



Scottish Housing
Regulator

**Consultation on our future
regulatory approach
in response to the
COVID-19 pandemic**

July 2020

About us

We are the independent regulator of social landlords in Scotland.

We safeguard and promote the interests of:

Around:

600,000

Tenants who live in homes provided by social landlords

Around:

123,000

Home owners who receive services of social landlords

Around:

49,000

People and their families who may be homeless and seek help from local authorities

Over:

400

Gypsy/Travellers who can use official sites provided by social landlords

We regulate:

188

Social landlords

156

Registered social landlords

32

Local authorities

Our role:

To monitor, assess and report on social landlords' performance of housing activities and RSLs' financial wellbeing and standards of governance. We intervene, where we need to, to protect the interests of tenants and service users.

Our Regulatory Framework explains how we regulate social landlords. It is available on our website.



1. A Message from our Board

Consultation on our future regulatory approach in response to the COVID-19 pandemic

Dear Colleague

I hope this finds you well. We today launch a consultation on our proposals to adjust our regulatory approach in response to the COVID-19 pandemic.

Regulated bodies, tenants and other people who use their services have faced unprecedented challenges since March as a result of the COVID-19 pandemic. The sector has continued to deliver services in very difficult circumstances and worked hard to meet the needs of their communities.

On 18 March 2020, we published a statement advising landlords that we were moving our regulatory focus to monitoring the impact of Coronavirus (COVID-19) on regulated bodies. We required all regulated bodies (including local authorities providing homelessness services) to notify us of any changes to service levels (including closure of offices or facilities to the public), significant service disruption or financial impact as a consequence of COVID-19. We postponed the publication of updated Engagement Plans planned for 31 March for all landlords other than for the most critical cases. And we also postponed all but the most critical regulatory engagements to allow landlords and ourselves to focus on the most serious existing risks or those that emerge from the current pandemic.

We have monitored the situation closely and have considered how we can flex and adapt our regulatory approach to ensure that we continue to fulfil our statutory objective as landlords start to plan their recovery from the pandemic.

We know that landlords, tenants and other service users need clarity about how we will regulate during this recovery period and we want to provide this as soon as we can to assist their recovery planning. So we are now proposing some modest and temporary adjustments to our Regulatory Framework and approach to take account of the current circumstances. We are seeking your views on our proposals in accordance with the Housing (Scotland) Act 2010.

The appended paper explains our proposals and how you can participate in this consultation. You can also find this and details of how to respond on our website.

This consultation will be open until Friday 14 August 2020. We will then reflect on the responses ahead of publishing the outcome by the end of August 2020.

I look forward to hearing your feedback.

Yours sincerely



George Walker
SHR Chair

2. Giving us your feedback

- 2.1 We welcome feedback from organisations and individuals with an interest in our work on a small number of temporary changes to the Regulatory Framework which will allow us to moderate our regulatory approach to take account of the unprecedented operating context of COVID-19.
- 2.2 The changes we are proposing to our Framework cover the following three areas:
- Submission of Annual Assurance Statements;
 - Publication of Scottish Social Housing Charter performance reports by landlords; and
 - Publication of Engagement Plans and Regulatory Status.
- 2.3 We will engage with those stakeholders who wish to discuss the proposed changes further, as well as considering written responses.
- 2.4 You can respond with feedback by 14 August 2020. We welcome general feedback on our proposals as well as answers to the specific questions we have raised. Please do not feel you have to answer every question unless you wish to do so.
- 2.5 If you wish to respond on a question by question basis, you can find a form to use [here](#). Otherwise please email or post your feedback to the address below. Please include your contact details in case we need to check anything with you.
- 2.6 To help make this a transparent process we intend to publish on our website the responses we receive, as we receive them. If you do not wish your response to be made public please let us know. If you are responding as an individual please let us know if you are happy for us to publish your name.
- 2.7 You can send your feedback to us by:

Email: shr@shr.gov.scot

Or post to: Scottish Housing Regulator
Buchanan House
58 Port Dundas Road, Glasgow, G4 0HF

Or please contact us if you wish to submit in an alternative format.

Please note: due to the COVID-19 pandemic our office is closed and there is a delay in us receiving mail which is sent to our office. If you can please send your response by email to help ensure we receive it in a timely way.

- 2.8 If you have any queries please contact us on 0141 242 5642. You will be asked to leave a message, which we will pick up and respond to.

3. Proposed changes to the Regulatory Framework for consultation

Annual Assurance Statements (AAS)

- 3.1 The [Framework](#) requires all regulated bodies to prepare an AAS in accordance with our published [guidance](#), submit it to us between April and the end of October each year, and make it available to tenants and other service users. Regulated bodies must notify us during the year of any material changes to the assurance in its AAS.
- 3.2 The requirement to provide an AAS was a major change in the Framework which was introduced in 2019. The Statements support openness and a culture of continuous assurance and improvement. They enjoy the support of key stakeholders, the overwhelming majority of regulated bodies and are seen as a useful aid to good governance in the sector.
- 3.3 We have used the opportunities available to us in the past weeks and months to discuss the current situation and the unique challenges it brings with a number of regulated bodies and key stakeholders. We recognise and understand the severe difficulties that landlords face as a result of COVID-19, the lockdown and the continuing uncertainty about how, and how quickly, things might change. We appreciate that the pandemic is likely to have affected the ability of regulated bodies to comply with all of the Regulatory Standards and Requirements. We know that regulated bodies are keen to understand the impact of COVID-19 on how they operate.
- 3.4 We propose the following approach:
- All regulated bodies should submit their AAS by 31 October 2020.
 - Any regulated body which cannot achieve this should contact the lead regulator for the organisation. Through the lead regulator we will provide as much support and assistance as possible to facilitate compliance with the requirement to provide an AAS.
 - We propose to publish advisory guidance to assist regulated bodies to adapt their approach to the submission of the AAS. The advisory guidance will address specific issues related to COVID-19. This will allow us to communicate key messages about how to address the requirement to provide an AAS in the time of COVID-19. We will ask regulated bodies to identify any non-compliance that is directly due to the pandemic and subsequent lockdown and to distinguish this from any other non-compliance with regulatory Standards and Requirements.

Questions

- **Question 1:** Are our proposals for the Annual Assurance Statement right?
- **Question 2:** Should we publish advisory guidance to assist landlords to adapt their approach to the submission of the Annual Assurance Statement?
- **Question 3:** Would you like to make any other comments or suggestions about our approach to getting Annual Assurance Statements?

Publication of Scottish Social Housing Charter performance reports by landlords

- 3.5 The Framework requires landlords to submit an Annual Return on the Charter (ARC) in accordance with our published guidance. The Framework does not specify a final date for the ARC return. Hitherto we have required landlords to provide the ARC return by the end of May. In view of the pandemic we extended this to the end of July for 2020.
- 3.6 Regulated bodies are required to report their performance in achieving or progressing towards the Charter outcomes and standards to their tenants and other service users no later than October each year.
- 3.7 In view of the difficulties faced by landlords and taking account of the fact that we have extended the submission date for the ARC return by two months, we are proposing a similar modification for the report to tenants and other service users for this year only. We are proposing that the final date for each landlord to publish its charter performance for tenants and service users should be the end of December 2020.

Questions

- **Question 4:** Are our proposals for the publication of Charter performance right?
- **Question 5:** Would you like to make any other comments or suggestions about our approach to the publication of Charter performance?

Publication of Engagement Plans and Regulatory Status

- 3.8 The Framework introduced a requirement for us to publish an Engagement Plan for each landlord. We published the first set of Engagement Plans on 1 April 2019. Each Plan sets out the information we require from the landlord, what it needs to do, and how and why we will engage with it.
- 3.9 We communicate the outcome of our risk assessment for RSLs by publishing a 'regulatory status' for each RSL alongside its Engagement Plan on our website. The regulatory status provides a single view of the RSL's governance, financial well-being and performance. It summarises our judgement on its level of compliance with the Standards of Governance and Financial Management and regulatory requirements.
- 3.10 The re-alignment of our regulatory approach to take account of the impact of the pandemic came just prior to the publication of Engagement Plans at the end of March and the first regulatory status for all RSLs.
- 3.11 We postponed the publication of updated Engagement Plans for all landlords other than for the most critical cases and we also postponed all but the most critical regulatory engagements. This approach has been well received by regulated bodies and well understood by stakeholders.
- 3.12 A key strength of our regulatory approach is that the Engagement Plan provides an up to date and transparent account of how we are regulating each landlord. This is seen by tenants, other service users, lenders and investors, and other stakeholders as an important element in how we regulate. In particular, this transparency has been an important factor in ensuring the confidence of private lenders and investors, one of our key objectives.

- 3.13 We would wish, as quickly as practicable, to return to the position whereby each Engagement Plan represents an up to date account of how we are engaging with each landlord, complete with an appropriate regulatory status.
- 3.14 We have carefully considered the risks and issues in the current context and the practicalities of how quickly we can deliver an up to date Engagement Plan for each regulated body.
- 3.15 **Our proposal is that we should deliver updated engagement plans for all regulated bodies by the end of March 2021.** This will follow an appropriate and proportionate risk assessment which is carried out in the context of COVID-19. And, at the same time we propose to include a regulatory status in the new Engagement Plan for each RSL. This will take account of non-compliance that is exclusively a consequence of COVID-19.
- 3.16 Since the lockdown we have updated a small number of existing Plans where there has been a significant development in relation to the regulated body. We will continue to do this until we are in a position to deliver updated Engagement Plans for all regulated bodies. This is consistent with our message in March 2020.

Questions

- **Question 6:** Are our proposals for the publication of Engagement Plans and regulatory status right?
- **Question 7:** Would you like to make any other comments or suggestions about our approach to the publication of Engagement Plans and regulatory status?

4. What happens next?

- 4.1 Once we have reflected on your feedback, we will publish any changes to the Framework.
- 4.2 To help make this a transparent process we intend to publish on our website the responses we receive, as we receive them. Please let us know how you would like us to handle your response. If you are responding as an individual, we will not publish your contact details.
- 4.3 We aim to publish details of our regulatory approach and any changes to the Framework at the end of August 2020.

Appendix 1

Consultation on the future of our regulatory approach in response to the COVID-19 pandemic: Consultation questions

We welcome your general feedback on our proposals as well as answers to the specific questions we have raised. Please do not feel you have to answer every question unless you wish to do so.

Send your completed questionnaire to us by **14 August 2020**.

By email @: shr@shr.gov.scot

Or post to: Scottish Housing Regulator
Buchanan House
58 Port Dundas Road, Glasgow, G4 0HF

Name/organisation name

Address

Postcode	Phone	Email

How you would like your response to be handled

To help make this a transparent process we intend to publish on our website the responses we receive, as we receive them. Please let us know how you would like us to handle your response. If you are responding as an individual, we will not publish your contact details.

Are you happy for your response to be published on our website?

If you are responding as an individual ...

Please tell us how you would like your response to be published.	Pick 1
Publish my full response, including my name	<input type="checkbox"/>
Please publish my response, but not my name	<input type="checkbox"/>

1. Are our proposals for the Annual Assurance Statement right?

2. Should we publish advisory guidance to assist landlords to adapt their approach to the submission of the AAS?

3. Would you like to make any other comments or suggestions about our approach to getting Annual Assurance Statements?

4. Are our proposals for the publication of Charter performance right?

5: Would you like to make any other comments or suggestions about our approach to the publication of Charter performance?

6: Are our proposals for the publication of Engagement Plans and regulatory status right?

7: Would you like to make any other comments or suggestions about our approach to the publication of Engagement Plans and regulatory status?

Thank you for taking the time to give us your feedback!



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