# **Hexagon Housing Association Ltd**

# **Board of Management**

**26th January 2016**

###### Agenda Item 3

**Chief Executive’s Report**

**Report by the Chief Executive**

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| ***1.0*** | ***Summary*** |
| 1.1 | This report provides an update across a range of issues and makes four recommendations. |
| ***2.0*** | ***Recommendations*** |
| 2.1 | That the Board comment and provide feedback on the new NHF Voluntary Merger Code, as outlined in Section 5. |
| 2.2 | That the Board approve a one-off pilot for recruiting to the Tenant Board Member vacancy, as outlined in Section 6. |
| 2.3 | That the Board agrees to two changes to the Lead Board Member roles as outlined in Section 7. |
| 2.4 | That the Board notes the remainder of the report. |
| ***3.0*** | ***Spending Review and Autumn Statement 2015*** |
|  | **Introduction**  On Wednesday, 25th November, the Chancellor, George Osborne, set out the Spending Review and Autumn Statement 2015 which outlined how government money will be allocated over the next five years.  I outline below the main announcements relating to housing, particularly those that will have an impact on Hexagon, either directly or indirectly.  The first thing to say is that many observers, including the National Housing Federation, describe the Spending Review as “better than expected” for housing. This was because the widely anticipated cuts to Housing Benefit did not materialise (subject to the introduction of the LHA explained below) and because there was a significant amount of additional housing to support home ownership (see below).  **The Key Measures announced**:  Supply and Home Ownership initiatives   * £6.9bn to support a range of housing measures primarily around home ownership. * £2.3bn to help deliver 200,000 Starter Homes * £4bn to deliver 135 shared ownership homes * £200m to deliver 10,000 Rent to Buy Homes * £400m for 8,000 specialist homes for older people/people with disabilities * Continued funding from the legacy Affordable Homes programme to 2020 * The introduction of a London Help to Buy scheme * An extension of the Help to Buy equity loan scheme to 2021.   Right to Buy HA Pilot  In addition, the Government also announced a launch of a pilot of the Right to Buy with five associations to inform the design of the final scheme. The London pilot will be carried out by L&Q with four other associations around the country also piloting. The scheme is modest as it is capped at a total of 600 homes nationally over a six-month period.  Public Land  The Government also announced a commitment to release land to accommodate more than 160,000 new homes.  Welfare Reform  In relation to Welfare Reform, we did not see any further extensions of cuts to Housing Benefit for tenants in the social sector. One key announcement however, was that tenants in the social sector will be limited to the level of the relevant Local Housing Allowance (LHA) the rate that applies to the private sector.  The government also announced that the planned changes towards Working Tax Credits have been abandoned.  Apprenticeships Levy  An apprenticeship levy was announced which will come into effect in April 2017. It will be payable by all employers with an annual pay bill of over £3m per annum, so will apply to Hexagon and will total 0.5% of our salary bill.  **Implications for Hexagon**  Less rented and more home ownership  It is now very clear that the Government are pulling back on any significant commitment to sub-market rented housing. Although the announcements referred 100,000 affordable homes for rent by 2021, these appear to be largely related to existing commitments with very little new money available.  The vast majority of the money is therefore being earmarked for existing home ownership initiatives such as the Starter Homes initiative which is being expanded as well as a boost to shared ownership.  I would remind Members that we currently have GLA allocations to take our development programme through to 2018. Most of the announcements relate to programmes for the funding years 2019 and 2020, but they do indicate a clear direction of travel away from rented homes and towards home ownership.  It is now clear that there will not be significant grant available for any new rented housing and if we want to do that work we will need to produce our own subsidy via our cross-subsidy by developing for outright sale.  ‘Welfare Reform’  The effect here is that anyone under the age of 35 without dependents will only be entitled to the shared housing room rate. The measure will come into force from April 2018 and will only apply to new tenants we are signed up after April 2016.  This could have a serious impact on both our supported housing schemes as well as some of our tenants occupying general needs properties. We are currently doing more work on this to estimate the financial impact in future years. Our current estimates are that 73 supported housing homes would be significantly impacted. Current rents in excess of the LHA rate total £275k which is 20% of our supported housing income. The impact of the shared housing rate could be around £48k for general needs and a further £30k for supported housing (£78k in total). These estimates exclude agency and co-op homes.  The Government response is the Discretionary Housing Payments (DHP) will close the gap, though that fund seems inadequate in scale.  A considerable amount of campaigning is currently undergoing led by the NHF and others who believe that the changes will impact very negatively on supported housing schemes as well as extra care schemes for the elderly and that DHP is an inadequate response to an ill-conceived change.  Increasing pressure on land purchases  A further consideration which will affect us is that the 140,000 Starter Homes initiative will be delivered through planning obligations and at the moment it appears that these will come at the expense of traditional affordable housing for sub-market rent and shared ownership.  The key impact here will be that developers will be able to pay more for land as their sites will now be ‘unencumbered’ by the current demands of S106 affordable rented housing. This in turn will make it more difficult for us to purchase land.  RTB receipts freedoms  Whilst it was disappointing to see the retreat from grant for sub-market rented housing, it is worth remembering that monies raised from Right to Buy can be spent on rented housing replacements and therefore will contribute to the delivery of new sub-market renting. As Members will be aware from previous briefings, it is not a requirement to replace like for like though I would strongly suggest that this should be our intention (i.e. rented housing for rented housing rather than shared ownership replacements for lost rented housing).  Competition from ‘London Help to Buy’ scheme  The London Help to Buy scheme will double the equity loan available to buyers with a 5% deposit to 40% of the value of a new build home, interest free for five years.  At the moment, shared ownership homes are in short supply and there are not a lot of other ownership products which compete. It appears that the London Help to Buy scheme might be attractive to the sorts of buyers who might have otherwise purchased a shared ownership property, thereby increasing competition.  The end of Eco subsidies  There were also some announcements about energy in the Spending Review. Specifically, the renewable heat incentive will be increased to £1.5bn by 2021 and the current energy company obligation (Eco) will be replaced from April 2017 with a new cheaper domestic energy efficiency supplier obligation which will run for five years.  The ending of the Eco programme and Feed-In Tariffs is a step backwards in relation to our ability to access this money to fight fuel poverty.  **Conclusion**  The Autumn Statement was “better than expected” in that further cuts to Housing Benefit were less severe than anticipated. At the same time, we saw an increase in funding support for home ownership initiatives, such as shared ownership, which we welcome.  Against these positive noises, we have seen a further retreat from the Government from supporting rented housing and we should certainly expect no grant for such a product between now and 2020 in respect of planning future developments.  We will continue to monitor the introduction of the new LHA rules and report back to the Board on the likely negative financial impact in the event that the NHF and others lobbying for changes to these announcements fail to create any changes. |
| ***4.0*** | ***Deregulation measures*** |
|  | Members will recall that at the last meeting, I reported that the Office for National Statistics (ONS) had decided to re-classify housing associations as Public – Non Financial Corporations, bringing HA debt onto the Government’s balance sheet.  I also reported that the Government had announced their intention to take urgent steps to ensure that housing associations would be re-classified as Private Bodies. This was to be achieved by introducing deregulatory clauses into the Housing & Planning Bill currently working its way through Parliament.  On 15th December, in response to the ONS Re-classification decision, the Government announced the following deregulation measures:   * Removal of all requirements for HCA Consents to disposals of land. There are no caveats to this which suggests it includes tenanted social housing assets. This is a substantial change. * Removal of the requirement for consents for constitutional changes, restructurings and mergers. * Removal of certain consents requirements relating to dissolution or winding up. * Removal of the Disposal Proceeds Fund with a transitional regime for funds currently held within the DPF. * Restrictions upon the power of the HCA to appoint board members to HA boards.   It appears that the consent requirements will simply be replaced by new notification requirements and the Regulatory Code will be the mechanism for monitoring significant changes. The overall structure of regulation has been retained and in particular regulation through the Governance and Financial Standard linked to the duty of openness with the regulator, remains.  In practice, while there will be additional substantial freedoms to dispose of assets, or to merge or re-organise groups without HCA consent, the regulator will still expect contact and assurance that any steps taken represent good governance and don’t create risk to financial viability.  There is no change in relation to rent controls for housing associations as this was not an area of concern to the ONS.  Members should note that these changes will need to receive Royal Assent to be enforced before they can take effect.  It is currently anticipated that the ONS will only review its classification decision after these changes are in force.  Lastly, in addition to the deregulation measures outlined above, the Housing Minister, Brandan Lewis, also announced amendments to the Housing & Planning Bill which will introduce a new special administration regime for all private registered providers. This is meant to give the regulator more flexibility in dealing with larger, more complex organisations which might not be able to be rescued by a single housing association in the event of a significant failing.  Lastly, but certainly not least, in mid-December, the Government also announced that their plans for Pay to Stay would continue for local authorities, but would no longer be mandatory for housing associations. The announcements from the Housing Minister made it fairly clear that whilst they would like to see Pay to Stay be applied on a mandatory basis for housing associations, they recognise that making it compulsory risked further complications with the ONS at a later date. This is a significant change.  I would remind Members that Pay to Stay is currently an option for housing associations and is not mandatory and Hexagon has chosen not to implement it following consideration by the Board on a number of occasions, most recently January 2015. |
| ***5.0*** | ***Mergers, Group Structures and Partnerships: A Voluntary Code for Housing Associations (NHF)*** |
|  | Just before Christmas, the NHF circulated a voluntary code which I now attach under **Appendix A.** The Code has been written by a team from Savills, working under the guidance of the Company Secretary of the NHF, with a small steering group.  Principles of the Code  The Code outlines 10 core principles which are meant to assist boards in examining merger options. The Code is ‘framed to operate primarily in respect of proposals between housing associations’.  The NHF make it clear that the Code is voluntary and it is for each housing association to decide if they wish to adopt to the Code to inform its approach to mergers, group structures and a broader range of partnership models that may affect how the organisation will operate.  The Code comprises 10 general principles of conduct which relate to a stage in the decision making process.  It seems to me that many of the principles of the Code are straightforward and sensible, including for example, provision numbers 1 and 2.  However, it seems to me that Principle 3 essentially opens up the possibility for ‘hostile take-over’ proposals to be submitted to boards who have adopted the Code which then prescribes a process which is not necessarily one that would be in the interest of the association concerned.  Principle 4 also strikes me as somewhat prescriptive and Principle 5, strikes me as something of a charter for consultants, perhaps not surprising given the authorship.  Principle 6 seems sensible, but again, Principle 7, seems rather prescriptive with ‘evidence of proper and rigorous analysis’ needing to be retained. It is not clear for what purpose.  Section 8 seems sensible as it deals with some detail that would follow once a first stage proposal has been agreed in principle by both boards. Similarly, Section 9 appears sensible.  Section 10, once again appears prescriptive in that for all associations who adopt the Code, they will be expected to include a statement annually in their financial statements via self-assessments or annual reports that are currently not required. Again, there is an emphasis on keeping a record of how a decision to reject a merger has been made and the reasons for rejecting it. It is not particularly clear as to who the board is justifying itself to and why.  I also attach under **Appendix B**, a note from Devonshires, our corporate solicitors who suggest that “for those who may at first glance think it looks like just another bit of box ticking, we would recommend it is given more serious attention”. They make the point that “in particular, it could be said that it facilitates hostile take-overs”.  They also point out that the Code “is voluntary, but if you sign up and do not comply, there may be consequences!”  Furthermore, “as with the NHF Code of Governance, a failure to comply tends to lead to a breach of the Governance Standard, with the non-compliance requiring disclosure”.  The document also points out that “it should not be assumed that complete compliance will automatically deliver a satisfactory result when justification for merger can be relatively easy to stage, but more difficult to demonstrate is optimal (against other options).”  To sign up or not to sign up….??  In general, when the NHF propose a voluntary code, it would normally be my instinct to ask the Board to agree to it. That was certainly the case with the NHF Code of Governance.  In this instance, however, on first read of the voluntary Code, it is not immediately clear to me that it is in Hexagon’s interest to adopt the Code. I am therefore not making a recommendation that we either do or do not adopt the Code at this stage, as I think it will probably need further consideration and discussion by the entire Board. On that note, I would welcome members’ comments.  In the meantime, a meeting of members of the Placeshapers Group (of which we are a member), has been called to respond to the Code, as several members are very concerned about the contents. |
| ***6.0*** | ***Board Member Vacancy*** |
|  | Following the November Board, we now have a vacancy for a Tenant Board Member.  At the AGM, it was agreed that if a vacancy arose for a tenant board member position, that the vacancy would be filled in a manner agreed by the full Board.  I would remind Members that our current method of recruiting board members is not compliant with the NHF Code of Governance. In turn, this means that we will not be compliant with the HCA’s Regulatory Code in this year’s Financial Statements.  In that context, I would like to **recommend** that we undertake a **pilot** for filling the existing vacancy. The pilot would involve advertising the vacancy amongst all of our tenants in the same way that we advertise for ordinary board members. We would invite applications which would be subject to a shortlisting and a final interview process before selecting the candidate. The pilot could inform our discussion of further changes. It would not be a permanent feature, but would apply just to this one vacancy.  If the Board are happy to accept the principle of advertising the vacancy and inviting applications as a one-off ‘pilot’, the next stage would be to agree a selection and recruitment panel. It would seem sensible to me to include the Chair, a Vice Chair and a Resident Board Member as a minimum. Board input on the composition would be welcomed. |
| ***7.0*** | ***Vacancy for Lead Board Member for Resident Involvement*** |
|  | We currently have a vacancy for Lead Board Member for Resident Involvement. I would recommend that we re-visit this once we have filled the existing Tenant Board Member vacancy, rather than fill it at this time.  In the meantime, the Chair has received a request from the Lead Board Member for Performance Management (Rosalind Watson) and the Lead Board Member for Community Investment (Kellie Elmes) indicating that they would like to swap roles, and he has asked that this request be considered by the January Board for approval. |
| ***8.0*** | ***Southwark & London Diocesan Housing Association*** |
|  | At the last meeting, I reported that Hexagon had made it onto the final short list of three housing associations to put forward merger proposals with Southwark & London Diocesan Housing Association, a small 277 homes housing association in Southwark.  On Saturday, 5th December, Debbie Bankole-Williams, Phil Newsam, Paul Browning (Business Improvement Manager), and I did a 15 minute presentation to the Management Committee of SLDHA, followed up by an hours’ worth of questions.  Unfortunately, we were not selected as the final partner.  The feedback was that the final decision came down to some “fine granular detail” and that this revolved around one of the other associations, namely Amicus Horizon, making an ‘improved’ offer at the presentation stage.  We received quite a lot of positive feedback following the presentation, but in the end there were three key issues where the winner was stronger than us as follows:   1. The Operations Manager was effectively promised a job by Amicus Horizon whilst our offer had looked to be likely redundancy. They also had a few more options than our one route on the pension side as they had more than one pension offer. 2. Amicus Horizon agreed to take on all of this stock whereas we were proposing a second stage management agreement or transfer for 15 of their residents, outside of our areas of operation. 3. On affordable rents, during the presentation the winning HA said they would “ring-fence” the 277 homes from ever being charged anything other than the current rent levels (presumably indexed).   On these three points, the housing association selected, Amicus Horizon, provided more certainty and the Board were keen to minimise uncertainty. As a secondary consideration, Amicus Horizon, has significantly more experience of mergers than we have which probably gave them a small advantage in hitting the ground running after selection, although that was a secondary issue to the three key points stated above.  Obviously this is disappointing having gotten to the final stage. It was never mission critical for us to merge with SLDHA, and whilst we would have been pleased to merger, I think our offer was the best it could be. We can of course learn from the feedback.  Lastly, I would like to thank Debbie Bankole-Williams for ably representing the Board at the presentation. |
| ***9.0*** | ***GLA Audit*** |
|  | I attach under **Appendix C,** a letter to the Chair from the GLA, attaching the results of the audit of compliance with the GLA’s Funding Conditions.  I am pleased to report that the audit results were “good” and that the overall procedural rating was “green”.  The Chair signed and returned the report on 8th January 2016. As there were no breaches of the funding conditions and no issues, there are no recommendations to follow up. This is a good result. |
| ***10.0*** | ***Private & Confidential – Update on Brockley Tenants Co-op*** |
|  | At the September meeting, the Operations Director provided a confidential report updating Members on actions taken in relation to Brockley Tenants Co-op.  A further ‘Private & Confidential’ update is contained under **Appendix D** for Members’ information. At the time of writing this report, the January has not yet happened, but the Operations Director might be able to provide a further verbal update at the Board meeting. |