

Explanatory note on deregulation amendments relating to Large Scale Voluntary Transfer organisations

The classification issue affecting housing associations generally is being addressed by the deregulatory changes outlined in this briefing.

However, the Government has identified more particular concerns that relate specifically to Large Scale Voluntary Transfer (LSVT) organisations. The risk is that if these issues are not addressed, it is possible that the ONS may continue to regard these associations as public even if the rest of the sector is reclassified as private.

The Government has tabled amendments to the Housing and Planning Bill to address these concerns. While the detail of the Government amendments is not yet clear, the Federation understands that they are likely to address two issues, both of concern primarily to LSVTs. Although the amendments are likely to apply in theory to the sector as a whole, they are unlikely to have any practical impact except for LSVTs.

The two issues are:

The practice of reserving board places for persons nominated by the local authority.

This is significant because one of the main tests applied by the ONS is whether a state body (such as a local authority) can make appointments to the board. The Government's amendments provide powers for the Secretary of State by regulation to limit the number of officers that a local authority may appoint, prohibit a local authority from appointing officers and confer powers on a housing association to remove officers appointed by a local authority. Our understanding is that this change would not prevent associations from recruiting members or officers of local authorities to the board, but anyone recruited in this way would serve on the board purely in an individual capacity like any other board member.

Local authority veto on constitutional changes. This relates to a 'golden share' or similar arrangement that allows the local authority an effective veto on changes to the association's constitution. Again, this is a key factor to which the ONS is likely to have regard. The legislation is likely to prevent the local authority from withholding its consent to constitutional changes. The amendments provide the Secretary of State by regulation to prohibit a local authority from doing things that would result in it obtaining voting rights in a private registered provider, require a local authority to take steps to reduce or get rid of any voting rights that it has in a private registered provider.

The amendments bear principally on local authorities. They will not directly alter associations' governing instruments. They will, however, mean that certain provisions in the rule book (or memorandum and articles) will cease to have practical effect since the local authority will be unable to exercise the rights conferred on it. In this situation, the Federation is likely to advise members that they should take early action to remove the redundant provisions from their constitutions.

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