

## **Internal Procedure Note – Requesting a review of a regulatory decision**

### **1. Introduction**

An individual, group of tenants or regulated body can ask us to look again at a regulatory decision which affects them. External guidance on requesting a review of a regulatory decision is available on our [website](#).

Requesting a review of a regulatory decision is only one possible way for challenging our work. Those affected by our work can also appeal our decision or make a complaint depending on the circumstances. Further external guidance on these options is available on our [website](#). An individual or organisation can also seek a judicial review of our decisions or actions.

The review process is likely to be the first way of challenging our actions or decisions in most cases. We see the benefits in doing this in terms of speed and informality.

This internal procedure notes sets out how we will deal with requests for reviews. It applies to any requests for the review of a regulatory decision or action from 1 April 2016. We have said publicly that bodies and individuals can request a review or appeal of decisions we make on or after 1 April 2016. We will, however, also consider any requests for a review of the regulation plans and local authority scrutiny plans we publish in late March 2016. Information and procedures for each stage is set out below.

### **2. Request for review of regulatory decision received**

A request for a review of a regulatory decision can be made by an individual (on their own behalf or on behalf of a group of tenants) or by a regulated body. This request can be made by telephone or in writing.

The request for a review can be made directly to the person within SHR who has been dealing with the issues. Alternatively the request can be emailed or sent in writing to the SHR contact address.

The officer who made the decision will be responsible for looking at it again, along with a more senior person who will usually be their line manager.

We have set up a spreadsheet for recording requests for reviews and appeals. When you receive a request for a review, the person who is dealing with it should log it on this spreadsheet. If the request comes via email to the SHR mailbox, the admin team

will send on to the person who made the original decision who will log it on the spreadsheet.

A request for a review must be made within 10 working days of receipt of notification of our decision. The request should set out why the decision is believed to be wrong and refer to any evidence that needs to be considered again.

Reviews need to co-exist with our ability to take regulatory action quickly where necessary to protect tenants' and service users' interests. As such, our regulatory decision stands pending the review, and we will normally proceed with the decision while we are carrying out a review. The one exception to this position is deregistration of an RSL. Because of the nature of this decision, we should put implementation of deregistration on hold pending the outcome of the review.

### **Assessing information received**

All of our regulatory decisions can be subject to review and our guidance gives some examples of possible situations.

A **regulated body** might ask for a review where:

- we have made a statutory regulatory decision, for example using our intervention powers under Part 5 of the 2010 Act, such as to appoint a manager to the landlord;
- it thinks that our approach to assessing risk in relation to its work, including any regulation plan we publish, is not consistent with our Regulatory Framework, our publications How we assess risk in RSLs or How we assess risk in local authorities;
- it believes our engagement with it is not consistent with the approach we have set out in our publication How we work - dealing with potentially serious issues in RSLs; or
- it believes we have not published data and reports on the Scottish Social Housing Charter in line with what we say we will do in our Regulatory Framework.

An **individual** might ask for a review where we have made a decision to remove or suspend that individual from the governing body of an RSL.

A **group of tenants** might ask for a review where:

- tenants believe that we did not comply with our published approach to considering a reported significant performance failure when we examined a case they put to us; or
- they believe we have not published data and reports on the Scottish Social Housing Charter in line with what we say we will do in our Regulatory Framework.

When we receive a request for a review, the officer who made the decision will look again at it, along with a more senior person, usually their line manager.

The responsible officer will look at the information considered when the original decision was made, together with any additional information subsequently provided. We should aim to carry out this review and communicate the outcome within 10 working days of the request being received.

If we are unable to achieve this timescale, we should write to explain why and confirm an alternative date.

### **3. Responding to the request for a review**

When we have considered a request for a review, we must respond to the request. We will normally do this in writing.

The outcome can either be:

- We uphold the original decision
- We make a new decision.

If we make a new decision, we would then halt the regulatory action. If we uphold the decision, we would continue with the regulatory action.

### **4. Next steps**

If the person or organisation remains unhappy with the outcome of the request for a review, and the decision is appealable, they can submit an appeal. An appeal can also be made without first submitting a request for a review.

A complaint can also be made if the person or organisation believes that we have not acted in accordance with our published policies.

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