

Michael Cameron – 21 August 2019

Scotland's Housing Network – Scrutiny and VFM Practice Exchange

Good morning. And thank you for inviting me to join today's discussion.

Now I'm sure I don't need to remind you – but I will – that it's just over two months to the 31st of October, when you need to submit your Annual Assurance Statement.

Given that, I'm going to focus on self-assurance and the Annual Assurance Statements. And I suspect that many of you in this room will be charged with supporting your board to make your landlord's Statement; so, hopefully, this is a very timely discussion.

I'll also touch on Notifiable Events, as I know from Misia that that's something you're keen for a discussion on.

The new Framework promotes a **culture of assurance, openness and transparency**. We've designed it, with your

help, to support board members to get the assurance they need that their organisation is well-run, and so delivers what tenants need and want at a price they can afford to pay.

And one of the most important changes is the requirement for every landlord to make an **Annual Assurance Statement**.

In many ways, the Annual Assurance Statement **flips the position** from our earlier Framework. Previously, landlords had to tell us **only** when they were not complying with regulatory requirements. Now, each landlord needs to make a regular, transparent and **proactive** statement on their compliance.

I know that many of you are having discussions with each other, as well as working within your own landlord, on the practicalities of getting enough assurance to allow boards to make the Annual Statement.

The Statements are a way for landlords to assure **firstly themselves** and then their **tenants and service users** that they comply with regulatory requirements and are meeting all of their legal duties, including on tenant and resident safety.

The Statements will be approved by each landlord's governing body. But more importantly, the Statements should be **owned**

by the governing body – it will be **their** statement that **they are** assured.

We see the Statement as a useful tool that should help governing body members consider the questions to ask of senior managers, and the assurances that they need.

So, what should the Statement be like?

- Ideally it should be **short** and **succinct**
- It should clearly set out which of the regulatory requirements and standards your organisation complies with
- Your statement should set out any areas of non-compliance and, briefly, what you are doing to fix them.
- We've given examples of wording you might use, but the exact format is for you to decide.

But perhaps more important than the Statement itself, is the fact that your boards are getting the right levels of assurance in a way that works for them and your organisation. This is all about effective relationships between the governing body and senior staff, characterised by **constructive challenge**, **collaboration** and **openness**. This has never been more important.

Governing bodies and senior staff will want to work together and think about:

- what **level** of assurance is right for your organisation – it should be proportionate to your organisation’s business and context;
- what **sources** of assurance and evidence you have already, and what do you not have and so need to add;
- the **usefulness and reliability** of the information and data you use to monitor performance and to make decisions; and
- when and for what do you need **independent** assurance or verification, and how should you get it.

Some early discussions have highlighted different approaches that landlords are taking. These include assurance mapping, a register of compliance presented to the board every month, a digital evidence database for board members to access at any time. And I’m sure we’ll hear more examples today as our discussion unfolds.

Clearly it will not be possible for your board members to have **absolute knowledge** of all aspects of your compliance with every regulatory requirement and standard. The important thing is that your board has had **enough assurance** to give the members **confidence** to sign the Annual Assurance Statement. This should mean that they have seen **enough evidence** about

your organisation's level of compliance, including independent assurance where appropriate. Your board members should also have confidence in the frameworks you have in place to oversee performance and the internal control systems the organisation relies on.

Few landlords can achieve 100% compliance across all areas at all times. The key thing here is self-awareness, openness and tackling non-compliance.

So, you will use the Statements to set out any areas where you don't comply and what you're doing to fix that non-compliance. And that means you need to judge if something is material non-compliance.

And I know that is a topic that you're keen to discuss today.

It is for your Board to decide what you should disclose. Where you identify areas for improvement, you should agree appropriate actions, but you don't necessarily need to disclose them all in your Annual Assurance Statement. The key question is whether these issues are of such materiality and significance that they mean your board cannot say confidently that your RSL is complying with the particular requirement. If the answer

to this is yes, you should disclose the issue in your Annual Assurance Statement.

So, you should disclose only where you judge an issue to constitute *material* non-compliance. And that is a judgement. And it is a judgement for your board to make. And in making those judgements you will want to think about:

- the significance of the non-compliance;
- the potential impact of the issue;
- the scale of the issue; and
- the context for your landlord.

And, depending on the issue, you might want to get the view of your internal or external auditor.

On impact and scale, you'll want to look at whether the issue could:

- seriously affect the interests and safety of your tenants, people who are homeless or other service users;
- threaten the stability, efficient running or viability of service delivery arrangements;
- bring the landlord into disrepute, or raise public or stakeholder concern about your organisation or the social housing sector; or

- put at risk the good governance and financial health of the RSL.

All of that means that it is not possible to set out definitive positions on whether a specific instance of non-compliance is material; again, it is a matter of judgement.

Where you do disclose material non-compliance, we will firstly assess the significance of the area of non-compliance and how you are responding to it. Where you have told us about an area of non-compliance, and we are assured that you have effective plans and the capacity and willingness to improve or resolve the issue, it will be for you to take forward the improvement. We may ask you to keep us updated.

We will not engage with you beyond that, unless the issue presents such a significant risk to the interests of tenants and service users that we need to monitor it closely, or take action, to ensure it is resolved successfully. We will contact you if we require any further information or assurance.

Of course, it is possible that we may have a different view about whether an issue is material or not. It's a judgement after all.

Where you have disclosed something which we don't judge to be material or significant, we may look to discuss this with you so that we understand the reasons why you judge it to be material, or we may just note what you've set out.

Where you haven't disclosed something which we then judge to be significant, we'll engage with you to understand how you arrived at the view that the issue was not material. We will also seek assurance that you are taking effective action to resolve the issue within an appropriate timeframe and that the interests of tenants and service users are adequately protected while you address the issue.

To be clear, we will not normally engage with a landlord where it **generally complies**, is aware of what it needs to do to improve, and has plans to make the improvements.

Notifiable Events

I said that I'd touch on Notifiable Events.

The new Framework has introduced some changes to Notifiable Events, most notably – forgive the pun – around the requirement to notify us of disposals and organisational changes which previously required our consent. We've also set out specific guidance around notifying us of the outcomes of tenant ballots and the like.

The guidance includes examples of what might be a Notifiable Event. But it is usually a matter of judgement for landlords on whether something is a Notifiable Event. So, if you are in any doubt, talk to us, and if you remain unsure notify us anyway – the worst that might happen if we decide it isn't a Notifiable Event is that we let you know our view and note the report.

When we get a Notifiable Event we consider whether we need to engage with the landlord to get more information, more assurance or improvement action. For many, we simply note what has been reported to us. Usually, and where there is an issue, as long as we are assured that you have an effective strategy in place we leave you to get on with it.

We also use notifiable events reported to us – and the absence of reporting – in our risk assessment. So, it is important that landlords familiarise themselves with the guidance, and again if in any doubt speak to us.

We've seen the number of Notifiable Events we get increase year on year since 2015. That's likely to reflect increasing awareness of the guidance amongst landlords. But it may also reflect the reality that RSLs are operating in a more complex and turbulent environment, and that there's greater potential for events to happen.

Last year we received 266 notifiable events from 79 RSLs. That means that just over 80 landlords didn't notify us of relevant events in that year. When we look further back over three years, 28 landlords did not report any notifiable events to us. Now that might mean that those landlords did not have any relevant notifiable events, or that they didn't recognise them as notifiable, or aren't aware of notifiable events. But the absence of Notifiable Events may lead us to ask the question.

We've put Frequently Asked Questions on our website to help you implement the new requirements around self-assurance. And we'll keep updating those as we get asked more questions.

And I hope all of you have seen the recently published first cut of the Toolkit. This aims to support governing body and committee members on self-assurance

We are keen that we are all able to pause and reflect upon what has gone well and what might have gone better in this first year of Annual Assurance Statements. So we are planning to publish a Lessons Learned Report by March 2020.

To that end, we'll visit a small number of landlords to look at how they got the assurance to let them make their Annual Assurance Statement. We will set out which landlords we will visit at the start of November 2019 and we will complete the visits by February 2020.

So, there's lots going on that hopefully helps landlords make their Annual Assurance Statements and to embed that culture of assurance, openness and transparency I spoke about at the outset.