



Scottish Housing
Regulator

Our Regulation of Social
Housing: a discussion paper

June 2023

Setting the scene

1. We introduced the current [Regulatory Framework](#) in April 2019. At that time we committed to review it after five years. This discussion paper is the first step in that review. It sets out our emerging thinking on potential changes to our regulation of social landlords in Scotland. We are keen to hear your views on our early ideas.
2. We have looked back on five years of operating the Regulatory Framework, at the changes in the operating context for social landlords over that time, and considered the likely future context for landlords.
3. The context for social housing now is very different to that in 2019. The last five years have seen a global pandemic, the UK out of the European Union, war in Europe, and significant political change in the UK. Tenants and social landlords continue to face enormous challenges. Many tenants are facing genuine financial hardship. We are seeing acute issues around homelessness, and temporary accommodation in particular. Social landlords are faced with cost inflation that is running well above the headline rate of CPI, higher interest rates, and increasing requirements on quality of homes, while responding to pressure to keep rents as low as possible. The Scottish Government also intends to bring forward two housing bills during the remainder of this Parliamentary term.
4. The Housing (Scotland) Act 2010 (which we refer to here as the '2010 Act') sets our objective, functions, duties and powers. The Framework explains how we regulate both Registered Social Landlords (RSLs) and the housing and homelessness services provided by local authorities. For both types of landlord, we have a statutory duty to monitor, assess, report and intervene (as appropriate) in relation to their performance of housing activities. For RSLs, this extends to their governance and financial management. In this paper when we talk about social landlords we mean both RSLs and local authorities. When we are referring to RSLs only we make this clear.
5. Once we have reflected on your feedback, we will consult formally later this year on any proposed changes to the Regulatory Framework. The Framework will continue to discharge our duty to publish Codes of Practice on our inquiry and intervention powers, as required by the 2010 Act. We will also consult on reviewed and updated versions of the statutory guidance that sits alongside our Regulatory Framework, including guidance on our Charter indicators.
6. We also want to use this paper to discuss our regulatory priorities. We will then set these out in a new Strategy for 2024-27.
7. We will aim to implement the new Framework on 1 April 2024.
8. You can get more Information on how to respond to this paper from paragraph 27.

Our regulatory priorities

9. Our approach to regulation needs to be both effective and sustainable, enabling us to do the right things in the right way at the right time. We will maintain our focus on tenants' and service users' interests, in accordance with our statutory objective to safeguard and promote the interests of current and future tenants, homeless people and other service users. We use the tools in our Regulatory Framework to focus on the greatest risks to the interests of tenants and service users. For tenants and service users of both RSLs and local authorities these include the risk of:
 - living in a poor quality or unsafe home;
 - being unable to afford to live in their home; and
 - being homeless, or at risk of homelessness, and unable to access appropriate housing.
10. For RSL tenants, a further important risk is them losing their home or secure tenancy if their landlord becomes insolvent. The best way for an RSL to protect against these risks and to protect its financial health is for the organisation to put in place and maintain the building blocks of good governance. This means that it will have the capacity and quality of information to make sound decisions about its services for tenants and others, investment in its homes, future business plans, financial arrangements, and policies. Our experience is that governance failures are often at the root of serious problems.
11. We also recognise the wider harm if lenders, investors and funders to RSLs do not see them as a good place to invest, resulting in less, or more expensive, investment in new and existing homes. By regulating effectively we help to maintain lenders', investors' and funders' confidence.
12. Following the lessons from the Grenfell Tower Disaster, and more recently the coroners' report in to the death of Awaab Ishak, we believe it is important that we have a strong focus on landlords listening to tenants and on the quality of homes and tenant and resident safety. We will aim to regulate to support social landlords to meet their obligations and duties for tenants and those who use their housing services. Translating this into regulatory priorities, we believe that a significant focus of our work from April 2024 onwards should be on landlords:
 - **listening and responding effectively to tenants and service users**
 - **providing good quality and safe homes**
 - **keeping homes as affordable as possible**
 - **doing all they can to reduce the number of people who are experiencing homelessness**

We will continue our focus on equality and human rights in all landlords and governance and financial management in RSLs.

Q1. We are keen to hear your feedback on these priorities. Are they the right ones?

Ideas for change

13. We believe that the current Regulatory Framework as introduced in April 2019 has generally worked well during the last five years, including throughout the significant disruption we have all experienced over the last three years. We believe it broadly remains relevant and appropriate. We also recognise a clear appetite from many involved in social housing for a period of stability and continuity. Given this, we will aim to maintain our current approach, but with some change to reflect the learning from the last five years and to ensure the Framework remains up to date. In this paper we make initial suggestions on what we think we might need or want to change.
14. As we set out above, we believe it is important that the Framework has a strong emphasis on landlords listening to tenants and on the quality of homes and tenant and resident safety. Given this, we intend to strengthen further our emphasis in the Framework where there are relevant references to listening to tenants, quality of homes and tenant and resident safety.

Annual Assurance Statements

15. We believe that landlords assuring themselves, tenants and us should remain at the heart of our regulatory approach. We are keen to build on the successful adoption by landlords of the Annual Assurance Statement (AAS). We propose to maintain the requirements in the Framework on the AAS, and to make some changes to the [Statutory Guidance on the AAS](#).
16. We recognise that at any given time there may be specific issues on which governing bodies and committees require explicit or additional assurance; a recent example of this is assurance on their landlord's systems to identify and deal with any reported cases of mould and damp. We believe there is value in enhancing the AAS process by ensuring that we can identify specific areas or issues on which assurance should be explicitly set out in a landlord's AAS. To that end, we propose to add a provision to the guidance to enable us to require landlords to include explicit assurance in the AAS on a specific issue or issues; we would communicate any specific assurance requirements to landlords in advance of their submission of the AAS.

Q2. What are your views on amending the Statutory Guidance on Annual Assurance Statements to include provisions on specific assurance?

Annual Return on the Charter

17. We believe that the indicators we collect through the [Annual Return on the Charter](#) (ARC) broadly remain relevant and appropriate. However, we want to test with stakeholders whether they continue to view the indicators as useful and of value, if there are any that we should stop collecting, and whether there are other areas of information we should be collecting.

Q3. Do you think that we need to change any of the indicators in the ARC or add to these?

18. We are keen to strengthen further our approach to monitoring tenant and resident safety. Therefore, we propose to introduce to the ARC indicators that focus on tenant and resident safety, in addition to those that are already there on gas safety and emergency repairs. These additional indicators would focus on electrical, water, fire, asbestos and lift safety.

Q4. Are the proposed areas of focus for tenant and resident safety indicators the right ones, and what should those indicators be?

19. Following the coroners' report last year in to the death of Awaab Ishak due to prolonged exposure to mould in his home environment, we believe it is important that we have appropriate monitoring of the effectiveness of landlords' approach to managing reports and instances of mould and dampness. We invite stakeholders to suggest what they believe would be the most effective and appropriate way to do this, including indicators for possible inclusion in the ARC.

Q5. What do you think would be the most effective and appropriate way to monitor the effectiveness of landlords' approach to managing reports and instances of mould and dampness?

Regulatory Requirements

20. As we flag above, we will aim to strengthen further our emphasis in the Framework on landlords listening to tenants and service users, building on the requirements already in the Framework and on landlords' existing arrangements. To that end, we propose to amend the requirements currently under the heading of *Tenant and Service User Redress* to include a requirement that landlords provide tenants, residents and service users with easy and safe ways to provide feedback and raise concerns, and ensure that they consider such information and provide quick and effective responses. We also propose to amend the title of this part of the Framework to *Listening and Responding to Tenants and Service Users*.

Q6. What are your views on strengthening the Framework further on landlords listening to tenants and service users?

Notifiable Events

21. Notifiable Events are an important way in which we keep abreast of important developments, risks and challenges in social landlords. That said, we believe that we can streamline our approach to Notifiable Events to ensure that landlords bring the most critical issues to our attention while not being overburdened by notification requirements. We will review the [statutory guidance on Notifiable Events](#) to ensure that this is focused on those most critical issues.

Q7. How do you think we could streamline the requirements for landlords in the Notifiable Events statutory guidance?

Regulatory Standards

22. We believe that the Regulatory Standards and Guidance remain relevant and appropriate. They continue to reflect governance standards in the public and voluntary sector, and the commercial and corporate world. That said, we propose to amend the guidance on the standards where relevant to reflect the aim to strengthen further the emphasis on landlords listening to tenants and service users.

Regulatory Status

23. We believe that the *regulatory status for RSLs* has been an effective addition to the regulatory framework which delivers greater transparency around our regulatory view of RSLs. Some stakeholders have suggested that there may be value in using more direct language around non-compliance, particularly in the *working towards*

compliance status, or in having an additional regulatory status for RSLs, between *compliant* status and *working towards compliance* status, along the lines of *compliant with improvements needed*. Those stakeholders feel that this would increase transparency around the current performance of individual landlords while reducing the potential for a sudden movement from a compliant status to non-compliant.

Q8. Do you think there is value in using more direct language in the working towards compliance status, or in introducing an intermediary regulatory status between compliant and working towards compliance?

Significant performance failures

24. We provide tenants with a way to give us information on a significant performance failure by their social landlord. We set out how we define a significant performance failure in our [factsheet](#). We do not receive large numbers of reports of significant performance failures, and of those we do receive fewer are assessed as significant performance failures. We are interested in views on whether there are any changes we should make to how we define significant performance failures.

Q9. Are there any changes we should make to the Significant Performance Failures approach, including how we define these?

Reporting on the Energy Efficiency Standard in Social Housing (EESH)

25. We will bring forward revised indicators for EESH in the coming months to reflect the outcome from the Scottish Government's EESH Review Group when it concludes its work.

Other suggested changes

26. We have highlighted in this paper the main changes to our Regulatory Framework that we are considering to include in a formal consultation in the Autumn. We welcome views on those proposed changes, but we also invite stakeholders to tell us about any other changes that they would like to see to the Framework.

Q10. Are there any other changes to the Regulatory Framework and associated guidance that you would suggest?

Giving us your feedback

27. This discussion paper shares our early ideas on how the Regulatory Framework might look for the next five years. It is not a formal consultation on a firm, detailed proposal; that will be the next stage. At this stage we are interested in hearing what you think about our ideas overall, and to get your initial feedback on a number of more specific ideas and questions. We welcome feedback from organisations and individuals with an interest in our work.
28. We will meet with the Regional Network SHR Liaison Group, organisations that work with tenants and other service users, landlord representative bodies, lenders and investors and other stakeholders to discuss our ideas further, as well as considering written responses.
29. You can **respond with feedback by 11 August 2023**. 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.
30. If you wish to respond on a question by question basis, you can find a survey 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.
31. 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.
32. You can send your feedback to us by email at: regulatoryframeworkreview@shr.gov.scot

You can send your feedback to us by post to:

Scottish Housing Regulator
2nd Floor George House,
36 North Hanover Street,
Glasgow G1 2AD
33. If you have any queries please contact us on the above email address.

Our regulation of social housing in Scotland

Discussion questions

We welcome your general feedback on our proposals as well as answers to the specific questions we have raised. You can read our discussion paper on our website at www.housingregulator.gov.scot Please do not feel you have to answer every question unless you wish to do so.

Send your completed questionnaire to us by 11 August 2023.

By email @: regulatoryframeworkreview@shr.gov.scot

Or post to: Scottish Housing Regulator
2nd floor , George House
36 North Hanover Street, G1 2AD

Name/organisation name

Address

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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?

Yes No

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"/>



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 - listening and responding effectively to tenants and service users
 - providing good quality and safe homes
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We are keen to hear your feedback on these priorities. Are they the right ones?

2. What are your views on amending the Statutory Guidance on Annual Assurance Statements to include provisions on specific assurance?

3. Do you think that we need to change any of the indicators in the ARC or add to these?

4. Are the proposed areas of focus for tenant and resident safety indicators the right ones, and what should those indicators be?

5. What do you think would be the most effective and appropriate way to monitor the effectiveness of landlords' approach to managing reports and instances of mould and dampness?

6. What are your views on strengthening the Framework further on landlords listening to tenants and service users?

7. How do you think we could streamline the requirements for landlords in the Notifiable Events statutory guidance?

8. *Do you think there is value in using more direct language in the working towards compliance status, or in introducing an intermediary regulatory status between compliant and working towards compliance?*

9. Are there any changes we should make to the Significant Performance Failures approach, including how we define these?

10. Are there any other changes to the Regulatory Framework and associated guidance that you would suggest?

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