SOCIAL HOUSING GOVERNANCE

The English social housing sector comprises of roughly 1,600 not-for-profit landlords or private registered providers, between them providing housing for approximately 6 million people across England. In recent years, since the introduction of the Housing and Regeneration Act 2008 (the "Act"), the sector has also seen an increase in for-profit providers, owning approximately 28,000 homes.

The housing sector is complex and has a wide range of stakeholders such as tenants, government, local authorities, regulators, lenders, the general public and employees. Media interest in social housing has also increased over the past few years, in particular due to issues with the quality of some social housing provision.

Housing associations can be formed through various forms of legal entity such community benefit societies, trusts, co-operatives, companies and charities. This can often lead to complex organisational group structures consisting of multiple entity subsidiaries with varied reporting requirements including the Charity Commission, Companies House and the Financial Conduct Authority (FCA).

Whichever form they take, not-for-profit organisations are required to ensure that all profits made are reinvested in maintaining or improving existing homes, or to build new homes to deliver the social purpose of housing associations. For-profit organisations, on the other hand, are allowed to pay out dividends to shareholders.

Both types of providers are regulated by the Regulator of Social Housing (RSH) which sets regulatory standards which registered providers must adhere to in order to comply with the Act. This is assessed through programmed inspections, at least every four years, resulting in gradings. Gradings are published and can have a significant negative impact on the provider's reputation and funding opportunities if the outcome is unfavourable.

In line with the regulatory standards, housing associations are required to adopt a code of governance and provide a statement of compliance with their chosen code in their annual report and accounts. In England, the National Housing Federation (NHF) supports the housing sector to deliver their social purpose and has published a Code of Governance 2020 (“NHF Code”) specifically aimed at the housing sector.

The majority of English housing associations have adopted the NHF Code due to its relevance and focus on the context and operating environment of the housing sector. In a report published by Beevers and Struthers, it was noted that, in 2023, 91 of the top 100 housing associations had adopted the 2020 version of the NHF Code, this being an increase from only 15 housing associations in the previous year. The others had either chosen to adopt the 2015 version of the NHF Code or the UK Corporate Governance Code. As with other sectors, housing associations should disclose any areas of non–compliance with their chosen code and provide appropriate explanations for any non-compliance and estimated timescales for achieving full compliance.

However, compliance with the chosen code and relevant regulations only forms part of the vital governance arrangements surrounding housing associations, particularly given the increase in merger activity over the past few years. Merging two (or more) organisations inevitably requires the development and embedding of clear processes around a plethora of governance arrangements such as how board or committee meetings will be organised, processes for decision-making, minute taking arrangements and delegations for approval of contracts, for example. Additionally, the parent organisation will need to ensure that it retains sufficient oversight to manage group-wide risk. Effective safeguards need to be put in place to ensure that subsidiaries do not overstep their delegations. We have published a separate IndigoINSIGHT on subsidiary governance which you can find here.

An effective governance framework is vital for any organisation to be able to adapt to external changes in market conditions, the macro-economic environment, as well as legal and regulatory requirements and stakeholder expectations, and thus mitigate and manage any emerging risks and adapt strategy to take advantage of new opportunities. It is important to ensure that regular horizon-scanning of upcoming changes affecting the sector are considered and brought to the board’s attention early enough for strategic changes to be implemented, if required.

All these areas can be time-consuming and put additional stress on already stretched internal resources. One option is to supplement internal governance resources with external support, for example, to assist with projects such as annual reviews of the governance framework, the assessment of compliance with the chosen governance code or board and committee arrangements following a merger.

Indigo has experience of working with social housing organisations and understands the specific governance issues faced by the sector. If you would like to explore how we can help you and your board rise to these challenges, please contact one of our directors, david.gracie@indigogovernance.com or bernadette.young@indigogovernance.com