Changes to the Regulatory Framework
Response from Peabody
7 August 2014

To: Tim Sullivan
Regulatory Framework Manager
Homes and Communities Agency - The Social Housing Regulator

By Email only: statutoryconsultation@hca.gsi.gov.uk

About Peabody

Peabody has been creating opportunities for people in London since 1862.

Peabody was established in 1862 by the American banker and philanthropist, George Peabody. Our vision is ‘to make London a city of opportunity for all by ensuring that as many people as possible have a good home, a real sense of purpose and a strong feeling of belonging.’

We work solely in London, with a presence in the majority of London boroughs. We own and manage around 27,000 homes, providing affordable housing for over 70,000 people.

By 2015, Peabody aims to deliver around 1,000 new homes each year. We are committed to sustained investment in affordable housing, and recently issued a £350m 40 year bond, the first social housing provider to issue a 40 year bond. Around 600 of our new homes will be available for affordable and social rent; the remainder will be available on the open market, and the returns from this activity will support our social purpose. We have a development pipeline of 5,000 homes and in 2013/14 exceeded our targets by building 174 new homes and starting 1,335 on site. Our sales programme generated a surplus of £6.8m. We invested £3m, over and above donated income of £1m in community programmes, helping 1,500 people into work and training and delivering 19,447 hours of community work.

Peabody Group is growing. The addition of Gallions Housing in January 2014 brought around 6,500 homes into the Group. The addition of Tilfen Land in April 2014 brought over 100 acres of developable land in Thamesmead, Trust Thamesmead joined the Group at the same time. For the first time in a generation, the area of Thamesmead in the London boroughs of Bexley and Greenwich has been brought into a single, well-resourced ownership. We expect to make a significant investment in Thamesmead to build and refurbish homes: working in partnership with others to transform Thamesmead into a vibrant place to live and work.

Our response

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<th>CONSULTATION QUESTIONS</th>
<th>RESPONSE</th>
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<td>Governance and Financial Viability Standard Overall a)</td>
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<td>Overall does the proposed Standard meet the Regulators</td>
<td>a)  We welcome an approach where the HCA focuses on the health of RPs</td>
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<td>economic objectives which require the protection of social</td>
<td>and the sector at a strategic level, including the focus on risk, high</td>
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<td>housing assets?</td>
<td>financial impact and need to increase the supply of affordable housing.</td>
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<td>It will be helpful to have clear, outcome focused guidance and on-going</td>
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<td>a dialogue with the HCA. It will be unhelpful to introduce cumbersome</td>
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<td>mechanisms such as the disposals/intragroup</td>
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Is this proposed standard clear and outcome focused?
b) Does the proposed Standard express the requirements of registered providers in a way which is clear, succinct and as outcome focused as possible?

Fit for purpose Boards
c) Do the requirements in para 1.2. on skills, capability and independence i) meet the Regulator’s aim of protecting social housing assets and ii) balance the aim of protecting social, housing assets with registered providers being able to run their own businesses?

Risk and assets
d) Do the requirements in para 1.4 and 1.5 on risk i) meet the Regulator’s aim of protecting social housing assets ii) balance the aim of protecting social, housing assets with registered providers being able to run their own businesses?

Requirements for specific types of providers
e) Are the requirements for specific types of registered provider in Section 2 reasonable given the Regulators aim of protecting social housing assets?

on-lend arrangements. That is not in the spirit of co-regulation and doesn’t help RPs or the HCA. It makes more sense to use existing information gathering mechanisms and dialogue, together with the enhanced stress testing proposed. Examples of information gathering are the business plan and financial plan, our development and asset management plans, FFR and quarterly returns which gather risk information, and information about stock.

In other words focus on strategy, risk and the whole organisation – and engage with boards at that level.

Is this proposed standard clear and outcome focused?
b) In general the outcome based approach is helpful. It is important to keep the guidance simple and short – otherwise e.g. there is a danger of creating more technical rent standard (including service charge) non-compliance obligations for RPs to fall foul of.

Fit for purpose Boards
The emphasis on fit for purpose effective boards is appropriate. It is important that the way in which the Code of Practice describes expectations about effective boards is aligned with Governance Codes such as the UK Corporate Governance Code and its subsidiary guidance. This will make use of good practice, and where necessary take account of variations such as stakeholder accountabilities.

Risk and assets
The expectations that Boards will make use of accepted strategic risk governance practice, including more use of stress testing and horizon scanning, is appropriate. This should not be confined to “hard” risks.

The need for comprehensive asset registers is accepted. It would be helpful to have information on the regulators minimum expectations. At a practical level implementing changes may be more onerous for providers with older stock and this should be taken into account in deciding any implementation date.

Requirements for specific types of providers
It is important that the wording of the requirement does not inadvertently inhibit tax efficient registered providers such as Peabody Enterprises which is a “not for profit” developer and provider of social housing. It meets the requirement that objects must include the provision of social housing, not-for-profit status and the non-distribution of assets to members. In theory there should be no confusion.

The expectations placed on registered parents to oversee registered subsidiaries are reasonable.
The regulators stated intention to set out its expectation of unregistered parents is regarded as appropriate.

2. Code of Practice
   General
   a) Does the proposed Code assist regulated providers to understand how compliance with the standard can be achieved?

   Specific issues
   b) Is the role of a Code clear and is it reasonable?

2. Code of Practice
   General
   a) In principle the proposed outcomes based Code is helpful. The HCA should ensure that the Code of Practice is drafted such that it doesn’t cut across the Codes of Governance which are refreshed frequently. For example the UK Corporate Governance Code which informs other codes sets expectations about board composition, skills, board effectiveness, terms of office.

   Specific issues
   The logic of an asset register is accepted, but is realistically more of a challenge for large older providers to put in place, so the implementation date must take account of this if it is to be a regulatory requirement. Whilst the need for an up-to-date record is self-evident the regulatory requirement should be realistic rather than setting an absolute “always live” requirement. The focus on a skilled board is appropriate and key to effective co-regulation.

   It is hard to argue with the idea of an annual certificate of compliance BUT a wise board will ensure that there is an audit trail which backs up its assurance, and the less cautious may sign without these in place. So regulatory expectations must be realistic and take account of the fact that RPs already meet a wide range of legal and other regulatory compliance requirements and have systems and reporting designed accordingly. It will be important not to add additional burdens.

3. Disposals regime
   Do the proposed revisions to the disposals regime
   a) Meet the aim of protecting social housing assets and the value in it?
   b) Balance this aim with registered providers being free to run their own businesses?
   c) Are they reasonable?

3. Disposals regime
   a, b, c) Following the “keep it high level” principle argues against the disposals/on-lend approvals proposal, index linking constraint and other tools whereby specific HCA consents are required. If the HCA engage in the detail rather than taking a regular look at the health of the overall business – which after all is the central issue – the HCA will have to second guess commercial decisions which the board is better placed to decide. Inevitably it will have to rubber stamp proposals to keep up with the sheer volume of requests in London to cope with the demand for new housing.

4. Registration Criteria
   a) Do the registration criteria changes reflect the proposed changes to the governance and viability standard?
   b) Are they reasonable?

4. Registration Criteria
   a) The proposals are appropriate. It is important that expectations are commensurate with the stage of development.

5. Rent standard proposed changes
   Do the proposed changes to the Rent Standard:
   a,b) In general the guidance appears to be consistent and clear. We are always concerned that guidance on rent or
a) Reflect the direction from DCLG?
b) Express the requirements of registered providers in a way that is clear, succinct and as outcome focused as possible?

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<th>6. Changes to General Consent</th>
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<td>Do you agree that the proposed changes to the General Consent allow the Regulator to protect social housing assets more effectively?</td>
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<td>a) Contribute to the Regulator better meeting its fundamental objectives?</td>
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<td>b) Express the requirements of registered providers in a way that is clear and succinct?</td>
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For further information, please contact:

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