

Private and Confidential

Dr Steven Halls
Chief Executive
Three Rivers District Council
Three Rivers House, Northway
RICKMANSWORTH
WD3 1RL

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Dear Steven

Re: Proposed Thrive Homes Rule Change

Thank you for your letter of the 11 July 2011 setting out the Council's response to our proposed rules change. It is disappointing, given the considerable efforts that Thrive Homes has made since transfer to engage TRDC members and provide opportunities to include the authority in our journey to becoming an organisation that can fulfil its vision, that TRDC feels unable to support us in positioning Thrive Homes to meet the challenges of the current operating environment and complying with the regulatory regime.

We have consistently tried to progress the relationship openly and in a spirit of partnership but clearly the interests of Thrive Homes' customers and its future well being are the primary concern of the Board.

I have set out Thrive Homes' response to your concerns below and have adopted the numbering from your letter of the 11 July:

1. Compliance with the NHF Code

As you acknowledge, it is important for Thrive Homes to adopt best practice and to avoid unnecessary regulatory engagement.

The TSA Regulatory Standard requires the following:

*'Registered providers shall **adopt and comply** with an appropriate code of governance. They shall give the reasons for their choice and explain areas of non-compliance with their chosen code.'*

The TSA has already followed up on this as part of its routine regulatory engagement with Thrive Homes. We have taken legal advice on this point which has confirmed our view that the Regulatory Standard is considerably stronger than 'advisory'. We are required by the TSA to meet it. It is the kind of trigger envisaged by Clause 4.1 Schedule 6 Part 2 of the Transfer Agreement. The requirement to explain areas of non-compliance is not intended to allow registered providers to pick and choose what to comply with, but is there to provide the Regulator with the information required to make a risk based judgement on the impacts upon the organisation.

In order to comply with the NHF Code and meet the Regulatory Standard, Thrive Homes needs to reduce the size of its Board but in doing so, it must also ensure that there is an appropriate mix of skills and experience.

The current Board structure is unbalanced with two thirds of its number primary skill/experience being of communities/consumer experience of social housing.

The environment that we are operating in is very different from 2008:

- Regulatory focus is increasingly concentrating on governance and financial viability;
- Thrive Homes is moving on from the relatively simple initial phase of its existence that focused on delivery of transfer promises etc;
- The financial climate is significantly less benign

and presents a challenge to Thrive Homes to respond appropriately. To do so, we will need greater levels of financial expertise, amongst other things.

Should the Regulator decide to down-grade Thrive Homes' governance rating, the consequences for the organisation are far reaching as it will impact on our ability to raise funds to improve and develop additional housing that is desperately needed within the district. If we fail to meet the governance Regulatory Standard we also run the risk of regulatory action being taken against us.

While we appreciate your concern that customers should continue to have a strong voice in Thrive Homes, we believe that the structures that have been put in place since transfer, (that exceed the scope of your Transfer Offer to customers), and the proposal to retain a significant proportion of customers on the Board should provide adequate safeguards.

3. Voting Rights

Decisions at Board are currently made on the basis of 'one person, one vote'. Your scenario assumes that there will always be an alignment of views on a 'constituency' basis and an assumption that the views of independent board members will not align with or support the interests of customers or the community.

On becoming a member of the Board, an individual – irrespective of their background is legally required and undertakes to:

'Act at all times in the best interests of Thrive Homes irrespective of their other interests'.

No one can discharge this obligation effectively without regard to our customers and communities that we serve. Additionally, many Board decisions, particularly those that most directly impact on customers and the services received, are informed by input from customers and the Scrutiny Panel.

There is an important distinction between voting on board business and the role of shareholders that informed the rationale for the proposed structure.

The Board's role within the governance structure is to guard the vision/mission/values, set the strategy and oversee its delivery and operational performance.

Shareholders' role within the governance structure is to call the Board to account if it is acting in ways that will result in detriment to the organisation. As there is no financial interest in a housing association – shareholders' interest tends to focus on adherence to core purpose, viability and reputation.

Hence the proposal to proportionately reduce shareholding membership to 3:3:3. This protects shareholders' ability to exercise their rights to call meetings on matters that appear to be causing detriment.

The proposed addition of co-opted members strengthens the Board's capacity to evaluate and challenge on a wider range of issues from a knowledge base and ensures that it can effectively refresh itself by securing appropriate expertise at short notice where necessary, as it tackles different projects or opportunities. Also to forge links with other bodies and to positively promote Thrive Homes' profile – again an issue that is increasingly important in a competitive and challenging operating environment.

It is disappointing that the Council cannot appreciate this or recognise the very real benefits that this would bring to Thrive Homes. Therefore, we now propose that the Board will comprise shareholding membership only on a 3:3:3 split. On this basis, we trust that you will not have any further objection to reducing the overall number of board members. However, the Council will have to accept its role in nominating members who can contribute relevant skills in addition to knowledge of communities and that Thrive Homes will be more rigorous in evaluating this.

Additional expertise will be introduced at a different level within the governance structure by including co-optees within committees.

4. Quoracy

Noted – this issue only crystallises if Board numbers are reduced but trust that you will now accept this on the basis of paragraph 3.

5. Tenant Elections

Clearly this is an area where we would prefer to be guided by the views of our customers and will keep this matter under review. However, we are willing to maintain elections when a vacancy arises as opposed to each year as at present if it comforts the Council in terms of our intentions to maintain the current high level of organisational commitment to ensuring that customers have an effective voice at all

levels within Thrive Homes. This will be retained within the Policy and not the rules to ensure that we retain flexibility to respond to the needs of our customers.

However, your initial response has ignored the role envisaged for the Scrutiny Panel and it is disappointing that the Council continues to regard every proposal to move the organisation forward, make better use of its resources and serve customers in ways that are relevant to them with suspicion, given the consistent effort that we have made to deal with the authority in an open and transparent way.

The payment of Board Members is a current issue for many housing providers. Any discussion of this within Thrive Homes would be confidential to the Board and, therefore, I can only assume that your comment relates to your wider understanding of housing associations rather than being specific to Thrive Homes. I am not aware of any studies that provide evidence that the relatively modest sums paid to Board Members have any impact on recruitment but should you have access to this, I would be most interested to see it.

I hope that the Council will reconsider its position in the light of these comments. However, if it is not possible to reach an amicable agreement, I believe that we should formally progress to the second stage of the dispute resolution process set out in the Transfer Agreement.

If I can be of any further assistance in relation to any of these matters, please do get in touch.

Yours sincerely



Elspeth Mackenzie
Chief Executive, Thrive Homes

Direct Tel: 01923 693 816
Email: elspeth.mackenzie@thrivehomes.org.uk