Annual Return on the Scottish Social Housing Charter

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 **Friday 8 November 2024.**

By email @:   consultations@shr.gov.scot

Or post to: Scottish Housing Regulator
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Name/organisation name

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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 ☐ x   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	☐ *x*
Please publish my response, but not my name	☐

1. There are some indicators which we do not routinely use in our regulatory assessment of social landlords' performance. As part of the consultation, we are proposing to stop collecting the following indicators **14, 20, 23, 24, C3 and C4.**

   Do you agree with our proposals to remove these indicators?

   > We agree that it is important to remain focused on core measures that best inform assurance and benchmarking. We support the removal of indicators 14, 23, 24, C3 and C4 .
   >
   > Whilst we agree it is not essential, the existing indicator 20 does provide insight into adaptation funding and removing it could reduce visibility of the balance of funding from RSL's own finances and that which is grant funded.

2. Following feedback from stakeholders we propose to amend the following indicators **10, 15 and C2**.

   Do you agree with our proposals to amend these indicators?

   > We support the proposed amendment to indicator 10. It would be beneficial if the technical guidance clarified if this should be calculated based on the reporting year or as in tenancy sustainment looking 365+1 day.
   >
   > We recognise the challenges associated with indicator 15 as currently defined and agree the proposed approach addresses the challenges whilst being complemented with a measure that will allow meaningful benchmarking.
   >
   > We support the proposed amendment to indicator C2.

3. We also propose to introduce an additional indicator to monitor long term voids.

   Do you agree that we should collect an additional indicator in relation to long term voids?

   > We actively monitor our long-term voids and would support the addition of this indicator. We would however suggest that a per 100 or 1000 stock calculation is used for publication and benchmarking, rather than an absolute number to provide a proportionate picture.

4. We propose to collect two new indicators in relation to tenant and resident safety. Do you agree with the additional indicators we propose to collect in relation electrical safety and fire detection?

   > Tenant and resident safety are a key priority for us and as such strongly support the proposed measures.
   > It would however be helpful to recognise, such as through the provision of associated comments, that in some instances there will be issues, such as no access and legal action, which have impacted the result.

5. Do you agree with our proposed approach to collect landlords' performance in relation to compliance with tenant and resident safety duties as part of the Annual Assurance Statements?

> We already actively monitor and report on the additional safety areas, such as legionella and lift maintenance, and support the inclusion of a compliance statement as part of future Annual Assurance Statements.

6. Issues of damp and mould continue to be an important area of concern for tenants. We therefore propose three new indicators in relation to damp and mould. Do you agree with our proposals to introduce these indicators?

> We would propose a variation to the first indicator. We would also propose that further technical guidance be developed in relation to what constitutes a case of mould, and that consideration should be given to reporting cases based on different risk categorisations.
>
> It will be important to set out a consistent basis upon which landlords define what is a case, and whether this should take into account whether there is a risk to tenants' health or not from any mould. Otherwise, there may be a range of approaches taken by landlords and results may not be comparable or consistent across the sector.
>
> For example, minor spots of mould on the sealant around a bath may be reported to a landlord, with this being treated and recorded as a case of mould. Under a property condition assessment that tests indoor air quality and other relevant health-related metrics, such a situation may pose no harm to health. If landlords include these cases in the reported measure, grouped with severe cases which pose risk to health, there is a risk of confusion in relation to what the reported figures would represent.
>
> One way risk could be incorporated is through using a system of classification of reports of mould and damp based on risk to health, as has been done by the UK Government in England as part of Awaab's law using the Housing, Health and Safety Rating System ("HHSRS").
>
> Notwithstanding the point about classifying reported cases, we have commented below on each proposed measure:
>
> **Average length of time taken to resolve cases of damp and/or mould**
>
> We would suggest it would be informative to distinguish between "make safe" and "repair" when considering resolution of a reported occurrence of *mould*. This would be consistent with the SHR's definition of an Emergency Repair:
>
> "*These are repairs that are: to prevent serious damage to the building; are a danger to health; a risk to safety; or a risk of serious loss or damage to the occupier's property.*"
>
> The SHR has correctly identified that in *some situations*, the occurrence of mould can be detrimental to humans. The occurrence of mould can be:
>   i)   Cosmetic;
>   ii) Allergenic; and
>   iii) Pathogenic
>
> Therefore, mould decontamination can be categorised as an emergency repair which includes the requirement to "make safe".

The secondary challenge is that decontamination of mould and remediation of damp are separate issues. Wheatley Group currently offer an appointment to make safe visible mould within forty-eight hours of any report within a property. In this context, "make safe" extends to the decontamination and cleaning away of any visible mould.

We would therefore propose differentiation between "making safe" as it relates to the decontamination of visible mould and "repair" as it relates to the remediation of moisture which has facilitated mould growth.

The time taken to effect repair of moisture ingress is entirely dependent upon the cause and may range from a period of days to a longer timeframe, depending on the complexity of the issue.

We would suggest that the indicator be amended and split as follows:

- Average (mean) time to decontaminate/make safe cases of mould
- Average (mean and median) time to complete remedial repairs for damp and/or mould

In cases of mould, the time to complete remedial repairs would be measured from the point of decontamination taking place.

Percentage of resolved cases of damp and/or mould that were reopened

In principle, we agree with the introduction of this indicator subject to the technical guidance clarifying that either (i) cases should be included only where the mould presents a risk to health, or (ii) cases be classified into those that pose a risk to health and those that do not (see comments above in relation to risk categorisation).

We would suggest that identification of cases which are recurring *and escalating* with an impact on health provides a true measure of a landlord's effectiveness in dealing with the source of damp within its properties.

For example, a property which is classified as exhibiting a normal fungal ecology but which demonstrates recurring minor cosmetic mould may be designated low risk. Notwithstanding this rating, we would attend and decontaminate visible mould. This may happen multiple times however the risk to the customer is not likely to increase. These cases would not be included in the proposed measure or reported in a no health risk category.

In contrast, a property which is classified as exhibiting a normal fungal ecology, demonstrating minor ("level 1") contamination on the first report, but which subsequently presents with mould growth, and level 2 or 3 contamination, represents a significant increase in risk profile both to the customer and the structure and fabric and would therefore be included in a higher risk category.

Number of open cases of damp and/or mould at the year end

In principle, we agree with the introduction of this indicator but would propose that where the tenant has refused access and the landlord is pursuing forced access, including court proceedings for access, these cases be excluded and the total of such cases noted separately in the comments field.

7. Do you agree with the proposal to collect the "Average length of time taken to resolve cases of damp and/or mould" or would the "median" be more appropriate to measure the time to resolve cases of damp and/or mould?

> See response to question 6. We would support reporting of mean in respect of decontamination of mould and both mean and median in respect of remedial repairs (median is also proposed for the latter, given the potential for a small number of outliers to distort the reported position).

8. Damp and mould is a complex area for landlords. Are the new indicators we propose on damp and mould clearly defined?

> We have some concern on how consistently cases will be captured, classified and reported by landlords unless there is technical guidance that underpins some form of risk classification.
>
> In contrast to the Social Housing Regulation Act in England and its implementing legislation, the proposals do not seek to identify an underlying framework by which to identify the risk posed by damp and mould.
>
> Without such a framework, all reports of mould and damp may be interpreted as the same, when many (the majority in our experience) are minor in nature with negligible risk to the health of tenants.
>
> In England, the UK Government has adopted the Housing, Health and Safety Rating System ("HHSRS") (or subsequent amendment thereto), to facilitate the adoption of "Awaab's Law" this being the colloquial name for the regulations relating to the health and safety requirements in English social housing.
>
> In our opinion, the adoption of a mechanism aligned to HHSRS would be an appropriate mechanism to provide objective data which can be considered as the basis for the proposed indicators.
>
> The format of HHSRS particularly lends itself to the evaluation of damp and mould as it is a risk-based assessment considering both the impact and likelihood of outcomes. Therefore, whilst the system can assess the impact of remedial measures, it does not dictate the measure to be deployed. This allows the RSL themselves to determine the most effective remedial measures for the property.
>
> HHSRS does not consider the characteristics of a specific occupant, instead, the weighting of the rating system is derived from statistical analysis associated with identification of the statistically most vulnerable groups.
>
> We consider that a risk assessment system is an appropriate mechanism for evaluating hazards associated with mould and damp as it is capable of taking into account the "steady state" mould spore burden of a normal fungal ecology, thus delivering an appropriate risk assessment on a property-by-property basis, taking into account statistical vulnerabilities of the specific customer grouping.

Thank you for taking the time to give us your feedback