

Is-bwyllgor Materion Allanol a  
Deddfwriaeth Ychwanegol ar  
y Bil Rheoleiddio Landlordiaid  
Cymdeithasol Cofrestredig (Cymru)

## **Bil Rheoleiddio Landlordiaid Cymdeithasol Cofrestredig (Cymru)**

### **Ymatebion i'r Ymgynghoriad**

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Rhagfyr 2017



#### **Cynulliad Cenedlaethol Cymru**

Is-bwyllgor Materion Allanol a Deddfwriaeth  
Ychwanegol ar y Bil Rheoleiddio Landlordiaid  
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**Bae Caerdydd**  
**CF99 1NA**

Ffôn: **0300 200 6565**  
E-bost: **[SeneddMADY@cynulliad.cymru](mailto:SeneddMADY@cynulliad.cymru)**  
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\* Saesneg yn unig | English only

\*\* Cymraeg yn unig | Welsh only

Rhif   Number	Sefylliad	Organisation
RSL01*	Gwasanaeth Ymgynghorol Cyfranogiad Tenantiaid Cymru	Tenant Participation Advisory Service Cymru
RSL02*	Chartered Institute of Housing Cymru	Chartered Institute of Housing Cymru
RSL03*	Cyngor Bwrdeistref Sirol Conwy	Conwy County Borough Council
RSL04*	UK Finance	UK Finance
RSL05*	Wynne Jones	Wynne Jones

TPAS Cymru works to improve the lives of social housing tenants in both housing and community matters, by promoting effective participation of tenants with their landlords and with other partners in issues that affect them. We have supported social housing tenants and landlords in Wales for over 25 years and have a strong track record in developing effective participation through training, support, practical projects and policy development. TPAS Cymru welcomes the opportunity to submit written evidence to the External Affairs and Additional Legislation Committee, and we will also be appearing before the Committee to provide oral evidence.

This Response is based on:

- Our experience of working with tenants and tenants groups and listening to their views.
- Our observations and dialogue with our members and partners within the HA sector and Local Authorities.
- Our work to improve partnerships between tenants and residents and their Housing Association and Local Authority landlords and other partners.

TPAS Cymru welcomes the opportunity to respond to the External Affairs and Additional Legislation Committee's on the Regulation of Registered Social Landlords (Wales) Bill and we have responded to each of the terms of reference as set out in the consultation paper.

## The general principles of the Bill

Under normal circumstances, TPAS Cymru would have some concerns that the content of the Regulation of Registered Social Landlords (Wales) Bill could weaken the regulatory powers of the Welsh Government. Given that the Office for National Statistics (ONS) expressly cite the powers that the Bill sets out to reduce, as the reason for its reclassification decision, and considering the potentially significant consequences of reclassification, TPAS Cymru acknowledges the need for the enactment of the provisions set out in the Bill.

In supporting the provisions set out in this Bill, TPAS Cymru believes that it is important that the Welsh Government applies the new Regulatory Framework for Housing Associations Registered in Wales, rigorously and transparently. We believe that adopting such an approach will reassure tenants that their homes and the services they receive will remain protected after the enactment of the Bill and that it will ensure that tenants have an opportunity to shape the way that their housing association operates. We believe this is especially important given the findings of the Public Accounts Committee that there is a need for greater transparency within housing associations.

TPAS Cymru does believe that this Bill presents a missed opportunity to clarify the law on social housing regulation. At present, the statutory basis for social housing regulation in Wales is set out in Part 1 of the Housing Act 1996. This has been amended 26 times by legislation enacted by both the UK Government and the Welsh Government. It is therefore very difficult for any individual that does not have access to expensive online legal databases to gain an accurate understanding of the law. TPAS Cymru had therefore, previously called on the Welsh Government to use this Bill as an opportunity to consolidate the law, as opposed to further amending Part 1 of the Housing Act 1996. Whilst understanding that the Welsh Government is eager to enact a piece of legislation quickly, to reverse the ONS's decision, we are disappointed that they have not taken advantage of this opportunity to make the law more transparent.

### **Does the Bill do anything that either falls short of the changes identified by the Office of National Statistics ('the ONS') or goes further than changes required by the ONS?**

TPAS Cymru does not believe that the law either falls short of the changes identified by the ONS or goes further than the changes required by the ONS.

Whilst noting that the Welsh Government does not completely remove its powers exercisable in respect of officers and management of registered social landlord in clauses 6, 7, 8 and 9, we believe that these have been adequately tightened to be sufficient to ensure the reversal of the ONS's decision. Our belief is based on the similarity that exists between these provisions and the ones enacted by the UK Government in the Housing and Planning Act 2016, when seeking to reverse the ONS's decision with regards to English housing associations, and the Cabinet Secretary for Children and Communities statement that a draft version of the Bill has been discussed with the ONS.

We also believe that the changes introduced by clause 16 of the Bill, “Limit on local authority board membership and voting rights” does not go beyond what is required by the ONS. Whilst the ONS only makes explicit reference to the powers of the Welsh Ministers in its reclassification judgment, as published on 29 September 2016, powers exercised by local authorities can also be considered by the ONS when making classification decisions. Given that the ONS expressly cited the power of the Welsh Ministers over the constitution of a housing association as one of its reasons for reclassification it would appear reasonable to conclude that the voting rights of local authority members could also present a similar challenge. It should also be noted that the UK Government took similar steps in England when enacting the Housing and Planning Act 2016, under similar circumstances. We therefore believe that this is a reasonable step.

### **If it does, how can the Bill be improved to ensure that it conforms with the changes identified by the ONS?**

Given our belief that the Bill does not falls short of the changes identified by the ONS or goes further than the changes required we do not believe that there is a need to improve the Bill to ensure that it conforms with the changes identified by the ONS.

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple – to provide housing professionals with the advice, support and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world. Further information is available at: [www.cih.org](http://www.cih.org)

In Wales, we aim to provide a professional and impartial voice for housing across all sectors to emphasise the particular context of housing in Wales and to work with organisations to identify housing solutions.

## Introduction

CIH welcomes the opportunity to provide evidence to the External Affairs & Additional Legislation Committee as it scrutinises the Regulation of Registered Social Landlords (Wales) Bill.

Our response is informed by feedback from our members, our knowledge of the housing industry and expertise from our policy and practice teams.

## General Comments

CIH Cymru supports the development of Welsh policies, practices and legislation that aim to address the key housing challenges we face, to improve standards and supply, promote community cohesion, tackle poverty and promote equality. We promote a one housing system approach that:

- places the delivery of additional affordable housing at the top of national, regional and local strategies as a primary method of tackling the housing crisis;
- secures investment to ensure the high and sustainable quality of all homes in a sustainable framework;
- improves standards and develops the consumer voice within the private rented sector
- promotes the concept of housing led regeneration to capture the added value that housing brings in terms of economic, social and environmental outcomes;
- recognises that meeting the housing needs of our communities is a key aspect of tackling inequality and poverty;
- ensures that that there are properly resourced support services in place to prevent homelessness and protect the most vulnerable;
- uses current and potential legislative and financial powers to intervene in housing markets and benefit schemes;
- promotes consumer rights & tenant involvement;
- and supports the continued professional development of housing practitioners.

## 1. Introduction

1.1 Housing Associations (HAs) are key drivers in boosting the supply of social and affordable homes, facilitating community regeneration and providing high quality care and support services across Wales. The sector has a strong track record of delivering towards the Welsh Government's

affordable homes agenda which during this Assembly, sees the sector aspiring to deliver against the 20,000 affordable homes target.

1.2 We strongly welcome the Welsh Government's support for delivering against this target, seeing grant investment of £1.4bn during this Assembly term. In addition to this, Welsh Government's "Prosperity for All" strategy rightly highlights that housing is and should be a priority area for cross-departmental working, particularly in the context of linking with health and social care.

1.3 However, we believe that investment in the sector would be undermined if the ONS decision remained and the borrowing of the HA sector counted against the Welsh Government's budget. Not only would this hamper the ability of HAs to contribute towards the 20,000 affordable homes target, but also impact on other significant infrastructure projects.

1.4 We welcome the ONS's initial indication that in its current drafting the Regulation of Registered Social Landlords (Wales) Bill would achieve the requirements to revisit and reverse the reclassification decision.

## 2. Implications of the Reclassification Decision

2.1 Although the implications of the decision by the ONS to reclassify HAs has not had an immediate, direct impact on delivering homes and continuing day-to-day operations, any uncertainty in the ability of HAs to do so in the future is rightfully a cause of concern to senior leaders, board members, stakeholders and investors alike.

2.2 Housing Associations have managed to increase their ability to deliver additional homes by borrowing from the private sector. The partnerships developed to achieve this have been instrumental in increasing the supply of social housing in Wales. The Global Accounts taken from the audited

accounts of all Housing Associations in 2016 reflect that new financing arranged during the year amounts to £181m. This has in turn, increased the overall long-term debt from £2.2bn to £2.4bn.<sup>1</sup> The ability of HAs to raise additional funding in this way should be recognised as one of the key strengths of the sector.

## 2.3 Considering the broader challenges facing the sector we cannot ignore the implications of

Brexit, particularly in a housing context from the drop in levels of investment from the European Investment Bank (EIB). The housing sector and public services as a whole benefitted greatly from funding which has amounted to £2bn of capital investment in the last decade alone, but we know that the levels previously seen are unlikely to be maintained.<sup>2</sup>

2.4 Furthermore it is likely that if HAs remain classified as public sector bodies, their ability to build more homes and continue to raise further investment in the sector will be significantly hampered. Since the decision to reclassify HAs was made, we along with colleagues from CIH across the UK have called on respective UK and devolved administrations to take the necessary steps to prompt a reversal of the decision.

2.5 We remain strong in our belief that in order for HAs to operate as actively as possible and maximise their positive impact on communities, the decision by the ONS must be reversed and this legislation facilitates that

## 3. Legislative Considerations

3.1 The legislation considers the measures required to prompt a change in the reclassification decision by the ONS which involves the removal of central and local government controls placed upon HAs at present.

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<sup>1</sup> <https://chcymru.org.uk/publications/global-accounts/>

<sup>2</sup> [https://www.ft.com/topics/organisations/European\\_Investment\\_Bank](https://www.ft.com/topics/organisations/European_Investment_Bank)

3.2 Our members work across housing associations, local authorities and the private rented sectors. Although in agreement with the overall intention of the Bill, some of our members have highlighted areas where work may be required outside of the legislation to ensure any changes do not impact organisations negatively.

3.3 The challenges put forward are set out as follows, but they were not issues our members felt should delay passing legislation to achieve the intended aim of this Bill:

- Whilst members broadly welcomed the removal of Ministerial consent for disposal of land, some suggested guidance around the notification procedure in this area would be useful to ensure consistent across the sector and support board decision-making. Some members also felt that this measure would allow for a quicker process when working to release land that may be utilised by groups or communities to enhance local spaces and environments.
- LSVTs came into existence as a result of local government councillors agreeing to ballot tenants. It will therefore be important to inform and reassure tenants of arrangements in place to ensure a continued positive relationship between the local authority (LA) representatives and councillors.
- The important role of the LA in safeguarding vulnerable individuals and the need to ensure that the LA view is fully considered and represented as the HA formulates and updates its own plan for delivering cost-effective and high quality services.

## 4. Continued Good Governance

4.1 We welcomed the inquiry conducted by the Public Accounts Committee into regulatory oversight of the HA sector in Wales. Summarising the findings of the inquiry, one reflection from the Chair was that:

Generally we found governance and regulation within housing sector to be working well enough for housing associations to be granted more autonomy, but in return we think they should do more to be open and transparent in their decision making.<sup>3</sup>

4.2 The discussion on reclassification and how reversal of the decision is prompted should rightly also provide a further opportunity to highlight the role of good governance and how this is evolving in relation to housing associations. Particularly given that the process of reversing the decision involves withdrawing some central and local government controls currently placed upon HAs in Wales.

4.3 Following the review of affordable housing in Wales a new Regulatory Framework for housing associations was developed collaboratively in 2011 between Welsh Ministers, housing organisations and tenant groups. The new Regulatory Framework worked along three main principles:

- Placing tenants at the centre of the framework
- Housing associations taking full responsibility for their actions and operating practices
- The framework is based on close working between Welsh Ministers, housing associations, tenants, services users and other key partners<sup>4</sup>

4.4 We welcomed the approach outlined in the framework, recognising that a “one size fits all” model would not be appropriate in a sector where housing associations can vary significantly in the scale and complexity of their operations.

4.5 Housing Association governance is something we feel should continue to evolve in-line with a rapidly changing and complicated

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<sup>3</sup> <http://www.assembly.wales/laid%20documents/cr-ld11151/cr-ld11151-e.pdf>

<sup>4</sup> <http://gov.wales/topics/housing-and-regeneration/publications/regframeworkhousingassoc/?lang=en> (January 5, 2017).

environment. We supported the most recent changes, implemented from the start of this year under the Regulatory Framework (2017). The revised framework is characterised by the following features:

- Performance Standards
- Self-Evaluation
- Annual Statement of Compliance
- Meeting the Performance Standards and Capacity to Improve
- Regulatory Judgements
- On-going Regulatory Assurance and Oversight – Continuous Assessment
- Regulatory Powers

4.6 The revised framework re-enforces the importance of basing good governance on high quality leadership, delivering services that meet people's needs and ensuring certainty over the sustainability and financial position of the business.

4.7 We continue to believe that the revised framework focuses on the correct pressure points, whilst maintaining that tenants should be at the heart of regulation.

## 5. Conclusion

5.1 With ever-increasing pressure on demand of social and affordable housing in Wales it remains vital that the decision by the ONS is reversed. As outlined in the main body of our response, without this, the ability of HAs to continue to support the house building effort will be significantly hampered and in-turn impact other areas of infrastructure in Wales, such as transport and energy.

5.2 Our members have highlighted a number of points where further detail or greater consideration is required. We would welcome continued dialogue on

these areas whilst recognising there is a pressing need to ensure legislation is in place in a timely manner to reverse the reclassification decision.

Conwy County Borough Council welcomes the opportunity to provide written evidence to the External Affairs and Additional Legislation Committee's sub-committee in relation to the above Bill.

Conwy County Borough Council believes that the Bill in its current form deals adequately, along with the revised Regulatory Framework for housing associations, with the issues raised by the Office for National Statistics which resulted in such organisations being re-classified as public sector organisations.

Conwy County Borough Council has a severe shortage of affordable housing and therefore welcomes the intention of the Bill in removing any potential risks which would jeopardise development of much needed housing by our housing association partners.

## Introduction

UK Finance is a trade association formed in July 2017 to represent the finance and banking industry operating in the UK. It represents around 250 firms in the UK providing credit, banking, markets and payment-related services. The new organisation brings together most of the activities previously carried out by the Asset Based Finance Association, the British Bankers' Association, the Council of Mortgage Lenders, Financial Fraud Action UK, Payments UK and the UK Cards Association.

## Scope of response and background

In addition to representing residential mortgage lenders, UK Finance members also lend to support the social housing/ RSL sectors across the UK nations, including Wales. We welcome the opportunity to provide this submission to the [call for evidence](#) as part of the Stage 1 scrutiny inquiry by the sub-Committee of the Assembly's External Affairs and Additional Legislation Committee. This written submission gives an outline of our views, which the sub-Committee will be able to explore further in our oral evidence later.

## General comments

The most recent global accounts of RSLs in Wales, commercial lending and investment to the RSL sector in Wales amounted to some £2.5 billion (total facilities).

Welsh RSLs are mostly seen by private funders as a sound and stable proposition, presenting low risk and with a track record of no loss.

In addition to its vital work to protect and safeguard the interest of tenants, the Welsh Ministers also provide strong regulation, with a focus on governance strength and financial viability.

This regulation, founded on a proportionate and risk-based co-regulatory approach, backed with the ability to deploy statutory intervention powers, gives private funders comfort in the sector's strength; it supports confidence in existing and new private lending and investment on terms that enable Welsh RSLs to maximise their contribution to the delivery of the government's target of 20,000 new affordable homes in the current Assembly term.

RSLs are reliant on private finance and government grant to develop new properties.

The ONS decision to classify Welsh RSLs as public bodies means their existing and future debt becomes part of the public balance sheet. Because of the need for government to control public borrowing, it might be necessary for the Welsh Government to introduce caps on RSL borrowing, thereby limiting their capacity to develop and service existing debt.

Changes such as this will, over time, lead funders to re-evaluate their exposures in the sector and take account of what would be a fundamental shift in risk profile. There could be consequential changes in appetite and pricing for RSL debt, going forward. This would be counter-intuitive to the ambitions and purpose of RSLs and Government for the sector.

## Specific comments

UK Finance and lenders have benefitted to date from constructive engagement on ONS classification issues in Wales and across the UK nations. In England, we were extensively engaged with the Department for Communities and Local Government as it worked on the development of de-regulatory measures there, that were included in the Housing and Planning Act 2016.

We are encouraged to see that the proposed measures for Wales are broadly consistent with measures elsewhere in the UK, while still responding to the Welsh context in which tenants are at the heart of regulation.

In progressing the detail of the legislation, our overarching concern is to see the implementation of measures that are sufficient to enable the ONS to restore the sector's "private" classification, without going any further than is necessary.

It is encouraging that the ONS recently stated on a provisional basis that the proposed legislation if implemented broadly in its current form would be sufficient to enable a further reclassification of RSLs as private bodies for technical accounting purposes.

Funders' perception of risk in the Welsh RSL sector; their appetite for lending/ investment to it; and the pricing available to Welsh RSLs are inextricably linked to regulation. We are clear that any regulatory changes that could go further than is necessary to address ONS issues would dilute the strength of regulation, and that this would have an impact on risk, appetite and pricing in the sector.

To maintain funder confidence in the sector at a time when there is increasing need for private finance to support the delivery of new development, we are clear that the regulator must still have access to viable statutory intervention powers that can be exercised in a timely and proportionate way to protect not only the interests of tenants but those of the sector's private and public funders.

## The need to restore the RSL sector's "private" classification

We are clear that if RSLs were to remain classified as public bodies, this would represent a fundamental and significant change in the overall profile and type of funding/ investment proposition. Any application of public borrowing caps would impact on business plans, and ability to service existing (and new) debt. Funders would see changes to risk profile, and the likely response would be a review of exposures, which could lead to changes in appetite and pricing.

The implications could be a reduced ability of RSLs to attract new private investment at a time when more is needed to support delivery of the 20,000 homes target.

## The appropriateness of reclassification measures

Our analysis of the measures to date is that they are broadly consistent with those already in place, or being progressed, elsewhere in the UK. This means that, taking a pan-UK view, there is consistency in the measures, which is welcome and needed by national and international lenders and investors. On balance, and taking account measures implemented or planned in the other UK nations, we feel

the Welsh measures are appropriate to address the factors identified by the ONS that led it to apply a “public” classification.

We have provided comments on key measures proposed in the Bill:

**Constitutional changes (Sections 3, 4 & 5):** The measures are broadly consistent with the position elsewhere in the UK, where changes see a shift to a notification regime rather than a regime which requires regulatory consent. On this basis, we believe the measures are appropriate and sufficient to address the control issues identified by the ONS.

**Regulatory intervention/ powers to appoint or remove officers & managers; tender or transfer of functions; amalgamation; inquiries & reports; enforcement notices & penalties (Sections 6 – 12):** Changes to the timeliness of intervention have caused concern for funders, to the extent that an intervention might have to wait until an RSL *has failed* (which might be too late) rather than when an RSL *is failing*. Having discussed and analysed the provisions in detail, however, we expect funders could take comfort from the wide definition of failure proposed in the legislation “*that a registered social landlord has failed to comply with a requirement imposed by or under an enactment*”, which we take as including a failure in relation to the regulatory framework. For absolute clarity, however, we suggest that consideration be given to ensuring in the legislation that the “*failure to comply with a requirement imposed by or under an enactment*” is clearly defined as including a failure in relation to the regulatory framework. Notwithstanding, we feel the proposed approach should provide sufficient scope for regulatory intervention before an insolvency arises. We expect funders might wish to keep the operation of this new approach, if implemented, under review to ensure there are no unintended consequences that might impact their interests and exposures.

**Disposal consents (Sections 13 – 15):** The measures are broadly consistent with the position elsewhere in the UK, and this is welcome. Government and RSLs should recognise, however, that the disposal consents regime is a powerful source of regulatory intelligence. Without it, we expect funders to ramp-up their own due diligence on a proposition, which could lead to increased costs for housing associations. In the absence of the consents regime, funders would expect association Boards, themselves, to strengthen their own self-assessment regimes.

**Limit on local authority board membership and voting rights (Sections 16 and Schedule 1):** The measures are broadly consistent with the position elsewhere in the UK and this is welcome.

**Power to make further amendments (Section 18):** We would welcome clarity as to the rationale for taking this power, and the circumstances in which it might be used. We could understand the desirability of having the power in circumstances where the ONS might not regard the enacted measures as sufficient to enable it to restore the sector's "private" classification. We are concerned, however, that the proposed power is cast too widely and is open-ended. As the ONS has already stated that the proposed measures are sufficient in principle, we are not convinced of the need for the proposed power. If it is to be enacted, we suggest that the Committee might consider a sunset provision for this power, such that it falls away at the end of the current Assembly term. Without this, we expect funders (particularly distant investors who might be less familiar with the sector) might perceive an open-ended ability of Ministers to change the functions of the regulator as a risk of indefinite uncertainty. This could reduce investor appetite and increase the possibility of reticence among funders when considering Welsh RSLs as funding/ investment propositions within the wider UK and international context.

## **Falling-short, meeting, or going further than necessary?**

Our conclusion overall is that the proposed measures are sufficient to meet but not go further than the changes identified as necessary by the ONS. As such, we agree with the general principles of the Bill, and conclude that they are sufficient to achieve the desired outcome in terms of addressing the ONS concerns about regulatory/ government control over the sector.

I refer to the above subject. You advised in your communication dated 22 June 2017 that the **Regulatory Impact Assessment** {RIA} would be available for scrutiny when finalised. The decision by Welsh Government to present your Explanatory Memorandum, incorporating RIA and Explanatory Notes, to the National Assembly for scrutiny before giving the general public an opportunity to comment is viewed as an attempt to avoid public scrutiny of your proposals. Your attention is drawn to recommendation 8 of National Assembly Finance Committee Report dated October 2017. The Committee recommends that the Welsh Government should provide draft R I As as part of the consultation it undertakes in developing legislative proposals, and that it should review its wider strategy and advice to Bill teams regarding engagement with stakeholders to emphasise that this should be undertaken as early as possible.

Following the decision by **Office of National Statistics** {ONS} to re-classify Housing Associations in Wales as public non-financial corporations Welsh Government consider it necessary to amend statutes / regulations to enable ONS to review their decision and revert to the current classification: private non-financial corporation sub-sector. The RIA presented to National Assembly aims to justify the proposed change in statutes and regulations. Having now examined the documentation I offer the following observations under the respective sub-headings.

## Methodology

The appraisal is fundamentally flawed. The methodology conflicts with requirements for economic appraisal and evaluation as set out in H M Treasury "Green Book" implemented in Wales through the "five case business model". That requires a **Benefit v Cost analysis** to be undertaken with future costs and monetary benefits discounted to present value using H M Treasury discount rate. Your attention is drawn to recommendation 6 of National Assembly Finance Committee Report dated October 2017. The Committee recommends that the Welsh Government improve its quality assurance processes by ensuring more thorough

internal scrutiny of R I As before they are laid before the Assembly. Your documentation should be vetted by your internal Economic Appraisal Unit and a supplementary report presented to the National Assembly on their findings. It remains unclear, at this stage, what economic appraisal expertise is available to scrutiny committees at National Assembly.

## Appraisal period

RIA appraisal period of 5 years is totally inappropriate for new statutes / regulations that are likely to be in place for an extended timeframe well in excess of 5 years. Please refer to recommendation 4 of National Assembly Finance Committee Report dated October 2017. This recommends that the Welsh Government should confirm whether it intends to use the Well-being of Future Generations Act as a framework for preparing RIAs, including measuring impact over a longer term.

## Subordinate legislation

The statement that "*Welsh Government will consult where it is considered appropriate to do so*" requires clarification. Your attention is drawn to recommendations 12 and 13 of National Assembly Finance Committee Report dated October 2017. This recommends that the Welsh Government notify the Assembly where subordinate legislation laid before the Assembly significantly alters the costs of the associated primary legislation, and that the Welsh Government commit to providing as full a picture of the costs of subordinate legislation as possible when proposing primary legislation.

## Future regulation of Housing Associations

The statement that recent changes to the regulatory framework strengthens your approach to regulation appears to conflict with your stated objective of relaxing controls to comply with ONS requirements. The recent decision by Welsh Government to only publish **regulatory judgements** {a summary document} rather than the **regulatory assessment** that underpins the judgement calls into question

Welsh Government's commitment to openness and transparency. The new regulatory regime is more secretive making scrutiny more difficult. Your proposed legislative changes will result in a notification requirement rather than the current consenting process, while still requiring Housing Association to manage substantial public funds, but, as private corporations, not subject to the provisions of the Freedom of Information Act 2000. How are they to be accountable to the taxpayer who part-funds their activity.

## Future funding streams

Welsh Government have entered into future funding agreements with Housing Associations. These agreements extend well into the future over a timeline of 30 years. I refer to **Dowry Gap Funding** and **Housing Finance Grant**. These future costs should be discounted to present value in the analysis as required in economic appraisal. Your RIA appraisal period of 5 years is totally inappropriate for economic appraisal given the future funding commitments in place.

## Cost estimates

Your attention is drawn to recommendation 9 of National Assembly Finance Committee Report dated October 2017. This recommends Welsh Government ensures that relevant stakeholders are engaged with the process when it creates costings and that stakeholders are able to comment and input on those costings and confirm whether they are in agreement. This again reinforces the need for your draft RIA to be subject to a consultation process prior to presentation to National Assembly for scrutiny. It suggests that RIA should be undertaken by your Economic Appraisal Unit who have the necessary expertise in economic appraisal and evaluation.

## Post-implementation review

Your statement regarding post-implementation review requires clarification. Is a review to be undertaken and, if so, over what timeframe. Recommendation 16 of National Assembly Finance Committee Report dated October 2017 requires Welsh

Government to set-out in the RIA a clear process for post-implementation review of the financial estimates, including when and what will be assessed.

## Third Sector Assessment

Your conclusion that there will be no adverse impact on the third sector requires clarification. Housing Associations are Third Sector Organisations. Welsh Government are required to comply with the code of practice for funding the third sector published as an annex to the "Third Sector Scheme – January 2014". That requires evaluations to be undertaken to ensure public funds are used for the intended purpose. How is that to be achieved following re-classification of Housing Associations who will then have more freedom to diversify into commercial activity. Has the risk to public funds been properly assessed.

## Welsh Language Impact Assessment

With regard to the impact on the Welsh Language, the statement that no further action has been identified is extremely disappointing. There is a need to provide evidence to support your assumptions, a need for peer review, external engagement with Welsh speaking groups, identify stakeholders or consultation list, and a need to contact the Welsh Language Unit for advice.

## General Assumptions

Welsh Government has made various assumptions in an effort to justify proposals. These are based on subjective judgement not objective analysis supported by evidence. For example, no evidence has been presented to support the generic statement that housing associations provide affordable housing for "local people". Many have now set up subsidiaries to build market {not social} housing and other commercial enterprises. That process can only accelerate as controls are lifted resulting in fewer social housing and more commercial activity.

In conclusion, I do not expect you to agree with my observations. I therefore look forward to receiving your counter arguments and point by point rebuttal. It would be helpful if you could provide the relevant scrutiny committees at National Assembly and ONS with a copy of your reply as it would appear that the general public are not to be consulted on your draft or final RIA.







**Cynulliad Cenedlaethol Cymru**  
Is-bwyllgor Materion Allanol a Deddfwriaeth  
Ychwanegol ar y Bil Rheoleiddio Landlordiaid  
Cymdeithasol Cofrestredig (Cymru)