Written evidence submitted by the British Property Federation [RSH 083]

Introduction

1 The British Property Federation (**BPF**) is the trade association that represents large scale investors in the real estate sector. We promote the interests of those with a stake in the UK built environment, and our membership comprises a broad range of owners, managers, and developers of real estate, as well as support industries. Our members invest close to £1 trillion in the UK economy, often on behalf of pensioners, and as well driving economic success, their investments are increasingly seeking to reflect society's aspirations on environmental, social, and governance issues. In the context of this submission, we established an Affordable Housing Committee in 2021, which seeks to bring together several investors and housing association partners. All members of the Committee can be found at: https://bpf.org.uk/committees-and-working-groups/affordable-housing-committee/

2 We are responding to the inquiry's final question, namely "What challenges does the diversification of social housing providers pose for the regulatory system?" and in the specific context of the establishment by a number of BPF members of "For Profit" Registered Providers.

3 For the avoidance of doubt, the BPF does not represent (and so this submission does not comment on) investment funds who have invested in so called "lease based" finance to providers of specialised supported housing and/or exempt accommodation.

4 The scale of the challenge in affordable housing supply is daunting: there are currently 1.3 million households waiting for affordable housing, and an increasing shortfall between the number of affordable homes available and the number required to meet the country's housing need. Research from the National Housing Federation and Crisis estimates the level of housing need at 145,000 affordable homes a year compared to 58,000 delivered in 2019/20. There are now nearly 100,000 households in temporary accommodation – twice the number that it was 10-years ago – costing the state £1.15bn annually. Housing Associations, local authorities and developers have already shown imagination and determination in overcoming a large number of obstacles to increase affordable housing supply. However, traditional housing associations are facing strong headwinds to development capacity from urgent building safety works in the shorter term, and the large-scale decarbonisation programmes required to meet pressing climate change targets in the longer term. This means that their ability to continue their current development programmes (which themselves are not sufficient to meet current demand) is constrained. The Regulator of Social Housing (**RSH**) has recently published its annual accounts summary which provides evidence that this is already impacting on supply; housing development by social landlords dropped by 20% in 2020 alone.

5 The constraints on funding to traditional housing associations and local authorities means that it is our belief that a diversification of social housing providers is the only way (other than direct government grant funding) by which the challenge in affordable housing supply can be met. Diversification should be seen as an opportunity to meet affordable housing supply targets and not as a threat.

6 Institutional investors have already proven themselves longstanding and reliable partners in the provision of affordable housing through the provision of debt funding to traditional

Housing Associations as well as in the broader context of housing supply by investment in the rapidly maturing "Build to Rent" market. Our members' patient capital can unlock more homes, greener homes and improve quality across the board as well as meeting challenging housing supply targets.

7 Our members also bring other tangible benefits to the affordable housing sector besides deployment of capital (for example in relation to new approaches to customer service, in the deployment of new technology in housing management, in the standard of accommodation being provided and in the deployment of modern methods of construction).

8 Institutional investors are now taking the next step and are becoming Registered Providers of Social Housing in their own right, but in order to maximise the investment that institutional investors can unlock there are a number of observations that we make and recommendations that we propose.

The RSH's Fundamental Objectives

9 The RSH has a statutory remit (Section 92K Housing and Regeneration Act 2008) (the "Fundamental Objectives") to "encourage and promote private investment in social housing"; it would seem to us that this should be naturally interpreted as including the encouragement and promotion of *equity* investment in affordable housing (as well as the historical focus on investment by the provision of debt) and could be better aligned with the approach taken by Homes England (where Homes England proactively promotes new entrants to the affordable housing sector).

The Registration process and barriers to entry

10 We fully accept and understand that the RSH's registration process needs to be sufficiently rigorous in order for the RSH to be satisfied that new providers are both financially viable and properly managed; however in the context of the Fundamental Objectives, timescales for registration of new providers are simply too long- our members have experience of registration applications taking well over a year and of applications that get bogged down in minutiae of detail, with no real focus on quantification of key risks.

11 We welcome the recent recruitment into the registration team, but there is no doubt that the length of the registration process (as opposed to the rigour of the process which is accepted and understood) discourages investors from engaging with affordable housing.

12 The current length of the registration process produces perverse outcomes; in particular it has encouraged the "trade" of existing providers (on which the RSH have no regulatory control or oversight) and which means that providers can change control (with consequential changes in risk profile) without the RSH's knowledge - meaning that the RSH is in a weaker position than had a new provider been registered in the first place. We see no difficulty in a legislative approach that would require the RSH to be notified of changes in control.

13 We would suggest that the RSH would be well served by further investment in more experienced staff with backgrounds from the investors they are now regulating. This would allow a more nuanced risk based approach to new entrants (and indeed to post registration regulation). This, coupled with a tighter post registration regulatory regime (on which we comment below), would serve to reduce the registration timescales and so

increase investment in the sector as well as providing additional assurance as to the calibre of new entrants to the sector. It is possible that such recruitment could be self-financed through registration fees.

14 We would also comment that it is our members experience that applications for registration are more often than not considered in the context of a regulatory framework that is designed for and speaks to "not for profit" applications and so our members have experienced interrogation of themes within the current regulatory framework that aren't really appropriate in the context of a "for Profit" provider/institutional investor. Examples include interrogation of the procurement of intragroup "back office" service provision by the new provider (when in practice back office services can *only* be provided by the applicant's group) or the questioning of value for money in the procurement of services (which it seems to us should only be a concern for "for profit" providers where public funds are being put at risk- in other cases value for money should be a shareholder matter). Moreover the current value for money metrics are designed to address not for profit providers.

15 Many investors will operate segregated accounts for different investors / pools of capital which means that (unlike the traditional housing association sector) there is likely to be a need for multiple for profit registered providers (with each dedicated to a particular investor/pool of capital) but which are managed by a common board and management team. We would suggest that there should be a fast track process for "groups" of RPs operated on this basis and where the vast majority of detail (in particular in relation to governance and financial metrics) remain the same as an existing provider. This should apply equally to those For Profit RPs that are established as a joint venture between a traditional housing association and an institutional investor.

Recruitment to the RSH and post registration issues

16 Notwithstanding recent recruitment (which we welcome and support) we believe that the RSH still requires a broader skill set to have better in built understanding of wider institutional investment industry and associated corporate structures – the RSH's current approach to financial metrics (see for example the 2021 Sector Risk Profile) is based around debt benchmarking and seems to lack understanding around the role, necessity and cost of equity. We believe that the RSH would be well served by the recruitment of senior officers with a background in institutional investment.

17 We believe that investors would benefit from clarity of approach to regulation to so called "new entrants" in the context of a failing "for profit" provider and in particular what can investors (both debt and equity) and consumers expect of the RSH were a FPRP to face insolvency.

18 We believe that there is an argument for a tighter regulatory regime post registration – at the moment after a hugely intensive period of engagement during the registration process, there is no formal regulatory interface until providers have more than 1,000 dwellings under ownership; this seems to us to be wrong – for example bad practice can become embedded in a newly registered organisation very quickly that can cause fundamental financial or consumer problems for the provider later down the line; but more importantly by the time a provider gets to 1,000 dwellings, the level of its commitments to further acquisitions could be materially higher (particularly given the growth plans of many new entrants – so for example a provider of that ilk could easily be under contract for a further

3-5,000 dwellings). So we wonder if the RSH should be encouraged to undertake a mini in depth assessment of newly registered providers between 12-18 months after registration. The point is that regulatory regime designed for a 500 dwelling 100 year old housing association isn't the same as a new entrant with 500 dwellings that is looking to grow to 5,000 dwellings in three years - they each need a different level of focus. We wonder if lessons can be learnt from the regulation of financial services where special provision is made for the regulation of new entrants.

19 We believe that whilst it may well be desirable for the RSH to have greater powers over For Profit providers (and we note the signalling of this in the Social Housing White Paper) there are existing powers (and in particular the role of voluntary undertakings and financial penalties under the 2008 Act) that could be utilised to provide further assurance to the RSH.

20 Our members are keen to work with the RSH to create a Code of Governance that is properly tailored for the For Profit RP sector.

21 Finally – and whilst not specifically within the remit of the inquiry, we would strongly encourage Parliament to explore what changes might be made to the tax and grant regimes to facilitate additional institutional investment in affordable housing; not only to provide a so called "level playing field" between "For Profit" providers and traditional housing associations (and in this regard the different rules applying to Stamp Duty Land Tax are particularly pertinent) but to also enable institutional investors in affordable housing to be competitive in bidding on land where alternative uses may produce a higher land value (for example in an urban context an appropriately targeted SDLT relief may make affordable housing use viable against (say) a logistics hub). We would also suggest that a specific relief for Corporation Tax for all registered providers of social housing would also materially increase institutional investment in affordable housing and for the grant provision to For Profit providers to be on terms broadly equivalent to the traditional sector.

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