

## Regulator of Social Housing: consultation on fees

### Introduction

Southern Housing is one of the largest housing providers in the UK with over 77,000 homes across London, the South East, the Isle of Wight and the Midlands. We're pleased to respond to the Regulator of Social Housing's [consultation on fees](#) which covers both private registered providers (PRPs) and local authority registered providers (LARPs).

Given the increase in regulatory oversight, it is to be expected that the costs will increase, at the same time as government funding is being withdrawn. However, we believe the consultation gives inadequate notice of a very significant fee increase. In our response, we suggest the Regulator reviews and consults on the fee regime after three years once the new costs of consumer regulation are established. They should also establish a fee-setting mechanism that gives providers certainty and value for money. In our response we also highlight proposals that require clarification, such as rebates for LARPs but not PRPs.

### **Question 1: Do you agree with our proposed approach to setting initial registration application fees?**

Southern Housing agrees with the proposed approach.

We agree a fixed fee should apply to all applications for initial registration. Charging those seeking to join the register at the point of application is fairer than just charging for successful applications. It also reflects the fact the Regulator will incur costs for unsuccessful applications. We agree with a flat registration fee since the work the Regulator undertakes is likely to remain broadly the same regardless of size or complexity.

However, we would question the basis of the split between the preliminary application fee of £500 and then the detailed application fee of £2,500. The Regulator should ensure this split is related to the real cost borne by both the initial application and then the detailed application sections. The split should also be reviewed periodically in line with the amount in total, and the detail on the ongoing difference in cost published in the annual fees guidance.

### **Question 2: Do you agree with our proposed approach to setting annual fees for large private registered providers?**

Southern Housing agrees with the proposed approach.

***Fee payable on units***

Southern Housing supports the proposal that the annual fee payable by a registered provider is set by reference to the number of social housing units owned by that provider. Ownership (as opposed to management) is the most appropriate starting point as it is ownership that confers regulatory and compliance requirements.

***Scale and timeliness of the increase in costs***

We regret that Government will no longer be meeting part of the Regulator's costs. But we acknowledge this is outside the scope of consultation and is the direction of travel the Government is taking across many (if not all) regulated sectors. We also appreciate that there are increased costs in light of the Regulator's more proactive approach to consumer regulation.

However, it should be noted that the doubling of the Regulator's fees for Private Registered Providers (PRPs) arrives at a time of huge pressure on the sector. On the one hand, rents – our main source of income – are rising well below inflation (by seven percent for 2023/24, compared to 11.1% had they risen as normal by CPI plus one percent). On the other hand, expenditure is rising steeply, driven by a combination of inflation and the considerable cost of the building safety and retrofitting works we're undertaking.

The Regulator's proposed fee increase adds to a growing aggregate cost of regulation, with increased fees payable to a growing list of bodies including the Housing Ombudsman and Building Safety Regulator. We are mindful of the long-term impacts of multiple regulators increasing fees in isolation of each other, particularly for smaller providers.

We also question the need for an up-front charge, given the full costs of this change have not happened yet, and it's unlikely they will have all been incurred on day one. This is particularly the case where it will take time for the workforce to reach a full complement.

***Value for money commitment***

Given these pressures, any increase must provide value-for-money for PRPs and residents, especially given PRPs themselves are subject to exacting value-for-money standards. An additional objective should be established for the fee-setting regime on minimising costs and that requires the demonstration of value for money.

***Repayable surplus***

Given the multiple contemporary financial pressures, the Regulator should return any surplus income as "rebate", as is currently the case. We note that under the proposed changes, the Regulator only commits to returning any unspent fees to Large Local

## ***Southern Housing response to Regulator of Social Housing's consultation on fees***

Authority Registered Providers (LARPs) as set out in paragraph 6.7. In the interests of fairness, this should also apply to PRPs.

### ***Review and consultation time***

There should be a clear commitment from the Regulator to undertake a further review and consultation on the fee regime after a period of no more than three years. We understand that it will take some time for the new system to take effect and for the Regulator to determine the actual costs of consumer regulation. After this, the Regulator should consult with providers on a mechanism for providing greater certainty to providers about fee levels (both registration and annual fees), including a mechanism for limiting future fee increases for a fixed period of time.

In our response to question seven we set out in more detail our concern at the lack of notice providers have had of this substantial increase, and what would be appropriate in future.

### **Question 3: Do you agree with our proposed approach to setting annual fees for large local authority registered providers?**

Southern Housing agrees with the proposed approach.

We agree with the proposal that all LARPs with 1,000 social housing units or more will pay the Regulator an annual fee. We also think it's right that there's a differential in £ per social housing unit, due to the differences in regulatory oversight provided between LARPs and PRPs.

However, we note the commitment in paragraph 6.7 that any unspent fees will be rebated to LARPs. We believe this is right, but, in the interests of fairness, this should also apply to PRPs.

### **Question 4: Do you agree with our proposed approach to setting annual fees for small private registered providers?**

Southern Housing agrees with the proposed approach.

Southern Housing agrees with the fixed annual fee of £600-£700 for small private registered providers given that those with under 1,000 social housing units are subject to a substantially different level of regulatory engagement. We feel this approach is proportionate.

In the interests of fairness, the administrative costs borne by enforcement activity on small PRPs could be recouped outside of the fees system. These could be captured either by fines imposed as part of said enforcement action or by other means where

finances are not imposed. Future reviews of fees should pick this up and the Regulator should provide a cost breakdown so we can better understand enforcement costs.

**Question 5: Do you agree with our proposed approach to setting annual fees for small local authority registered providers?**

Southern Housing disagrees with the proposed approach.

We think it's wrong to set the fee for small local authority registered providers (SLARPs) at zero; there should be a notional fee.

This is because we believe it's likely there will be a gradual increase in cases where there has been a SLARP self-referral. If the numbers do rise, there will be a cost associated with these referrals, which should be recouped through fees.

We wouldn't want the Regulator to be under-resourced when fielding inquiries and referrals from SLARPs: this would disadvantage residents in those settings. Therefore, it should charge a nominal fee to adequately resource this.

If it *is* the case that the activity of the Regulator will broaden significantly enough to warrant doubling the fees – which we are sympathetic to – then setting the fee at zero for SLARPs is out of step with the wider approach for fee setting. We also think it's unlikely that administering a small fee to these providers would be uneconomical.

We note the consultation commits to reviewing the fixed fee over time (para 6.14 - "Should the level of our regulatory engagement with this type of provider change in the future then the level of this fixed fee will be reviewed.") We suggest this review occurs annually to determine whether a notional or a more substantial fee is required.

**Question 6: Do you agree with our proposed approach to setting annual fees for groups where the parent is a private registered provider?**

Southern Housing agrees with the proposed approach.

Southern Housing agrees that for groups owning 1,000 social housing units or more where the parent is a PRP, the annual fee should be set at group level rather than for each individual entity on the register.

We welcome this approach since it reduces complexity for organisations such as our own with multiple entities. It should also reduce the small risk of gaming of the system whereby multiple housing providers are set up with under 1,000 units for the benefit of lower fees.

**Question 7: Do you agree with our proposals for publishing information annually on our costs and fees?**

Southern Housing agrees with the proposed approach.

***Timeliness of notification and consultation***

We understand that the assent of the *Social Housing (Regulation) Act 2023* dictated the timetable of consultation on the revised fee levels. However, notification and implementation of this fee change is shorter than is normally the case and we wouldn't want this to set a precedent, especially given the Regulator's commitment to fee predictability. This consultation ran from 5 September to 31 October 2023. The revised fees principles and new fee levels will apply from 1 July 2024. While that is eight months' notice, it gives PRPs inadequate time to factor the increase into their budgets – contravening one of the Regulator's stated objectives for its proposals (4.26).

The business engagement assessment states that the level of the unit rate and fixed fee for all provider types will be reviewed annually. In future years, we'd suggest that where increases are proposed, this should be confirmed prior to providers setting their budgets at the minimum, but preferably a full financial year ahead of the change coming into effect. The regulator should signal an indicative fee level by the end of the September of the previous year, rather than waiting until it issues the annual fees guidance (usually January), confirming it in the annual fees guidance published later in the financial year. This would provide more certainty for budgeting and financial planning.

There should be a clear commitment from the Regulator to undertake a further review and consultation on the fee regime as a whole after a period of no more than three years. We understand that it will take some time for the new system to take effect and for the Regulator to determine the actual costs of consumer regulation. After this, the Regulator should consult with providers on a mechanism for providing greater certainty to providers about fee levels (both registration and annual fees), including a mechanism for limiting future fee increases for a fixed period of time.

***Fair, transparent, equitable***

While we agree with the Regulator's proposal to publish information its costs and fees through its annual fees guidance, we believe this is the minimum expectation providers will have of the Regulator. This should not be the only mechanism through which the Regulator communicates information on fees, and certainly should not be the first place providers find out important information.

## ***Southern Housing response to Regulator of Social Housing's consultation on fees***

Beyond notification and engagement, it's important that the fees represent value for money. We do not advocate any one mechanism by which to set fee changes, and would support this being taken up by the Fees and Resources Advisory Panel. Whatever mechanism the Regulator does use needs to be fair, transparent and equitable. It is not enough simply to publish fee information; providers are keen to see the Regulator demonstrate fairness, transparency and equity. We believe the Regulatory should be required to demonstrate how the costs incurred in carrying out regulatory activities represent value for money. We hope in its subsequent response to the consultation, the Regulator sets out how they intend to do this.

### ***Combining fees statement and annual fees guidance***

We agree with the proposal to stop publishing a separate fees statement, instead subsuming the information into annual fees guidance. We agree this is more efficient and, in light of the increasing regulatory burden, we welcome streamlining documentation (where appropriate detail is retained).

### **Question 8: Do you agree with our proposed approach to continuing the Fees and Resources Advisory Panel?**

Southern Housing agrees with the proposed approach. We have no issue with the Regulator expanding the Fees and Resources Advisory Panel to include local authority representatives. However, we would like to reiterate comments made in response to question seven, around demonstrating that meaningful engagement happens between registered providers and the Regulator (and the Fees and Resources Advisory Panel) in order to ensure value for money.

### **Question 9: Do you have any comments on our business engagement assessment or the impact of our proposals on equality and diversity?**

Southern Housing notes the business assessment fails to make any assessment of the short consultation period on organisations' ability to conduct budget setting. This has a material impact since it reduces organisations' ability to forecast costs and set budgets.