

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
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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 checked="" type="checkbox"/>
Please publish my response, but not my name	<input type="checkbox"/>

1. We believe that our regulatory priorities should be:
 - 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 are keen to hear your feedback on these priorities. Are they the right ones?

About Adelard and why we are responding

Adelard welcomes the opportunity to respond to Scottish Housing Regulator's (henceforth "the Regulator") consultation and offer our expertise as a UK complex system safety advisory business.

Adelard is part of NCC Group, a UK-headquartered global cyber security and risk mitigation firm. NCC Group is trusted by more than 14,000 customers to identify and assess their safety and security risks, and work with them to improve their governance and controls to improve their overall resilience. Acquired by NCC Group last year, the Adelard business supports our clients in the areas of safety, dependability, security, and risk management. Our applied research programme enables us to bring cutting-edge techniques and methods to bear to solve our clients' difficult problems. This includes deploying our specialist software tool – ASCE (The Assurance and Safety Case Environment) – to build structured safety arguments using notations such as Claims-Arguments-Evidence (CAE) to capture evidence and act as a coherent overall project tool to bring together the various elements of evidence used to support safety claims.

Through our 30 years' experience supporting safety-critical sectors including housing, we have seen the critical role safety cases can play in ensuring a holistic, system-led approach is taken by responsible parties. We have welcomed the recent cultural shift in the housing sector in how safety is treated, from a historically piecemeal approach toward considering the whole lifecycle of a building and where there may be interdependencies across systems and sub-systems. However, to ensure consistency of application across Scotland's social (and other) housing, we believe that there is a role for the Regulator to more explicitly promote or even mandate the use of safety cases. We have seen safety cases embedded as a legal requirement in England and Wales through the Building Safety Act 2022 and would welcome similar steps in Scotland. It is through this lens that we are responding to the Regulator's consultation. While we note this consultation is considering social housing, the points outlined in our response apply to the sector as a whole, recognising that the benefits of our proposals for social housing.

Answer to question 1

We are principally concerned with priority 2 – "providing good quality and safe homes". We firmly support this priority and believe that one way in which the Regulator could deliver it would be to explore the role which safety cases can play in driving up safety standards across Scotland's housing sector.

While safety cases are a relatively new concept for the housing sector, the concept of a safety case is not. Safety or assurance cases are well ingrained in many highly regulated industries, such as rail, chemical, oil and gas and nuclear energy. The findings of the Hackitt Report have encouraged a new way of thinking about high-rise building safety in the UK, with the need to consider buildings as complex systems more explicitly understood and encouraged. However, this new approach requires a mindset change that can, in practice, be challenging to implement. Building-specific safety cases, which follow a structured argument, are facilitating this much needed change.

At a high-level, safety cases are a living system of documentation collated together to provide a coherent and convincing argument for safety. It is common for safety cases to make use of a graphical notation, to clearly and precisely show how the overall claim being made (for example "Building X is adequately safe for residential occupation") can be decomposed into lower level claims, which are supported by evidence. They serve both to help the operating organisation in

understanding risks in their building, and in communicating these risks to stakeholders (such as residents or the Regulator).

Safety cases are typically disseminated to regulators through a safety case report – this is a point-in-time static document that outlines the safety argument in the safety case. These can serve as a record of the case at key milestones. Constructing an adequate safety case for a residential building requires a substantial body of evidence, including surveys, fire risk analyses, and policy and procedures of the operating organisation that relate to safety. Resident engagement has a strong role to play in creating a strong safety argument, as has been pointed out by Hackitt.

In particular, safety cases are a powerful way of thinking about safety in complex systems, in which many interactions and interdependencies between elements can have safety implications. This approach requires consideration of the building system holistically, rather than in a siloed approach that is typical of compliance-based regulation.

Safety cases would complement the Single Building Assessment (SBA) requirement introduced in 2021 from the Ministerial Working Group on Mortgage Lending and Cladding. While the SBA forms one part of a logical argument of why the building is safe to occupy – namely systematically identifying risks and remediations – a safety case would build this risk register into a structured argument, backed up by evidence, with the building more explicitly considered as a holistic socio-technical system. The focus on cladding within the SBA process, while welcome, limits the scope of identifying risks, such as human factors and resident behaviour, that may not appear in such a risk assessment. These sub-systems that make up the building must be included in a safety argument to show they are understood and addressed.

The safety case for a building will follow it throughout the course of the cradle to grave lifecycle, as opposed to the relatively short-term requirements of the SBA to maintain a register of risks and mitigations over a timeline until resolved. As changes (such as major works or refurbishment) affecting the building's safety for occupation may occur during the lifespan, maintaining a safety argument over time is essential.

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?

Expanded tenant safety indicators mean treating safety in a wider interpretation than previously held in, by including elements like mould. Providing a justified argument for resident engagement within a safety case would help enable this, by ensuring residents' voices and concerns are heard and built into the safety program.

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?

As set out in detail under question 1, we believe that safety cases have a key role to play in Scotland's social housing, as well as the housing sector more broadly, facilitating a holistic, systems-led approach and helping to drive the wider cultural change toward how safety is treated. To that end, we believe that a requirement to have in place a safety case should be placed on all higher-risk buildings. This could be built into the Regulatory Framework, or introduced via secondary legislation.

From our experience of supporting the introduction of the safety case regime into different countries and sectors, we appreciate the balance the Regulator must make between a pure outcomes-focused approach and supporting the industry to innovate and find solutions with detailed guidance. We have found that case studies and guidance on methodology have been very useful to adoption. Some examples of our work can be found in the National Protective Security Authority (NPSA) guidance for critical infrastructure (<https://www.npsa.gov.uk/security-informed-safety>). While for a different sector, it reflects the needs of a sector newly taking on a case-based approach.

We are eager to support the Regulator's work in this area and would welcome a meeting to discuss the contents of our submission in greater detail. Indeed, we are working with a number of higher-risk building owners and hope to publish a consensus approach to adopting safety cases, in support of the industry. We would be happy to engage with the Regulator in this work.

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