

Regulation of Registered Social Landlords (Wales) Bill

Technical Note for External Affairs and Additional Legislation Sub-Committee on Disposals Proceeds Fund

1. The then Cabinet Secretary for Communities and Children undertook to provide a technical note on the Disposals Proceeds Fund (DPF) during the Sub-Committee's evidence session on 24 October 2017.
2. The Bill proposes to repeal Sections 24 -26 of the Housing Act 1996, to remove the accounting requirement and to remove the restriction on the way in which proceeds can be spent by RSLs. This removes the ability of the Welsh Ministers to direct the use of disposal proceeds Fund.
3. Sections 24 to 26 of the Housing Act 1996 sets out that RSLs are required to show net disposal proceeds separately in their accounts, that the Welsh Ministers can direct the use of the fund and require information from RSLs in respect of the fund.
4. The net disposal proceeds of a registered social landlord are:
 - (a) the net proceeds of sale received by it in respect of any disposal of land to a tenant:
 - (i) in pursuance of the right conferred by section 16 or section 180 of the Housing and Regeneration Act 2008 (right of tenant to acquire dwelling), or
 - (ii) in respect of which a grant was made under section 21 (purchase grant in respect of other disposals); or
 - (iii) in respect of which a grant was made under section 19 of the Housing and Regeneration Act 2008 in respect of discounts given by it on the disposal to the tenant.
 - (b) payments of grant received by it under section 20 or 21 (purchase grant)
 - (ba) payments of grant received by it under section 19 of the Housing and Regeneration Act 2008 in respect of discounts given by it on disposals of dwellings to tenants.
 - (c) where any grant as mentioned in paragraph (b) or (ba) has been paid to it, any repayments of discount in respect of which the grant was given, and
 - (d) such other proceeds of sale or payments of grant (if any) as the Welsh Ministers may from time to time determine.
5. The Application or Appropriation of Disposal Proceeds General Determination 1997 sets out the purpose for which the disposal proceeds fund can be utilised. Uses permitted are for the purposes of providing, acquiring, improving or converting dwellings for letting or acquiring land for future development. The proceeds must be applied within three years of their receipt and normally be used in the same local authority area in which they were generated.

6. ONS identified the powers to direct the permitted use of these funds as one of the component indicators of public sector control through enabling instruments/excessive regulation. It is therefore a power which needs to be removed in order for the Bill to achieve its aims.
7. Transitional arrangements will be required to deal with exiting funds. The arrangements will need to ensure that where an RSL has a disposal proceeds fund at the point of repeal of the legislation coming into effect, the repeal does not take effect in relation to that fund until either the fund is exhausted, it is no longer able to use the fund in compliance with the 1997 Determination or the expiry of three years.
8. The instrument will provide that an RSL is not required to pay further monies into its disposal proceeds fund after the repeal of sections 24 & 25, Housing Act 1996 and that, where a disposal proceeds fund is transferred to an RSL from another RSL, the RSL will be treated as the former RSL in relation to that fund.
9. Information on the Disposals Proceeds Fund is collected from RSLs combined with the "Recycled Capital Grants" annual return for convenience. The current position reported by RSLs is the impact of removing this accounting requirement will have no consequence on the day to day operations of the RSL since any proceeds under these provisions are used for the purpose and time scales set out in the 1997 determination and that the balance in the funds, in practice, is zero.

Note - Recycled Capital Grant is a mechanism for the recycling Social Housing and other Grants. It is a separate requirement and is not affected by this Bill.