

# Report

Report to:	<b>Housing and Technical Resources Committee</b>
Date of Meeting:	<b>23 January 2019</b>
Report by:	<b>Executive Director (Housing and Technical Resources)</b>

Subject:	<b>Scottish Housing Regulator - Regulation of Social Housing in Scotland</b>
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## 1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ provide an update on the Scottish Housing Regulator's consultation on regulation of social housing in Scotland
- ◆ update the Committee on the response provided by South Lanarkshire Council

## 2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that the overview of the Scottish Housing Regulator's consultation on regulation of social housing in Scotland, be noted; and
- (2) that the South Lanarkshire Council response, be approved.

## 3. Background

3.1. The Scottish Housing Regulator (SHR) was established in 2011 as an independent body directly accountable to the Scottish Government to regulate registered social landlords (RSL's) and local authority housing and homelessness services. The SHR does this by assessing and reporting on social landlords delivering housing services, RSL's financial well-being and standards of governance and where necessary, the SHR will intervene to secure improvements where required.

3.2. In January 2018, the SHR launched a discussion paper on the future of social housing regulation in Scotland to generate ideas and debate on regulation. Following on from this, the SHR developed detailed proposals on which they consulted.

3.3. It should be noted that the timescale for providing a response to the Scottish Housing Regulator did not permit a report to Committee ahead of the submission date. The submission was made by the 14 December 2018 deadline set, noting that it was subject to future Committee approval.

## 4. Consultation on the regulation of social housing in Scotland

4.1. The consultation includes the following key sections:-

- ◆ Chapter 2 - Seeks comments on the SHR's overall approach to regulation (1 question)
- ◆ Chapter 3 – Details the regulatory requirements for all landlords and the standards of governance for RSL's (5 questions)

- ◆ Chapter 4 – Sets out how the SHR gather and publish the information provided by landlords (1 question)
- ◆ Chapter 5 – Outlines how the SHR will assess risk, get assurance that landlords are meeting regulatory requirements and communicate their engagement with landlords (5 questions)
- ◆ Chapter 6 – Sets out what the SHR will do if they need to take action (1 question)
- ◆ Chapter 7 – Sets out how the SHR will undertake Thematic work (1 question)
- ◆ Chapter 8 – Outlines the SHR's powers to collect information and make enquiries (1 question)
- ◆ Chapter 9 – Notes that the SHR maintains the register of social landlords (1 question)

4.2. There are a further 7 questions relating to the supplementary guidance provided alongside the main consultation documents including the Assurance Statement; Notifiable Events; the proposed Indicators and; the draft group structure.

## 5. **South Lanarkshire Council Response**

5.1. The proposed response was developed incorporating views from Housing and Technical Resources

5.2. A summary of the main parts of South Lanarkshire Council's response is outlined below for each section (full response attached in **Appendix 1**). A significant proportion of the proposed changes relate only to RSL's and in that matter there are some questions to which the Council has not provided a response. However, the response notes that the proposed framework will support effective regulation of RSLs.

### **Chapter 2 How We Regulate**

The Council believes that the proposed approach to regulation as detailed in chapter 2 is appropriate.

In terms of the future Priorities, the response welcomes the move away from specifying set priorities over a 5 yearly period as proposed in the pre consultation. The response also notes that the approach, whereby priorities will be set out within the SHR corporate plan on an annual basis, will provide a more flexible approach and will allow the SHR to address emerging and challenging priorities.

### **Chapter 3 Requirements for Local Authorities and RSLs**

#### **Regulatory Requirements**

The Council considers the regulatory requirements to be clear and concise in setting out the requirements for all social landlords which largely build on the existing arrangements, with the additional requirement of an Annual Assurance Statement.

Given the importance of protecting the interests of tenants, a continuing focus on governance and financial management for RSLs is appropriate. Furthermore, it would be helpful if the framework was broadened to include a specific focus on ensuring the sustainability and viability of RSLs.

There is also a new requirement for landlords to collate data covering all characteristics under the Equality Act which is broadly welcomed. It is important however that the SHR recognises the requirement to work with Landlords to agree how this can be collated consistently and effectively prior to inclusion in any returns. This could also be used to consider how data may be used to measure and demonstrate achievements against charter outcomes.

### **Chapter 5 Getting Assurance**

The most significant addition to the regulatory requirements is the introduction of Annual Assurance statements.

The response notes that this change is broadly welcomed as is the confirmation that they should be presented in a concise manner. It is however important that the requirements in terms of assurance are consistent with, and complement, the wider governance and regulatory requirements for local authorities through Audit Scotland.

The response also supports the approach to getting assurance. However it is important that as it develops, the approach is continually monitored to ensure that it does not place an unnecessary and disproportionate burden on landlords.

The response references the local arrangement that South Lanarkshire Council established with the SHR in 2018 whereby the Council met with the SHR to provide updates on a number of relevant issues. This proved beneficial in clarifying progress for both the Council and the SHR. The response notes that the Council considers this approach to be good practice and it would be helpful if provision was made within the regulatory framework for this type of engagement.

### **Chapter 6 Taking Action Where We Need To**

The response notes that the approach outlined within this section is largely unchanged for Local Authorities. The interests of tenants are vital and to protect such interests, the approach to taking action is reasonable and appropriate.

### **Chapter 7 Thematic Work**

While the SHR thematic inspection reports routinely highlight positive practice within the sector it would be helpful to explore whether this role could be further developed through joint working with other organisations such as Scotland's Housing Network, HouseMark, Audit Scotland etc.

### **Supplementary Questions**

The response notes that the Council are of the view that there continues to be scope for regulatory bodies to scrutinise some areas in a cross cutting fashion - particularly Homelessness and Anti-Social Behaviour (ASB).

Homelessness – the prevention and alleviation of homelessness requires the involvement of a wide range of partners such as health, social work and children's services. Given the agenda currently being progressed to implement the proposals of the Housing and Rough Sleeping Action Group and the development and implementation of Rapid Re-housing Transition plans, consideration should be given to how all regulatory bodies scrutinise this area.

Similarly with ASB, the success in resolving ASB issues may require input from various bodies such as Police, Fire Service etc.

## **6. Impact for South Lanarkshire Council**

### **6.1. Introduction of Annual Assurance Statements**

- 6.1.1. As stated, the introduction of Annual Assurance Statements is the most significant change to the Regulatory Requirements. This will require all social landlords to confirm that they are compliant with the relevant regulatory standards and specifically for RSLs, that they meet the standards for governance and financial management.

The Annual Assurance Statement requires to be submitted by the landlords governing body or in the case of local authorities, the relevant committee – in the case of South Lanarkshire Council, this would be the Housing and Technical Resources Committee.

- 6.1.2. The first Annual Assurance Statement will require to be prepared between May and October 2019.
- 6.1.3. Following the finalisation of the revised regulatory framework, a further update will be provided to the Housing and Technical Resources Committee which will outline how assurance will be provided and evidenced within South Lanarkshire.
- 6.1.4. It is, however, intended that the process of detailing and evidencing compliance will be incorporated into the existing Governance Assurance process as this already contains many of the areas which will be required. Any areas not currently included will be incorporated. This will ensure that the arrangements are not disproportionately onerous.

There are already a number of reports to Committee which address elements of regulatory compliance and it is intended that such reports now highlight to elected members that these form part of the annual assurance process.

## 6.2. Changes to Indicators

- 6.2.1. The consultation paper also seeks views on proposed changes to the Scottish Social Housing Charter indicators.
- 6.2.2. Currently, the Annual Return on the Scottish Social Housing Charter contains a total of 74 indicators of which 32 are contextual. This is reducing to 44 of which 12 are contextual. The reduction in the overall number is welcomed and comments are provided in relation to specific indicators.
- 6.2.3. A number of Homelessness indicators have been removed as the information is already collected and reported by the Scottish Government. This will reduce duplication in the provision of this data.

## 7. Employee Implications

- 7.1. There are no employee implications associated with this report.

## 8. Financial Implications

- 8.1. There are no financial implications associated with this report.

## 9. Other Implications

- 9.1. There are no additional risks associated with this report.
- 9.2. There are no sustainable development issues associated with this report.

## 10. Equality Impact Assessment and Consultation Arrangements

- 10.1. This report does not introduce a new policy, strategy or plan and is not subject to impact assessment requirements.
- 10.2. The response to SHR will be shared with tenant representatives.

**Daniel Lowe**  
**Executive Director (Housing and Technical Resources)**

17 December 2018

**Link(s) to Council Values/Ambitions/Objectives**

- ◆ Accountable, effective, efficient and transparent

**Previous References**

- ◆ None

**List of Background Papers**

- ◆ Our Regulation of Scottish Housing – a discussion Paper January 2018
- ◆ Our Regulation of Scottish Housing – a Consultation October 2018

**Contact for Further Information**

If you would like to inspect the background papers or want further information, please contact:-

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# 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.scottishhousingregulator.gov.uk](http://www.scottishhousingregulator.gov.uk). Please do not feel you have to answer every question unless you wish to do so.

Send your completed questionnaire to us by **14 December 2018**.

By email @ [consultation@scottishhousingregulator.gsi.gov.uk](mailto:consultation@scottishhousingregulator.gsi.gov.uk)



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



### Name/organisation name

South Lanarkshire Council

### Address

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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. Is our overall approach, set out in Chapter 2 of the Framework, right? Do you have any other comments?

**Chapter 2 - How we regulate**

The Council believes that the approach detailed in chapter 2 is appropriate.

In terms of the future priorities, the Council welcomes the move away from specifying set priorities over a 5 yearly period as proposed in the pre consultation. The approach detailed in the paper whereby priorities will be set out within the SHR corporate plan on an annual basis, will allow for a more flexible approach to addressing emerging priorities.

2. Do the proposed regulatory requirements cover the right things, and are they framed in the right way?

**Chapter 3 – Regulatory requirements**

The Council considers the regulatory requirements to be clear and concise in setting out the requirements for all social landlords which largely build on the existing arrangements, with the additional requirement of an annual assurance statement. The Council's views on the introduction of the annual assurance statement are detailed at our response to question 8.

3. Is there anything missing? Or any other comments?

**Chapter 3 – Regulatory requirements**

The Council do not believe that there are any omissions.

The new requirement for landlords to collate data covering all characteristics under the Equality Act. Is broadly welcomed. It is important however that the SHR recognises the requirement to work with landlords to agree how this can be collated consistently and effectively prior to any inclusion in returns. This could also be used to consider how data may be used to measure and demonstrate achievements against charter outcomes.

4. Should we add to, amend, or remove anything from the proposed Standards?

**Chapter 3 – Regulatory requirements**

**RSL only**

5. Is the new Standard 7 useful, and is it framed in the right way?

**Chapter 3 – Regulatory requirements**

**RSL only**

6. Would you like to make any other comments about the Standards?

**Chapter 3 – Regulatory requirements**

A significant proportion of the proposed regulatory framework relates only to RSL's and the Council recognises that the proposed framework will support effective regulation within that part of the sector.

Given the importance of protecting the interests of tenants, the particular continuing focus on governance and financial management for RSLs is appropriate. Furthermore, it would be helpful if the framework was broadened to include a specific emphasis on ensuring the sustainability and viability of RSLs.

7. Is the approach we have set out in Chapter 4 right? Any other comments?

**Chapter 4 - Gathering and publishing data in ways tenants and others can use**

The interests of tenants are vital and to protect such interests, the Council considers that the proposed approach to gathering and publishing data, is appropriate and set at the right level.

We do, however, believe that there is scope to work with benchmarking groups to make the information more accessible and user friendly e.g. Graphs, pictures, info-graphics etc.

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

**Chapter 5 – Getting Assurance**

The Council broadly welcomes the introduction of Annual Assurance Statements and the confirmation that they should be presented in a concise manner. It is however important that the requirements in terms of assurance are consistent with, and compliment, the wider governance and regulatory requirements for local authorities through Audit Scotland. The standard templates are welcomed along with the commitment that it is for each individual landlord to determine how they achieve assurance.

The Council also welcomes the proposal that it is for individual landlords to decide how the approval by local authority committee will be gained. Within South Lanarkshire Council, we will look to develop this via our existing governance arrangements and committee structures.

9. Is our approach to risk assessment right?

**Chapter 5 – Getting Assurance**

Yes. We note that the approach to risk assessment is largely unchanged.

10. Should we publish a regulatory status for each RSL as we propose?

**Chapter 5 – Getting Assurance**

**RSL only**

11. Is it right that we publish an Engagement Plan for every landlord?

**Chapter 5 – Getting Assurance (Page 22 Para 5.12)**

The Council supports the proposal to publish engagement plans. This proposal will provide greater clarity and transparency in the overall regulatory process.

12. Would you like to make any other comments or suggestions about our approach to getting assurance?

**Chapter 5 – Getting Assurance**

The Council supports the approach to getting assurance. However we feel it is important that as it develops, the approach is continually monitored to ensure that it does not place an unnecessary and disproportionate burden on landlords.

South Lanarkshire Council have established a local arrangement with the SHR in 2018 whereby the Council met with the SHR to provide updates on a number of relevant issues. This proved beneficial in clarifying progress for both the Council and the SHR and the Council consider this regular dialogue good practice. It would be helpful if provision was made within the regulatory framework for this type of engagement.



13. Is the approach set out in Chapter 6 right? Any other comments?

**Chapter 6 - Taking action where we need to**

Yes. The approach outlined within this section is largely unchanged for Local Authorities. The interests of tenants are vital and to protect such interests, the approach outlined is reasonable and appropriate.

14. Is the approach set out in Chapter 7 right? Any other comments?

**Chapter 7 - Thematic work**

While the SHR thematic inspection reports routinely highlight positive practice within the sector it would be helpful to explore whether this role could be further developed through joint working with other organisations such as Scotland's Housing Network, HouseMark, and Audit Scotland etc.

15. Is the approach set out in Chapter 8 right? Any other comments?

**Chapter 8 - Enquiries and Information**

The Council considers the approach to enquiries and information, to be fair and appropriate.

16. Are these registration and de-registration criteria the right ones? Any other comments?

**Chapter 9 – Register of Social Landlords**

**RSL only**

17. Do you have any feedback on the draft Assurance Statement guidance?

As noted above in Q8, we are generally supportive and welcome the introduction of the Annual Assurance Statements.

18. Do you have any feedback on the draft notifiable events guidance?

We consider the approach to notifiable events, to be fair and appropriate.

19. Should we add to, delete or amend anything in the list of proposed indicators? Any other comments?

In relation to the changes to the indicators, the Council notes the following comments:

*Indicator 23 (new): Homelessness (LAs only) – the percentage of households referred to RSL's under section 5.*

South Lanarkshire Council, in common with other Local Authorities, operate a common housing register and agree targets with our HomeFinder partners. The Council believes that a more appropriate indicator would be - "Percentage of lets to Homeless Households"

*Indicator 15: Percentage of anti-social behaviour cases reported in the last year which were resolved.*

We agree with the proposal to remove locally agreed targets from the definition, but by counting the number of cases received in the year against the number of cases resolved it still shows open cases as a 'failure', we would propose that Councils advise on the cases received and of them the % resolved and the % still open.

This indicator currently includes all ASB cases, we feel it would be beneficial to further breakdown this information for tenants and private landlords.

*Indicator 9: Average length of time taken to complete non-emergency repairs.*

This is of limited value as customers often request a repair by appointment at a time convenient for them therefore, the time taken is not always controlled by the landlord.

*Indicator 16: Percentage of new tenancies sustained for more than a year, by source of let.*

This indicator currently includes all tenancy end reasons. However, not all tenancy terminations are negative or influenced by the landlord. Consideration should be given to updating the indicator to exclude positive termination reasons and bereavements.

More generally, consideration should be given to the guidance provided on indicators to ensure consistency in reporting e.g. in terms of the ASB indicator, what would define “resolved”.

Furthermore, there is a strong case for the introduction of a standard methodology and submission dates for all Customer Satisfaction Surveys to ensure a consistent approach.

20: Do you have any feedback on the draft group structures guidance?

**RSL only**

21: Do you have any feedback on this guidance?

**RSL only**

22. Would you like to give feedback on any other aspect of the proposals set out in the draft Framework and guidance?

The Council are of the view that there continues to be scope for regulatory bodies to scrutinise some areas in a cross cutting fashion - particularly Homelessness and Anti-Social Behaviour (ASB).

Homelessness – the prevention and alleviation of homelessness requires the involvement of a wide range of partners such as health, social work and children’s services. Given the agenda currently being progressed to implement the proposals of the Housing and Rough Sleepers Action Group and the development and implementation of Rapid Re-housing Transition plans, consideration should be given to how all regulatory bodies scrutinise.

Similarly with ASB, the success in resolving ASB issues may require input from various bodies such as Police, Fire Service etc.

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

The Council considers that the approach to impact assessments, is appropriate.

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