



In-depth Briefing

ONS Reclassification of Welsh Housing Associations

The Office for National Statistics (ONS) has today announced that Welsh Registered Social Landlords (RSLs) have been reclassified as Public Non-Financial Corporations and will be considered public sector bodies for the purposes of national accounts.

The decision, which was made in line with the European System of Accounts, will add £2.5bn of debt to the UK's balance sheet, and will be backdated to 1996 due to the ONS ruling that the Housing Act 1996 grants government too much control over housing associations.

Separate decisions have also been announced today in Scotland and Northern Ireland, reclassifying associations in those nations as public sector.

Background to the decision

A similar decision was made by the ONS in relation to English housing associations last October, which added £60bn of debt to the national balance sheet. That decision, along with those made today, considered the powers that various levels of government can exercise of the business of housing associations.

The key test applied to determine whether a body is public or private is:

"...does the government exercise significant control over the general corporate policy of the unit? The international guidance defines control as the ability to determine general corporate policy, and this can be exercised through the appointment of directors, control of over half of the shareholder's voting power, though special legislation, decree or regulation."

The decision

Through its investigations into the status of Welsh housing associations, ONS concluded that housing associations are subject to public sector controls in accordance with control indicators set out in international accounting rules. The ONS concluded that Welsh associations are subject to public sector control due to, amongst other things:



1. Welsh Ministers' consent powers (exercised through sections 9 & 25 and paragraphs 15 and 27 of Schedule 1 to the Housing Act 1996) over the disposal of land and the disposal of housing assets, is an indicator of public sector control through enabling instruments/excessive regulation
2. Welsh Ministers' powers (exercised through Paragraph 4 of Part II of Schedule 1 to the Housing Act 1996) over the management of an RSL, in particular the power of Welsh Ministers to remove an officer of the RSL if they have not acted and their failure to act is impeding the proper management of the RSL's affairs, is an indicator of public sector control through the appointment of officers/key personnel and/or through enabling instruments/excessive regulation
3. Welsh Ministers' powers (exercised through Paragraphs 6-8 and 15E of Part I of Schedule 1 to the Housing Act 1996) over the management of an RSL, in particular the power of Welsh Ministers to appoint a new manager or officer of the RSL if the Ministers are of the opinion that it is necessary for the proper management of the RSL's affairs to have an additional officer, is an indicator of public sector control through the appointment of officers/key personnel and/or through enabling instruments/excessive regulation
4. Welsh Ministers' powers (exercised through Paragraphs 9 & 11 of Part II of Schedule 1 to the Housing Act 1996) over constitutional changes of an RSL, in particular the requirement for consent to any change of an RSL's articles of association where the RSL is a company (apart from a change of name or address of registered office), is an indicator of public sector control through enabling instruments/excessive regulation
5. Welsh Ministers' consent powers (exercised through Paragraphs 12-13 of Part II of Schedule 1 to the Housing Act 1996) over the amalgamation and dissolution of a RSL, which is a registered society and the arrangement and reconstruction of a RSL which is a company, is an indicator of public sector control through enabling instruments/excessive regulation
6. Welsh Ministers' powers (exercised through Paragraph 15D of Part II and Paragraphs 20 & 22 of Part IV of Schedule 1 to the Housing Act 1996) over the management of an RSL; in particular the power of Welsh Ministers to transfer management functions to a person they specify if an inquiry (directed by Welsh Ministers) or an audit has found there to be mismanagement in the affairs of the RSL, or if Welsh Ministers feel a transfer of certain of the management functions would be likely to improve the management of some or all of its affairs; is an



indicator of public sector control through the appointment of officers/key personnel and/or through enabling instruments/excessive regulation

In England, we also saw a number of further elements of control brought to light as discussions went on between UK Government and ONS that were not contained in the original decision. This included issues such as the Golden Share arrangements and local authority nominations to housing association boards between Local Authorities and Stock Transfer organisations. We will work closely with Welsh Government and ONS to ensure we have a full picture of the controls that will need addressing if this decision is to be reversed.

What are the implications of the decision?

The reclassification decision will add approximately £2.5bn of Welsh housing association borrowing to the debt in the UK National Accounts. The ONS will make the necessary changes to the national accounts 'as soon as possible'. In practice, this may take some time to be implemented, as with previous reclassifications.

We understand that Welsh Government have agreed provisions with UK Government to ensure that there will be to be no significant immediate impact on the day-to-day operation of housing associations, and we will be issuing a legal briefing in partnership with Devonshires to support our members on areas such as governance and finance shortly.

However, in the long term, we are concerned that the decision will open the door to Treasury placing borrowing limits on housing associations, as they already do with local authorities. This would endanger the ability of housing associations to deliver Welsh Government's 20,000 affordable housing target.

What happens next?

Community Housing Cymru has been engaged with Welsh Government and ONS on this issue since the publication of the decision in England, and we will work closely with both to ensure that housing associations are returned to the private sector.

Welsh Government's statement on the announcement today says:

"We are exploring a legislative solution to the issue of reclassification, and Housing Associations can be confident that it will be resolved. This means they will be able to continue to borrow from the private sector in order to help us achieve our target of 20,000 affordable homes in this Assembly term".



We welcome this statement, and we will continue to call on the Government for swift and decisive legislative action to reverse today's decision. We believe that the upcoming Bill to end the Right to Buy in Wales would be a suitable legislative vehicle to carry the clauses needed to address the controls identified by ONS.

There is experience of the legislative process to reverse such a decision in Wales, with Further Education colleges having been through a similar process after their reclassification in 2010. We will look to harness the experience of partners in Further Education, and work closely with the National Housing Federation to understand their experiences of this process in England.