



Our regulation of social housing: a discussion paper

Evidence submitted to the Scottish Housing Regulator 09 August 2023

This is a response to the consultation by the Scottish Housing Regulator (the Regulator) on the [review of the Regulatory Framework](#). Responses to the discussion paper will be considered ahead of a more formal consultation later this year.

The Regulator is not proposing significant changes to the regulatory framework, but some changes to reflect the changing context that housing organisations are operating in, with particular focus on tenant safety and homelessness performance. Specific proposals include:

- Amending statutory guidance on Annual Assurance Statements to include provisions on specific areas of assurance.
- Amending, adding or deleting ARC indicators to better reflect current needs and to address issues of health and safety, damp and mould.
- Reviewing guidance on Notifiable Events and Significant Performance Failures.

Consultation questions

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?

We agree that issues around health and safety and homelessness need to be prioritised, and that the other areas identified by the Regulator (engaging effectively with tenants, providing good quality homes, and affordability) are ongoing areas of focus for housing organisations in any case. There is scope for the Regulator to consider how work towards human rights obligations could be supported through the regulatory framework, perhaps through the Annual Assurance Statement (AAS). However, it is also essential for reporting to be kept to a minimum, allowing resources to be focussed on service delivery.



Our main concern in relation to prioritising regulatory focus is the ability of social landlords across Scotland to balance these priorities with other statutory requirements, with limited resources, compounded by the financial climate and ongoing inflationary pressures. External pressures such as the continuing impact of the COVID-19 pandemic, cost of living crisis and resettlement schemes are also increasing demand for housing and homelessness services.

We appreciate the Regulator's recognition of the challenges faced by the sector. Some of these have been clearly evidenced by the Regulator's [thematic review of homelessness services](#) and, more recently, the report published by SOLACE and ALACHO, [Housing in Scotland](#). Our own work on [Rapid Rehousing Transition Plans](#) (RRTPs) warns that progress made on homelessness prevention and service transformation could be lost if further resources are not made available.

While social landlords are doing everything they can to deliver high quality homes and services while keeping rents affordable, the reality is that, without further funding from Scottish Government, some programmes will need to be scaled back, whether that is provision of new homes, retrofitting to meet net-zero, or the provision of non-statutory services. Social landlords need support and flexibility to meet wide ranging priorities in a way that best suits the needs of their tenants, other customers and wider communities.

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

As AAS have had some time to bed in, it makes sense to review how well they are working and whether guidance needs to be updated. We understand the need to closely scrutinise issues which are of national significance and pose a potential risk to tenants and customers such as damp and mould. However, it may not be necessary to update statutory guidance in order to achieve this.

Recent reporting has included specific information at the request of the Regulator, for example electrical installation condition reports (EICRs) and equalities data, and there is no reason that the Regulator could not request assurance on specific issues going forward if there was a clear rationale for doing so. If statutory guidance is updated to require reporting on specific issues, housing organisations will need sufficient notice to gather information, and flexibility in how assurance is presented to ensure that any additional requirements do not create unnecessary burdens.

If reporting requirements were to change regularly (for example every year) in reaction to external factors, this could create challenges for organisations having to continually change or update reporting practices. A significant amount of work



and data collection already goes into preparing the AAS on top of all other statutory reporting requirements.

It is also important to note that AAS were intended to be short, concise documents clearly setting out compliance or any areas of concern. Continually adding to the reporting requirements in the AAS could make them less accessible and less useful as a summary report.

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

In general, adding new or amending existing indicators should be done in consultation with the sector. Any changes should be accompanied by clear rationale - what is the purpose or benefit of the change? All indicators should have clear links to the regulatory framework and organisations should have an understanding of how ARC results feed into risk assessments and engagement plans.

CIH members have suggested consideration of the following ARC indicators:

- **Indicator 10** considers repairs completed right first time. This indicator is overly complex in terms of the definitions and the exclusions which leads to a lack of consistency when attempting to compare and benchmark the results of this indicator with other social landlords so it would be useful if this indicator could be reviewed to make it simpler or removed entirely.
- **Indicator 15** in respect of anti-social behaviour (ASB) is flawed as it reports on anti-social behaviour cases reported in the last year which were resolved. This means that cases that are received at the end of the reporting year (for example in March) have no time to be resolved and are considered to be not resolved in the indicator just because they were received at the end of the year and not through any drop in performance. It would be useful if this indicator could be reviewed to look at resolved cases in the year instead of cases received.

There is variation in how guidance is interpreted in relation to “resolved” cases which can lead to inconsistencies in reporting. Large organisations may also have more legal powers (local authorities) or options in how they are able to deal with ASB.

- **Indicator 30**, average length of time taken to re-let properties in the last year, would benefit from clearer guidance around what constitutes an exclusion. There is an emerging issue with meter installations across the country within void properties that the Regulator has previously advised



should not be counted as an exclusion. This leaves organisations entirely reliant on power companies as properties cannot be let without a power or gas supply resulting in longer average re-let times and increased rent lost which then impacts on other indicators.

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

We support the introduction of new indicators to support health and safety as long as there is clear rationale for doing so and these do not create a disproportional burden. As set out above, any new indicators need to be developed with the sector to ensure that requirements align with reporting systems.

More detail on specific proposal would be needed to provide detailed feedback.

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?

As set out above, any new indicators need to be developed with the sector to ensure that requirements align with reporting systems.

The Regulator should also consider existing requirements and whether additional ARC indicators are required. For example, property condition is already reported through Scottish Housing Quality Standard (SHQS) and Tolerable Standard reporting.

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

The sector already has a robust approach to listening to and responding to tenants through regular engagement in service development and delivery, and through the Scottish Public Service Ombudsman (SPSO) approach to complaints handling. It is unclear how the proposals will improve outcomes for tenants and customers. Having said that, our members have not raised any objection to changing the wording of the Framework heading.

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



Additional clarity on Notifiable Events would be welcome, however it is acknowledged that this could be challenging given the wide range of issues that could constitute a notifiable event.

A greater understanding of differences in reporting and what the Regulator is aiming to achieve would be useful. If there is an issue with over or under reporting, or inconsistencies between housing organisations, is there a clear understanding of what is causing this? For example, is there an issue with the clarity of the guidance itself and some organisations reporting just to be on the “safe side”, do some organisations feel more comfortable seeking advice before submitting a report, and is advice from Regulator staff consistent?

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?

Feedback from members suggests that a cautious approach should be taken if a new status is to be introduced. There is agreement that direct and transparent language is helpful, but introducing a new category could add unnecessary confusion. The proposed wording could also be problematic. For example, the term “working towards compliance” implies that the organisation is proactively taking action whereas “compliant with improvement needed” suggests that issues have been identified but it is not necessarily clear that actions are being taken.

More discussion with the sector is needed before any changes are introduced.

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

There is no appetite for significant changes to the Regulator’s approach. Robust performance monitoring frameworks ensure that Significant Performance Failures are avoided as far as possible resulting in low numbers of reports. Some issues will also be dealt with through the SPSO complaints procedure.

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

We think the current framework has been working well since it was introduced in 2019. Changes in the operating environment in recent years means that a review of the framework is necessary and timely, and we welcome the Regulator’s continued focus on proportionality. However, what the sector really needs is a

period of stability to focus resources on providing good quality services and value for money for tenants and customers.

Any changes should be developed further with the sector before being implemented and we look forward to continuing the discussion.

About CIH

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple - to provide housing professionals and their organisations with the advice, support, and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world. Further information is available at: www.cih.org.

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