

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?

Yes.

The Scottish Government has committed to introducing new **Homelessness Prevention Duties** as part of its Housing Bill this parliamentary year. In a recent Scottish Parliament [Local Government, Housing and Planning Committee session](#), when asked about how these new duties will be incorporated into the regulatory framework, the Scottish Housing Regulator replied:

“We will ensure that the approach that we take to setting out a regulatory framework is such that it can accommodate changes in legislation as they come through. We are therefore sighted on what is being proposed. Where the proposals around prevention bring in and place new duties on social landlords, we will ensure that we monitor the delivery of those duties.”

It is welcome to hear that the revised regulatory framework will be able to accommodate new legislative changes. The Homelessness Prevention Task & Finish Group, which published its recommendations in August 2023, recommended the following, in relation to regulation of the new duties:

Once there is clarity on the new homelessness prevention duties, the Scottish Housing Regulator (SHR) should update its regulatory framework, clearly setting out how it will assess local authority and landlord compliance with the new duties through its assessment of local authorities' Annual Assurance Statements, and any new regulatory activities. This should also specify any responsibilities for regulating the duties that sit outside the remit of the SHR, with other regulators. The Scottish Housing Regulator must ensure local authority homelessness prevention provision is compliant with the new law and have the ability to act upon this.

In light of the SHR's thematic review on Housing Options published in 2014, one aspect of this new approach to prevention is to bring the Housing Options approach into the statutory homelessness framework, so there is a list of '**reasonable steps**' that must be available in each local authority area to effectively prevent and alleviate homelessness. We envisage that, for example, this might involve commissioning new services, such as family mediation services, or private rented sector access services etc. The SHR should have a role in regulating how compliance with this aspect of the duties will be monitored. For example, if it was clear that the local authority (LA) hadn't put in place the family mediation service, or if that service wasn't available to access - i.e. if there was no appropriate provision that could have prevented someone from needing to access the homelessness system – then there should be a mechanism for SHR to report on that and possibly require action on the part of the LA.

The Prevention Review Group recommended particular **duties to ‘ask’ and ‘act’ to be placed on RSLs**, so there will likely be a role for the SHR in assessing compliance with those specific duties.

The Task and Finish Group also recognised that the proposed Homelessness Prevention Duties **extend beyond the remit of social landlords**. The duties cut across different public services similar to, for example, duties relating to Child Protection. The Task and Finish Group therefore recommended:

Scottish Ministers should request that the Strategic Scrutiny Group – which is chaired by Audit Scotland and has representation of all the regulators relevant for oversight of these new duties – should consider and produce a framework regarding what scrutiny of these duties will look like. In developing that plan, the Strategic Scrutiny Group should draw lessons from other approaches where multiple regulators are involved in working together to scrutinise activity across multiple public bodies (such as Child Protection).

There is currently a monitoring framework in place for the Regulator to monitor compliance with statutory homelessness duties, where someone is assessed as intentionally/unintentionally homeless. However, under the new Homelessness Prevention Duties, there is likely to be a more robust statutory *prevention* assessment. Prevent1 statistics will need to be revised to ensure they capture adequate data on: which (if any) services the applicant had been referred by; types of support people receive at the prevention stage; causes of being threatened with homelessness; outcomes of assessments for those threatened with homelessness; circumstances in which the ‘reasonable steps’ is discharged; housing outcomes. A review of homelessness data collection is currently underway, and should consider how collection of statistical data can support Scottish Government and the SHR to monitor the effect of the prevention duties in achieving the policy intention.

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?

Yes, we agree. We welcome the proposal to introduce specific indicators on tenant and resident safety to the Annual Return on the Charter (ARC), and to develop these in consultation, as part of a wider review of the ARC.

However, we are concerned that standards in temporary accommodation are not receiving enough attention. Following the coroners’ report into the death of Awaab Ishak, the SHR has drawn attention to concerns around damp and mould in housing. It is worth noting that some of the worst conditions – and the most dangerous conditions for children’s health – are to be found in temporary accommodation. This includes ‘Unsuitable Temporary Accommodation’ but also accommodation which would, by law, be deemed ‘suitable’ and which households live in for months and sometimes years. Crisis has been concerned for the wellbeing of adults and children living in unsafe accommodation, as the case below demonstrates.

Case 1

Crisis has been supporting a Sudanese family with a one-year-old baby. They have refugee status and need support from the homelessness system. By law, the Council must provide this family with *suitable* temporary accommodation, but instead they have been moved from hotel to hotel for ten weeks. Each hotel reservation lasts for a few days, and then they need to pack up all their things and queue up at the Council again to be moved into another room. The most recent placement is in a hotel infested with bed bugs, where the bathroom on one of the floors is smashed and out of use, and they only have use of the kitchen before 9pm. For a period of one week in November, the family were without any heating. When they came to the Crisis office the one-year-old baby was “loaded with cold” said their lead worker. “I’m finding this unbearable.” She said, “I’m not sleeping. I constantly think *why?* What can we do? These are human beings. Not just numbers.”

Case 2:

Crisis interviewed someone staying in poor quality accommodation. He said: “The carpet is full of maggots and there are rats too. They appear when I am in bed, then disappear again. The smell is really bad, there must be something in the carpet because when I turn on the heat it gets worse. I contacted the council with pictures and they said there’d be an inspection but they didn’t show up... It’s not suitable for a human at all. I was really disappointed, and I tried to change – I emailed the council – but nothing happened, no one cared.”

A recent Temporary Accommodation Standards Working Group developed a framework of standards that should apply to all temporary accommodation, including for the Scottish Housing Quality Standard to apply to temporary accommodation as well as social rented housing. These have been published as advisory standards, with no mechanism currently for them to be legally enforceable.

The SHR’s recent thematic review of homelessness services found that some councils are now facing systemic failure in their duties to homeless households. Given that there are now over 9,500 children in temporary accommodation across Scotland, Crisis believes there is a need for a greater focus on **quality and standards across all accommodation types**, ensuring safety for *all* tenants and residents, whether that is through a subsequent thematic review, or through a changes to the regulatory framework.

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?

Yes, we agree. In addition, we would also like to see a specific requirement to engage with those with experience of homelessness.

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

No comment

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

No comment

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

No comment

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

No comment

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

No comment

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

No comment

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*?

No comment

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

No comment

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

No comment

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

No comment

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

No comment

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

No comment

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

No comment

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

No comment

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

No comment

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

No comment

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