

Our regulation of social housing in Scotland

Consultation questions

We welcome your general feedback on our proposals as well as answers to the specific questions we have raised. You can read our consultation 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 **15 December 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

Please publish my response, but not my name

1. Do you agree with our proposed approach on specific assurance in Annual Assurance Statements?

No.

This could result in the unintended consequence of leading to a focus on the specific areas to the detriment of others.

No detail given as to how SHR would determine these specifics.

SHR regulates RSLs on regulated matters and the concept of the AAS is that RSLs are confirming compliance or not with these – therefore why duplicate with an emphasis on specifics which could have the unintended consequence referred to above?

Please also refer to our answer to Question 7 below in respect of AAS guidance.

2. Do you agree with our proposal to initiate a comprehensive review of the Annual Return on the Charter which we will consult on next year?

In part.

A comprehensive review would be welcome to ensure data collected is of value and it can be demonstrated how this assists the SHR achieve its purpose. The ARC return should focus more on measuring outcomes rather than counting outputs.

There would need to be clarity on the reasoning for any additional indicators, and a need to avoid adding indicators simply as a reaction to infrequent events. This question reads as if a decision has already been made about certain additional indicators, such as in relation to damp and mould – not the open consultation we would hope for.

Without detailed consideration, the review could result in the unintended consequence of leading to a focus on the specific areas to the detriment of others. Being so specific to focus in on specific areas, such as damp and mould, is not the role of SHR. RSLs need to meet, and confirm in their AAS if they do not meet, all their health, safety and property condition obligations to tenants and not just those to which there has been a reaction due to tragic events elsewhere. Why would “managing reports and instances of mould and dampness “ be more important to be specifically looked at than managing reports of, for example, gas or electric concerns which could also have fatal consequences.

The SHR’s proposed focus on damp and mould would appear to be a reaction to the English coroner report into the tragic death of Awaab Ishak. What would it actually achieve and how? It is very likely that if Rochdale had been asked to give ARC outcomes on this and assurance on their approach, they would have done.

In their role of protecting the interest of tenants, SHR could better spend resources clarifying all the requirements of RSLs, specifically, and considering compliance with all, rather than focussing on specific areas.

3. Do you agree with our proposed amendments to strengthen the emphasis on landlords listening to tenants and service users to include a requirement that landlords:
- provide tenants, residents and service users with appropriate ways to provide feedback and raise concerns, and
 - ensure that they consider such information and provide quick and effective responses?

In part.

Fully supportive of providing appropriate feedback mechanisms and having clear avenues for tenants and service users to easily raise concerns, with quick and effective responses. However, it is not clear why SHR thinks current arrangements do not achieve this. There is a danger of complicating matters and creating duplication of SPSO requirement and therefore double regulation.

We would fully support the development of a more simple and straightforward way for tenants and service users to raise concerns. It is already confusing with complaints systems, SPSO processes, when SHR can get involved, whistleblowing and significant failures – so anything that streamlines and simplifies the process for tenants and service user would be very welcomed.

Paragraph 2.3 of framework documents refers to “affordable” – if to be included, then SHR should provide a definition for tenants.

4. Do you agree with our proposed approach to Notifiable Events?

In part.

Please refer to answer to Question 15 below.

5. Do you agree with our proposed approach to regulatory status?

In part.

Greater clarity would be welcomed but not sure that proposals will achieve this.

Section 5.26 on 3 status levels – still confusing on the two non-compliance status levels.

Perhaps status options would be better as:

- Compliant
- Non-compliant without statutory engagement
- Non-compliant with statutory engagement.

6. Do you agree with our proposed approach to Significant Performance failures?

Yes.

Clarity would be most welcome.

Important to link to Question 3 above.

7. Do you agree with our proposed changes to the guidance on *Annual Assurance Statements*?

No.

Please refer to Question 1 answer above.

Section 5.5 is confusing. If an RSL reports non-compliance then surely their regulatory status should be changed? This would work if regulatory status levels were clearer as per suggestion and Question 5 answer above.

8. Do you agree with our proposed changes to the guidance on *Consultation where the Regulator is directing a transfer of assets*?

In part.

Missing any reference to shareholding members.

9. Do you agree with our proposal to maintain *the Determination* at this time?

Yes.

More appropriate to await outcome of 2024 review, although would be beneficial for SHR to commit to completing the guidance review within a set timeframe from the 2024 review being complete.

10. Do you agree with our proposed changes to the guidance on *Determination of what is meant by a step to enforce a security over an RSL's land*?

Yes.

11. Do you agree with our proposal to maintain the guidance on *Financial viability of RSLs*?

In part.

Would be beneficial for sections 2.1 and 2.4 to have timelines.

12. Do you agree with our proposed changes to the guidance on *Group structures*?

Yes.

However, important to declare that we have no direct experience of Group structures.

13. Do you agree with our proposed changes to the guidance on *How to request an appeal of a regulatory decision*?

In part.

Perhaps useful to combine appeal and review guidance for ease of use and clarity.

Paragraph 21 and 22 requires clarity on third person and how determined.

14. Do you agree with our proposal to maintain the guidance on *How to request a review of a regulatory decision*?

In part.

As per answer to Question 13, it would perhaps useful to combine appeal and review guidance for ease of use and clarity.

Paragraph 12 requires reference to contact details (similar to paragraph 13).

Paragraph 16 – providing in writing should be default position rather than having to be requested.

15. Do you agree with our proposed changes to the guidance on *Notifiable events*?

In part.

Paragraph 2.2 term “risk bringing” is too open to differing interpretation.

Paragraph 2.7 – why distinguish out lenders as there could be others. Notifiable events should relate to SHR notification requirements only – risk that if guidance mentions others such as lenders, that RSLs may inadvertently restrict notification only to SHR and lenders and exclude relevant others due to them not being named in this section.

Should include details of what happens following notification and give SHR service timescales for responding.

16. Do you agree with our proposed changes to the guidance on *Preparation of financial statements*?

Yes.

17. Do you agree with our proposal to maintain the guidance on *Section 72 reporting events of material significance*?

Yes.

18. Do you agree with our proposed changes to the guidance on *Tenant consultation and approval*?

In part.

Needs a requirement to ensure RSLs deliver on any transfer promises made to tenants – no accountability at present.

Disagree with 3.16 as no accountability to tenants and no specific reasons or a test of appropriateness for any decision to set aside requirement.

19. Would you like to give feedback on any aspect of our impact assessments? Are there other potential impacts that we should consider?

Impact on Shareholders missing.

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