs suffering financial adversity. This means that the likelihood of a mortgagee exclusion clause in a section 106 agreement ever being invoked is extremely low.
- 22 Under the RSH's regulatory regime, RPs that own or manage 1,000 or more social housing units are required to provide the RSH with a range of financial and operational information on a

routine basis, at quarterly, six-monthly and annual intervals (see Appendix 3). Of particular relevance to this proof of evidence are the following reporting obligations:

- (a) RPs are required to submit copies of their annual accounts (including a self-assessment of value for money) and the accompanying audit management letter to the RSH within six months of their financial year end;
- (b) RPs are required to submit a Financial Forecast Return, accompanied by their business plan and other supporting documentation, ideally within six weeks of the business plan being approved by their board, but in any event by no later than 30 June each year; and
- (c) RPs are required to submit quarterly financial returns within three weeks of each quarter end, which cover crucial financial health indicators including cash balances, undrawn loan facilities, loan covenant compliance and development expenditure.

23 Where the RSH has evidence that information has not been submitted, or is late, incomplete or inaccurate, it may reflect this in its assessment of the RP's compliance with the regulatory standards and, in particular, may treat it as evidence of a breach of the RSH's Governance and Financial Viability Standard, which forms part of its Regulatory Framework.

24 In addition to these reporting obligations, the Governance and Financial Viability Standard (the Appendices 2 and 3) imposes substantive requirements on RPs which are designed to ensure the ongoing financial health of the sector and the protection of social housing assets. The Standard requires RPs to ensure effective governance arrangements that deliver their aims and objectives in an effective, transparent and accountable manner, including adherence to all relevant law, compliance with their governing documents and all regulatory requirements, and the maintenance of an effective risk management and internal controls assurance framework. RPs are required to manage their resources effectively to ensure their viability is maintained while ensuring that social housing assets are not put at undue risk. In particular, RPs must adopt and comply with an appropriate code of governance, manage their affairs with an appropriate degree of skill, diligence, effectiveness, prudence and foresight, and maintain an appropriate, robust and prudent business planning, risk and control framework. That framework must ensure, amongst other things, that there is access to sufficient liquidity at all times, that financial forecasts are based on appropriate and reasonable assumptions, that effective systems are in place to monitor and accurately report delivery of the RP's plans, and that the RP monitors, reports on and complies with its funders' covenants. RPs are further required to carry out detailed and robust stress testing against identified risks and combinations of risks across a range of scenarios, to maintain a thorough, accurate and up-to-date record of their assets and liabilities, and to communicate with the RSH in a timely manner on material issues that relate to non-compliance or potential non-compliance with the standards. RPs must also certify in their annual accounts their compliance with the Standard. The cumulative effect of these reporting obligations and substantive requirements is to create a comprehensive regulatory regime under which the RSH receives regular and detailed financial information from RPs, enabling it to identify early warning signs of financial difficulty and to intervene at an early stage to protect social housing assets and the interests of tenants, well before any question of enforcement of security by a mortgagee could arise.

25 Part of the risk of financial adversity in the sector is mitigated by the variety of tools that the RSH has to oversee and intervene in the operations of RPs that do not meet its Standards. These tools include the power to publish regulatory notices (which are public statements that the Regulatory Standards have been breached), to impose regulatory requirements, and ultimately to compulsorily deregister a RP from the register of social housing providers. The registration requirement ensures that the RP is subject to the Standards issued by the RSH and subject to

regulation by the RSH, thereby minimising the risk of loss of social housing assets due to mismanagement, incompetence or dishonest or abusive practices. For these purposes, “social housing” refers to both low-cost rental accommodation and low-cost home ownership accommodation as defined in sections 68 – 70 of the HRA 2008.

The housing administration order framework

- 26 Pursuant to section 108(2) of the HPA 2016, a person (almost invariably a lender) may not take any steps to enforce the security over a property of a RP unless written notice of its intention to do so has been given to the RSH by or on behalf of the person intending to enforce the security, and either (a) a period of 28 days has elapsed since the notice was given, or (b) the RSH has waived this notice requirement (which requires the consent of the Secretary of State). The giving of such a notice (or waiver of the notice requirement) triggers a “moratorium” under section 145 of the HRA 2008. Note that this moratorium is not the same moratorium that is drafted into mortgagee exclusion clauses, although it operates in a similar way.
- 27 The purpose of the moratorium is to create a period of time for the RSH to seek to find a solution to a provider's viability problems, in order to protect the social housing assets and the interests of the provider's tenants (and reflects the RSH's economic regulation objective). During the moratorium period, the RSH may appoint an interim manager, make proposals for the transfer of the RP's assets, appoint a manager to implement proposals agreed with creditors, or apply for a housing administration order.
- 28 During the moratorium, secured creditors cannot take any step to enforce their security (i.e., seek to recover the money that they have loaned by selling the properties they had secured their lending against) unless consent has been obtained from the RSH, the Secretary of State, the housing administrator or the court (as applicable), and any disposal of the RP's land requires the RSH's consent, subject to certain specified exceptions.
- 29 The initial moratorium period is 28 days, subject to any extension (which requires the consent of the secured creditor). If, during the initial 28-day moratorium period, an application for a housing administration order is made by the Secretary of State or by the RSH (with the consent of the Secretary of State), a further interim moratorium runs until the application is decided by the court. If the court grants a housing administration order, a permanent moratorium then applies for the duration of the housing administration process. The court can grant the order if the RP cannot pay its debts or winding-up is just and equitable in the public interest.
- 30 If no housing administration order application is made, or if such an application is dismissed, the prohibition on enforcement of security falls away and the secured creditor (subject to separate obligations under any mortgagee exclusion clause) is entitled to appoint a receiver.
- 31 Presuming that a housing administration order is made, the cumulative moratorium period (comprising the initial 28-day moratorium, any interim moratorium pending determination of the housing administration application, and the housing administration itself) would be likely to last a minimum of approximately 18 months or more.
- 32 The housing administration regime has been in place since July 2018. To date, there has not been a single housing administration order made, which reflects the stability of the sector and the effectiveness of the RSH's regulatory tools in resolving RP difficulties before formal insolvency processes become necessary. This effectiveness is demonstrated by a number of cases in which the RSH has intervened in respect of RPs experiencing serious governance or financial difficulties. In each case, the difficulties were resolved without recourse to housing administration or formal insolvency proceedings, and the RP social housing assets were preserved within the social housing sector. The following examples are, in my assessment, the

most significant “near-miss” case studies relevant to the issues addressed in this proof of evidence since 2012. Each of the providers referred to below (with the exception of Heylo Housing Registered Provider Limited, which is addressed separately) is a RP owning or managing housing stock in excess of 1,000 homes which exhibited very significant financial difficulties, frequently accompanied by wider governance failings.

- 33 In December 2012, the Homes & Communities Agency (as predecessor to the RSH) downgraded Cosmopolitan Housing Group Limited to the lowest governance and viability ratings that its Regulatory Standards allow for, reflecting serious problems with its governance, risk management and financial position. These included a failure to recognise and manage operational risks, an overly ambitious approach to development, failures in internal control, inadequate reporting to the board, and a liquidity crisis (see CD4.47). The RSH agreed a Voluntary Undertaking (which is a commitment from an RP to take the necessary action to resolve regulatory breaches and/or service failures) with the group, which subsequently resolved to seek a suitable partner and was ultimately absorbed into the Sanctuary Housing group. The social housing assets were preserved through this transfer.
- 34 In December 2021, the RSH downgraded Swan Housing Association's governance and financial viability ratings to “non-compliant”, due to a material deterioration in its financial position, ineffective management of its development programme, and increased adverse development costs. Swan Housing Association subsequently became a subsidiary of Sanctuary Housing Association in February 2023, and by December 2023 the RSH had withdrawn the regulatory notice, the issues having been resolved under Sanctuary's oversight.
- 35 In June 2023, the RSH downgraded South Yorkshire Housing Association Limited's governance and viability ratings to non-compliant, following a self-referral which revealed weaknesses in its internal controls framework, miscalculation of covenant compliance over a number of years, historic and forecast covenant breaches, and exposure to wider loan agreement breaches through cross-default clauses (see CD4.47). South Yorkshire Housing Association Limited subsequently became a subsidiary of Places for People Group Limited in December 2025, and the regulatory judgement was withdrawn in January 2026.
- 36 In December 2023, the RSH downgraded Origin Housing Limited's governance and viability ratings to non-compliant, following the identification of material errors in its reporting on interest payable, weaknesses in internal controls relating to budget setting and financial performance reporting, miscalculation of covenant requirements, and a weak financial position with reliance on uncertain cashflows (see CD4.60). Origin Housing Limited, like South Yorkshire Housing Association, joined the Places for People Group to improve its financial resilience, and the regulatory judgement was withdrawn in June 2024, the issues having been resolved.
- 37 In December 2022, the RSH published its first assessment of Heylo Housing Registered Provider Limited, a for-profit RP, grading it as non-compliant. The RSH concluded that the arrangements entered into by Heylo Housing Registered Provider Limited had resulted in it being unable to provide assurance that social housing assets were not being put at undue risk, noting in particular that the provider had effectively ceded control of its social housing assets to connected group companies (see CD4.59). In March 2026, the RSH placed Heylo Housing Registered Provider Limited's non-compliant gradings under further review, indicating that it was investigating matters which may indicate serious failings in the delivery of the outcomes of the Governance and Financial Viability Standard (see CD4.48).
- 38 These examples demonstrate that, where RPs have encountered serious governance or financial difficulties, the RSH has intervened using its regulatory tools and the providers have in each case been rescued through merger with another RP, or subsumption within another RP

group, with the social housing assets being preserved. Notably, in none of the cases summarised above (as at the date of preparation of this proof of evidence) was the housing administration regime under the HPA 2016 utilised, although it should be noted that an administrator has been appointed in respect of certain of the investment vehicle entities established in connection with Heylo Housing Registered Provider Limited (but not the RP itself). The Cosmopolitan Housing Group case study predates the introduction of the housing administration order regime, which came into force on 5 July 2018. However, it is significant that, even prior to the introduction of that bespoke regime, there are no known cases of the general insolvency provisions under the Insolvency Act 1986 being employed in connection with English-based RPs. I am not aware of any cases of a mortgagee exclusion clause being triggered on account of a RP becoming insolvent.

39 In this context, it is relevant to address the Council's contention that an extended moratorium period of five months or more is necessary within the mortgagee exclusion clause in order to afford the Council sufficient time to market the affordable housing units and secure their transfer to an alternative RP in the event of a distressed sale. In my opinion, this argument proceeds on a false premise, in that it assumes that the Council would be the party responsible for finding an alternative provider. In practice, the Regulatory Framework described at paragraphs 21 to 32 above means that, well before any question of enforcement of security by a mortgagee could arise, either:

- (a) the RSH will already have intervened through its informal regulatory tools — including the imposition of regulatory requirements, the agreement of voluntary undertakings, and the facilitation of mergers with or acquisitions by other RPs — to secure the transfer of the social housing assets to an alternative provider (as occurred in each of the case studies summarised above); or
- (b) in the event that informal intervention has not resolved the position, the RSH (with the consent of the Secretary of State) will have applied for a housing administration order under the HPA 2016, pursuant to which a housing administrator would be appointed with the statutory objective (under section 98 of the HPA 2016) of ensuring that the RP's social housing remains in the regulated housing sector.

40 In either scenario, the process of identifying and securing an alternative provider for the social housing assets is undertaken by the RSH or the housing administrator (as applicable), and not by the local planning authority. The Council's analysis of the time required for it to market the properties, invite bids, evaluate tenders and complete a conveyancing process is therefore, with respect, directed at a scenario that does not reflect the way in which RP financial difficulties are addressed in practice under the current Regulatory Framework. In a scenario in which there was recourse to the NHF's template mortgagee exclusion clause, the model wording of that clause requires that the mortgagee or receiver (not the Council) to use reasonable endeavours over a three-month period to complete a disposal to another RP or to the Council. It would not therefore be part of the Council's role in the process to market the properties, invite bids, evaluate tenders and complete a conveyancing process. In all likelihood, any discussions regarding the future of the Proposed Development in the event of a distressed sale would be taking place as part of wider conversations regarding the future of all of the RP's secured property rather than that of the Proposed Development.

The purpose of section 106 agreements and how the mortgagee exclusion clause works

41 Section 106 of the Town and Country Planning Act 1990 (**TCPA 1990**) allows for local planning authorities and developers to enter into binding agreements under which the developer agrees to do particular things as a condition of being granted planning permission for a development.

Such agreements commonly place restrictions on the development or stipulate use of land in a specified way. Under section 106(3) of the TCPA 1990, a local planning authority can take action for breach of an agreement against the party that enters into the agreement and against any party that may subsequently purchase land that is subject to the agreement.

- 42 In the context of residential developments, section 106 agreements commonly include obligations relating to affordable housing. The overall aim of such obligations is to secure the provision of affordable housing as part of a development, and its maintenance as affordable housing for successive occupants in perpetuity, in accordance with the relevant local planning authority's planning policies.
- 43 Mortgagee exclusion clauses are a well-established feature of section 106 agreements which include affordable housing obligations. A mortgagee exclusion clause typically provides that the affordable housing obligations contained in the section 106 agreement shall not be binding upon, nor enforceable against, any mortgagee of a RP, any receiver appointed by such mortgagee, or any person deriving title to the land affected through any such mortgagee or receiver. The effect of such a clause is that, upon an event of default by the RP, the mortgagee (or a receiver appointed by the mortgagee, or any person acquiring title from the mortgagee or receiver) is not bound by the affordable housing obligations in the section 106 agreement and may accordingly dispose of the affordable housing units on the open market free from those restrictions.
- 44 The precise terms of any mortgagee exclusion clause are a matter for negotiation between the parties to the section 106 agreement. There is an inherent tension between the opposing interests of the RP's lending bank and the local planning authority. The preference of any lending bank would be for an agreement to contain an unqualified exclusion clause, so that the bank can be certain that if the RP defaults, it can recover the money it has lent by selling the secured assets for the best possible value without delay. The preference of any local planning authority would be for an agreement not to have any exclusion clause at all, or to include a contractual moratorium period during which the lender must first use reasonable endeavours to dispose of the affordable housing units to another RP before being permitted to sell them on the open market.
- 45 In recognition of the importance of mortgagee exclusion clauses to the funding of affordable housing, the National Housing Federation's (**NHF**) Property Finance Working Group (**PFWG**), comprising sector-experienced lawyers and valuers, has developed a standard mortgagee exclusion clause for use in section 106 agreements – see Appendices 12 to 15. The current member organisations of the PFWG are Addleshaw Goddard LLP, Allen Overy Shearman Sterling LLP, Bevan Brittan LLP, Clarke Willmott LLP, Clifford Chance LLP, Devonshires Solicitors LLP, Jones Lang Lasalle, Savills plc, Trowers and Hamblins LLP, and Winckworth Sherwood LLP. The standard clause was agreed by a group of borrowers and funders together with their solicitors and valuers, with the sector-wide approach to a standard clause commencing in 2015 and the clause having been in its current form since 2017. The standard clause is designed to enable RPs to obtain a valuation based on Market Value Subject to Tenancies (see paragraphs 56 to 58 below) when using social housing assets, including those acquired under section 106 agreements. The PFWG recommends the use of this standard clause as a minimum standard to be adopted in any section 106 agreement or other legal document. In addition, in 2019 the Greater London Authority (**GLA**) issued its own revised template mortgagee exclusion clause, negotiated with the PFWG and supported by the “G15” group of London's largest housing associations, for use in section 106 agreements for development proposals in London. Both template clauses are widely used in the sector and are intended to promote a consistent approach to mortgagee exclusion clauses, thereby facilitating the ability of RPs to raise finance against affordable housing assets.

- 46 The GLA's practice note accompanying its template mortgagee exclusion clause (CD4.49) records a number of factors relevant to the assessment of risk associated with such clauses. In particular, the practice note observes that the RSH monitors the financial viability of RPs and has the ability to intervene in the management of a RP in financial distress; that there are few examples of RPs falling into financial difficulties and, where difficulties have arisen, such providers have to date been taken over by another RP; and that there are no known cases of mortgagee exclusion clauses being triggered in relation to assets owned by RPs. The practice note highlights that the model MEC clause is relevant to the level of funding that RPs are able to secure against affordable housing as part of their delivery programmes and concludes that any risk associated with a RP defaulting on a loan and affordable housing ceasing to be affordable is limited and is outweighed by the benefits of the approach adopted in the standard mortgagee exclusion clause in facilitating the delivery of affordable housing (see in particular paragraphs 2, 5 and 6).
- 47 Paragraph 4.8 of the Affordable Housing SPD (see CD3.8) addresses "Mortgagee in Possession Clauses" (an alternative name for a mortgagee exclusion clause) and provides as follows (text emboldened and underlined by me):
- "Mortgagee in Possession Clauses may be included in a Section 106 Agreement forming part of a planning permission, **to facilitate lending from financial institutions to Registered Providers by protecting the value of the lender's investment**. In the event of a default by the housing association in repaying their loans and the lender taking possession of the affordable properties, the clause would (subject to those conditions as set out in the Section 106 Agreement) release the lender from the affordable housing occupancy conditions, which could then be sold on the open market. These clauses would only be allowed where the housing provider was a housing association regulated by the Homes and Communities Agency and the Tenant Services Authority, or any successor bodies. They would not be allowed on Rural Exception Sites (see Chapter 5). Mortgagee in Possession clauses will only be used in S106s when the affordable housing is transferred to a Registered Provider or other agency."*
- 48 Three observations arise from this provision. First, the approach proposed by the Applicant in the unilateral undertaking for the Proposed Development — namely, the inclusion of a mortgagee exclusion clause to protect the interests of lenders to the acquiring RP — is entirely consistent with the approach contemplated by paragraph 4.8 of the Affordable Housing SPD. Secondly, the Council itself expressly recognises the need for the mortgagee exclusion clause to "facilitate lending from financial institutions to Registered Providers", thereby acknowledging the critical role that such clauses play in enabling RPs to access the private finance necessary to acquire and manage affordable housing. Thirdly, whilst the section 106 agreement and the mortgagee exclusion clause contained within it are drafted specifically in the context of the planning permission, it is nevertheless necessary to consider how the mortgagee exclusion clause would operate in practice within the RSH's Regulatory Framework described at paragraphs 21 to 38 above. As set out in those paragraphs, the RSH possesses a range of regulatory tools — both informal (such as voluntary undertakings and facilitated mergers) and formal (under the housing administration provisions of the HPA 2016) — which have, in every case to date, resulted in the preservation of social housing assets within the sector without recourse to enforcement of security by mortgagees. Accordingly, the circumstances in which a mortgagee exclusion clause would need to be invoked in practice are, for the reasons set out at paragraphs 21 to 38 above, extremely remote.
- 49 Furthermore, the responses received from RPs as part of the engagement exercise described in Mr Stevenson's Proof of Evidence demonstrate that the Council's insistence upon a moratorium period of between four and six months is in direct conflict with its own stated policy at paragraph 4.8 of the Affordable Housing SPD. Paragraph 4.8 expressly recognises that the

purpose of the mortgagee exclusion clause is to "*facilitate lending from financial institutions to Registered Providers by protecting the value of the lender's investment*". However, as the RP responses overwhelmingly confirm, a moratorium period in excess of three months operates as a significant impediment to lending to the RP sector, because lenders will not accept such a period as consistent with the security requirements necessary to advance finance on acceptable terms. The practical effect of the Council's extended moratorium requirement is therefore to frustrate the very objective that paragraph 4.8 of the Affordable Housing SPD is designed to achieve: namely, the facilitation of private lending to RPs to enable the acquisition and delivery of affordable housing.

The benefits of the mortgagee exclusion clause

- 50 The primary aims of the mortgagee exclusion clause are to encourage sufficient commercial lending for a RP to acquire affordable housing under section 106 agreements. To a very considerable extent RPs fund their business plans by acquiring or developing housing, then securing borrowing against that housing, then using that borrowing to acquire and develop further housing.
- 51 Without the protection afforded by the mortgagee exclusion clause, a lender would need to be satisfied that it would be able effectively to enforce its security in full in the event of any default on the part of the RP. If a lender could not obtain a satisfactory disposal on the open market free from the affordable housing obligations, the risk to its security might well deter mortgagees from lending at all or would introduce a powerful incentive for any mortgagee to structure its security on terms that enabled it to enforce at the earliest point in time. This would be contrary to the overall purpose of the section 106 agreement, which is to facilitate the delivery and long-term provision of affordable housing. The mortgagee exclusion clause therefore serves the dual purpose of protecting the commercial interests of lenders whilst simultaneously facilitating the delivery of affordable housing by ensuring that RPs are able to access the finance necessary to acquire and manage affordable housing units.

The role of private finance in the Registered Provider sector

- 52 The social housing sector is heavily debt-financed. Over the past three decades, the sector has undergone a fundamental transition from a model primarily funded by public subsidy to one largely driven by private capital. As at today's date, approximately £135 billion of private finance had been committed to the sector. This financing structure is designed to leverage the existing, high-value asset bases of RPs — primarily their housing stock — to generate long-term, stable cash flows.
- 53 The sector is attractive to investors for several reasons. Social housing offers predictable, long-term cash flows that are well suited to matching liabilities. The sector provides effective risk diversification and has demonstrated better long-term capital growth (approximately 3.4% per annum) than average UK investment real estate (approximately 2.6% per annum). The sector also directly addresses the United Kingdom's housing shortage, making it highly attractive for investors with Environmental, Social and Governance objectives. Furthermore, the financial strength of RPs and the RSH's regulatory environment provides a high degree of comfort to investors.
- 54 The majority of the sector's borrowings are advanced on a secured basis. The capital weighting, or risk weighting, applied by lenders to social housing loans is a critical factor in this regard, as it determines the amount of regulatory capital a bank is required to hold against its exposure. Loans secured against residential property at up to 80% loan-to-value can be assigned a risk weight of 35%, which is significantly lower than the risk weighting applicable to unsecured or

subordinated lending. Accordingly, secured lending is more capital-efficient for banks and enables them to offer more competitive pricing to registered providers. Whilst newer initiatives such as the National Housing Bank loan scheme offer unsecured, subordinated debt that sits at the corporate level (and which may attract higher capital requirements compared to senior secured debt), the overwhelming majority of lending to the sector continues to be advanced on a secured basis. The robust regulatory framework applicable to RPs means that loans to the sector are generally viewed as low risk compared to commercial property loans, which typically attract higher risk weightings. It is in this context that the terms of any mortgagee exclusion clause contained in a section 106 agreement assume particular significance, as the adequacy of such a clause directly affects the basis upon which the secured properties will be valued and, consequently, the quantum of finance that a registered provider is able to raise against those assets.

The importance of the basis of valuation

- 55 The choice of the basis upon which RP stock is valued has a very significant impact on the borrowing capacity of the sector. Two principal valuation methods are used; these being known as Existing Use Value – Social Housing (**EUV-SH**) and Market Value Subject to Tenancies (**MV-STT**). EUV-SH is the older valuation method, and values properties on the assumptions that if the property was ever sold, it would remain in the RP sector and therefore remain subject to RSH regulation and obligations to charge regulated levels of rent. MV-STT meanwhile assumes that if the property was ever sold, it would no longer be part of the RP sector, and while existing tenants would continue to occupy the property on their existing terms, any purchaser would have greater flexibility in terms of what it could do with the property.
- 56 Research published by Savills in May 2021 (Appendix 5) estimated the value of the sector's housing assets if valued on an **EUV-SH** basis at approximately £270 billion. By contrast, Savills estimated the value of the same assets if valued on a Market Value Subject to Tenancies (MV-STT) basis at approximately £500 billion. More recently, in November 2025, Savills (CD4.56) published further analysis indicating that valuation on an MV-STT basis would be approximately 50–70% of open market values, whilst valuation on an EUV-SH basis would arrive at only 25–30% of open market values. The difference between these two bases of valuation is therefore very significant: a valuation on the MV-STT basis would imply an asset base nearly twice the size of that produced by an EUV-SH valuation, with a correspondingly greater capacity to support additional secured borrowing. In practical terms, significantly more finance can be raised if properties are valued at MV-STT. This underscores the importance of the terms of any mortgagee exclusion clause in a section 106 agreement, since the adequacy of such a clause will determine whether the relevant properties are valued on an MV-STT or EUV-SH basis and, consequently, the amount of finance that a RP is able to raise against those assets.

The valuation of social housing assets and its impact on the ability of RPs to raise funding

- 57 As part of the process of taking security over social housing assets, legal advisors to lenders will undertake a review of the suite of documents relevant to the properties to be charged by the RP. This due diligence review includes a detailed analysis of any section 106 agreement (and any associated nominations agreement or land transfer document) applicable to the properties in question, with a focus on the terms of any mortgagee exclusion clause they contain. The outcome of this review has a direct bearing on the basis upon which the relevant properties will be valued for security purposes. Lenders' solicitors review the drafting of mortgagee exclusion clauses with considerable care and need to be satisfied that the clause contains criteria which will permit their client to, if ever necessary, sell the assets free from the affordable housing obligations. Where those criteria are not met, the lender's solicitors will discuss the position with the relevant valuers with a view to restricting the valuation basis. It is only in very exceptional

circumstances that a valuation based on MV-STT will be permitted where the moratorium timeframe specified in the mortgagee exclusion clause is not limited to three months or less.

58 Where the due diligence review reveals certain deficiencies in the mortgagee exclusion clause (referred to in practice as "red flags"), the relevant property will be valued based on EUV-SH rather than MV-STT. The following are examples of red flags which will ordinarily result in the property being valued based on EUV-SH:

- (a) if the mortgagee exclusion clause does not contain any reference to a receiver (or any more general reference to a person being appointed to enforce the security), as the absence of such a reference means that a receiver appointed by the mortgagee would remain bound by the affordable housing obligations;
- (b) if the mortgagee exclusion clause refers only to a "mortgagee in possession", as a mortgagee will in practice never go into possession of tenanted properties, since doing so would require the eviction of the tenant in order to obtain a court order for possession;
- (c) if the mortgagee exclusion clause does not contain any reference to successors in title of the mortgagee or receiver, unless the clause otherwise makes clear that the affordable housing obligations cease to bind the property upon a disposal by the mortgagee or receiver;
- (d) if the mortgagee exclusion clause imposes an obligation to use "best endeavours" to dispose of the affordable housing units to another RP, because in legal language if a party is required to use "best endeavours" they are required to do almost everything that they possibly can to achieve something. In practice a best endeavours requirement would require a disposal to a RP at any price;
- (e) if a document other than the section 106 agreement itself (such as a related transfer agreement or nominations agreement) does not contain any reference to a housing administrator, because section 103 of the Housing and Planning Act 2016 (which allows for sale of land that is subject to planning obligations by a housing administrator) only overrides obligations created under section 106 of the TCPA 1990 and does not extend to obligations contained in other documents;
- (f) if the mortgagee exclusion clause refers to the mortgagee selling "free" from the affordable housing obligations but does not also provide that those obligations shall "determine absolutely", as in such circumstances the obligations may continue to bind the property notwithstanding the disposal.

59 In addition, there are certain red flags which do not automatically result in a property being valued on the basis of EUV-SH, but where the valuer retains a discretion to determine the appropriate basis of valuation. One such instance arises where the contractual moratorium period specified in the mortgagee exclusion clause is only marginally in excess of three months. In such cases, the valuer will assess the adequacy of the timescale having regard to, amongst other things, the geographical location of the property, as certain areas may present greater difficulty in securing a disposal to another RP within the stipulated period. Similarly, where the mortgagee exclusion clause imposes an obligation to use "all reasonable endeavours" or "every reasonable effort" to dispose of the affordable housing units to another RP, the position is regarded as a grey area, and the valuer will exercise judgment as to the appropriate basis of valuation in the circumstances.

The Applicant's engagement with potential Registered Provider purchasers

- 60 Some RPs are looking to rationalise their housing portfolios by disposing of or swapping stock in outlier areas in order to concentrate their operations in core geographic regions. This is driven by a number of factors, including the RSH's Value for Money Standard (which requires RPs to optimise their resources), the operational inefficiencies and increased costs associated with managing dispersed stock across wide areas, and the strategic imperatives for RPs to build local partnerships, improve tenant engagement and support targeted development in their core areas. According to research published by Savills in 2025 (see CD4.56), one of the drivers of stock rationalisation activity is a need to consolidate the RP's geographic footprint. The same research references a swap of stock between The Guinness Partnership and Paradigm (involving over 2,000 social homes), and the trading of more than 1,800 homes with other RPs in a single year by both L&Q and Clarion. In July 2025 joint analysis by Faithorn Farrell Timms, JLL and Savills (see Appendix 6) reported that a total of 37,551 homes with a value of over £3.6bn of both rent and shared ownership tenures were bought and sold in the inter-RP market in the five years from 2020 to 2024.
- 61 A practical consequence of this trend is that, in any given local authority area, the number of RPs actively developing or acquiring new affordable housing stock is likely to be significantly more limited than the total number of large RPs in the sector. While there are approximately 200 large RP groups that own or manage at least 1,000 social homes, the geographic concentration of the sector means that only a few of those providers will have an operational presence, development pipeline or strategic interest in any particular area. In this context, the Applicant's approach of directly canvassing the views of RPs with housing stock within the Council's area (as described below) provides a representative and robust sample of the RPs that would realistically be in a position to acquire affordable housing units delivered as part of the Proposed Development.
- 62 The detailed methodology adopted by the Applicant in identifying and engaging with RPs operating within the Council's area is set out in Mr Stevenson's Proof of Evidence. In summary, with one exception all RPs that provided substantial responses confirmed that they would not accept a moratorium period of between four and six months and that they would not be able to make an offer at a reduced value to reflect the restriction to EUV-SH. The sole exception was Chime Housing (responding as Watford Community Housing Trust), which indicated that it had previously accepted a period of between 4 and 6 months but that this was "not ideal" and that the charging implications are amplified as schemes increase in size. In relation to the question of whether it would be able to make an offer at a reduced value to reflect a restriction to EUV-SH, Chime Housing indicated that it could do so but noted that this was subject to board approval and more difficult on larger schemes.
- 63 The reasons advanced by the RPs for rejecting a mortgagee moratorium period in excess of three months were consistent and may be summarised as follows:
- (a) first, an extended moratorium period is unacceptable to institutional funders and lenders, as it prevents the RP from securitising its housing stock on acceptable terms. As Home Group stated, "the moratorium cannot be longer than 12 weeks or 3 months because it will be unacceptable to any institutional funders. This is the industry standard.";
 - (b) secondly, an extended moratorium period prevents the RP from charging the relevant properties at MV-STT, thereby reducing the value of the assets for security purposes and diminishing the provider's borrowing capacity. As Clarion stated, the moratorium period "needs to be unrestricted to prevent a funder not accepting it as security against a debt facility or bond or a reduction in value of the asset.";

- (c) thirdly, a reduced offer at EUV-SH does not offset the inability to securitise the housing, as the fundamental constraint is the lender's unwillingness to accept the extended moratorium period rather than the price paid for the units. As Peabody stated, it would "prefer to retain [its] resources for schemes where [it] can maximum charging capabilities."; and
- (d) fourthly, the three-month moratorium period is the established industry standard, endorsed by the NHF and the GLA, and any departure from it would require acceptance by the funding market as a whole rather than by individual lenders. As Places for People observed, "any movement on this would likely need to be a decision by the funding markets as a matter of policy and not a specific decision for [Places for People] and [its] individual funders.".

64 The responses received from RPs have direct and material implications for the Applicant's ability to deliver the 128 affordable homes proposed as part of the Proposed Development. The Proposed Development provides for 50% affordable housing, comprising 90 social rent homes and 38 shared ownership homes. In order to deliver these affordable homes, the Applicant will need to secure a RP willing to acquire the affordable housing units. The evidence set out above demonstrates that, with the exception of one provider (Chime Housing, which itself expressed reservations regarding the approach), no RP contacted by the Applicant would be willing to acquire affordable housing units subject to a mortgagee exclusion clause moratorium period of between four and six months, nor would any such provider be willing to make an offer at a reduced value to reflect an EUV-SH valuation. The practical consequence of the Council's insistence upon a moratorium period of four to six months is therefore that the Applicant would be unable to secure a RP partner for the affordable housing element of the Proposed Development, or would be limited to a single provider which has itself indicated that the extended moratorium period is not ideal and presents increasing difficulty on larger schemes. This would place the delivery of 128 new affordable homes at risk, in circumstances where there is an acknowledged pressing and acute need for housing of all tenures within the district and would also restrict future borrowing capacity needed for RPs to deliver affordable housing.

65 The NHF's PFWG maintains a publicly accessible tracker (see Appendix 7) via the NHF's website of local planning authorities across England and Wales which have accepted the standard mortgagee exclusion clause (or, in the case of London boroughs, the GLA's equivalent template clause) in its entirety without amendment in section 106 agreements or deeds of variation. The tracker is compiled based on information voluntarily reported to the PFWG by RPs and their professional advisors. For each local planning authority, the tracker records whether the NHF or GLA standard wording has been agreed since the tracker was created and, where applicable, the date of completion and the identity of the legal advisors involved. There are currently 337 local planning authorities in England. As at the date of preparation of this proof of evidence, the tracker records that around 78 local planning authorities in England and Wales have accepted the PFWG's standard mortgagee exclusion clause (or the GLA equivalent) without amendment in one or more section 106 agreements or deeds of variation, representing approximately 23% of all local planning authorities in England. However, there are a number of important qualifications to these figures which, in my opinion, mean that the tracker materially understates the true extent of acceptance of the three-month moratorium period across the sector. These are:

- (a) the tracker does not capture retrospective data (and, accordingly, does not record local planning authorities that may have accepted substantially similar provisions prior to the tracker's establishment in about late 2022/early 2023): local planning authorities which may have accepted mortgagee exclusion clauses containing provisions substantially similar to the current standard clause prior to the establishment of the tracker are not

recorded, and accordingly the tracker does not reflect the full historical extent of acceptance of the three-month moratorium period;

- (b) the tracker records only those local planning authorities which have accepted the model form of mortgagee exclusion clause in its entirety without any form of amendment, however minor. A local planning authority which has accepted the substance of the standard clause — including, critically, the three-month moratorium period — but with minor or immaterial drafting amendments would not be recorded on the tracker; and
- (c) the tracker is dependent upon RPs and their professional advisors voluntarily notifying the PFWG of completed agreements, and there is no obligation upon them to do so. It is therefore probable that the tracker under-represents the true number of local planning authorities which have accepted the standard clause or provisions to materially the same effect.

Notwithstanding these qualifications, the breadth of recorded acceptance across a wide range of local planning authorities — including metropolitan and district councils, county councils and London boroughs — is, in my opinion, strong evidence that the three-month moratorium period advocated by the PFWG represents the established market standard and is widely recognised by local planning authorities as striking an appropriate balance between the protection of affordable housing, the interests of RPs and their funders, and the preservation of the capacity of the RP sector to raise third-party finance necessary to provide additional social housing.

This proof of evidence is dated 10th June 2026

APPENDIX 1

Regulator of Social Housing's Governance and Financial Viability Standard



Homes &
Communities
Agency

GOVERNANCE AND FINANCIAL VIABILITY STANDARD

April 2015

Governance and Financial Viability Standard

1 Required outcomes

1.1 Governance

Registered providers¹ shall ensure effective governance arrangements that deliver their aims, objectives and intended outcomes for tenants and potential tenants in an effective, transparent and accountable manner. Governance arrangements shall ensure registered providers:

- (a) adhere to all relevant law
- (b) comply with their governing documents and all regulatory requirements
- (c) are accountable to tenants, the regulator and relevant stakeholders
- (d) safeguard taxpayers' interests and the reputation of the sector
- (e) have an effective risk management and internal controls assurance framework
- (f) protect social housing assets

1.2 Financial viability

Registered providers shall manage their resources effectively to ensure their viability is maintained while ensuring that social housing assets are not put at undue risk.

2 Specific expectations applicable to all registered providers

- 2.1 Registered providers shall adopt and comply with an appropriate code of governance. Governance arrangements should establish and maintain clear roles, responsibilities and accountabilities for the board, chair and chief executive and ensure appropriate probity arrangements are in place. Areas of non-compliance with their chosen code of governance should be explained. Registered providers should assess the effectiveness of their governance arrangements at least once a year.
- 2.2 Registered providers shall ensure that they manage their affairs with an appropriate degree of skill, independence, diligence, effectiveness, prudence and foresight.
- 2.3 Registered providers shall communicate in a timely manner with the regulator on material issues that relate to non-compliance or potential non-compliance with the standards.
- 2.4 Registered providers shall ensure that they have an appropriate, robust and prudent business planning, risk and control framework.

¹ The term "registered providers" refers to private registered providers.

- 2.4.1 The framework shall ensure:
- (a) there is access to sufficient liquidity at all times
 - (b) financial forecasts are based on appropriate and reasonable assumptions
 - (c) effective systems are in place to monitor and accurately report delivery of the registered provider's plans
 - (d) the financial and other implications of risks to the delivery of plans are considered
 - (e) registered providers monitor, report on and comply with their funders' covenants
- 2.4.2 The framework shall be approved by the registered provider's board² and its effectiveness in achieving the required outcomes shall be reviewed at least once a year.
- 2.5 In addition to the above registered providers shall assess, manage and where appropriate address risks to ensure the long term viability of the registered provider, including ensuring that social housing assets are protected. Registered providers shall do so by:
- (a) maintaining a thorough, accurate and up to date record of their assets and liabilities and particularly those liabilities that may have recourse to social housing assets
 - (b) carrying out detailed and robust stress testing against identified risks and combinations of risks across a range of scenarios and putting appropriate mitigation strategies in place as a result
 - (c) before taking on new liabilities, ensuring that they understand and manage the likely impact on current and future business and regulatory compliance
- 2.6 Registered providers shall ensure that any arrangements they enter into do not inappropriately advance the interests of third parties, or are arrangements which the regulator could reasonably assume were for such purposes.
- 2.7 Registered providers shall communicate with the regulator in an accurate and timely manner. This includes returns to the regulator, including an annual report on any losses from fraudulent activity, in a form determined by the regulator.
- 2.8 Registered providers shall assess their compliance with the Governance and Financial Viability Standard at least once a year. Registered providers' boards shall certify in their annual accounts their compliance with this Governance and Financial Viability Standard.

² Where a registered provider does not have a board, it should be taken to include an equivalent management body as appropriate.

3 Specific expectations applicable to specific categories of registered provider

Registered group parents

- 3.1 Registered providers which are parent companies shall, as appropriate, support or assist those of their subsidiaries that are registered providers with a view to ensuring compliance with regulatory requirements.

Registered providers with unregistered parents

- 3.2 Registered providers with parent companies who are not registered providers shall ensure that they do not enter into agreements to support the activity of the parent or another group member that may have a material negative impact on the social housing assets of the registered provider.
- 3.3 To enable compliance with the regulator's standards or other regulatory requirements, registered providers with parent companies that are not registered providers shall have in place effective mechanisms to ensure that:
- (a) such parent companies will give any appropriate support or assistance as necessary to the registered provider
 - (b) such registered providers have the ability to require the support or assistance of the parent company concerned
 - (c) the registered provider's ability to meet the regulator's standards and other regulatory requirements is not and cannot be prejudiced by the activities or influence of the parent company or another part of the group

Profit making registered providers

- 3.4 Profit making registered providers shall ensure that they undertake their social housing activities in an entity which is legally and operationally separated from any other activities they may undertake, except as set out below.
- 3.5 Profit making registered providers should ensure that activities they undertake which do not relate to the provision of social housing:
- (a) form only a very small part of the activities they undertake
 - (b) are not such as to mean that registered providers place social housing assets, activities relating to the provision of social housing or their own financial viability at undue risk

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APPENDIX 2

Regulator of Social Housing's Governance and Financial Viability Standard Code of Practice



Homes &
Communities
Agency

GOVERNANCE AND FINANCIAL VIABILITY STANDARD CODE OF PRACTICE

April 2015

Governance and Financial Viability Standard code of practice

The role of the code of practice

- 1 This code of practice (the Code) is designed to amplify the requirements in the Governance and Financial Viability Standard (the Standard). It is designed to help registered providers¹ understand what the regulator is looking for when seeking assurance on compliance with the Standard. The Code clarifies the Standard by explaining and elaborating on the content, with illustrative examples where necessary. Registered providers should have regard to the Code when assessing their compliance against the Standard. In considering whether standards have been met, the regulator will have regard to the Code. It is therefore important that registered providers are familiar with its content. However, it is the Standard rather than the Code that the regulator can enforce against.
- 2 The regulator adopts a co-regulatory approach to its work. It sets both economic and consumer standards designed to help it to deliver its statutory objectives. Responsibility lies with the boards² of registered providers to meet these standards. The Code fits with the co-regulatory regime by allowing registered providers to innovate and develop their own approaches to achieve the outcomes and expectations set out in the Standard.
- 3 The Code does not elaborate on all outcomes and expectations set out in the Standard, only where the regulator believes that greater explanation will help registered providers. This does not indicate the relative importance of different elements of the Standard. Registered providers need to comply with the entire Standard.
- 4 Examples of how registered providers might achieve compliance are not intended to be exhaustive nor prescriptive. Should a registered provider comply with the requirements of the Standard in a different manner then it is free to do so. If there are any conflicts between the Code and the Standard, the Standard takes precedence.
- 5 The Code is structured so it follows the layout of the Standard. As such, the required outcomes in the Standard, which set out the high-level obligations on registered providers, are considered first followed by the specific expectations. The regulator intends to adopt a purposive approach to interpreting the Standard. This means the regulator will consider the purpose of including the outcomes and expectations in the Standard when assessing compliance with them.

¹ This document uses throughout the terms “profit making registered provider” and “non-profit registered provider” to refer to the two types of private registered provider designated in the 2008 Housing and Regeneration Act. For brevity the term “registered providers” is used where the reference is to both types of registered providers. Where used, this term excludes local authority registered providers. Where the document uses the term “the non-profit sector” this indicates both non-profit private registered providers and local authority registered providers.

² Throughout this Code references to registered providers' 'boards' should, where a registered provider does not have a board, be taken to include an equivalent management body as appropriate.

Required outcomes

Paragraph 1.1: governance required outcome

- 6 The required outcome for governance ensures the delivery of a registered provider's objectives, including being responsible holders and stewards of social housing assets. The regulator considers the reference to compliance with 'all relevant law' in the first bullet point encompasses legislation (including secondary legislation), and common law. In ensuring compliance registered providers should have regard to relevant statutory guidance. To meet the required outcome on adherence to all relevant law boards should take reasonable measures to assure themselves of their compliance.
- 7 The fourth bullet point concerns reputation. Reputation is key in maintaining confidence in the sector. The social housing sector has benefited from being part of a regulated sector with low lending rates combined with the availability of public investment. Registered providers should ensure that they manage their businesses and their risks in such a way that they do not negatively impact on the reputation of the sector.

Paragraph 1.2: financial viability required outcome

- 8 Registered providers should take all such steps as are reasonably necessary to ensure that any activities they undertake do not place social housing assets, activities relating to the provision of social housing or their own financial viability at undue risk. The regulator recognises that registered providers should have the flexibility to consider risks in light of their individual circumstances. Boards of registered providers have the responsibility to satisfy themselves and provide assurance to the regulator that:
 - they have considered the requirement appropriately in relation to their own external and internal operating environment
 - they are satisfied they will comply with regulatory requirements now and in the foreseeable future
- 9 Examples of what the regulator considers to be unacceptable outcomes resulting from social housing assets being put at undue risk are outlined below. These examples are not intended to be exhaustive but rather to give context to registered providers in considering the risks within their business:
 - loss of social housing assets and/or tenants losing their home or the benefits of being within a regulated sector due to lenders or others enforcing their security or insolvency
 - loss of social housing assets where the sale of those assets is the result of poor business planning and decisions or where the reason for the sale is to make good an unplanned cash shortfall
- 10 The regulator recognises every business decision will carry risk and sometimes those risks will crystallise. There is, however, a difference between managed risk and uncontrolled loss. The regulator expects boards to manage the business to promote the former and avoid the latter. In addition, the regulator does not intend that all social housing assets should remain in the sector for ever. However, the value in the assets

should not be lost to the sector. Under the Value for Money Standard, registered providers are expected to consider how to make best use of their assets.

Specific expectations applicable to all registered providers

- 11 The specific expectations set out in the Standard are obligations with which registered providers must comply. Registered providers must demonstrate compliance with **both** the required outcomes and the specific expectations in the Standard. This section of the Code will help registered providers understand what the regulator is looking for when considering compliance with the Standard.

Paragraph 2.1: expectations on the effectiveness of governance arrangements

- 12 Registered providers should demonstrate their actions are consistent with both the principles and relevant provisions of their code of governance and overall contribute to sound governance.
- 13 The regulator anticipates that an assessment of the effectiveness of governance arrangements may vary in terms of depth and scope in line with the internal and external environment within which the registered provider operates. Some parts of a governance review may be carried out to a different timescale than an annual review where this helps ensure the quality and effectiveness of the review. Where this is the case, the annual assessment of the effectiveness of governance arrangements should give assurance on the timescale and progress of work on these areas.

Paragraph 2.2: expectations on the management of registered providers' affairs

- 14 Paragraph 2.2 of the Standard complements the board's responsibilities to act lawfully and responsibly. Compliance will include both behavioural aspects, such as ensuring that the board and executive foster a culture of constructive challenge and debate, and good governance practices.
- 15 To ensure that registered providers have the requisite skills and capability to perform their functions, the regulator would expect them to:
 - have an appropriate skills strategy to address the needs of the business
 - regularly assess whether boards and management have the right competencies, experience, and technical knowledge appropriate to the size, scale and risk profile of the organisation³
 - ensure that all material decisions are made with appropriate internal/external expertise or advice and should satisfy themselves of the impartiality of any support or advice

³ This should include the business it is currently involved in or is going to become involved in the future as well as the external operating environment.

- have plans to address any skills gaps identified (including through bringing in external skills), and such plans should be monitored to ensure that they are followed through
- 16 In order to determine the appropriate level of independence, registered providers should have regard to their adopted code of governance, relevant legal requirements, e.g. charity law and to their business model. In some businesses, influence is inherent in the corporate structure of the registered provider (for example a profit making registered provider which is a subsidiary of a group). In other cases, influence may not be inherent in the corporate structure but result from close associations the registered provider has with other organisations or individuals.
 - 17 In managing their affairs with an appropriate degree of independence, board members should exercise independence of judgement and act at all times in the best interests of the registered provider. There should also be appropriate mechanisms in place to manage any conflicts of interest to demonstrate probity and value for money.
 - 18 Registered providers should not be subject to undue influence from third parties that could reasonably be expected to lead to non-compliance with regulatory standards.

Paragraph 2.3: communication with the regulator

- 19 The regulator requires registered providers to tell it at the earliest opportunity about any material issues that indicate there has been or may be a breach of the standards. This might include, for example, material frauds, liquidity issues, breaches of lenders covenants or failures of governance. This transparency is a fundamental pillar of the co-regulatory approach.
- 20 In deciding what is material, registered providers should be mindful of the regulator's role in the consumer standards. The regulator may only intervene where there has been a breach of the standard which has, or may cause, serious detriment. In relation to the consumer standards registered providers are only obliged to disclose those matters which have or may relate to such a breach.

Paragraph 2.4: expectations about business planning, risk and control frameworks

- 21 Registered providers need to ensure their business planning, risk management and control framework is effective. It should cover all areas of the registered provider's business. This should demonstrate the registered provider fully understands and has considered its operating environment, so it can deliver its business plan and organisational objectives. It does not need to be captured in a single document.
- 22 Registered providers should have a clear understanding of their risk tolerances and ensure that they are appropriate to the scale and nature of the activities they are undertaking and their role as a registered provider. Registered providers should be able to identify the capital at risk from any investment activities, and ensure that investment is priced at such a level with a rate of return which is commensurate to the level of risk presented. Where a registered provider is a charity they should consider this alongside

their objects and duties under charity law. Registered providers should consider the potential aggregated impact of risks, as well as their impact at an individual level.

- 23 Registered providers should ensure that they have access to sufficient committed and available liquidity at all times. They should understand the timing of cash flows and any conditions for a drawdown so they can manage cash flow risk. This means registered providers should understand the receipts and outgoings of the business, for example, rental income, investment in existing stock, the costs of development, receipts from sales and other business, financing costs (loan capital and interest payments) and build sufficient prudence into their plans to cope with changes. In particular, boards should assure themselves that they put funding lines in place in sufficient time to cope with major cash outflows. Boards should ensure that they effectively identify and manage any risks of re-financing whether planned or in reaction to changes in the operating environment.
- 24 Registered providers should also look at the relationship between operational and capital cash flows. Non-discretionary expenses, including all major repairs (whether capitalised or not) and interest costs, should be met from operating income. When using capital income (for example, receipts from disposals) to meet operating expenses, boards should ensure there is a plan that ensures operating cash flows fully cover operating expenses in the future. While this is not the case, registered providers need a plan to ensure that exposures are managed.
- 25 Registered providers need to build their business on robust and prudent assumptions. Registered providers should assure themselves the assumptions used are reasonable. For example these may be based on:
 - past performance
 - market conditions
 - deliverability and forecasts of possible future conditions
- 26 The regulator expects these assumptions will be kept under review and updated in the light of changing circumstances. It is important that registered providers ensure their plan enables them to meet lenders' covenants. Registered providers need to ensure sufficient headroom to allow them to take remedial action if assumptions within the plan significantly change or (potentially) if they are not delivering against the plan.
- 27 The regulator expects registered providers to identify the impact of significant business decisions (for example, major changes in development appetite, a new major scheme, moving into a new business stream or taking on new sources of funding) on viability (including continued covenant compliance). It also expects registered providers to report these to the board and take remedial action where necessary. Registered providers should think about their covenants in the broadest sense (financial and non-financial), set target measures of financial performance which provide headroom over covenants, and ensure they monitor all covenants.
- 28 The boards of registered providers should also be aware of the risks posed where separate companies are in effect controlled by others (through common or shadow

directorships) and liabilities may be attributed to the registered provider putting social housing assets at risk. These risks should also be identified and mitigated.

Paragraph 2.5: expectations about risk management

- 29 Boards are the custodians of social housing assets and the financial viability of the registered providers that hold those assets. The responsibility for managing risks, and specifically risks to social housing assets, lies with boards. As social housing is a long term asset, normally funded by long-term debt, it follows that boards need to maintain a long-term perspective on managing risk. They need to ensure that their decisions do not put short-term gains ahead of the long term sustainability of the business and the security of their social housing assets.

Paragraph 2.5.a): expectations about assets and liabilities

- 30 The primary purpose of this requirement is to ensure that registered providers understand their housing assets and security position and have swift access to this information in decision making and risk management. Such information needs to be readily available in the event of a potential or actual failure of the registered provider. This will enable the regulator to draw up resolution strategies and aid a potential rescuer to value the social housing assets. The asset and liability register should contain sufficient information to enable a potential buyer to accurately price the value of the business and/or the value of the social housing assets in the event of distress.
- 31 It is for registered providers to ensure such information is accurate and up-to-date. They should be able to produce an overview for the regulator at short notice. The records need to cover the breadth of the registered provider's activities (including activities carried out in subsidiaries, joint ventures and SPVs) and identify its assets and liabilities. The regulator does not prescribe the format of such records. The approach taken is likely to vary according to the size and complexity of the registered provider. The regulator expects that a registered provider's board will oversee the maintenance of these records and that they are readily reconcilable and regularly reconciled.
- 32 Asset records should clearly identify social housing assets and where these assets are encumbered. Such records would normally include, but are not limited to, treasury arrangements, key contracts, title information and any restrictions on that title (for example planning obligations, charitable or other restrictions), valuations, stock condition and lender covenants.
- 33 Registered providers should consider and record their liabilities in the widest context. The regulator considers the liabilities should include items which relate directly to the social housing assets and those which might have an impact on the business as a whole. This may include, but is not limited to:
- loans including borrowing from other group companies or related undertakings
 - guarantees, indemnities etc. including those provided to subsidiaries and SPVs, whether secured or unsecured
 - leases, sale/lease and leaseback transactions
 - mark-to-market exposures on derivative positions

- cross default provisions (for example, a provision in a loan agreement which provides that a default on one loan agreement gives rise to a default on another one, including where these potentially cross between entities)
- a duty or responsibility that obligates the entity to another, leaving it little or no discretion to avoid settlement⁴
- the potential for any impairment particularly in relation to investments in non-core activities

34 Within group structures, boards should ensure they have full understanding of where liabilities exist between all entities (both registered and unregistered). This should include understanding of how a failure in one part of the group may affect other members of the group. Registered providers in a group should ensure they have an appropriate methodology to model and communicate the impacts of risks crystallising in one entity on other entities within the group, in particular where there would be recourse to social housing assets.

Paragraph 2.5 b): expectations on stress testing

35 The regulator expects registered providers, as part of their risk management approach, to stress test their plans against different scenarios across the whole group. The scenarios used will vary according to the size, type and structure of the organisation. Registered providers should go beyond simple sensitivity testing and include multi-variate analysis which tests against potential serious economic and business risks. Registered providers should explore those conditions which could lead to failure of the business, even if planned mitigations and controls are successfully implemented. They should assure themselves that the scenarios are consistent with what they consider to be acceptable levels of risk and their obligations. Stress testing should employ scenarios that are designed to assess resilience.

36 In designing the stress testing, boards should consider both the long term, cyclical nature of economic factors that impact on the business as well as internal business risks.

37 Two potential examples are offered by way of illustration:

- a) The board of a developing registered provider with a shared ownership and outright sale programme that is raising external debt will need to think about how key variables in the business plan would move during a housing market slowdown or crash. This would include, for example:
- what is happening to sale prices and volumes
 - how lenders would be operating in that market
 - the potential for impairment
 - what might be happening to variable rate debt and the costs of working capital
 - other costs of holding the asset such as increased security costs and the movements in nominal and real inflation rates

⁴ This could include where defaults of a subsidiary or other group members gives rise (either directly or indirectly because of an accounting consequence) to a default under loan agreements secured by social housing assets

- b) The board of an organisation with significant supported housing business, but little new development, will need to think about for example:
- what might happen to corporate overheads and contract-specific costs if the registered provider lost key contracts
 - unsustainable price inflation or wage growth that removed margin from the business

38 Managing and addressing risk should involve developing plausible scenarios that test the business plan against adverse movements in the operating environment. Doing so will help underpin boards' understanding of where the risks lie and inform their consideration and planning for remedial action if the risks crystallise either singly or in combinations. Registered providers should consider the implications of this stress testing for its existing business including how the business may need to respond, whether business streams may need to be altered or stopped, whether it has sufficient headroom, what controls they have in place and how those controls are implemented.

39 As long-term businesses, registered providers need to ensure that they can withstand the long-term cycles in the economy and that short term decisions do not constrain their ability to cope with risk. This does not prevent registered providers from taking on measured risk to deliver their objectives. It means that when taking on risks, boards should fully understand the impact on their business in the round, as well as on their social housing assets. Boards should have appropriate mitigations and controls in place as well as a strategy to protect those assets during the long term.

Paragraph 2.6: expectations relating to arrangements with third parties

40 Registered providers should act in good faith appropriately advancing their own interests and those of their tenants. The focus here is on transactions which, for example, over-price services received so the contractor receives an inflated price or, where services are given without a suitable charge being levied.

41 For the avoidance of doubt, the regulator does not intend that transactions undertaken to promote charitable or social objectives, nor appropriate dividend payments by profit making registered providers will be caught by this expectation.

42 Where there are conflicts or perceived conflicts of interest, registered providers should clearly set out how they effectively manage these. They should ensure that, for example, parent companies, other entities or individuals who have control or influence (or whom the regulator reasonably believes has such control or influence) cannot or do not exert influence which would have a damaging effect on the registered provider or its compliance with standards. This could be, for example, charging unfavourable prices for the provision of services.

43 Third parties are any person or body which is not the registered provider. This includes, for example, directors and board members and may also include individuals or organisations that have close links to the registered provider.

Paragraph 2.7: returns to the regulator

- 44 The regulator requires registered providers to communicate with them in an accurate and timely manner. This includes provision of information, for example data returns. The regulator will clearly articulate its requirements for regulatory returns to the sector and, where appropriate, will consult on these. It is the responsibility of registered providers to ensure that they submit required data returns in a timely manner and the information provided is of a good quality. This includes for example ensuring that returns such as the Financial Forecast Return are fully complete with no missing information, that the data is accurate and submitted by the deadline required. It is not the regulator's role to correct or fill in incorrect or missing data and we will view such returns as evidence of a weak control environment.

Paragraph 2.8: expectations on reporting requirements

- 45 In addition to assuring themselves of compliance with standards on a yearly basis, boards need to assure themselves of their continuing compliance when taking on significant new risks. This could be, for example, when undertaking a new development or entering a major contract. Registered providers' boards shall certify their compliance in the narrative report which accompanies their financial statements. When certifying compliance with the Standard, registered providers shall ensure that they consider compliance with regulatory standards in the round as set out in the required outcomes of the Standard.

Specific expectations applicable to specific categories of registered provider

- 46 This section applies only to specified classes of registered provider where the regulator considers additional controls to protect social housing assets are needed.

Paragraph 3.2: use of social housing assets to support other parts of the business

- 47 Where a registered provider has an unregistered parent, the social housing assets should not be used to support non-social housing activity in other parts of the business to the extent that it may have a material negative impact on, or material recourse to the social housing assets. The regulator would also expect the risk to the social housing assets to be low. Registered providers would not be expected to enter into, for example:
- formal agreements such as guarantees or cross default clauses in loan agreements
 - less formal or indirect arrangements such as making investments which lead to impairment, or which, in the event of insolvency, might allow recourse to the social housing assets

Paragraphs 3.1 and 3.3: assistance

- 48 Paragraphs 3.1 and 3.3 seek to ensure that where a registered provider is part of a group, it can look to other entities within that group for assistance with achieving

compliance with regulatory requirements. If a registered provider is part of a corporate group, the regulator expects the registered provider will ensure that other entities within the group are aware of the regulatory requirements placed on the registered provider and understand the implications of them.

- 49 Pursuant to paragraph 3.1, in groups where the parent is a registered provider, the parent is required to provide support or assistance to ensure the group's compliance with regulatory standards. This includes, where appropriate, ensuring the ongoing viability of the group, and may require assistance to one registered provider from other registered providers to ensure continued compliance with regulatory standards.
- 50 Paragraph 3.3 means if a registered provider has an unregistered parent company, the registered providers must put in place mechanisms to ensure the parent company concerned will assist the registered provider to comply with regulatory requirements. Also, to ensure the parent company or another part of the group does not do anything that compromises the registered provider's ability to meet regulatory requirements. In some circumstances it may be appropriate for the regulator to be a party to such agreements.

Paragraph 3.4 & 3.5: separate legal entities for profit making registered providers

- 51 Profit making registered providers should separate any activities that do not relate to providing social housing from those that do. The regulator is concerned that any potential recourse to the social housing assets from other non-social housing parts of the business is minimal. Profit making registered providers should manage their affairs in such a way that this is the case.
- 52 A small amount of activity that does not relate to providing social housing is permitted within the legal entity. This is to allow for situations where the activity is undertaken for both social and non-social housing reasons, for example, mixed tenure developments. In such circumstances, the registered provider should ensure the non-social housing activity within the entity does not place social housing assets, activities or its own financial viability at undue risk. The regulator considers, where it is necessary for non-social housing activity to be carried out in the legal entity, the amount of non-social housing activity should be in the region of no more than 5% of capital or turnover. Registered providers should include within the calculation of the amount of non-social housing activity any agreements entered which relate to non-social housing activity by others, which could have a material negative impact on the social housing assets.
- 53 Boards of profit making registered providers should consider what are social housing or non-social housing activities and should approve the final designation. The regulator may seek assurance on the robustness of the processes and challenge if it considers the conclusions are inconsistent with the required outcomes contained in the Standard. The designation of activities should be considered by boards and updated as activities start or stop or when the organisation enters into new ventures. To aid boards, the regulator lists below some activities which are not considered to be related to the provision of social housing:
- management/maintenance services to other organisations

- management/maintenance services for own non-social housing
- care services
- development and letting of market rent housing and provision of any associated services
- development and sale of outright market sale properties
- development and letting of student housing and provision of any associated services
- development activity (other than affordable/social housing development)
- estate agency services

Legal status of the Code

- 54 This Code is issued by the Homes and Communities Agency, as the regulator of social housing, under section 195(1) of the Housing & Regeneration Act 2008 (as amended) (the Act). It relates to the Governance and Financial Viability Standard set by the regulator under section 194(1) of the Act (the Standard).
- 55 Section 195(2) of the Act provides the regulator may have regard to the Code when considering whether the Standard has been met.
- 57 The Code applies to all registered providers who are subject to the Standard (i.e. registered providers and not local authority providers of social housing). Some paragraphs of this Code relate to parts of the Standard that only apply to specified classes of registered provider.

www.gov.uk/hca
mail@homesandcommunities.co.uk
0300 1234 500



Homes & Communities Agency

Homes and Communities Agency
Fry Building
2 Marsham Street
London SW1P 4DF

The Homes and Communities Agency is committed to providing accessible information where possible and we will consider providing information in alternative formats such as large print, audio and Braille upon request.

Publication date: January 2015

APPENDIX 3

Regulator of Social Housing's guidance on information required from Registered Providers

Guidance

Information required from registered providers

The information required by the Regulator of Social Housing and the deadlines for submission.

From: [Regulator of Social Housing \(/government/organisations/regulator-of-social-housing\)](/government/organisations/regulator-of-social-housing)

Published 31 March 2015

Last updated 11 March 2026 —

Applies to England

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The regulator's information requirements

We need to collect and hold reliable information (both in data returns and other documentation) so that we can undertake our functions. We use information gathered to assess compliance with our regulatory framework and to produce statistical information. We are committed to minimising the burden of our information requirements by using data and information providers already collect and collate as part of their routine business activity.

We expect providers to produce the information and documents we require in a timely fashion. Where we have evidence that information of any nature has not been submitted or is late, incomplete, or inaccurate, we may reflect this in our judgement of a provider's compliance with the regulatory standards. In particular, but not exclusively, we may consider it evidence of a breach of the specific expectation in the Governance and Financial Viability Standard (<https://www.gov.uk/government/publications/governance-and-financial-viability-standard>) to communicate with us in an accurate and timely manner, including through regulatory returns.

The tables below set out a summary of our routine data requirements and the deadlines for submission. There are different requirements for local authorities; for those private providers that own fewer than 1,000 social housing units and for those that own 1,000 units or more.

In March we wrote to all chief executives (<https://www.gov.uk/government/collections/letters-to-registered-providers-data-requirements>) to confirm our data requirements. These letters detailed the requirements for:

- private providers with 1,000 or more units (large providers),
- those with fewer than 1,000 units (small providers)
- local authority registered providers.

Providers must refer to guidance materials on NROSH+ for more information about these returns and the exact deadlines set for their organisation.

Please note that the deadlines outlined below are the latest date by which data should be submitted to us, however we encourage providers to submit their returns earlier within the submission timeframe wherever possible.

Data returns for registered providers

Data returns	Deadline	Which providers
<u>Statistical Data Return</u>	31 May each year	All private registered providers (shorter returns for providers owning fewer than 1,000 social housing units)
Financial Forecast Return to be accompanied with business plan and other supporting documentation	30 June each year final deadline for all providers with 31 March financial year end. Providers are encouraged to submit within 6 weeks of their business plan being approved by their Board, where this is earlier than 30 June	All private registered providers that own 1,000 or more social housing units
<u>Quarterly Survey</u>	3 weeks after each quarter end	All private registered providers that own 1,000 or more social housing units
Electronic Annual Accounts	6 months after financial year end	All private registered providers that own 1,000 or more social housing units
Electronic annual accounts (including a self-assessment of value for money)	No later than 6 months after the financial year end	All private registered providers that own 1,000 or more social housing units
<u>Local Authority Data Return</u>	Mid July each year	All local authority registered providers
<u>Tenant Satisfaction Measures</u>	30 June each year	All registered providers that own 1,000 or more social housing units
<u>Fire Safety Remediation Survey</u>	Quarterly	All registered providers that own 1,000 or more social housing units and any registered providers who own fewer than 1,000 social housing units who are the

Data returns	Deadline	Which providers
		responsible entity for any buildings of relevant height

Tenant satisfaction measures

The government's 'The Charter for Social Housing Residents: Social Housing White Paper', published in November 2020, set an expectation that the Regulator of Social Housing would bring in a set of Tenant Satisfaction Measures.

In September 2022, following a consultation on the introduction of TSMs, we published a Decision Statement which set out our decision on the final TSMs.

The TSMs are a core set of performance measures against which all providers must publish their performance. They are a requirement of the Transparency, Influence and Accountability Standard (including Tenant Satisfaction Measures) (<https://www.gov.uk/government/collections/transparency-influence-and-accountability-including-tenant-satisfaction-measures>).

From 1 April 2023 all registered providers that own relevant social housing stock must calculate and publish all TSMs on an annual basis following the TSM technical requirements and TSM tenant survey requirements set out by us and in accordance with the Transparency, Influence and Accountability Standard (including Tenant Satisfaction Measures) (<https://www.gov.uk/government/collections/transparency-influence-and-accountability-including-tenant-satisfaction-measures>).

All registered providers that own 1,000 or more units of the relevant social housing stock must annually submit information relating to their performance against the TSMs to us.

The TSM Return will open on 1 April 2026 and providers should submit their returns on or before the deadline of 30 June 2026. Guidance for the TSM Return is available on NROSH+ (<https://nroshplus.regulatorofsocialhousing.org.uk/>).

Regulatory documents

Regulatory documents	Deadline	Which providers
Annual accounts (including a self-assessment of value for money)	No later than 6 months after the financial year end	All private registered providers
Audit management letter	As above	All private registered providers that own 1,000 or more social housing units
Fraud report	As above	All private registered providers that own 1,000 or more social housing units
Disposal notifications		
Quarterly notification	3 weeks after each quarter end	All private registered providers who have made relevant disposals that require notification
Priority notification	3 weeks after date of relevant disposal	As above

Disposal notifications

From 6 April 2017 private registered providers must notify the regulator about some types of disposals they have made. Further information about the requirements is available on the [Notifications about disposals page](https://www.gov.uk/government/publications/notifications-about-disposals) (<https://www.gov.uk/government/publications/notifications-about-disposals>). Disposal notifications must be submitted through [NROSH+](https://nroshplus.regulatorofsocialhousing.org.uk) (<https://nroshplus.regulatorofsocialhousing.org.uk>) where a standard form is available.

Organisation and contact information

The NROSH+ website requires your organisation to enter and maintain a suite of organisational and contact details. It is the responsibility of each individual provider to ensure that this contact information is kept updated and accurate throughout the year. This is important because we use this information to contact your organisation on regulatory matters.

Health and safety lead

Under section 126C(2) of the Housing and Regeneration Act 2008 (the Act), all registered providers are required to:

- a) notify the regulator of the name and contact details of its designated health and safety lead, and
- b) publish that information.

The role of the health and safety lead is defined in sections 126A and 126B of the Act.

All registered providers must notify the regulator of the name and contact details of its designated health and safety lead through the contact details section in NROSH+ and publish this information. Registered providers must keep this information up to date. Any changes to this information must be made as soon as is reasonably possible or at a minimum within 2 weeks of the change happening. When publishing this information registered providers must ensure that they do so in accordance with the requirements of our standards.

How registered providers should submit information

We collect data from registered providers through NROSH+ (<https://nroshplus.regulatorofsocialhousing.org.uk>). NROSH+ is a website portal for all registered providers to submit their annual data returns and the information and supporting documents, which we require so we can regulate them effectively.

As a provider, it is essential that you supply accurate and timely data – the data returns are an important way in which we monitor big financial risks and regulate the sector. Further guidance on submitting NROSH+ data returns is provided on the NROSH+ website. Guidance on submitting annual accounts and audit management letters is provided below.

Annual accounts and audit management letters

The process for submitting annual accounts and audit management letters, including the potential regulatory action for those that submit them late, is detailed in this [guidance](https://www.gov.uk/guidance/guidance-to-all-private-registered-providers-on-submitting-annual-accounts) (<https://www.gov.uk/guidance/guidance-to-all-private-registered-providers-on-submitting-annual-accounts>).

How to use NROSH+

To use NROSH+ effectively, it is important that you:

- log into the [NROSH+ website](https://nroshplus.regulatorofsocialhousing.org.uk)
(<https://nroshplus.regulatorofsocialhousing.org.uk>)
- keep your contact and organisational information up-to-date – this is important as we regularly inform providers on any changes to our data collection process using the contact details logged in NROSH+
- use the latest templates for each return to prepare and submit data
- use the guidance provided on the [NROSH+ site](https://nroshplus.regulatorofsocialhousing.org.uk)
(<https://nroshplus.regulatorofsocialhousing.org.uk>)
- submit data as early as possible, within the survey period.

Queries about NROSH+

Send any questions about using NROSH+ to the Referrals and Regulatory Enquiries team NROSHenquiries@rsh.gov.uk and 0300 124 5225.

Further information

- Read about how to Register and de-register as a provider of social housing.
- See the [Current registered providers of social housing page](https://www.gov.uk/government/publications/registered-providers-of-social-housing)
(<https://www.gov.uk/government/publications/registered-providers-of-social-housing>) for a list of registrations and de-registrations.

Privacy notice

The regulator is committed to protecting your privacy and the security of your personal data. Please read our [privacy notice](https://www.gov.uk/guidance/regulator-of-social-housing-privacy-notice)
(<https://www.gov.uk/guidance/regulator-of-social-housing-privacy-notice>) to find out more about how we do this.

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APPENDIX 4

Greater London Authority's Example Standard Mortgagee Protection Clause and commentary

GREATER LONDON AUTHORITY

Mortgagee in Possession – Section 106 Standard Clauses

Practice Note January 2019

Introduction

1. Mortgagee in Possession (MiP) clauses within Section 106 agreements (S106 agreement) enable Registered Providers (RP) to provide for circumstances where a Registered Provider defaults on loan payments or other loan/mortgage terms and a mortgagee (or other relevant funding party) takes control of the RP's interest in affordable housing units as assets against which their loan is secured. The clauses allow for another RP to purchase the affordable housing units within a specified timeframe known as the 'moratorium period' under a prescribed procedure. This is set out in the S106 agreement and is a contractual arrangement. Where the units are not purchased within this period, they are released from affordable tenure, enabling the mortgagee to dispose of the units in order to regain some or all of the loan that they have provided.
2. Different approaches to MiP clauses have been applied which has caused delay to S106 negotiations and uncertainty for Local Planning Authorities (LPAs) and the sector. This is relevant to the level of funding that RPs are able to secure against affordable housing units to fund the provision of additional affordable housing as part of their delivery programme.

Standard S106 MiP Clauses

3. The Greater London Authority (GLA) has produced standard S106 MPCs in order to promote a consistent approach across London. These are supported by the National Housing Federation Property Finance Working Group (NHF PFWG). The approach will help to increase the funding available for affordable housing delivery in London, whilst ensuring the role of LPAs in enabling the affordable units to be acquired, in the event of a default by the original RP.
4. The clauses provide for a three month moratorium period and enable the LPA, or an alternative RP nominated by the LPA, to be granted an interest in the land within the initial period of the moratorium period. This increases the likelihood of a transfer of the units to be completed within the moratorium period. The amount payable to the mortgagee should be the greater of the amount due to the mortgagee plus relevant fees and expenses, and the value of the units taking into account the obligations under the S106 agreement. The clauses require that the parties act reasonably when determining a price for the units and undertaking the other obligations as set out in the clauses.
5. The following factors have been taken into account in determining the approach set out in this note:

GREATER LONDON AUTHORITY

- The Draft London Plan sets a strategic target that 50% of new homes should be affordable (Policy H5), which is higher than previous levels of affordable housing delivery in London.
 - There is known shortfall in funding available to meet the London Plan strategic target and deliver the level of affordable housing necessary to meet London's housing needs. The approach adopted in the standard clauses has the potential to significantly increase the finance that can be secured for affordable housing delivery in London.
 - The Social Housing Regulator monitors the financial viability of RPs and has the ability to intervene in the management of a RP in financial distress.
 - There are few examples of RPs falling into financial difficulties and where this has been the case such RPs have to date been taken over by another RP.
 - There are no known cases of MiP clauses being triggered in relation to assets owned by RPs.
6. Taking these issues into account it is considered that any risk associated with an RP defaulting on a loan and affordable units not being secured by the LPA or another RP is limited and is outweighed by the factors referred to above.
7. If circumstances change, the GLA reserves the right to revise the standard clauses. There may also be cases where it may not be appropriate to apply the revised clauses, such as where the GLA or an LPA have legitimate concerns regarding the financial position of an RP. The GLA will not accept a reduction in affordable housing or a departure from a policy, target or threshold in any planning application, variation or subsequent or revised application where MiP clauses are relied on but where the prescribed procedure to benefit from mortgagee protection has not been followed.

Implementation of standard MiP clauses

8. The GLA will use the standard clauses within S106 agreements for development proposals where the Mayor of London becomes the LPA following 'call-in' of the application and will promote their use for other schemes that are referable to the Mayor under the Mayor of London Order 2008, and non-referable applications, subject to the criteria referred to above. The GLA will also apply the standard clauses where an RP seeks a variation to an existing agreement that the Mayor is party to, where relevant.

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Standard Mortgagee in Possession Clause

Charge	means a mortgage, charge or other security or loan documentation granting a security interest in the Affordable Housing Units and/or the Additional Affordable Housing Units (or any number of them) in favour of the Chargee.
Chargee	means any mortgagee or chargee of the Registered Provider ¹ of the Affordable Housing Units ² or the Additional Affordable Housing Units ³ (or any number of them) and any receiver (including an administrative receiver) and manager appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator.
Date of Deemed Service	means, in each instance where a Chargee has served a Default Notice under paragraph 1.1.1: (a) in the case of service by delivery by hand of the Default Notice to the LPA's offices at [<i>insert address</i>] during [<i>specify the LPA's office hours</i>], the date on which the Default Notice is so delivered; or (b) in the case of service by using first class registered post to the LPA's offices at [<i>insert address</i>], the second Working Day ⁴ after the date on which the Default Notice is posted (by being placed in a post box or being collected by or delivered to Royal Mail) PROVIDED THAT the Chargee is able to evidence that the Default Notice was actually delivered to the LPA (by Royal Mail proof of delivery or otherwise).
Default Notice	means a notice in writing served on the LPA by the Chargee under paragraph 1.1.1 of the Chargee's intention to enforce its security over the relevant Affordable Housing Units and/or Additional Affordable Housing Units.
Intention Notice	means a notice in writing served on the Chargee by the LPA under paragraph 1.2 that the LPA is minded to purchase the relevant Affordable Housing Units and/or Additional Affordable Housing Units.

¹ This term will be defined in the agreement.

² This term will be defined in the agreement representing the base level of affordable housing as determined in the planning application.

³ This term will be defined in the agreement relating to the additional affordable housing units that may be required as a result of an Early or Late Viability Review under the Draft London Plan and the Mayor's Affordable Housing and Viability SPG (as relevant).

⁴ This term will be defined in the agreement.

GREATER LONDON AUTHORITY

Moratorium Period	means, in each instance where a Chargee has served a Default Notice under paragraph 1.1.1, the period from (and including) the Date of Deemed Service on the LPA of the Default Notice to (and including) the date falling three months after such Date of Deemed Service (or such longer period as may be agreed between the Chargee and the LPA).
Option	means the option to be granted to the LPA (and/or its nominated substitute Registered Provider) in accordance with paragraph 1.3 for the purchase of the Affordable Housing Units and/or the Additional Affordable Housing Units
Sums Due	means all sums due to a Chargee of the Affordable Housing Units and/or the Additional Affordable Housing Units pursuant to the terms of its Charge including (without limitation) all interest and reasonable legal and administrative fees costs and expenses.

- 1.1 In order to benefit from the protection granted by paragraph [], a Chargee must:
- 1.1.1 serve a Default Notice on the LPA by delivery by hand to the LPA's offices at [*insert address*] during [*specify the LPA's office hours*] or using first class registered post to the LPA's offices at [*insert address*] in either case addressed to [the Head of Planning and Head of Legal Services]⁵ of the LPA prior to seeking to dispose of the relevant Affordable Housing Units and/or Additional Affordable Housing Units;
 - 1.1.2 when serving the Default Notice, provide to the LPA official copies of the title registers for the relevant Affordable Housing Units and/or Additional Affordable Housing Units; and
 - 1.1.3 subject to paragraph 1.6 below, not exercise its power of sale over or otherwise dispose of the relevant Affordable Housing Units and/or Additional Affordable Housing Units before the expiry of the Moratorium Period except in accordance with paragraph 1.3 below.
- 1.2 From the first day of the Moratorium Period to (but excluding) the date falling one calendar month later, the LPA may serve an Intention Notice on the Chargee.
- 1.3 Not later than 15 Working Days after service of the Intention Notice (or such later date during the Moratorium Period as may be agreed in writing between the LPA and the Chargee), the Chargee will grant the LPA (and/or the LPA's nominated substitute Registered Provider) an exclusive option to purchase the relevant Affordable Housing Units and/or Additional Affordable Housing Units which shall contain the following terms:
- 1.3.1 the sale and purchase will be governed by [the Standard Commercial Property Conditions (Third Edition – 2018 Revision)] (with any variations

⁵ The LPA may amend as appropriate.

GREATER LONDON AUTHORITY

- that may be agreed between the parties to the Option (acting reasonably));
- 1.3.2 the price for the sale and purchase will be agreed in accordance with paragraph 1.4.2 below or determined in accordance with paragraph 1.5 below;
 - 1.3.3 provided that the purchase price has been agreed in accordance with paragraph 1.4.2 below or determined in accordance with paragraph 1.5 below, but subject to paragraph 1.3.4 below, the LPA (or its nominated substitute Registered Provider) may (but is not obliged to) exercise the Option and complete the purchase of the relevant Affordable Housing Units and/or Additional Affordable Housing Units at any time prior to the expiry of the Moratorium Period;
 - 1.3.4 the Option will expire upon the earlier of (i) notification in writing by the LPA (or its nominated substitute Registered Provider) that it no longer intends to exercise the Option and (ii) the expiry of the Moratorium Period; and
 - 1.3.5 any other terms agreed between the parties to the Option (acting reasonably).
- 1.4 Following the service of the Intention Notice:
- 1.4.1 the Chargee shall use reasonable endeavours to reply to enquiries raised by the LPA (or its nominated substitute Registered Provider) in relation to the Affordable Housing Units and/or the Additional Affordable Housing Units as expeditiously as possible having regard to the length of the Moratorium Period; and
 - 1.4.2 the LPA (or its nominated substitute Registered Provider) and the Chargee shall use reasonable endeavours to agree the purchase price for the relevant Affordable Housing Units and/or Additional Affordable Housing Units, which shall be the higher of:
 - (a) the price reasonably obtainable in the circumstances having regard to the restrictions as to the use of the relevant Affordable Housing Units and/or Additional Affordable Housing Units contained in this Schedule []; and
 - (b) (unless otherwise agreed in writing between the LPA (or its nominated substitute Registered Provider) and the Chargee) the Sums Due.
- 1.5 On the date falling 10 Working Days after service of the Intention Notice, if the LPA (or its nominated substitute Registered Provider) and the Chargee have not agreed the price pursuant to paragraph 1.4.2(a) above:
- 1.5.1 the LPA (or its nominated substitute Registered Provider) and the Chargee shall use reasonable endeavours to agree the identity of an independent surveyor having at least 10 years' experience in the valuation of affordable/social housing within the London area to determine the dispute and, if the identity is agreed, shall appoint such independent surveyor to determine the dispute;
 - 1.5.2 if, on the date falling 15 Working Days after service of the Intention Notice, the LPA (or its nominated substitute Registered Provider) and

GREATER LONDON AUTHORITY

- the Chargee have not been able to agree the identity of an independent surveyor, either party may apply to the President for the time being of the Royal Institution of Chartered Surveyors or his deputy to appoint an independent surveyor having at least 10 years' experience in the valuation of affordable/social housing within the London area to determine the dispute;
- 1.5.3 the independent surveyor shall determine the price reasonably obtainable referred to at paragraph 1.4.2(a) above, due regard being had to all the restrictions imposed upon the relevant Affordable Housing Units and/or Additional Affordable Housing Units by this Agreement;
- 1.5.4 the independent surveyor shall act as an expert and not as an arbitrator;
- 1.5.5 the fees and expenses of the independent surveyor are to be borne equally by the parties;
- 1.5.6 the independent surveyor shall make his/her decision and notify the LPA, the LPA's nominated substitute Registered Provider (if any) and the Chargee of that decision no later than 14 days after his/her appointment and in any event within the Moratorium Period; and
- 1.5.7 the independent surveyor's decision will be final and binding (save in the case of manifest error or fraud).
- 1.6 The Chargee may dispose of the relevant Affordable Housing Units and/or Additional Affordable Housing Units free from the obligations and restrictions contained in paragraphs [] to [] of this Schedule which shall determine absolutely in respect of those Affordable Housing Units and/or Additional Affordable Housing Units (but subject to any existing tenancies) if:
- 1.6.1 the LPA has not served an Intention Notice before the date falling one calendar month after the first day of the Moratorium Period;
- 1.6.2 the LPA (or its nominated substitute Registered Provider) has not exercised the Option and completed the purchase of the relevant Affordable Housing Units and/or Additional Affordable Housing Units on or before the date on which the Moratorium Period expires; or
- 1.6.3 the LPA (or its nominated substitute Registered Provider) has notified the Chargee in writing pursuant to the Option that it no longer intends to exercise the Option.
- 1.7 The LPA (and its nominated substitute Registered Provider, if any) and the Chargee shall act reasonably in fulfilling their respective obligations under paragraphs 1.1 to 1.6 above (inclusive).

APPENDIX 5

Savill's report entitled UK Social Housing – May 2021

What can housing associations do to ease financial pressure?

Housing associations have faced two major challenges over the last five years: the rent cut and concerns over building safety in the aftermath of the Grenfell tragedy. Both have placed pressure on the sector's finances, even before the outbreak of Covid-19. The major costs faced by the sector over the coming years are continued work on building safety, the ramping up of decarbonisation, and increasing costs for new homes (Future Homes Standard).

The sector appears to have enough gearing capacity. But interest cover will grow more challenging as cost pressure grows. Can the sector find the cash?

Gearing should not be a problem

Back in 2016, we calculated there was £7.4bn of potential additional borrowing capacity in the sector, based on analysis of the 200 largest housing associations' 2015 accounts. By our reckoning, this capacity lay in organisations that had both the balance sheet and cashflow capacity to support the additional debt (see Housing Association Financial Capacity). Long-term sector debt totalled £66bn in 2015.

By 2020, long-term debt held by housing associations had reached £83bn, up a quarter in five years. S&P have predicted that debt will reach £107bn by 2023 and we think it could reach £132bn by 2026.

This additional debt could fund the delivery of 190,000 additional general needs homes and 60,000 shared ownership over five years. This assumes delivery of the 2021-26 grant funded

affordable homes programme and a share of Section 106 delivery.

Gearing has remained at a similar level over the last five years, with debt staying at around 46% of the total balance sheet asset value. This is unlikely to change much over the next five years as long as housing associations take on additional debt to fund the delivery of new homes.

And there should be more gearing capacity

The gearing ratio lenders generally use is very dependent on how housing assets have been valued in the accounts. Usually this is 'at cost', but arguably this overstates the sector's gearing. We have estimated the value of the sector's assets in their existing use as social housing (EUV-SH) at £270bn, leaving debt at just 31% of asset value.

Gearing is even lower if the basis of valuation is changed to Market Value Subject to Tenancy (MV-STT). Where this valuation basis is possible it allows for substantial uplifts compared to EUV-SH, especially in higher value housing markets. We have estimated the MV-STT of the sector's assets at £500bn, giving a gearing ratio of only 17%.

Despite the headline debt numbers, these estimates show how low gearing in the sector actually is.

Interest cover is the challenge

The real pressure on the sector's finances comes in the form of interest cover. Two factors have combined to erode cashflow capacity over the last five years.

Firstly, the rent cuts. Housing associations have weathered this storm extremely well, but there is no question that they felt the impact of falling income from their core asset base. Despite substantial cost cutting in the early years, costs per unit have gone up in line with RPI over the last five years. So, operating margin is down, and EBITDA has risen only slowly.

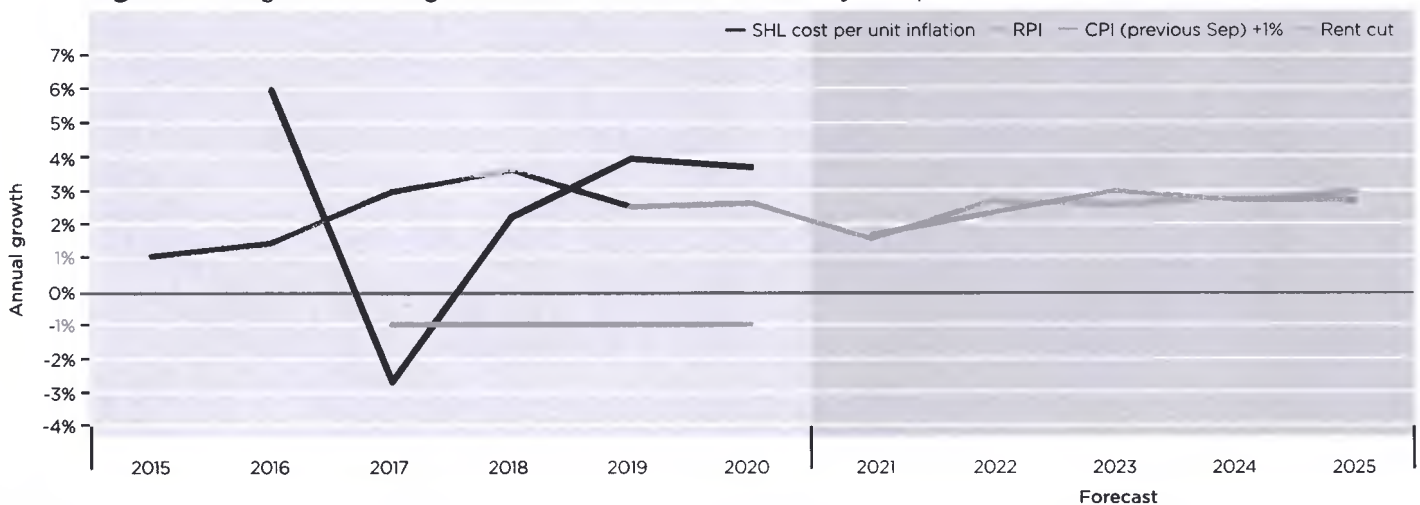
Although the pain of the cut is over, we see little reason to expect the operating margin of the sector to improve over coming years. If costs continue to rise in line with RPI, then that increase will broadly match an increase in rents at CPI + 1%. However, the affordability of rents for tenants may prevent some organisations from raising rents at this rate.

Secondly, the increased spend on planned maintenance. We have estimated the value of the planned maintenance spend included in the sector EBITDA-MRI interest cover ratio, reported by the Regulator. This has increased by 25% over the last five years.

Even if this increase is halted and the value of planned maintenance is the same in each future year as it was in 2020, the EBITDA-MRI interest cover ratio would fall from 138% in 2020 to around 125% in 2026.

But organisations are unlikely to allow interest cover to fall this far. Some will be concerned by how the Regulator may view lower levels of interest cover and organisations may risk being downgraded from the prized (by many) V1 status. On top of this, allowing interest cover to fall too far will alarm credit rating agencies, as well as existing and potential future investors in the sector.

Figure 1 Changes to housing association incomes and costs by component



Source: Savills analysis of c.200 of the largest housing associations, ONS, Oxford Economics

And in the future, more spending will be needed to rectify issues of building safety and to start to make substantive progress towards decarbonising social housing. The cost of new homes will also increase as the Future Homes Standard is applied.

What is certain is that failing to rise to the challenge is not an option. Rectifying building safety issues is a top priority for landlords and needs to be dealt with as soon as possible. Decarbonisation is non-negotiable

and fundamental to the long-term viability of the sector's housing assets. If development is to remain a priority, new ways of delivering additional affordable homes will be needed and should continue to be explored.

Where can the additional cash come from?



Government?

Grant will clearly continue to play a major role, particularly in the development of new affordable homes. Grant rates will need to increase to reflect increasing build costs to ensure that development remains a priority. Otherwise there is a risk that organisations will have to focus resources on existing stock.

Cutting development plans to avoid taking on additional debt is a simple way to ease pressure on interest cover. Our calculations show that if the sector provided only an additional 110,000 general needs homes over the five years to 2025 (rather than the 190,000 we assumed above), then interest cover would remain at current levels.

Grant would also help with decarbonisation. The social housing sector has the scale and professionalism to pioneer the technologies needed to reduce the carbon impact of all UK housing, not just social housing. But Government support has been slow to emerge. Despite manifesto commitments the £50m demonstrator fund is the only cash to have been allocated so far.



Refinancing?

Debt continues to be available at very low rates of interest and for some the significant ongoing savings will be worth the costs of exiting existing legacy arrangements. The average rate of interest paid by the sector was 4.0% in 2020, down from 4.5% in 2016. Refinancing deals are currently being done at

interest rates of around 2.5%.

Our analysis above assumes that the current average rate of 4.0% will be maintained over the next five years. If there was widespread refinancing across the sector and that interest rate could be cut to 3.0% by 2026, then EBITDA-MRI would rise to 166%. Or interest cover could be maintained at current levels and an additional £2.8bn spent on planned maintenance.

There are also likely to be more specific 'carve-outs' from EBITDA-MRI covenants for building safety investment and, to a lesser extent, for decarbonisation. We have already seen lenders take a pragmatic approach to building safety spend over the coming years, with flexible and bespoke carve-outs being agreed that allow for 'exceptional' spend to be excluded from covenant calculations.



Streamlining?

There is more capacity to be found through active management within the sector.

1. More mergers are inevitable. They can create efficiencies of scale, provide capacity to manage financial risk, as well as match up complementary businesses with different forms of financial capacity. Mergers can also create more resilient businesses, better able to withstand future economic shocks and policy changes.
2. Stock rationalisation programmes need to continue. Focusing stock ownership on core geography can drive operating efficiency.

Reducing holdings in non-core tenures supports business focus.

3. Sale of shared ownership portfolios. The capital invested in holding shared ownership homes returns only 2.75% per year, less than the average cost of borrowing. Sale of these portfolios would allow this capital to be reinvested in assets of greater value to the business.



New equity?

The need to maintain both new development volumes and protect cash interest cover is likely to push more organisations towards new ways to deliver additional homes, taking advantage of the large volumes of private capital seeking opportunities in affordable housing investment. Partnerships with institutional investors and new entrants could help maintain development programmes, without eroding the capacity of the business to make the necessary improvements to existing homes.



Delay?

Perhaps spending on decarbonisation should be delayed? Surplus cash could be invested in new homes, adding to the asset base and gearing capacity, as well as generating additional cashflow capacity through increased rental income. But time is limited, especially if the new Government goal to cut carbon emissions by 78% from 1990 levels by 2035 is to be realised.

Note: The numbers reported in this paper are based on Savills analysis of the annual financial statements of around 200 of the largest housing associations in England. This sample has represented the owners of between 93% and 98% of all general needs social housing in England. There are slight differences between the analysis and the numbers reported in the Regulator of Social Housing Global Accounts.

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APPENDIX 6

**Social Housing – Insight- Special Report dated July 2025 summarising analysis by Faithorn
Farrell Timms, JLL and Savills**



SOCIAL HOUSING

Special report: trades of general needs and shared ownership homes among registered providers top £3.6bn since 2020

Insight 25 Jul 2025 Keith Cooper

More than £3.6bn worth of occupied general needs and shared ownership homes have been traded between private registered providers over the past five years, an analysis by Faithorn Farrell Timms, JLL and Savills has found. *Keith Cooper* reports



Picture: Alamy

The South East has been the most consistently active region in this market, with sales of general needs homes exceeding £100m in each of the five years. This region also accounts for £1.1bn of the total £2.1bn sales of general needs rentals in all of England over the same period.



Special report: trades of general needs and shared ownership homes among registered providers top £3.6bn since 2020 #UKhousing #SocialHousingFinance

At a glance

- A total of 37,551 homes of both tenures were bought and sold in the inter-RP market in the five years from 2020 to 2024, according to figures compiled by Faithorn Farrell Timms, JLL and Savills
- A total of 12,544 shared ownership homes have been traded in the years 2020-24 for a total of £1.6bn
- The agencies' analysis of sales figures shows significant but uneven year-on-year variations in the number of general needs units sold, as well as their total value

More than £3.6bn worth of occupied general needs and shared ownership homes have been traded between private registered providers over the past five years, according to an exclusive analysis by the three main agents in the business.

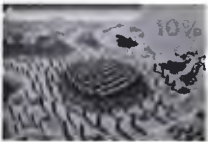
A total of 37,551 homes of both tenures were bought and sold in this inter-RP market in the five years from 2020 to 2024, according to figures compiled by Faithorn Farrell Timms, JLL and Savills.

[Download the data](#)

Read more



L&G looks to buy 'problem' legacy stock from traditional housing associations



Special report: stock concentration increases 10% as housing associations seek efficiencies



A return to new development is 'a question of when, not if' for Southern Housing

The analysis finds that 12,544 shared ownership homes have been traded in the years 2020-24 for a total of £1.6bn. No regional breakdown was provided for this smaller shared ownership market.

Consultants, lawyers and investors tell *Social Housing* the figures show that an established but previously "sporadic" market in inter-RP sales has become "stable" after suffering delayed "knock-on" effects in 2024 from Liz Truss' Mini Budget.

Despite transactions becoming more challenging to complete, they are optimistic about "increased activity" this year as larger non-profit providers continue to rationalise their stock. A handful of for-profit

• Let's talk about economic regulation for more and better social homes

• Regulator of Social Housing publishes decision to de-register small lease-based supported housing provider

• The Editor's Rundown: Unsettled political weather, and innovation on the table

• Special report: 5% rise in housing associations' development income

general needs homes, after previously favouring the purchase of shared ownership homes.

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“There is and continues to be an active marketplace for the trading of tenanted stock between registered providers,” says Chris Newman, a director at Savills’ Affordable Housing Consultancy.

“Participation from traditional registered providers and for-profit registered providers is only going to grow as this market grows,” he adds. “Four or five years ago, for-profits were probably more focused on shared ownership. But their appetite has widened and they are happy to consider and indeed in some instances prefer rented accommodation. We are seeing for-profits circling and becoming more interested in acquiring mature, stabilised portfolios.”

The three agencies’ analysis breaks down the data into ‘general needs housing’ and ‘shared ownership’ sales. The general needs category includes portfolios comprised of “a majority” of social and affordable rented stock but excludes shared ownership, extra care, supported housing and leasehold schemes for older people. While some inter-RP sales complete without the use of agents, the agencies state that these figures represent most trades, a claim backed by other sources. The majority of transactions were between housing associations, but two deals involved local authorities as buyers.

Traditional not-for-profit providers such as housing associations have long traded stock with each other. This commonly involves national or regional housing associations shrinking their geographical footprints through a process known as rationalisation. They usually do this by selling homes to smaller providers in areas where they no longer want to operate. The latest *Social Housing* analysis of rationalisation trends last year found that an increasing concentration of RPs’ stock since 2013-14 had been largely driven by large and medium-sized RPs.

37,551

Number of occupied general needs and shared ownership homes traded between private registered providers in the five years from 2020 to 2024

25,007

Number of occupied general needs homes traded between private registered providers in the five years from 2020 to 2024

12,544

private registered providers in the five years from 2020 to 2024

Rationalisation was previously primarily motivated by efficiency drives. But recent financial pressures on RPs have also made stock sell-offs an attractive means of freeing up cash for day-to-day operations. The Regulator of Social Housing has warned RPs against the sale of “fixed assets to support cash flows” and is monitoring the market.

The agencies’ analysis of sales figures shows significant but uneven year-on-year variations in the number of general needs units sold, as well as their total value. In 2020, 4,907 such homes were traded between registered providers for a total of £337.6m. The number of general needs units sold surged 65 per cent in 2021 to 8,109 homes with a combined value of £648.2m, the highest recorded in all five years. The total value of traded homes then fell to £318.3m in 2022 before zig-zagging to £371.0m in 2024, a figure the agencies say is affected by the “knock-on” effects of the Truss Budget.

The total annual rental income of traded portfolios and gross initial yields (GIYs), a key measure used by the three agencies to track the performance of the inter-RP market, follow a similarly uneven trajectory. Total rental incomes of traded portfolios jumped 67 per cent between 2020 and 2021 from £24.1m to £40.3m. They then fell to £19.1m in 2022, before recovering to £25.4m in 2024. GIYs fell over the same period from 7.1 per cent in 2020 to 5.7 per cent in 2023 before recovering to 6.8 per cent in 2024.

Total occupied general needs stock sold between RPs, 2020 to 2024

Show 10 ▾ entries

Search:

Region	Units	Annual rental income	Transaction value	Blended GIY
East Midlands	1,282	£5,149,147	£88,838,114	5.80%
East of England	2,065	£11,233,133	£173,054,788	6.49%
Greater London	4,362	£24,753,427	£399,290,704	6.20%
North East	1,977	£7,452,133	£83,015,634	8.98%
North West	443	£2,059,351	£27,574,000	7.47%
South East	10,726	£63,044,585	£1,086,507,902	5.80%
South West	1,275	£5,649,758	£82,458,300	6.85%
West Midlands	1,109	£5,271,912	£61,066,224	8.63%
Yorkshire and the Humber	1,768	£7,116,454	£74,937,532	9.50%
Total	25,007	£131,729,900	£2,076,743,198	6.34%

Showing 1 to 9 of 9 entries

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homes by their sale price. Blended GIYs represent the same calculation for the total rental and sale prices in each region for all five years. The measure does not take account of management and maintenance costs, which vary from landlord to landlord and more so for general needs stock, which requires more management than shared ownership.

The analysis shows a significant variation between GIYs in different regions. Blended GIYs for the five-year period range from 5.8 per cent in the South East and the East Midlands to 9.5 per cent in Yorkshire and the Humber. London, which has seen the second-largest number of inter-RP trades over the five years, has the third-lowest blended GIY of 6.2 per cent.

Charles Cleal, head of housing consultancy at JLL, tells *Social Housing* that reductions in GIYs for England during 2021 and 2022 had followed the “busy market” of 2020.

“The Mini Budget had a delayed knock-on effect in 2024,” he adds. “There is more activity in 2025 than last year and we are seeing yields come in a bit with values increasing. Yields will come down, with slightly more buyers in the market creating greater competition.”

Mr Cleal cautions against comparing year-on-year regional yields as individual trades in particular years skew the results.

Units transacted per year by region

Press play at the bottom of the map to view a timeline of units transacted per year



Source: Faithorn Farrell Timms, JLL and Savills

The agencies say the data shows that the trade in shared ownership homes is “maturing”, but remains in its “infancy” compared with the general needs market. Of the 30 or so shared ownership home trades logged by the

that 12,077 shared ownership homes have been traded between private registered providers over five years compared with 25,007 general needs units.

The net yield for the best-quality shared ownership portfolios ranges between 4.0 and 4.5 per cent, according to the agencies. The calculation of net yield is possible for shared ownership homes as their management costs are unlikely to vary as much between landlords as they do for general needs homes.

Stuart May, head of housing consultancy at Faithorn Farrell Timms, says regional and local not-for-profit RPs are still the main buyers of homes in this market and their larger counterparts are the main sellers. There were, however, several emerging “sub-markets” to fuel an “optimistic outlook” for 2025.

“Some of these sub-markets are already buoyant and we expect them to grow over the coming months, with others remaining static or slowing,” Mr May adds. “There is a growing sub-market for stabilised portfolios of high-quality new build homes and there is a fresh supply of stock coming onto this market and active demand to acquire these homes, from both not-for-profit and for-profit registered providers.”

Occupied general needs stock sold between RPs, 2024

Show 10 ▾ entries

Search:

Region	Units	Annual rental income	Transaction value	Blended GIY
East Midlands	64	£306,692	£3,600,000	8.52%
East of England	1,178	£6,793,660	£113,134,125	6.00%
Greater London	204	£1,730,741	£22,000,000	7.87%
North East	0	£0	£0	
North West	0	£0	£0	
South East	1,885	£12,754,308	£185,870,000	6.86%
South West	0	£0	£0	
West Midlands	43	£238,922	£4,536,030	5.27%
Yorkshire and the Humber	812	£3,533,065	£41,850,000	8.44%
Total	4,186	£25,357,388	£370,990,155	6.84%

Showing 1 to 9 of 9 entries

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Source: Faithorn Farrell Timms, JLL and Savills

There is also growing interest among investors in for-profit providers acquiring older homes that require energy efficiency improvements from traditional housing associations, Mr May says.

profit registered providers has a requirement for social and environmental impact, and that could manifest itself in a growing requirement for opportunities that include homes that require upgrading in the short to medium term,” he says. “This could bring new capital into the effort to improve homes from an energy efficiency and condition perspective. It is a very attractive proposition to some investors.”

Social Housing regularly reports on the full range of stock rationalisation deals and partnerships involving the relatively new generation of for-profit providers, more traditional housing association not-for-profit providers, and local authorities.

Occupied general needs stock sold between RPs, 2023

Show 10  entries

Search:

Region	Units	Annual rental income	Transaction value	Blended GIY
East Midlands	189	£620,519	£5,536,000	11.21%
East of England	184	£1,030,808	£13,465,875	7.65%
Greater London	557	£3,838,265	£65,830,000	5.83%
North East	0	£0	£0	
North West	16	£105,129	£1,785,000	5.89%
South East	2,947	£17,358,254	£315,035,388	5.51%
South West	0	£0	£0	
West Midlands	0	£0	£0	
Yorkshire and the Humber	0	£0	£0	
Total	3,893	£22,952,975	£401,652,263	5.71%

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Source: Faithorn Farrell Timms, JLL and Savills

Last September, 105,000-home L&Q sold 201 homes to Teddington-based RHP as part of a wider stock rationalisation plan that includes the proposed sale of 3,500 homes in Buckinghamshire to Paradigm Housing Group, as announced to the London Stock Exchange in March. For-profit Legal & General Affordable Homes acquired 487 homes from Birmingham City Council, *Social Housing* reported this March.

Matthew Bailes, chief executive of Paradigm, says there are “pluses and minuses” to the acquisition of tenanted stock compared with development. “Acquiring existing tenanted stock does not entail taking development risk, but means there is more emphasis on understanding stock condition and the level of investment required to bring homes up to the right standard, including the new Decent Homes Standard when that is introduced.”

says that most of the landlord's transfers were to not-for-profit housing associations, but that it is open to discussions with councils and for-profits "where it's clear residents will benefit".

"We always consult with residents and local authorities from an early stage when considering a transfer. We carry out thorough due diligence checks on any proposed new landlord, including their financial stability, governance and ability to provide an excellent service, and share these details with residents," Ms Savage adds.

L&Q recently transferred vacant buildings to Newham and Trafford councils. "We work closely with local authorities in our core areas to help tackle homelessness and the temporary accommodation crisis," Ms Savage says.

Occupied general needs stock sold between RPs, 2022

Show 10 ▾ entries

Search:

Region	Units	Annual rental income	Transaction value	Blended GIY
East Midlands	489	£1,845,587	£40,032,114	4.61%
East of England	174	£807,404	£13,515,000	5.97%
Greater London	425	£2,732,521	£61,138,641	4.47%
North East	752	£2,558,588	£25,777,374	9.93%
North West	55	£324,952	£6,589,000	4.93%
South East	1,209	£7,850,398	£144,349,990	5.44%
South West	0	£0	£0	
West Midlands	0	£0	£0	
Yorkshire and the Humber	808	£2,940,439	£26,887,532	10.94%
Total	3,912	£19,059,889	£318,289,651	5.99%

Showing 1 to 9 of 9 entries

Previous 1 Next

Source: Faithorn Farrell Timms, JLL and Savills

Social Housing has also tracked closely Essex-based not-for-profit CHP's stock sell-off deals with three for-profits providers: L&G, M&G and NewArch Homes (which is owned by Octopus Investments). In its most recent deal, announced in April, NewArch Homes acquired 220 homes from CHP, including 59 from the association's development pipeline.

Helen Shackleton, head of growth at CHP, tells *Social Housing* that working with for-profit providers means it can provide more affordable homes.

"We have established relationships with three for-profit registered providers whose values align with CHP's and would like to increase the work that we do with these," she adds. "CHP is open to selling more homes

can release capital tied up in those homes, which can be used to invest in new affordable homes that might not ordinarily be built.”

Occupied general needs stock sold between RPs, 2021

Show 10 ▾ entries

Search:

Region	Units	Annual rental income	Transaction value	Blended GIY
East Midlands	488	£2,164,870	£36,170,000	5.99%
East of England	170	£822,264	£11,734,788	7.01%
Greater London	2,970	£14,787,900	£232,122,063	6.37%
North East	0	£0	£0	
North West	0	£0	£0	
South East	3,276	£16,930,921	£309,253,524	5.47%
South West	208	£835,074	£7,428,300	11.24%
West Midlands	997	£4,732,761	£51,530,194	9.18%
Yorkshire and the Humber	0	£0	£0	
Total	8,109	£40,273,790	£648,238,868	6.21%

Showing 1 to 9 of 9 entries

Previous 1 Next

Source: Faithorn Farrell Timms, JLL and Savills

Peter Merchant, investment director - affordable housing at Octopus Capital, says it had completed two stock acquisitions from private registered providers this year, including the one from CHP.

“A main feature in both acquisitions has been working with the vendor to ensure that the homes acquired achieve our requirements on quality and environmental performance,” he adds. “As most affordable homes are social rent, and with our focus on social impact, we are ambitious to deliver as many social rented homes as possible.”

Stock acquisition from non-profit provider “partners” would play a “key role” in the growth of NewArch Homes and the Octopus Affordable Housing Fund, Mr Merchant adds. “As our relationships progress with those partners, the focus will move into co-curating a pipeline of new build homes which will be managed by that partner,” he says.

Occupied general needs stock sold between RPs, 2020

Show 10 ▾ entries

Search:

Region	Units	Annual rental income	Transaction value	Blended GIY
East Midlands	52	£211,479	£3,500,000	6.04%
Total	4,907	£24,085,858	£337,572,260	7.14%

		income	value	
East of England	359	£1,778,997	£21,205,000	8.39%
Greater London	206	£1,664,000	£18,200,000	9.14%
North East	1,225	£4,893,545	£57,238,260	8.55%
North West	372	£1,629,270	£19,200,000	8.49%
South East	1,409	£8,150,703	£131,999,000	6.17%
South West	1,067	£4,814,684	£75,030,000	6.42%
West Midlands	69	£300,229	£5,000,000	6.00%
Yorkshire and the Humber	148	£642,951	£6,200,000	10.37%
Total	4,907	£24,085,858	£337,572,260	7.14%

Showing 1 to 9 of 9 entries

Previous 1 Next

Source: Faithorn Farrell Timms, JLL and Savills

One of the biggest for-profit trades this year was the sale by Sage of 3,100 shared ownership homes to the Universities Superannuation Scheme (USS), the UK's largest pension fund, through its acquisition for £405m of one of Sage's RPs, which was re-named Sparrow Shared Ownership. Sage says the deal brought "much-needed institutional capital to the sector", allowing it to redeploy funds to "invest in more new high-quality affordable homes for those that need them the most".

"Private sector capital is critical to addressing the undersupply of housing across the UK and the sale of one of our RPs (SHL) to USS not only demonstrates the attractiveness of the sector to long-term institutional investors, but importantly will help to deliver more affordable homes for those that need them the most," a spokesperson adds. Sage only invests in affordable newly built homes and has "no current plans" to buy stock from other RPs.

Shared ownership transactions 2020 to 2024 (in addition to general needs transactions in other tables)

Homes: 12,544

Transaction value: £1,557,607,459

Jeremy Hunt, a partner at law firm Trowers & Hamblins, says the trade in inter-RP sales is "very active" but also a "buyers' market", with only a handful of for-profit providers "very engaged" in it. Completing sales transactions is, however, getting "harder" amid uncertainty over the impact of building safety and energy performance rules, he adds.

"There are more sellers than buyers. It is recognised as a buyers' market... and there are some significant rationalisation programmes out there," Mr

a number are falling. There is uncertainty in the market over the pricing impacts of building safety, compliance-type issues, and EPCs [Energy Performance Certificates].”

For-profits’ requirements for high-quality new build stock with good EPC ratings, and institutional investors’ similarly “high expectations”, are challenging the completion of some deals, he adds. “None of this is a reflection on the existing not-for-profit providers. But if you are a buyer you can afford to be discriminating.”

Matthew Waters, a partner at Devonshires, says 2025 has been a “busy year” with for-profits becoming “big players”.

“We have seen a huge increase in the number and scale of stock sale transactions in recent years for the well-rehearsed reasons that non-profit providers need to find capital to invest in existing stock, regulatory compliance and new supply,” he adds. “It has been a really busy period. We have gone from a fairly sporadic market to a consistently active and growing market in a relatively short period of time.”

Mr Waters also sees no let-up in activity, as the financial pressures on associations to sell stock remains, despite historically high funding for the sector in the government’s Spending Review. “Even with those recent funding announcements on the Affordable Housing Programme and the rent settlement, the pressures on non-profit providers are not going to materially change, so we expect to continue to see them disposing of stock.”

Click on the button below to download the data tables for ‘Special report: trades of general needs and shared ownership homes’*.

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Investment in existing stock continued to drive up social housing costs per unit in the last year of data, while stock characteristics including age weighed heavily on reinvestment figures. *Robyn Wilson* reports

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Social Housing analysis of government data finds that unitary charges for private finance initiative housing deals are set to peak next year, with a clutch of contracts also approaching expiration. How might lessons learned from the programme inform any future wave of public-private partnerships? *Keith Cooper* reports

Special report: affordable housing starts plummet

Social Housing’s analysis of official figures on affordable housing

2010 and 2021 has found that starts are plunging across England, with particularly sharp drops across all tenures in London. *Keith Cooper* reports

Special report: capital commitments fall 5.7%

Social Housing analysis has found that total capital commitments for UK housing associations dropped to £39.1bn in the 12 months to March 2024, bucking the upward trend of recent years. *Chloe Stothart* and *Keith Cooper* report

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Asset management **For-profits and lease finance**
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APPENDIX 7

Private Finance Working Group Tracker

Local Authority Mortgagee Exclusion Clause Success

Local Authority	Type of Agreement			Notes
	S106	DOV	Other	
Adur District Council				
Allerdale Borough Council				
Amber Valley Borough Council				
Arun District Council				
Ashfield District Council				
Ashford Borough Council				
Aylesbury Vale District Council		NHF 3/19/2020 In-house		
Babergh District Council				
Barnsley Metropolitan Borough Council				
Basildon Borough Council				
Basingstoke and Deane Borough Council	NHF 2019 In-house			Council require letter setting out request and then ask client to respond to property requisitions before proceeding
Bassetlaw District Council				
Bath and North East Somerset Council	NHF 2022 In-house			
Bedford Borough Council		NHF 8/19/2021 In-house		

Birmingham City Council				
Blaby District Council				
Blackburn with Darwen Borough Council				
Blackpool Borough Council				
Blaenau Gwent County Borough Council				
Bolsover District Council				
Bolton Metropolitan Borough Council				
Borough Council of Kings Lynn and West Norfolk				
Borough of Barrow-in-Furness				
Borough of Broxbourne				
Borough of Poole				
Boston Borough Council				
Bournemouth Borough Council				
Bournemouth, Christchurch and Poole Council		NHF 01/12/2020 in-house	01.12.2020	Not referred to in variation
Bracknell Forest Council				
Braintree District Council		NHF 10/18/2022 In-house		
Breckland Council				
Brentwood Borough Council		NHF 3/31/2021 In-house		
Bridgend County Borough Council				
Brighton and Hove City Council				
Bristol City Council		NHF 9/16/2021 In-house		absolute/short version NHF wording
Broadland District Council				

Bromsgrove District Council				
Broxtowe Borough Council				
Buckinghamshire Council		NHF 11/03/2022 Law firm		
Burnley Borough Council	NHF 2022 Law firm			
Bury Metropolitan Borough Council				
Caerphilly County Borough Council		NHF 11/25/2022 In-house		
Calderdale Metropolitan Borough Council				
Cambridge City Council		NHF TBC Strategic Partnership firm covering 3 LPA's only		Wording agreed, due to complete soon 03/23
Cambridgeshire County Council				
Cannock Chase District Council				
Canterbury City Council				
Carlisle City Council				
Carmarthenshire County Council				
Castle Point Borough Council				
Central Bedfordshire Council		NHF 10/03/2022 Law firm		Previously agreed to NHF wording, but on recent DOV
Ceredigion County Council				
Charnwood Borough Council				
		NHF		

Chelmsford City Council		1/27/2023 In-house		
Cheltenham Borough Council				
Cherwell District Council		NHF 04/07/2021 In-house		an amended form of NHF wording
Cheshire East Council		NHF 06/01/2021 in-house		NHF slightly amended
Cheshire West and Chester Council				
Chesterfield Borough Council				
Chichester District Council		NHF 03/08/2021 In-house		
Chiltern District Council				
Chorley Council				
Christchurch Borough Council				
City and County of Swansea Council		NHF 8/22/2022 In-house		
City of Bradford Metropolitan District Council				
City of Cardiff Council				
City of Lincoln Council				
City of London Corporation				
City of Westminster				
City of Wolverhampton Council				
City of York Council		NHF 2023 in-house		version amended.
Colchester Borough Council				
Conwy County Borough Council				

Copeland Borough Council				
Corby Borough Council				
Cornwall Council	Own MEC has been accepted by funders 2022 In-house			
Cotswold District Council				this council is linked for legal services with Forest of Dean DC, South Oxfordshire DC and West Oxfordshire DC
Council of the Isles of Scilly				
Coventry City Council				
Craven District Council				
Crawley Borough Council				
Cumbria County Council				
Dacorum Borough Council				
Darlington Borough Council				
Dartford Borough Council				
Daventry District Council				
Denbighshire County Council				

Derby City				
Derbyshire County Council				
Derbyshire Dales District Council				
Devon County Council	NHF 2022 In-house			
Doncaster Metropolitan Borough Council				
Dorset Council	NHF 2022 In-house	NHF 07/01/2023 w firm 2/2015/1935/OUT		
Dover District Council				
Dudley Metropolitan Borough Council				
Durham County Council	NHF 16/05/2022 in-house			Blanket form of NHF consistently accepted in s106s.
Eastbourne Borough Council				
East Cambridgeshire District Council		NHF 12/17/2021 In-house 20/01116/MPO		
East Devon District Council	NHF 2022 In-house			
East Dorset District Council				
East Hampshire District Council		NHF 1/14/2022 In-house		an amended form of NHF wording

East Hertfordshire District Council		NHF Aug-21 Law firm 3/14/2292/FP		This deed required Hertfordshire County Council to be a party as well - see entry below
Eastleigh Borough Council				
East Lindsey District Council				
East Northamptonshire Council				
East Riding of Yorkshire Council				
East Staffordshire Borough Council		NHF 2021 in-house		
East Suffolk District Council				
East Sussex County Council				
Eden District Council				
Elmbridge Borough Council				
Epping Forest District Council				
Epsom and Ewell Borough Council				
Erewash Borough Council				
Essex County Council		NHF 10/18/2022 In-house (ELS)		
Exeter City Council	NHF 2022 In-house			
Fareham Borough Council				
Fenland District Council				
Flintshire County Council				
Folkestone and Hythe District Council				
Forest Heath District Council				

Forest of Dean District Council				this council is linked for legal services with Cotswold DC, South Oxfordshire DC and West Oxfordshire DC.
Fylde Borough Council				
Gateshead Metropolitan Borough Co		NHF 2021 in-house		
Gedling Borough Council				
Gloucester City Council				
Gloucestershire County Council				
Gosport Borough Council				
Gravesham Borough Council				
Great Yarmouth Borough Council				
Guildford Borough Council				
Gwynedd Council				
Halton Borough Council				
Hambleton District Council	NHF 2022/2023 in-house			
Hampshire County Council		NHF 1/14/2022		an amended form of NHF wording

		In-house		
Harborough District Council				
Harlow Council				
Harrogate Borough Council	NHF 2023 in-house			
Hart District Council	NHF 2022 In-house			
Hartlepool Borough Council	NHF 2020 in-house			
Hastings Borough Council				
Havant Borough Council				
Herefordshire Council				
Hertfordshire County Council		NHF Aug-21 In-house 3/14/2292/FP		This deed required East Hertfordshire District Council to be a party as well - see entry above
Hertsmere Borough Council				
High Peak Borough Council				
Hinckley and Bosworth Borough Council				
Horsham District Council		NHF 12/31/2020 In-house S106/19/0019		
Hull City Council				
		NHF		

Huntingdonshire District Council		7/21/2021 Strategic Partnership firm covering 3 LPA's only 19/01234/S106		
Hyndburn Borough Council				
Ipswich Borough Council				
Isle of Anglesey County Council				
Isle of Wight Council				
Kent County Council				
Kettering Borough Council				
Kirklees Council	NHF 2022/2023 Law firm and in-house			
Knowsley Metropolitan Borough Council				
Lancashire County Council				
Lancaster City Council		NHF 2022 in-house		
Leeds City Council	NHF 2022/2023 in-house	NHF 09/03/2020 In-house		
Leicester City Council				
Leicestershire County Council				
Lewes District Council				
Lichfield District Council				
Lincolnshire County Council				

London Borough of Hammersmith &	GLA	GLA		<p>GLA with small amendment for S106</p> <p>Notice to dispose by the funder is to be served on both the LA & GLA where each will have the option to find an affordable housing provider to transfer the property to (s106)</p>
London Borough of Haringey	04/11/2022 In-house	01/06/2021 In-house	2021/01194/VAPO 1999/01608/FUL	
London Borough of Harrow				
London Borough of Havering		NHF		absolute/chart version NHF wording

London Borough of Havering		2/27/2023 In-house		absolute/short version with wording
London Borough of Hillingdon				
London Borough of Hounslow				
London Borough of Islington				
London Borough of Lambeth		GLA TBC Law firm 12/03487/FUL, 09/03530/FUL, 06/01769/OUT		Not yet completed but form of deed agreed - arranging execution 3/23
London Borough of Lewisham				
London Borough of Merton			NHF 12/21/2021 In-house	LSVT Transfer and clawback agreement
London Borough of Newham				
London Borough of Redbridge				
London Borough of Richmond upon Thames				
London Borough of Southwark		GLA Jun-23 in-house ref: 21/AP/0446		
London Borough of Sutton			NHF 08/03/2021 In-house	LSVT Transfer and clawback agreement
London Borough of Tower Hamlets	GLA 2021			Minor amendments with "arm's length" wording that

	In-house			
London Borough of Waltham Forest				
London Borough of Wandsworth		NHF 10/28/2020 Law firm		absolute/short version NHF wording
Luton Borough Council				
Maidstone Borough Council				
Maldon District Council		NHF 1/25/2022 In-house		
Malvern Hills District Council				
Manchester City Council				
Mansfield District Council				
Medway Council				
Melton Borough Council				
Mendip District Council	NHF 2021 In-house			
Merthyr Tydfil County Borough Council				
Mid Devon District Council	NHF 2022 In-house			
Middlesbrough Borough Council				
Mid Suffolk District Council				
Mid Sussex District Council		NHF 10/15/2020 In-house DM/19/4899		an amended form of NHF wording
Milton Keynes Council		NHF 7/26/2022		

		Law firm		
Mole Valley District Council				
Monmouthshire County Council		NHF 02/07/2023 In-house M/814		
Neath Port Talbot County Borough Council				
Newark and Sherwood District Council				
Newcastle City Council	NHF 2022/2023 in-house			
Newcastle-under-Lyme District Council				
New Forest District Council				
Newport City Council		NHF 6/16/2021 In-house		absolute/short version NHF wording
Norfolk County Council				
Northampton Borough Council				
Northamptonshire County Council				
North Devon Council				
North Dorset District Council				
North East Derbyshire District Council				
North East Lincolnshire Council				
North Hertfordshire District Council				
North Kesteven District Council				
North Lincolnshire Council				
North Norfolk District Council				
North Northamptonshire Council				
North Somerset Council				
	NHF			

	2022/2023			
North Tyneside Council	in-house and law firm			
	NHF			
Northumberland County Council	2022/2023 in-house			
North Warwickshire Borough Council				
North West Leicestershire District Council				
North Yorkshire County Council				
Norwich City Council				
Nottingham City Council				
Nottinghamshire County Council				
Nuneaton and Bedworth Borough Co		NHF 12/03/2021 In-house		
Oadby and Wigston District Council				
Oldham Metropolitan Borough Council				
Oxford City Council				
Oxfordshire County Council		NHF 2021 In-house 12/0494/P/FP; W2001/0934		Two deeds of variation also required West Oxfordshire DC to be a party (see entry below). NHF wording amended.
Pembrokeshire County Council				

Pendle Borough Council				
Peterborough City Council	NHF 2017 In-house			
Plymouth City Council	NHF 2020 In-house			
Portsmouth City Council				
Powys County Council				
Preston City Council		NHF 2023 in-house		
Purbeck District Council				
Reading Borough Council				
Redcar and Cleveland Borough Council				
Redditch Borough Council				
Reigate and Banstead Borough Council				
Rhondda Cynon Taf County Borough Council				
Ribble Valley Borough Council				
Richmondshire District Council				
Rochdale Metropolitan Borough Council				
Rochford District Council		NHF 8/17/2022 In-house 21/01143/OBL		absolute/short version NHF wording
Rossendale Borough Council				
Rother District Council				
Rotherham Metropolitan Borough Council				
Royal Borough of Greenwich				
Royal Borough of Kensington and Chelsea				
Royal Borough of Kingston upon Thames				

Royal Borough of Windsor and Maidenhead				
Rugby Borough Council				
Runnymede Borough Council		NHF 2/16/2021 RU.19/0998 In-house	GLA 2022	Other agreement is a Nomination agreement, transfer and lease amended "Local" instead of London. Nomination was completed 01.06.2023 with absolute NHF wording.
Rushcliffe Borough Council				
Rushmoor Borough Council				
Rutland County Council				
Ryedale District Council		NHF 11/02/2022 In-house		absolute/short version NHF wording
Salford City Council				

Sandwell Metropolitan Borough Council				
Scarborough Borough Council				
Sedgemoor District Council				
Sefton Metropolitan Borough Council	NHF 2019 in-house			
Selby District Council				
Sevenoaks District Council				
Sheffield City Council				
Shropshire Council		NHF 08/12/2022 In-house 20/03160/VRA106		
Slough Borough Council				
Solihull Metropolitan Borough Council				
Somerset County Council				
Somerset West and Taunton District		NHF 12/16/2021 Law firm		absolute/short version NHF wording Law firm providing legal services for council
Southampton City Council				
South Bucks District Council				
		NHF 6/30/2022		

South Cambridgeshire District Council		Strategic Partnership firm covering 3 LPA's only 20/03173/S106A - S/2341/14/FL		absolute/short version NHF wording
South Derbyshire District Council				
Southend-on-Sea Borough Council				
South Gloucestershire Council	NHF 2022 In-house			
South Hams District Council	NHF 2023 In house and Law Firm			Shares legal with West Devon
South Holland District Council		NHF 07/07/2021 In-house H03-0096-21		
South Kesteven District Council				
South Lakeland District Council	NHF 2022/2023 in-house and law firm	NHF 2022/2023 in-house and law firm		requires evidence from lender that the MEC is required
South Norfolk District Council				
South Northamptonshire Council		NHF 10/23/2020 In-house		absolute/short version NHF wording

South Oxfordshire District Council	NHF 2022 In-house			This council is linked for legal services with Cotswold DC, Forest of Dean DC and West Oxfordshire DC
South Ribble Borough Council	NHF 2019 in-house			
South Somerset District Council		NHF 9/16/2022 Law firm		
South Staffordshire Council				
South Tyneside Council	NHF 2023 in-house			
Spelthorne Borough Council	NHF 2019 In-house			
Stafford Borough Council				
Staffordshire County Council				
Staffordshire Moorlands District Council				
St Albans City and District Council				
St Edmundsbury Borough Council				
Stevenage Borough Council				
St Helens Council				
Stockport Metropolitan Borough Council				
Stockton-on-Tees Borough Council	NHF 2020			

	in-house			
Stoke-on-Trent City Council				
Stratford-on-Avon District Council				
Stroud District Council				
Suffolk Coastal District Council				
Suffolk County Council				
Sunderland City Council	NHF 2020 in-house			
Surrey County Council				
Surrey Heath Borough Council				
Swale Borough Council				
Swindon Borough Council	NHF 2022 Law firm			Will exclude SO units
Tameside Metropolitan Borough Council				
Tamworth Borough Council				
Tandridge District Council				
Taunton Deane Borough Council				
Teignbridge District Council	NHF 2022 In-house			
Telford & Wrekin Council		NHF 11/16/2022 In-house		Most recent one completed 15.06.2023 with same wo
Tendring District Council		NHF 11/03/2021 In-house		
Test Valley Borough Council	NHF 2022 In-house	NHF 08/10/2022 In-house		

Tewkesbury Borough Council				
Thanet District Council				
Three Rivers District Council				
Thurrock Council				
Tonbridge and Malling Borough Council				
Torbay Council	NHF TBC In-house			
Torfaen County Borough Council		NHF 8/18/2022 In-house		
	Torrige District Council	NHF 2022 Law firm		
Trafford Metropolitan Borough Council				
Tunbridge Wells Borough Council				
Uttlesford District Council		NHF 11/24/2021 In-house		
	Vale of Glamorgan Council			
Vale of White Horse District Council	NHF 2022 In-house	NHF 02/03/2022 In-house		
	Wakefield Metropolitan District Council	NHF 2020 in-house		
Walsall Metropolitan Borough Council				
Warrington Borough Council				
Warwick District Council		NHF 12/03/2021 In-house		

Warwickshire County Council		NHF 02/05/2023 law firm WA/2014/1754		The S106 did contain MEC but it had to be amended.
Watford Borough Council				
Waveney District Council				
Waverley Borough Council				
Wealden District Council				
Wellingborough Borough Council				
Welwyn Hatfield Council				
West Berkshire Council	Own MEC similar to NHF 2022 In-house			
West Devon Borough Council	NHF 2023 In-house			Shares legal with South Hams
West Dorset District Council				
West Lancashire Borough Council				
West Lindsey District Council				
West Northamptonshire Council		NHF 11/09/2022 In-house WNS/2021/0978/106D V		

West Oxfordshire District Council	NHF 2022 In-house	NHF /2020; 10/2020 & 11/2020 In-house		The DoV completed also required Oxfordshire County Council to be a party. Note - the DC is part of a consortium for shared legal services (Cotswold DC, Forest of Dean DC, & South Oxfordshire DC) so the others may also agree this NHF clause.
West Somerset Council		13/1249/P/FP; W95/1699; W2001/0934; 12/0494/P/FP;		
West Suffolk District Council		NHF 12/22/2022 In-house E/95/2429/P		RP agreed the DoV (to Section 299A Agreement) direct with the Council (1)
West Sussex County Council				
Weymouth and Portland Borough Council				
Wigan Metropolitan Borough Council				
	NHF			

Wiltshire Council	2022 In-house			
Winchester City Council	GLA 2022 In-house			
Wirral Council				
Woking Borough Council				
Wokingham Borough Council	NHF 2022 In-house			
Worcester City Council				
Worcestershire County Council				
Worthing Borough Council				
Wrexham County Borough Council				
Wychavon District Council				
Wycombe District Council				
Wyre Council	NHF 2022 in-house			
Wyre Forest District Council				