

JRF response to Cave Review of Regulation of Social Housing

Background

The Joseph Rowntree Foundation and the Joseph Rowntree Housing Trust are unusual respondents to this review. The Foundation is one of the largest social policy research and development charities in the UK, spending about £10 million a year on a research and development programme that seeks to better understand the causes of social difficulties and explore ways of overcoming them. Unlike other foundations, we also run operational services through the Joseph Rowntree Housing Trust. These include a wide range of care services, as well as general needs housing in a variety of settings.

The Joseph Rowntree Foundation welcomes the review of housing regulation, and the opportunity to develop a new regulatory settlement. We recognise that after more than 30 years of the current arrangements, they may no longer be fit for purpose, and that there is considerable scope for re-thinking the regulatory mandate, the regulatory purpose and the tools available. In this submission we have deliberately kept our responses brief, but stand ready to discuss the substance further if required.

Issues for regulation

The points raised in this submission are largely general ones, derived from knowledge of the impact of regulation on the social housing and care sector.

1 The independence of housing associations

The housing association sector is made up of independent businesses whose directors, as members of the governing body, are charged with acting in the best interests of their tenants and of the organisation and allocating their resources in the way in which they see fit. It is important that new approaches to regulation are based on a firm understanding of the nature of that independence and autonomy, and enable the regulated organisations to make good and coherent business decisions. It is a cornerstone of modern regulatory thinking that the management of the business is enabled to operate, and to make its own business decisions.

Given the charitable nature of much of the sector, the protection of the autonomy of the sector is overseen by another regulator, the Charity Commission. The passage of the Charities Act and the commitment to review public benefit, should focus regulatory attention more explicitly on the autonomy and self direction of the organisations concerned. It will also focus regulatory attention on the fiscal benefits derived from status, and will introduce a new form of regulatory analysis.

2 The provision of care by housing associations

JRHT is subject to regulation by both the Housing Corporation and the Care Standards Commission, and shortly the successor bodies. Its housing services are inspected by the Audit Commission. It is therefore important for us that any review of the regulation of the housing associations takes into account the developing thinking by other regulators, particularly those in the care sector. While issues of financial viability are central to the historic regulation of the housing sector, these have tended not to be major concerns for those regulating care. However, the growing evidence of the need for organisational resilience in order to deliver high quality care will, almost certainly, focus attention on the viability or otherwise of care providing organisations.

The nature of the regulatory map, and the way which different regulatory drivers influence behaviour, has long been a pre-occupation of the associations concerned with care. Any new settlement needs to at least make visible the alignment, or otherwise, between these drivers. Ideally the new settlement will have at its heart recognition of the need to make the relationships between regulators coherent and understandable.

3 The relationship with Competition authorities

Economic regulation on issues of competition has not been an issue for JRHT, nor can we imagine it becoming so. However, the recent OFT investigation into the provision of care for older people suggests that in some parts of the country there may well be a market issue which will attract this sort of regulatory attention, and it would seem wise for any review to take account of this.

4 Issues of definition

We would identify three different issues that are frequently confused in this debate:

- Regulation of the legal framework within which housing associations operate, and raise finance.
- Inspection of the services that are provided by the associations.

- Funding compliance by which government can identify that funds allocated are used in the best possible way.

Any review of regulation that does not distinguish between these three strands will, in our view, result in further confusion. We believe that the regulatory frameworks under which we operate have served housing associations and charities well, but they have also had consequences. While there is certainly scope for up dating this framework, the major issues that need consideration by your review are those of implementation, and it is these that the NHF response highlights. Maintenance of the regulatory framework for the purposes of public and investor confidence is important, but it is also important that the way in which it is implemented enables the individual organisations to operate. Any review which fails to take account of the internal accountability of housing associations through their governing bodies would, it seems to us, be missing an essential component.

5 The governance of housing associations

The governance of all autonomous organisations provides the accountability framework which they require. Inevitably in the absence of shareholders, or other aspects of corporate governance, the nature and scope of the governing body differs from that in the commercial sector. For that reason the sector has invested heavily in improving governance, and this Foundation funded the Langlands Inquiry¹ as well as convening the earlier Hancock Inquiry into governance. While much regulation of the corporate sector oversees the relationship with investors, and therefore with owners, of companies, third sector organisations such as housing associations, have had to devise their own frameworks to achieve accountability.

While housing associations have been successful in the deployment of private finance, they have not done this through the issue of shares and this distinguishes them, and requires a regulatory framework which is sensitive to the different challenges this raises. While there is considerable evidence of the financial benefits of regulation for the sector (usually measured by lending rates), the value and nature of the independent governing boards also needs its own validation.

6 Conclusions

The JRF and JRHT have a track record in successfully managing housing and care. It has also developed a significant evidence base about the nature of governance required for services of this kind. While welcoming the much needed review of regulation, and recognising that it provides the

¹ Independent Commission on Good Governance in Public Services 2004

best chance in a generation of establishing a new settlement, we would hope that the review can take account of:

- The regulatory landscape for organisations providing housing and care services and the requirement to avoid wasteful duplication between them.
- The role of governing bodies in providing accountability frameworks and ensuring the autonomy of the organisations.
- The need to distinguish funding compliance from a regulatory framework that can command public and investor confidence.

JULIA UNWIN
Director

7 February 2007