



Scottish Housing  
Regulator

# How to request a review of a regulatory decision

Statutory Guidance  
February 2019

# 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

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Over:

**123,000**

Home owners who receive services of social landlords

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Over:

**45,000**

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

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Around:

**2,000**

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

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## We regulate:

Around:



Social landlords

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Around:

**160**  
**32**

Registered social landlords

Local authorities

## Our equalities commitment

Promoting equalities and human rights is integral to all of our work. We set out how we will meet our equalities duties in our Equalities Statement.

## 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 from: [www.scottishhousingregulator.gov.uk](http://www.scottishhousingregulator.gov.uk)



## Why have a review process?

1. Our review process enables an individual, group of tenants or regulated body to ask us to look again at a regulatory decision which affects them. Our aim is for this process to be quick, straightforward and informal. This guidance sets out how the process works.
2. We are committed to being as transparent, open and accessible as we can be in our work, having regard to the legislation within which we operate. The Housing (Scotland) Act 2010 (which we refer to as the '2010 Act') sets our objective, functions, duties and powers. Our review process offers additional opportunities for challenge, beyond those set out in the 2010 Act. This demonstrates our commitment to best practice in regulation and openness in our decision-making.
3. Requesting a review of a regulatory decision is just one possible avenue of challenge. Those affected by our work also have two other avenues to challenge us directly, depending on the circumstances. These are:
  - **appeal** - formal re-examination of certain regulatory decisions, carried out by people who are independent of the original decision-making; and
  - **complaint** - using our existing two-stage internal process with the potential for recourse to the Scottish Public Services Ombudsman (SPSO) subject to the SPSO's consideration of whether it is able to take action in the specific circumstances of the case.
4. We would encourage this review process to be used as the first method of challenge in most cases, as part of an open and constructive dialogue about our decision and the reasons for it. We see the benefits of this in terms of speed and informality. You can also go straight to an appeal, should you wish to do so, for appealable decisions.
5. Further information about how to request an appeal, or how to make a complaint can be found on our website. Please note that this appeal process is non-statutory and does not replace or supersede any statutory right of appeal.
6. Alongside these routes, an individual or organisation may also seek a judicial review of our decisions or actions. Our review, appeals and complaints processes do not prejudice any subsequent judicial review or statutory appeal to the Court of Session. In other words, an organisation or an individual is not prevented from raising legal proceedings either because they have decided to ask, or have decided not to ask, for a review or a non-statutory appeal of a decision issued by us.
7. There are time limits for making a statutory appeal and for raising an action of judicial review. These time limits start running from the date on which we issue our decision. However, where an organisation or an individual asks for a review or a non-statutory appeal of a decision (and provided the appeal or review is valid) the time limit for raising legal proceedings will not start to run until we have issued a decision at the conclusion of the review or appeal.
8. This review process is part of our [Regulatory Framework](#).

## Which decisions can be reviewed and who can ask for a review?

9. Our [Regulatory Framework](#) explains how we regulate, with our power and duties under the 2010 Act as the keystone. All of our regulatory decisions can be subject to review.
10. A review can be requested by an individual, group of tenants or regulated body that is directly affected by the decision. The review process is an opportunity for them to tell us their concerns about the decision, ask us to look at it again, and for us to explain our thinking. Some examples of possible situations are provided below. These lists are not exhaustive.

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 engagement plan or regulatory status 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](#).

11. 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 to implement it. The one exception to this position is deregistration of an RSL. Because of the nature of this decision, we will put implementation on hold pending the outcome of the review.

## How do I request a review?

12. If you wish a review of a regulatory decision, as an individual (where applicable) or on behalf of a group of tenants or your regulated body, you can simply request it by telephone or in writing. You should submit your request within **10 working days** of receiving notification of our decision.
13. You can contact the SHR staff member you have been dealing with directly, or alternatively you can email or write to the addresses on page four. We will write to acknowledge and confirm our understanding of your request. We will help make sure you understand how the review process works and assist you where needed.
14. You should tell us why you believe that the decision is wrong, and refer to any evidence that you think we should consider again.

## What happens once I have requested a review?

15. The officer who made the decision will look at it again, along with a more senior person, usually their line manager. They will look at the evidence the officer considered when making their original decision, along with any further information you have provided. They will aim to carry out the review and communicate the outcome within **10 working days** of you having requested it. If we cannot meet this timescale, we will write to you to explain why and confirm an alternative date.
16. When we tell you the outcome of the review we will explain the reasons for our decision. You can request this confirmation in writing.
17. The review can have two possible outcomes:
  - to uphold the original decision; or
  - to make a new decision.
18. At the conclusion of the review, we would halt or change the regulatory action in light of the second outcome.
19. If you remain unhappy with the decision made, and if it is an appealable decision, you can submit a formal request for an appeal in accordance with our published guidance. You can also go straight to submitting an appeal, without requesting a review first, should you wish to do so.
20. Should you be dissatisfied that we have not acted in accordance with our published policies, you may wish to make a complaint. Where a review has already been carried out, we will consider your complaint at stage two of our internal complaints handling process. The complaints process is not a mechanism for challenging how

we have exercised our judgement in relation to a decision arising from regulatory activity. Our complaints handling procedure gives more information.

21. If you remain dissatisfied once we have considered your complaint at stage two, you can take your complaint to the Scottish Public Services Ombudsman (SPSO). It is for the SPSO to consider whether it is able to take action about your complaint in the specific circumstances of your case.
22. The SPSO has the power to make recommendations to us once it has concluded its investigation of a complaint. It has no power to overturn our regulatory decisions.

## Contact us



0141 242 5642



[shr@shr.gov.scot](mailto:shr@shr.gov.scot)



Scottish Housing Regulator  
Buchanan House  
58 Port Dundas Road  
Glasgow  
G4 0HF



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[www.scottishhousingregulator.gov.uk](http://www.scottishhousingregulator.gov.uk)