

Risk ref:	Risk:	Risk owner:
O1	An RSL becomes insolvent and we are unable to effect a rescue	[REDACTED]
<b>Actions:</b>		<b>Target dates:</b>
Close liaison with UK Finance and individual lenders to provide assurance about risk assessment process, regulatory engagement objectives, and about individual cases where necessary.		Ongoing
Focus enhanced engagement on systemically important RSLs; following 17/18 risk assessment increased from 22 to 23.		Ongoing
Regulatory engagement 2018/19 requires RSLs to carry out governance self-assessment (against our Governance thematic inquiry guide) where we require assurance.		Ongoing
Statutory Intervention case study reports will alert RSLs to lessons learned.  Current cases include: Antonine, Arklet, Ferguslie Park, Wishaw & District, Kincardine, Dalmuir Park, and Ruchazie.		Publish three months from intervention end. <b>Wellhouse published 06/17</b> <b>Muirhouse 10/16</b> <b>Molendinar Park 3/18</b>
Lessons learned from first three concluded interventions to be published separately.		Q2/3 2018-19
Review use of contingency planning tool during Kincardine directed transfer		Q3 2018-19
Develop a range of scenario planning exercises to test powers and procedures in "real life" scenarios. Scenarios to include insolvency. To be tested immediately in an emerging case.		Q4 2018-19

**Yellow risks- review of current actions and controls required**

Risk ref:	Risk:	Risk owner:
O2	We do not have enough people, or the right skills or expertise, to identify and respond effectively to risks that come from the changing financial, funding and political landscape for social landlords and new landlord subsidiaries	Michael Cameron
<b>Review activities:</b>		<b>Target dates:</b>
Regular monitoring and review of planned work, our operating plan, and active prioritisation of resources through the MT		Throughout the year at monthly meetings
Take forward workforce planning and recruitment alongside restructuring to align resources to priorities in new regulatory framework		By March 2019
Alert Scottish Government colleagues to the resourcing pressures		<b>Completed</b>
<i>Cross refer to actions on risk O10</i>		
<i>Cross refer to actions on risk O13</i>		



Risk ref:	Risk:	Risk owner:
O10	Our current approach to regulation will not be sustainable due to future budgetary pressures and an inability to invest in our people and systems	Michael Cameron
<b>Review activities:</b>		<b>Target dates:</b>
Engage with our sponsor team to establish the timescale and process for Spending Review 2018.		Ongoing
Link to Review of Regulatory Framework (RRF) – the Spending Review is identified as a key dependency for the RRF		Ongoing
Continue to engage with Scottish Government and Ministers to promote the value that our effective regulation delivers.		Ongoing
Strategy days with Board in October to discuss RRF and SR18		To be confirmed

Risk ref:	Risk:	Risk owner:
O13	There is a risk that our day to day regulatory operations are impacted due to resources being diverted to manage periods of change/transition arising from external factors	Michael Cameron
<b>Review activities:</b>		<b>Target dates:</b>
Engage regularly with SG on changes to <b>legislation re ONS</b> to identify impact on SHR and scale of change needed, including to BI system		By September 2018
Initiated <b>Review of Regulatory Framework</b> on programme management basis with phases and workstreams identified. Programme Board established to oversee delivery of programme.		<b>Completed</b>
Senior Information Risk Owner/ Information Asset Owner Group to oversee work to prepare for the <b>General Data Protection Regulation (GDPR)</b> and ensure that our Data Protection Officer has the support and resources required to deliver the agreed project plan.  The impact of this work on our regulatory operations will continue to be monitored by MT.		Ongoing to August 2018
Regular monitoring and review of planned work, our operating plan, and active prioritisation of resources through the MT		Throughout the year at monthly meetings
<i>Cross refer to actions on risk O10</i>		

Risk ref:	Risk:	Risk owner:
O8	We are unable to source the external support we require to respond effectively to risks that come from the changing landscape for social landlords and new landlord subsidiaries, or to respond to serious governance concerns and/or potential business failures	[REDACTED]
<b>Review activities:</b>		<b>Target dates:</b>
Procurement policy gives us flexibility to undertake bespoke procurement or access SG framework agreements.		Ongoing
Cross-divisional intelligence sharing to identify support needs in the landlord and identify and match from network of suitable people the external skills/knowledge needed and induct and support appointees/co-optees.		Ongoing and under continual review/refresh
Intensive trawl to identify and source additional potential co-optees /appointees to support RSLs in trouble.		Q2 2018-19
Make use of selection list for statutory managers to identify and match appropriate manager for new intervention cases.  Review selection list after three years.		Ongoing
Develop internal procedure to carry out mini-competitions to identify potential statutory manager from outwith the selection list.		Q2 2019/20 <b>Completed Q1 18/19</b>

Develop a business case process to request additional funding from SG	Completed
Information note for appointees to be developed to support them in their role.	Q2 18/19
Regular liaison with other stakeholders to identify and discuss new issues and risks.	Ongoing

#### 14. 5 September 2018 – Audit & Risk Assurance Committee – Extracts of the risk report – the rest is out of scope or covered by the exemptions set out in Appendix A

ARAC last reviewed the risk register at its meeting on 20 June, and the Board considered risk when it met on 7 August. MT has kept the register under review and carried out its most recent review on 14 August.

At this meeting MT agreed to increase the likelihood score for risk O2 on our people and capacity. This reflects current resource pressures due to new staff vacancies and a number of long-term staff absences, combined with heightened workload due to the number of serious cases. This risk will be addressed through upcoming recruitment, and in the meantime MT will continue to monitor workload and reprioritise as necessary. MT noted that as part of the risk register review, it will be important to frame a more strategic risk around our resource capacity and sustainability.

MT also increased the likelihood score for risk R14, reflecting our ongoing engagement with Glasgow City Council.

#### 15. 30 October 2018 - RSL and Local Authority Housing and Homelessness Services Risk assessment – redacted information is covered by exemptions set out in Appendix A

Official - sensitive



#### The Board of the Scottish Housing Regulator

Subject: RSL and Local Authority Housing and Homelessness Services Risk assessment

Purpose: For decision

Agenda item: AG5 10/18

By: [Redacted]

Meeting date: 30 October 2018

---

#### 1. Introduction & Purpose



1.1 This paper provides the Board with information on the proposed methodology for our annual assessment of risk for RSLs and local authorities' housing and homelessness services.

## **2. Recommendations**

2.1 The Board is asked to agree to proceed with annual risk assessment using the approach set out in this paper.

## **3. Contribution to statutory objective and regulatory priorities**

3.1 Our statutory objective is to protect the interests of tenants and others who use the services of social housing landlords.

3.2 Our statutory functions are to monitor, assess and regularly report on all local authorities' and RSLs' performance of housing activities and to monitor, assess and regularly report on RSLs' financial well-being and standards of governance. We have powers to intervene where appropriate.

3.3 We use our annual assessment of risk to decide the level of engagement we need with local authorities and RSLs to help safeguard and promote the interests of tenants and other service users.

## **4. Communication plan**

4.1 We intend to publish details of the indicators that we will consider in the annual risk assessment at the end of November and we will publish the outcomes from the assessment on 1 April 2019.

## **5. Background**

5.1 We propose to base our assessment of risk on an analysis of the following key areas:

- Service quality (local authorities and RSLs)
- Homelessness (local authorities and RSLs)
- Stock quality (local authorities and RSLs)
- Financial health (RSLs only)
- Development (RSLs only)
- Systemic importance (RSLs only)
- Governance (RSLs only)

This report sets out our planned approach to each of the different elements of our planned risk assessment for 2018.

This year we will be carrying out our risk assessment at the same time as our consultation on the review of our Regulatory Framework. The risk assessment will be based on the current framework and we will use the information and intelligence that we currently gather from local authorities and RSLs. That said, we will start the transition to the new Regulatory Framework through this process, looking to adapt our processes to the future framework, with a particular eye to the final products.

5.2 One of the key changes proposed in the new framework is the provision of Annual Assurance Statements from local authorities and RSLs. We will start to receive these from April 2019. This means that these will not be available for this risk assessment.

5.3 Another significant change proposed for the new framework is the introduction of an engagement plan for all landlords. For RSLs, we are also proposing the introduction of a regulatory status which reflects our judgment (compliant/working towards compliance/statutory action) rather than, as at present, our level of engagement (High/Medium/Low).

5.4 Following this risk assessment, we will publish engagement plans for all local authorities and RSLs on 1 April 2019 – to reflect the start of the implementation of our new Regulatory Framework. We will include a regulatory status only for those RSLs where we are taking statutory action.

We will therefore publish details of the regulatory engagement we will have with all local authorities and with **all** RSLs (previously we have published regulation plans for only those RSLs which need high or medium engagement). We will not refer to High, Medium or Low engagement and we will transition to publishing regulatory status for each RSL by the end of 2019/20.

5.5 The time frame we are proposing for the 2018 risk assessment and associated regulatory engagement is as follows:



Activity	Start Date	Finish Date
Develop risk assessment methodology	July 2018	September 2018
Board consideration of methodology	-	30 October 2018
Publish indicators to be considered in risk assessment	-	November 2019
Carry out risk assessment	October 2018	January 2019
Determine the regulatory activity that will be specified in the engagement plan for each RSL.	January 2019	Mid March 2019
Publish engagement plans, local scrutiny plans and summary of outcomes	-	1 April 2019
Carry out regulatory activity	April 2019	March 2020

5.6 The 2018 risk assessment again takes place against a background of significant pressure on our resources and an unprecedented level of regulatory engagement with RSLs, with six current statutory interventions and a large and growing volume of non-statutory engagement. We are also having increased levels of engagement with local authorities, particularly around homelessness.

5.7 We will set appropriate thresholds for engagement that reflect our resources and the outcomes from applying the objective criteria set out in the 2018 risk assessment.

## 6. Service quality

6.1 We collect data on performance from all social landlords through the ARC. This includes data on key issues which affect tenant safety such as compliance with gas safety checks and emergency repairs response times.

6.2 In previous years we have assessed performance with a view to identifying those landlords whose reported poor performance across a number of indicators suggests there is a potential risk to tenants and other service users' interests.

6.3 We also considered those things that tenants and other service users tell us matter most to them, through our National Panel and engagement with Regional Networks of Registered Tenants Organisations and our Tenant Advisors.

6.4 Poor performance on a number of indicators has triggered some form of engagement, for example, we would ask for additional information to give us assurance. Last year an RSL had to be triggered for five indicators or more before we decided to engage with it. We also engaged with a small number of local authorities who were triggered for a smaller number of indicators because we needed assurance about the deterioration in performance for specific indicators e.g. gas safety.

6.5 As we have built the Charter information year-on-year we have identified and analysed trends to highlight those landlords with consistently poorer or deteriorating performance which could affect tenants and other service users.

6.6 In the 2017/18 risk assessment we had a base year and three further years' data making the trend analysis more robust and creating a better link between poor performance and direction of travel.

6.7 We met with Regulation Managers on 3 May to review the overall approach to the risk assessment. We considered the service quality indicators we use and outcomes from the 2017/18 service quality risk assessment. This review concluded that the vast majority of the indicators used were still relevant but that there was some duplication in the area of satisfaction with the quality of home. We agreed that we should drop one of these indicators - percentage of tenants satisfied with the standard of their home when moving in. This would reduce the number of indicators we use to 21.

6.8 We have been reviewing the Charter indicators as part of our broader review of the Regulatory Framework. This will form part of the formal consultation on the new Regulatory Framework taking place in autumn 2018. We will consult on the removal of one third of the existing indicators. The percentage of tenants satisfied with the standard of their home when moving in is the only indicator that we are proposing to remove that has been used in the service quality risk assessment.

6.9 We also reviewed the outcomes from some additional analysis as follows:

- We made greater use of trend data adding in scores for deteriorations against the base data. This worked well highlighting not only poor performance but linking this to negative trends;
- We added a score where we had previously issued a nudge letter for a specific indicator in the least three years and there had been no improvement. The nudge score had no impact on the number of landlords assessed as high or medium. Further analysis showed that for over 90% of the indicators where we had issued a nudge letter performance had improved; and
- We agreed six indicators as the most important indicators including gas safety, lets to homeless people and rent collected of rent due and added additional scores for these indicators. These scores had no impact on the number of landlords assessed as high or medium.



- 6.10 We are therefore also recommending that we continue to apply the trend scores for deterioration against the base data. After review we thought we should not continue with the nudge score or the scores for important indicators.
- 6.11 Lastly the review meeting recommended we should extend consideration of the trend data to all landlords not only those with poor performance to assess if this will provide “early warning” of performance failure.
- 6.12 The indicators we are recommending to consider for service quality are set out in Appendix 1.
- 6.13 We will also take into consideration our recent work with those landlords that provide Gypsy/Traveller’s sites to assess their compliance with the required minimum site standards. We will engage with those landlords that have told us that their sites will not meet the standards until next year and the landlord that does not know when the standards will be met.
- 6.14 Finally, we will consider overall satisfaction with factoring services and will look at the Charter Indicator on the percentage of factored owners satisfied with the factoring service they receive for those landlords that provide a factoring service.

## **7. Homelessness**

- 7.1 Our risk assessment of local authority homelessness services is one of the ways in which we discharge our statutory duty to safeguard and promote the interests of people who are homeless. Local authorities have statutory responsibilities towards people who are homeless and people who are threatened with homelessness.
- 7.2 RSLs also play a key role in preventing homelessness through the management of arrears, the provision of temporary and settled accommodation, and supporting people who are homeless they have given a tenancy to maintain it. RSL performance in these areas is covered under our assessment of service quality.
- 7.3 At its workshop on 2 October 2018, the Board considered how we regulate homelessness and the work we are currently doing around this.
- 7.4 In the past, we have used qualitative and quantitative information to assess homelessness. The quantitative data we have used is landlords’ ARC returns and, for local authorities performance information on homelessness applications and housing options which local authorities provide to the Scottish Government (SG). The qualitative information we have used is gathered through our regulatory engagement with individual landlords, complaints, and concerns raised with us by stakeholders.
- 7.5 We have been reviewing our proposed approach to the homelessness risk assessment as part of our review of the Regulatory Framework and in light of our findings from our review of Glasgow City Council’s homeless function.
- 7.6 At the Board workshop, the Board agreed to proceed with a principal focus on the journey of the person who is homeless through the statutory assessment by the local authority to the discharge of the duties they are owed.

To that end, we will consider the following areas in our risk assessment:

- access to the statutory assessment
- speed and effectiveness of the assessment process
- access to temporary accommodation
- quality of temporary accommodation, and the time people need to spend in it
- outcomes for people, particularly how quickly they get a home

The indicators that we will use to do this are set out in Appendix 2.

## **8. Stock quality**

- 8.1 In previous years’ risk assessments of stock quality, we have focussed on landlords’ compliance with Scottish Housing Quality Standard (SHQS). The original target for this was compliance by 31 March 2015 although landlords also have an ongoing obligation to ensure that their properties continue to meet the standard. More recently, we also considered compliance with the Energy Efficiency Standard for Social Housing (EESH).
- 8.2 Last year, we highlighted those landlords where EESH compliance was less than 50%.
- 8.3 EESH compliance in the sector was 78.3% as at 31 March 2017 and has increased to 84.9% this year. SHQS compliance has also increased from 93.6% to 94.6% over the same period.



- 8.4 This year we are therefore proposing an approach which takes into account the high levels of landlords' compliance with SHQS. Our review of the regulatory framework is also proposing a reduction in the number of indicators that we collect on SHQS and EESSH in the future and we have had discussions with Scottish Government around the approach to EESSH post 2020.
- 8.5 In advance of agreement on the new indicators (which will be collected for the first time in May 2020) we propose to simplify our risk assessment of stock quality.
- 8.6 We are proposing that we no longer score exemptions or abeyances but continue to score:
- SHQS fails where these have increased;
  - Stock condition survey - coverage;
  - Stock condition survey - age of information; and
  - EESSH fails where these have increased.
- 8.7 In line with the approach which the Board agreed last year, we previously focussed our assessment on where there had been a deterioration in performance and where the ARC information raised questions about the quality of stock condition information landlords hold. We have updated this information with intelligence gathered from our engagement with landlords over the year and we would propose to continue with this approach.
- 8.8 Stock quality was not the main driver for engagement in any of the 65 regulation plans we published on 29 March 2018. Stock quality was however mentioned in 11 of these plans. A further six RSLs and two Councils received a low nudge letter or mention in a Local Scrutiny Plan about stock quality.

## 9. Financial Risk Assessment of RSLs

- 9.1 Regulatory Standard 3 (RS3) is the principal standard governing Financial Management and requires an RSL to 'manage its resources to ensure its financial well-being and economic effectiveness'.
- 9.2 When we consider financial risk we look at the risk or probability that an RSL will not comply with RS3, particularly around financial well-being. During our regulatory engagement with an RSL we also consider whether it has demonstrated effective financial management, planning and control.
- 9.3 We propose to continue with the same themes as last year, looking at:
- General financial well-being
  - Rent levels and welfare reform
  - Pensions
  - Other development activities and group structures
  - Development
  - Treasury
  - Other regulatory information.
- 9.4 This year we have enhanced a number of tests, including assessing and updating (where required) the trend analysis relationships, scoring, thresholds and/or criteria as summarised below:
- Trend analysis relationships:
    - Bad debts, arrears, voids
    - Senior management costs
    - Increase in average staff costs
    - Staff costs as a percentage of turnover
    - Current ratio
    - Debt per unit
    - Income from non-rental activities
  - Scoring:
    - Profitability ratios
    - Current ratios
    - Working capital cover
    - Development where private finance is being used
    - Subsidiaries
    - Open defined benefit pension schemes
  - Thresholds:
    - Senior management costs
    - Other activities operating deficits

- Increase in average staff costs
- Current ratio
- DSCR excluding opening cash
- Working capital cover
- Repayable capital on loans
- Number of times rents is assumed to increase by more than 3%
- Subsidiaries
- Criteria
  - Development where private finance is being used
  - Subsidiaries
  - Open defined benefit pension schemes

9.5 The various themes and tests outlined above ultimately help us make a judgment on whether an RSL is displaying a high, medium or low risk of non-compliance with RS 3 primarily in respect of financial well-being.

Low Risk	<p>The RSL's financial profile has provided us with sufficient assurance about its financial position and forecasts over the next five years.</p> <p>Last year, the initial risk rating of 119 RSLs was Low. Following moderation there were 127 RSLs rated as Low.</p>
Medium Risk	<p>The RSL's financial profile indicates we need engagement to gain further assurance about its financial forecasts or to work together on a distinct matter or process.</p> <p>Last year, the initial risk rating of 32 RSLs was Medium. Following moderation 32 RSLs remained Medium.</p>
High Risk	<p>The RSL's financial profile indicates we require intensive engagement to gain further assurance about potential risks to financial health over the following 24 months.</p> <p>Last year, the initial risk rating of 8 RSLs was High. Following moderation no RSLs remained High.</p>

9.6 Following the completion of the financial risk assessment, we determine the work that is required to provide us with the necessary assurance about the risk to our regulatory objective.

## 10. Development activities

10.1 Development remains a key risk area and we are continuing to see an increase in both the number of RSLs that want to develop and the units they plan to deliver. Early indications are that this year over 100 RSLs are planning to deliver over 30,000 new homes over the next five years.

10.2 Our Business Planning Recommended Practice (BPRP) and Development Thematic set out our expectations in terms of the identification, management and mitigation of development risk. Our assessment of the level of development risk presented by an RSL is based on information from:

- RSL's Five Year Financial Projection returns (FYFP);
- The Scottish Government (SG) Affordable Housing Supply Programme (three years);
- The local authority Strategic Housing Investment Plans (five years); and
- RSL annual accounts, business plans and development updates provided through our ongoing regulatory engagement.

10.3 In 2017-18 we focussed our assessment on the development risks associated with the programme itself (in terms of scale, tenure mix and impact on the RSL) and with the individual RSL (in terms of experience and the consistency between its financial plans and the confirmed SG programme). We then overlaid this with an assessment of the level of recent assurance we had about an RSLs' plans.

10.4 From our work over the last year or so to look at some of the business planning information from newly developing RSLs, we have identified that some RSLs show a lack of understanding of the requirements set out in the BPRP and Development Thematic. These RSLs' business planning processes are underdeveloped and as a result, their plans neither reflect, nor seek to manage or mitigate, the current range of risks to their business.

10.5 It is therefore recommended that we continue with the same approach this year and that we again assess the following six areas of development risk:

1. Programme Scale – the size of the current programme for the next five years
2. Programme Tenure – the provision of mid-market rent and low cost home ownership
3. Programme Growth – the change in development plans between the previous three years outturn and coming three years programme



4. RSL Growth - the impact of the programme on the RSL
5. RSL Capacity – the recent experience of delivering a development programme over the past three years
6. Consistency - between the Scottish Government and RSL financial planning information

10.6 We will then overlay this information with the level of recent assurance (an assessment carried out within the previous three years) we have about developing RSLs' business plans.

10.7 Each RSL will again be given an overall rating of high, medium or low risk for development. Last year for those that were developing, 34 RSLs were rated high, 53 were medium and 14 were low.

## 11. Systemic importance

11.1 Our Regulatory Framework sets out our view that a small number of RSLs may have a profile across several factors – particularly stock size, turnover and size of debt – that they would present the greatest risk to our objective should they experience business failure. Given this, we consider such RSLs to have 'systemic importance'.

11.2 As in previous years, we considered the criteria for relevance and determined that no changes are required. We would therefore propose that the criteria remain unchanged as follows:

- Number of Units owned at 31 March 2018
- Turnover 2017-18
- Peak housing debt over the period of the FYFP

11.3 In addition an RSL could be classed as systemically important based upon the nature of its business, the degree of community dependence, or that it is the parent of a systemically important RSL. This is also unchanged from last year.

11.4 Currently, there are 26 RSLs which are classed as systemically important, including three RSLs (Cube, Glasgow Housing Association (GHA) and Dunedin Canmore) which are part of the Wheatley Group.

11.5 When the new Framework is put in place, we will look closely at how we identify systemically important RSLs and the manner in which we regulate these organisations. Any proposed changes as a result of this will be reflected in next year's risk assessment which will come to the Board in Autumn 2019.

## 12. Governance

12.1 The engagement plans that we will publish on 1 April 2019 will be based on information from the following regulatory returns:

- ARC submissions received at the end of May 2018;
- Workflows (notifiable events, applications for consent for disposal or constitutional change);
- Annual Financial Statements due by the end of September 2018; and
- Intelligence from current engagement.

12.2 Good governance underpins the delivery of good financial health and good services. All of our interventions within RSLs have come about as a result of governance failures. While there are no universally agreed indicators of risk to governance, we have looked closely at the governance characteristics of the statutory interventions to date.

12.3 In intervention cases the average length of tenure of members of the governing body has usually been above average and in many cases there were few if any new members joining the governing body in the two years preceding the intervention. Another characteristic of RSLs where we have had to intervene has been a very long serving senior officer and a long serving chair.

12.4 We cannot say that a combination of a long serving senior officer, a long serving chair and a board where the average tenure is well above average cannot function in compliance with regulatory standards. But we have sufficient evidence to indicate that this type of profile for a governing body carries a heightened risk of a lack of effective challenge to the executive management of the organisation. So we intend to look closely at RSLs with this profile, in conjunction with information from our engagement with landlords to assess the level of risk in relation to governance.

12.5 We will also consider staff turnover and absence rates as these, based on our experience may indicate a governance risk. And we will consider how frequently the RSL rotates the appointment of its external auditor as we again know from our recent statutory interventions that this can pose challenges in ensuring that the auditors maintain independence and objectivity with clients when they have been in post for long periods of time.

12.6 We gather important information and regulatory intelligence on governance from our direct engagement with landlords. And, if there have been any reports by auditors under S72 of the Housing (Scotland) Act 2010, we will take these into account. We evaluate all of the information that we hold using a structured judgement approach to determine the level of risk to our objective and therefore the level of engagement we need to have about governance.

12.7 We also use the quantitative and qualitative information we gather from landlords in relation to:

- Group structures (number of subsidiaries, complexity of arrangements and nature of subsidiary activity);



Appendix B – Part 1 of request - Information provided FOI/15/00095 for 2018

- Notifiable events (number and nature of notifiable events and the governing body's response. We will also consider whether the fact that we have not received any notifiable events from some RSLs indicates potential risk);
- Constitutional changes (whether all RSLs have updated their constitutional requirements, and, where relevant any proposed or agreed changes to their rules which causes us concern); and
- Disposals (whether an RSL has obtained our consent for a disposal and has complied with our regulatory guidance).

12.8 We also consider qualitative information including complaints about landlords, whistleblowing and significant performance failures.

12.9 In the last two risk assessments, we have included intelligence that we have received from our engagement with a small number of RSLs where we have reviewed their self-assessment of their governance. We found weaknesses in the approach to self-assessment in each of these.

12.10 Last year we also included intelligence from our recently published thematic inquiry into self-assessment against regulatory standards. This identified RSLs that had not carried out a self – assessment and those where there were no plans in place. We also considered internal audit activity – looking at whether this happened and, how it was delivered.

12.11A summary of the areas we consider in relation to governance are set out in Appendix 3.

### 13. Risks and implications

13.1 **Financial** – As highlighted earlier in this report, this year's risk assessment takes place against a background of significant regulatory engagement with six current statutory interventions and a continually growing volume of non-statutory engagement. Our risk assessment process uses objective criteria to define the engagement and assurance we need and we then prioritise these risks taking into account our resources to ensure that we deliver the necessary regulatory engagement.

13.2 **Legal** – None

13.3 **Environmental** – None

13.4 **Equalities & Diversity** – None

13.5 **Privacy & Data Protection** – None

13.6 **Communications & Media** – We plan to publish a summary of the indicators that we will consider as part of this year's risk assessment at the end of November. There is usually some interest amongst the housing media about the focus of the risk assessment. We are developing a communications plan to promote this.

13.7 **Reputation** – Our risk assessment process is generally well understood and recognised as an effective way to carry out our regulatory functions.

13.8 **For Regulated Bodies** – Our annual risk assessment will determine the engagement we will have with regulated bodies. This year, for the first time, we are proposing to publish engagement plans for all landlords so as part of our communications plan, we will consider how to promote this new approach.

#### Appendix 1

##### Service Quality Indicators – all landlords

Indicator	ARC Ref.
percentage of tenants satisfied with the overall service	I1
percentage of tenants who feel their landlord is good at keeping them informed about services and outcomes	I3
percentage of tenants satisfied with opportunities to participate in the landlords decision-making process	I6
percentage of tenancy offers refused during the year	I18
the percentage of all complaints responded to in full	I4&5
the percentage of all complaints responded to in full within SPSO timescales	I4&5
the percentage of lets to homeless people	CI8
average length of time taken to complete emergency repairs	I11
average length of time taken to complete non-emergency repairs	I12
percentage of reactive repairs completed right first time	I13
percentage of tenants who have had repairs and maintenance carried out in the last 12 months satisfied with the service	I16
percentage of properties that require a gas safety record which had a gas safety check and record completed by the anniversary date	I15



percentage of anti-social behaviour cases reported last year which were resolved within locally agreed targets	I19
percentage of rent lost due to property being empty during the last year	I34
average length of time taken to re-let properties in the last year	I35
rent collected as a percentage of the total rent due in the reporting year	I30
gross rent arrears as at 31 March as a percentage of rent due for the reporting year	I31
the percentage of new tenancies sustained for homeless people	I20
the percentage of new tenancies sustained for others	I20
percentage tenants satisfied with the quality of their home	I10
percentage of tenants who feel the rent for their property represents good value for money	I29

**Appendix 2**  
**Homeless Indicators**

Indicator
<p><b>Access to assessment</b></p> <ul style="list-style-type: none"> <li>• Number of applications and trend over last five years (SG data)</li> <li>• Ratio of Housing Options cases to homeless applications (from SG data)</li> </ul> <p><b>Speed and effectiveness of the assessment process</b></p> <ul style="list-style-type: none"> <li>• Percentage of homeless applications withdrawn (SG data)</li> <li>• Percentage of applicants that lost contact prior to the local authority determining whether an applicant is homeless (SG data)</li> <li>• Percentage of decisions that are not homeless or intentionally homeless (from SG data)</li> <li>• Percentage of homeless assessments completed within 28 days (SG data)</li> <li>• Average number of weeks it takes a local authority to close a case from the date a homeless application is made until the local authority discharges its duty or decides it has no duty (SG data)</li> <li>• Number of cases open from previous years awaiting assessment (SG data)</li> </ul> <p><b>Access to, quality of, and time in, temporary accommodation</b></p> <ul style="list-style-type: none"> <li>• The number of offers of temporary/emergency accommodation the council made as % of number required to make (ARC 26 and SG data)</li> <li>• Average length of time in temporary accommodation – by type (ARC 25)</li> <li>• Percentage of offers of temporary/emergency accommodation refused – all types (ARC 27 and SG data)</li> <li>• Number of breaches of the unsuitable accommodation order (SG data)</li> </ul> <p><b>Outcomes</b></p> <ul style="list-style-type: none"> <li>• Percentage of cases where the local authority lost contact with a homeless person before it discharged its duty to provide accommodation (SG data)</li> <li>• Number of cases open from previous years awaiting final action (SG data)</li> <li>• Percentage of all homeless applicant's allocated Scottish Secure Tenancies (SG data)</li> <li>• Percentage of local authority's lets allocated to homeless people (SG data)</li> <li>• Percentage of homeless lets from RSLs as percentage of all homeless lets made by local authorities (SG data)</li> <li>• Percentage of homeless people who sustained a tenancy for at least 12 months (SG data)</li> <li>• Number of repeat applications as a percentage of all applications (from SG data)</li> </ul>

**Appendix 3**  
**Governance Indicators –RSLs only**

Indicator	
1	<b>Staffing</b> <ul style="list-style-type: none"> <li>• Turnover for senior staff and all staff</li> <li>• Sickness absence rates</li> </ul>
2	<b>Governing Body (GB) details:</b> <ul style="list-style-type: none"> <li>• Numbers on the GB</li> <li>• Those RSLs with 7 or fewer GB members</li> <li>• Length of service for all members. This lets us look at those with &gt;9 years' service and where there are a lot of members with short service.</li> <li>• Date the Chair was elected. We can see Chair's length of service and highlight those &gt; than 5 years.</li> </ul>
3	<b>Equalities -ethnicity and disability information for</b> <ul style="list-style-type: none"> <li>• GB members</li> <li>• Staff</li> </ul>
4	<b>Group Structure information (non-financial)</b> <ul style="list-style-type: none"> <li>• Number of subsidiaries and description RSLs included in their ARC</li> </ul>
5	<b>Workflows:</b> <ul style="list-style-type: none"> <li>• Notifiable events. Numbers reported and where none have been reported.</li> <li>• Disposals</li> <li>• Constitutional change and where there has been no constitutional change application</li> </ul>
6	<b>Audit activity (AFS source)</b> <ul style="list-style-type: none"> <li>• No internal audit</li> <li>• Internal audit and provider (in house or external commission)</li> <li>• Peer provided internal audit</li> <li>• External auditor in place for more than 10 years</li> </ul>
7	<b>Governance self-assessment (Thematic source)</b> <ul style="list-style-type: none"> <li>• (sourced from thematic inquiry)</li> <li>• Assessment completed and when</li> <li>• Assessment planned but not done</li> <li>• No plans to self assess</li> </ul>
8	<b>Other</b> <ul style="list-style-type: none"> <li>• Whistleblowing</li> <li>• Significant Performance Failures</li> <li>• Complaints</li> </ul>
9	RSLs with care activity (AFS)
10	Pensions – where defined benefit schemes only (source AFS)
11	Welfare reform impacts. As a separate exercise in 2018/19 we looked at the impact of Universal Credit on arrears levels. We concluded that because of the delays to roll out it was too early to draw conclusions. This is likely to be the case again for 2019/20.



## 16. 30 October 2018 - Kincardine Housing Co-operative – the redactions are covered by the exemptions set out in Appendix A

Official - sensitive

### The Board of the Scottish Housing Regulator

Subject: Kincardine Housing Co-operative

Purpose: Decision

Agenda item: AG6 10/18

By: [REDACTED]

Meeting date: 30 October 2018

---

#### 1. Introduction & Purpose

This paper describes the consultation with the tenants of Kincardine Housing Co-operative ('Kincardine') and the findings. It recommends the next steps in our statutory intervention with Kincardine. The decision to transfer an RSL's assets to another RSL is retained by the Board of the Scottish Housing Regulator.

#### 2. Recommendations

2.1 The Board is recommended to direct a transfer, under s67 of the Housing (Scotland) Act 2010 ('the Act'), of Kincardine's assets to Grampian Housing Association.

#### 3. Contribution to statutory objective and regulatory priorities

3.1 Our intervention contributes to our statutory objective and regulatory priorities by addressing the risks to the interests of Kincardine Housing Co-operative's tenants. A directed transfer will resolve the serious governance and financial management weaknesses at Kincardine and ensure tenants homes are secure and that they receive good services.

#### 4. Communication plan

4.1 We have developed tailored communications for each stage of our regulatory strategy to keep key stakeholders updated and have received good feedback. We anticipate there will be a great deal of interest in a directed transfer because this is the first time we will have used this power. If Board decides to direct a transfer we will develop and deliver a detailed communication plan.

#### 5. Background

5.1 KHC registered as a social landlord in 1991. It is a non-charitable, fully mutual co-operative which owns and manages 72 socially-rented homes in Aberdeenshire with housing stock in the towns of Portlethen (around 80 per cent of its stock), Fordoun and Stonehaven. It does not employ any staff but manages its stock through a managing agent – currently Grampian Housing Association – which delivers all its services. Its turnover for the year to 31 March 2018 was just over £271k. It has no loans and currently has cash reserves of £617k based on its accounts as at 31 March 2018.

5.2 At its meeting on 29 May 2018 the Board agreed that there had been mismanagement and misconduct in Kincardine's financial and other affairs and so:

- Kincardine's tenants should be consulted about a proposed direction under s67 of the Act to transfer all of Kincardine's assets to a suitable RSL; and
- SHR's CEO was delegated to approve the transferee RSL to be included in the tenant consultation; and
- a further report should be brought to seek the Board's decision about making a direction to transfer, having regard to any views expressed by Kincardine's tenants.

#### 6. Transferee landlords

6.1 Three landlords with stock in the north east of Scotland were identified by SHR as having the capacity to take Kincardine's homes – [REDACTED] Grampian – and were invited to bid for Kincardine's homes.

6.2 The evaluation process was informed by feedback from a variety of sources about what would be most important to tenants. Kincardine's Management Committee told us what would be important to Kincardine's tenants, we considered the findings of the National Panel of Tenant and Service User reports, and feedback we received from tenants when we were developing the landlord reports about what the



most important areas of service delivery were for them. We also considered the processes that RSLs use when undertaking voluntary transfers of engagements. Six key areas were identified for the potential transferee landlords to focus on in their bids: rent affordability; the day to day maintenance of properties; housing standards; neighbourhood management and safety; supporting tenants to sustain their tenancies; and tenant participation. We also looked at each landlord's approach to equalities and their financial position.

6.3 We evaluated the bids and made a recommendation to the CEO. Grampian was chosen as the preferred bidder. It offered:

- a minimum five-year rent guarantee which will keep Kincardine's tenants' rents at their current level plus an annual rate of inflation increase. While Grampian currently uses RPI as a basis for its rent increases, it is looking to use CPI possibly as early as 2019.
- a commitment to ring-fencing Kincardine's funds to bring Kincardine's houses up to SHQS and EESSH standards. Should further investment be required, it will be made available from Grampian's funds.
- access to Grampian's comprehensive tenant advisory services on money advice, fuel poverty, tenancy sustainment and digital accessibility and security.
- repairs and maintenance services that (based on the latest ARC figures) are above national averages.
- a proactive approach to neighbourhood management that sees Grampian working with other support agencies and the police to address issues such as drug misuse and environmental and health and safety matters.
- full access to Grampian's range of tenant participation opportunities including its customer panel; tenant scrutiny group; a wider, north-east based tenant/resident/landlord group; estate walkabouts and community events. Grampian has also offered to welcome a representative of Kincardine's tenants on its Management Board.

## **7. Tenant consultation**

7.1 The Act requires that before making a direction we must consult the tenants of any houses we propose to transfer. This requirement is a 'consultation' and not a requirement to hold a ballot as in the case of a voluntary transfer of engagements. We are required to have regard to the views expressed.

7.2 We are very conscious that Kincardine's tenants may be worried about the potential transfer and the effect on their tenancy and their homes. We agreed to appoint an experienced independent tenant advisor to lead on this work and ensure that the tenants were fully informed about the proposal and to gather their views.

7.3 We invited TIS and TPAS to bid for the tenant consultation work. TIS was successful. TIS has been engaged by many of the RSLs involved in voluntary transfers of engagements and so is very experienced in successfully delivering tenant consultation exercises.

7.4 We have engaged directly with Kincardine's tenants to tell them about our proposal to transfer their homes and the reasons for that. We provided advice about what the proposed transfer would mean for tenants. We then informed tenants about the consultation exercise, the timescales for the exercise and that TIS had been appointed to lead this on our behalf. We stressed that no decision would be made on the potential transfer until their views had been gathered and considered.

7.5 Consultation with tenants took place as follows:

- All tenants were advised that TIS would be attending Kincardine's AGM and tenants were encouraged to attend to hear about the about the proposed transfer and ask questions;
- Newsletter sent to tenants with information on the proposed transfer, ways to get involved in the consultation and advising tenants when TIS would be in their neighbourhoods to meet them;
- Freepost survey and prize to encourage tenants to complete the survey;
- TIS freephone information service throughout the consultation period;
- TIS attended Kincardine's AGM to engage with tenants;
- Door to door visits to all tenants homes; and
- Two local drop in events, one in the afternoon and one in the evening.

7.6 The consultation period lasted for 28 days and ended on 19 October. We are satisfied that tenants have been provided with good quality information about the proposed transfer and what that will mean for them and that a wide variety of methods have been used to encourage tenants to give their views including face to face contact with the tenant advisor.

## **8. Tenants views**

8.1 TIS has collated tenant views and their report is attached at Appendix 1. This shows;

- 38% (27) of tenants gave their views;
- 70% (19) of tenants supported the transfer taking place;



- 11% (3) of tenants were not in favour of the transfer.
- 8.2 Tenants who were in favour of the transfer support it because they were unhappy with the service provided by KHC, particularly in relation to repairs and investment. We know from our engagement with KHC that there are serious weaknesses in Kincardine's approach to the maintenance of tenants' homes and that it did not have a planned maintenance programme to keep tenants homes in a good state of repair.
- 8.3 Tenants also said there was limited interest in being part of Kincardine's Management Committee. Board will be aware that Kincardine only has five elected members and we were required to use statutory powers to increase the number of governing body members so it could continue to carry out its duties. At the recent AGM held on 27 September there were no applications from members to become part of the Management Committee other than from [REDACTED]. The application to join the Management Committee from the [REDACTED] had not been correctly made so was not accepted at the AGM. It is clear that there is little interest in joining the Management Committee from Kincardine's tenants and following the AGM it still did not have enough elected governing body members and requires the continued support of the statutory appointees.
- 8.4 Tenants in favour of the proposal also said they were happy with the services that they are getting from Grampian.
- 8.5 Tenants raised a number of issues they would like re-assurance about, including future rent increases and investment in homes. These issues have been addressed in the evaluation process and are therefore reflected in the bid from Grampian, so we can give assurance to tenants about issues such as future rent increases and investment in their homes.
- 8.6 Tenants not in favour of the proposal said they did not support the proposal because they believed Kincardine could continue if a new managing agent could be found and support was provided to help a new committee. Board will recall that Kincardine has been unable to maintain managing agent services because of its governance problems. When it tendered for a managing agent it received no bids. When we intervened we engaged with its then managing agent, Osprey, to encourage it to continue to provide services whilst we identified an RSL willing to provide managing agent services. We were successful in finding a new managing agent. We have no confidence that Kincardine could maintain professional relationships with its managing agent and ensure services to tenants are maintained without intensive support. In relation to developing a new Committee, Kincardine has been unable to find tenants with the skills and experience it needs to join and stay on the Management Committee. There is no evidence that tenants are willing to come forward to become part of the Management Committee other than one individual who, as set out above, has previously been suspended from the RSL. We have no confidence this option would be successful, Kincardine's tenants would continue to be exposed to serious risk. It would also require continued statutory intervention which would incur costs and deplete Kincardine's limited resources.
- 8.7 Tenants not in favour also suggested a constitutional partnership with Grampian as an alternative to a transfer of engagements. This option would require Kincardine to address its serious governance weaknesses and develop the governance skills and expertise to lead this change on behalf of tenants and function as an RSL thereafter. We have no confidence Kincardine can address its governance problems including developing the skills and expertise it needs. This option would expose Kincardine's tenants to serious and ongoing risks and require continued statutory intervention.
- 8.8 The majority of tenants who responded to the consultation exercise were in favour of the transfer taking place. We are confident that a directed transfer is the best option to address the serious risks to tenants interests and improve services. We recommend Board agrees to direct a transfer of Kincardine's assets to Grampian.
- 8.9 Tenants raised a number of specific questions. If Board decides to proceed with the directed transfer we will ensure our communication with tenants covers any issues of concern and the specific questions tenants have asked.

## 9. Risks and implications

- 9.1 **Financial** – we have incurred costs for legal advice and will require further legal advice. However we are already archiving our legal advice on potential directed transfer cases and we will ensure that this and our experience of dealing with KHC feeds into future cases of this nature.
- 9.2 **Legal** – we have obtained legal advice on this proposal to ensure that we are fully discharging our duties and working within our legislative framework. We have received advice throughout our engagement with KHC to guide our actions and will continue to do so. The legal advice we have received to date is reflected in the evidence we have considered and the approach set forth in this report.
- 9.3 **Environmental** – none.
- 9.4 **Equalities & Diversity** – we have carried out an Equalities Impact Assessment and this has informed the development of the tenant consultation process and supporting material.
- 9.5 **Privacy & Data Protection** – we carried out a screening exercise which led to a full Privacy Impact Assessment as we have had to collect data on Kincardine's tenants to allow us to carry out the consultation exercise. We have ensured that this data has been shared with third parties in accordance with Information Commissioner's Office Data Sharing Code of Practice.
- 9.6 **Communications & Media** – we anticipate there will be media interest because this could be the first directed transfer using the current legislation. We will develop a detailed communications plan to ensure the messages are managed.
- 9.7 **Reputation** – we have engaged with key stakeholders and will continue to do so. The successful management of the process and our communications is critical for our good reputation.



9.8 **For Regulated Bodies** – this will have a direct effect on KHC and the transferee landlord.

## 17. 30 October 2018 – Cover paper for Lessons learned from statutory intervention– the appendix is covered by exemptions set out in appendix A

### The Board of the Scottish Housing Regulator

**Subject:** Lessons from Statutory Intervention Cases  
**Purpose:** For consideration  
**Report status:** Draft  
**Agenda item:** 10/18 AG 9  
**By:** Michael Cameron & Ian Brennan  
**Meeting date:** 30 October 2018

---

#### 1. Background

When we first used powers of intervention, we gave a commitment to publish an account of each of the first three statutory intervention cases as well as a consolidated report which looked at lessons learned across the board from our work to date.

We published our report on the Muirhouse intervention in September 2016 with Wellhouse following in June 2017 and Molendinar Park in March 2018.

This is a draft of the consolidated report. It draws upon the three individual reports already published and also looks more broadly at our experience of using our powers of statutory intervention.

The report sets out our reasons for intervention, considers lessons for Registered Social Landlords (RSLs) and also incorporates consideration of lessons learned by the Scottish Housing Regulator in exercising these functions and powers.

#### 2. Recommendation

You are asked to consider the draft report and whether the key messages that we are proposing to deliver are appropriate.

#### 3. Risks and implications

**Financial** – There will be minimal cost arising from the publication of this report.

There will be a financial saving for RSLs and the Regulator if the key messages are heeded by regulated bodies as this should reduce the need for regulatory intervention and engagement.

**Legal** – We intend to ask our legal advisers for their comments upon the report prior to publication.

**Communications & Media** – We will use Ian Brennan's keynote address to the SFHA Finance Conference to launch this report. We will issue a news release, tweet, and use the themes in the report widely in platforms and other communications products (such as our SHR Update) over the coming months. The themes are very relevant to our Regulatory Framework dialogue.

**Reputation** – Delivering key messages about statutory intervention cases protects our reputation as a proportionate regulator which carries out its role in the manner set out in the Housing (Scotland) Act 2010 and our regulatory framework.

And setting out key messages in a clear and accessible manner will maintain and develop our reputation as a competent regulator. In particular we have found that this type of report has in the past been well received by ratings agencies, lenders and investors. So we consider that publication will assist in achieving objective 5 in our Corporate Plan 2015-18 (Help to maintain lender, investor and public funder



confidence in social housing).

**For Regulated Bodies** – We intend for the messages within the report to be considered by RSLs and acted upon as appropriate.

We know from experience that many RSL governing bodies will formally consider this type of report and this is particularly important at this time in the light of the consultation around our future framework.

In addition we will look to incorporate these messages within our dialogue with RSLs and representative bodies.

There are unlikely to be implications or messages for local authorities but we will consider this further at publication and beyond.

## 18. 30 October 2018 - Extracts Quarter Two Corporate Performance Report – the rest is not in scope or covered by exemptions set out in appendix A

We are delivering against most of our work plans. We have rescheduled some work to account for the continuing high volume of regulatory work, Freedom of Information and data protection requests, organisational change and resources required to review our Regulatory Framework. This is detailed within the report. We envisage that the pressure on our resource capacity will continue into 2019 and we will keep the Board updated of the impact.

Since the end of quarter two we have ended statutory intervention at Antonine and Ferguslie Park. Antonine transferred to Caledonia, so we refreshed Caledonia's medium regulation plan to reflect this. We refreshed Ferguslie Park's regulation plan to reflect the end of intervention and maintained its as high engagement. We will capture this fully in the Q3 report.

Statutory Intervention cases at end of Q2	RSLs	From	Total Homes	Board members	Stat Mgr	Failure in:
	Ruchazie	03/18	225	4	✓	Governance
Dalmuir Park	12/17	654	6 now 5	✓	Governance	
Kincardine	11/17	72	0 now 6	✓	Gov, delivery of services, protection of assets & management	
Wishaw & District	02/17	979	5	✓	Gov, financial & risk management	
Arklet	02/17	361	3	✓	Gov & financial management	
Antonine <sup>5</sup>	08/16	337	7 now 4	✓	Governance	
Ferguslie Park <sup>1</sup>	02/16	947	3 now 2	✓ now none	Governance	
Thistle	08/18	947	5	✓	Gov & financial management	

Planned regulatory work	RSLs	June 18	Sep 18	Plan Movement	Local Authorities
	High	8	9	• Wishaw & District remained high	High engagement/scrutiny with: Dumfries & Galloway, Glasgow, East Dunbartonshire & Shetland Councils On-going monitoring with 16 local authorities.
Medium	57	56	• Abertay remained medium		
Total RSLs with Reg plans <sup>6</sup>	65	65	• Thistle moved from medium to high as result of statutory action.		
RSLs with no Reg plans (Low)	93	93			

Sources	Reasons for engagement
Risk Assessment, data accuracy visits & notifiable events Allegations brought to us & whistleblowing Information from a managing agent	Misconduct, Breaches of & failure to manage code of conduct. Board and management incompetence. Poor control/conduct & understanding of conflicts of interest. Poor management / control of services.

Operating Plan work completed in Q2
Complete data sense & integrity checks
Re-tender the National Panel contract
Ensure new BI contract is in place
Review statutory appointees at Dalmuir Park

<sup>5</sup> Total includes 5 RSLs covered by a parent plan  
\* Non statutory co-opted Board member or manager support in place



Appendix B – Part 1 of request - Information provided FOI/15/00095 for 2018

Publish landlord reports & comparison tool
Publish national Charter report
Design annual report & accounts
Publish Public Services Reform compliance statement
Review statutory appointees at Wishaw & District
Commence restructuring
Lay before Parliament and publish annual report and accounts
Review statutory appointees at Ferguslie Park

**Work rescheduled**

- Review of SHR's engagement with the RTO network following network restructure will now follow on and be aligned to the new Corporate Plan
- We will carry out one instead of two treasury management reviews in 2018/19
- Produce FOI guidance has been rescheduled to complete in Q3.

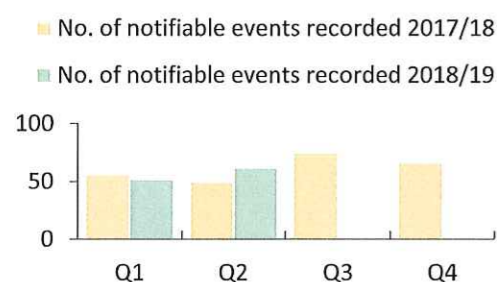
**New tasks added to the operating plan**

- Support potential appeal

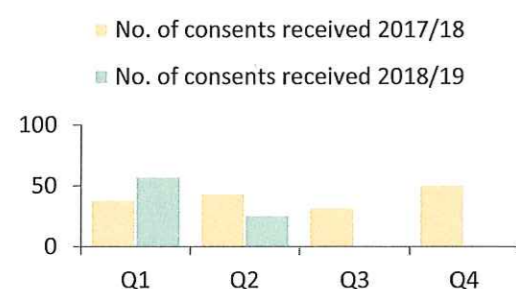
**Work at risk of not being completed in 2018/19**

- Design and launch new website

**Notifiable events**



**Consents received**



**Significant Performance Failures (SPF)**

During Q2 we received 3 reports of potential SPFs and assessed none as SPFs.

**Whistleblowing**

During Q2, we considered two new cases. One was a repeat of a case raised in Q1 and for the other an independent investigation is being carried out to enable us to consider steps to take.

**FOI/EIR/Data Protection requests**

We received 18 FOI/EIR/subject data access requests.

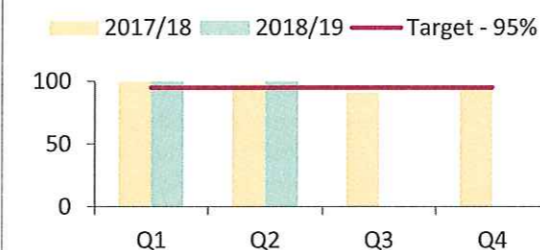
1. Seven cases concern three related parties and follow on from numerous previous requests, reviews & appeals.
2. Seven other cases relate to a potential appeal against statutory intervention.

We received three requests for FOI/EIR/Data Protection reviews. All in relation to point 1 above.

**Complaints about SHR**

We received 1 complaint about us in Q2, it was not upheld at stage one

**Consents processed**



**19. 30 October 2018 - Extracts Chief Executive Report – the rest is not in scope**

As part of our ongoing engagement with **Glasgow City Council** on its homelessness service, we will meet on 25 October with key people from the Board of the Glasgow City Health and Social Care Partnership – the body with responsibility for homelessness services in Glasgow. We will provide the SHR Board with an update on this at the Board meeting.

ONS confirmed on 28 September that it had reclassified RSLs as private bodies after the Scottish Government commenced the **Housing (Amendment) (Scotland) Act 2018**.



On 23 October we will publish the outcome of our assessment of landlords' achievement of the **minimum site standards for Gypsy / Traveller sites**. Our Chair will launch the report when he is speaking at the Holyrood conference Safe Homes for Scotland's Gypsy Traveller Communities.

## **20. 4 December 2018 - Extracts Outline approach to the Corporate Plan– the rest is covered by exemptions set out in appendix A**

### **The Board of the Scottish Housing Regulator**

**Subject:** Outline approach to the Corporate Plan  
**Purpose:** For decision  
**Agenda item:** 12/18 AG4  
**By:** Michael Cameron  
**Contact telephone number:** 0141 242 5561  
**Meeting date:** 4 December 2018

---

#### **1. Introduction & Purpose**

1.2 This paper proposes an outline for our next Corporate Plan for 2019-22.

#### **2. Recommendations**

2.1 The Board is asked to consider the outline attached at Appendix 1, and to agree this approach subject to any amendments it wishes to make.

#### **3. Contribution to statutory objective and regulatory priorities**

3.1 Our Corporate Plan sets out how we will deliver our statutory objective and what we think is important. It is an opportunity to communicate our priorities and how our work adds value.

#### **4. Communication plan**

4.1 We propose to publish our new Corporate Plan in April 2019. We will develop a communications plan for the launch. This will include a press release and promotion on our website and Twitter. We will also write directly to key stakeholders, and identify opportunities to communicate the Plan's key messages through speeches and other events.

4.2 A number of other publications will flow from the Corporate Plan, including new statements on how we promote equalities, and how we involve tenants and other service users in our work. We will set out timescales for these publications in our operating plan for 2019/20.

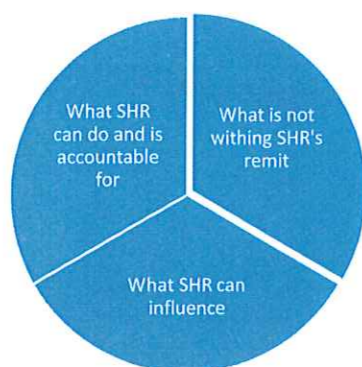
#### **5. Corporate Plan outline and next steps**

5.1 We have proposed an outline for the Corporate Plan at Appendix 1. This sets out a structure for the Plan and some of the headline messages. The exact wording of the messages will be developed further to reflect Board feedback.

5.2 At section 3 of the outline we have listed a range of risks to tenants, people who are homeless and other service users. Alternatively we could call them our priorities, depending on the Board's preferred language. These are based on previous Board discussions and feedback from the Framework Review discussion paper.

5.3 We will produce a pie chart for each of these risks, setting out what we can do, what we can influence, and what is beyond our control. The thinking from these pie charts will inform sections 4 and 6 of the Plan on what we plan to do and what success will look like. We will bring drafts of the pie charts to the Board's January Strategy workshop for discussion.





5.4 We will then draft the Corporate Plan for consideration at the Board's March meeting.

## 6. Risks and implications

6.1 **Financial** – there are no budget implications as we will design the Plan in-house.

6.2 **Legal** – no risks or implications.

6.3 **Environmental** – we will include a reference to our climate change duties in section 7 of the Plan.

6.4 **Equalities & Diversity** – the Plan will talk about our commitment to promoting equality and human rights. A new Equalities Statement will flow from it as explained in section 4.2.

6.5 **Privacy & Data Protection** – no risks or implications.

6.6 **Communications & Media** – section four sets out our approach to communications.

6.7 **Reputation** – our Corporate Plan is an important way for us to communicate what we do and how we add value, which is critical for our good reputation.

6.8 **For Regulated Bodies** – our priorities and plans for 2019-22 will be of interest to regulated bodies as they will inform our work with them.

## 21. 4 December 2018 - Extracts Outline approach to the Corporate Plan– the rest is covered by exemptions set out in appendix A

### The Board of the Scottish Housing Regulator

**Subject:** Approach to risk management

**Purpose:** For decision

**Agenda item:** 12/18 AG5

**By:** Iain Muirhead

**Contact telephone number:** 0141 242 5569

**Meeting date:** 4 December 2018

---

## 1. Introduction & Purpose

1.1 This paper sets out a range of issues around our approach to risk management for Board discussion and agreement of next steps.



## **2. Recommendations**

2.1 The Board is asked to consider the issues and questions set out in sections six and seven and agree next steps.

## **3. Contribution to statutory objective and regulatory priorities**

3.1 Effective risk management is an essential part of good corporate governance - identifying the most significant risks to achieving our statutory objective and prioritising our regulatory and corporate activities to mitigate those risks.

## **4. Communication plan**

4.1 Not relevant for this paper.

## **5. Background**

5.1 The Board considered risk at its strategy day earlier this year. Appendix 1 is an extract from the Board's discussion. The Board agreed the most significant areas of risks are:

- resources;
- credibility;
- expectations gap;
- resourcing compliance; and
- RSL insolvency.

5.2 The Board asked Executives to take account of its discussion in a review of the risk register, including a request that we:

- consider how to make the register more strategic by consolidating risks, perhaps drawing on the concept of enterprise risk management;
- think about introducing a risk about SHR failing to meet its statutory objective; and
- reflect on how to make the reputational risks less inward-looking and introduce a 'credibility' dimension.

5.3 We were working to a timetable of bringing this paper to the Board at its October meeting. That timetable was chosen because by then we would have completed the preparatory regulatory framework review work and launched our consultation. We rescheduled this item to the Board's December meeting due to a congested October agenda.

## **6. Risk issues to consider**

6.1 Our Management Team (MT) has considered the Board strategy day feedback and has reflected on how to reframe our risk register. MT's discussions over the last few months have drawn out some significant issues and choices for us. As such, rather than present to the Board a firm proposal for a new register, we have set out issues and questions in this paper for the Board to consider. Given the nature of the risks and the complexity of the issues we are keen to have a full discussion with the Board on the direction it would like us to take with the register and broader risk approach.

6.2 Appendix 2 sets out an initial draft set of new risks. We have not developed this into a full draft register because we want to give the Board the opportunity to discuss some fundamental questions first, which we cover in the remainder of this paper.

6.3 In the draft risks we have attempted to address the issues from the Board's strategy day, including:

- consolidating the risks into a much smaller number of more strategic risks;
- aligning with enterprise risk management principles, in particular taking a holistic, organisation-wide approach rather than a segmented, localised methodology; and
- introducing a more explicit focus on the consequences for tenants and service users.

6.4 **The Board is asked to consider whether the draft risks in Appendix 2 reflect its conclusions from the strategy day discussion.**

6.5 The Board will recall that until now we have organised risks into four categories: reputational, compliance, operational and financial. MT has considered a range of possible descriptors for a refreshed register. The early draft at appendix 2 uses three categories: capacity, credibility and compliance. We see some value in these categories, though there are alternative approaches to how we frame the risks, as described below, and we would welcome Board members' views.

6.6 Clearly capacity, credibility and compliance are not mutually exclusive. The issue of our capacity has been at the forefront of MT recent discussions of the risks we face. We have an unprecedentedly high level of statutory interventions and serious cases. Our regulatory work is to a significant extent 'demand-led' and we do not have complete control of managing the demand on us. Our regulatory framework proposals are geared towards prevention and addressing the core RSL governance weaknesses that underpin the challenges we face currently. But we know our changes will take time to have an impact.



- 6.7 The changing policy and political agenda and increased external expectations of and requirements on us also impact on our capacity. Services to people who are homeless and to Gypsies / Travellers, and public body compliance expectations are the most obvious examples here. In this context, prioritising our work translates into some difficult choices about some activities being rescheduled or not done.
- 6.8 The Board is discussing the Corporate Plan as a separate agenda item, and members will note that we have articulated a different type of categorisation of risks both in that paper and in the regulatory framework review. So, there are alternatives to the 'capacity, credibility and compliance' type of approach in terms of how we frame the risks.
- 6.9 For example, rather than using the labels proposed here (or similar labels), we could adopt *functional* risk boundaries, for example around risks to tenants rather than risks to SHR achieving its objectives. We could use categories such as services to tenants, homelessness services, Gypsy / Traveller services, governance, financial health. This would clearly be a departure both from our corporate risk approach to date and the approach the Board discussed at its strategy day.
- 6.10 More broadly, the timing of this paper fits well with our January workshop session on our corporate plan, as the two issues have a close relationship. The risk discussion should help bring to the fore issues that will be relevant and we can develop for our January session.
- 6.11 **We would welcome the Board's views on categorising risk for the corporate risk register.**
- 6.12 We need to decide whether to continue with **risk tolerance**. We developed and refined the concept of tolerance over a fairly lengthy period. It has helped us to consider risk strategically and is a tool that helps differentiate how we prioritise our actions to mitigate individual risks based on our appetite for each. That said, the question of whether our stated tolerance for each risk reflects our *actual* tolerance has been a recurring feature of Board discussions.
- 6.13 The proposal to reduce the number of risks significantly and frame them more strategically brings a question about the continued place of risk tolerance in our approach. With a smaller number of more strategic, organisation-wide risks, arguably there is less likelihood of a differentiation in tolerance across the risks, and the concept may have less value. On the other hand, retaining tolerance perhaps helps keep our approach forward-thinking and could continue to be a useful layer.
- 6.14 **We would welcome the Board's views on whether we should retain the concept of risk tolerance.**
- 6.15 The Management Team also considered the possible role of treatment plans in our future approach. Over the period of the current risk register it has become clearer that all of the work that we carry out is concerned with mitigating the risk to our statutory objective. Simply put if the work that we do is not effective in mitigating risk then it would be legitimate to challenge why we are doing it at all. In effect, the tasks and actions we set out in our annual operating plan are what we do to manage and mitigate risk. If we move to an enterprise approach and fewer, more strategic risks then treatment plans for individual risks become less relevant. So we are recommending that we discontinue specific treatment plans for particular risks.

## 7. Next Steps

- 7.1 Once we have the Board's views on these issues we will develop a new risk register and bring it back to the Board's meeting on 19 February for discussion. Alongside that, we will bring an updated risk management strategy, reflecting the Board's preferences on the issues set out in the paper, to the same meeting.
- 7.2 In the meantime, until we have a new risk register we will consider risk as part of our routine review of our operating plan at each MT meeting. We adopted this approach at our November MT meeting.
- 7.3 **We would welcome the Board's views on whether it wishes ARAC to consider risk at its December meeting in light of the discussion under this agenda item.**

## 8. Risks and implications

- 8.1 Given the nature of this paper this section is not relevant.



## 22. 4 December 2018 - Extracts Agenda management– the rest is covered by exemptions set out in appendix A

### The Board of the Scottish Housing Regulator

**Subject:** Agenda management  
**Purpose:** Discussion  
**Agenda item:** 12/18 AG 11  
**By:** Roisin Harris for George Walker  
Contact telephone number: 0141 242 5566  
**Meeting date:** 4 December 2018

---

#### 1. Introduction & Purpose

1.3 To describe what a consent agenda approach is and how it could work for SHR's Board.

#### 2. Recommendations

2.1 The Board is asked to discuss the approach and consider if it wishes to pilot it for the February and March Board meetings.

#### 3. Contribution to statutory objective and regulatory priorities

3.1 The aim is to maximise the agenda time that the Board spends on items for decision and streamline meetings. This will help the Board focus on regulatory priorities and statutory objective. It will also free up some Board time that can be used for other work including stakeholder engagement.

#### 4. Communication plan

4.1 The February and March meetings will be open to observers and Michael will provide feedback to all staff on how the approach is operating. The minutes of the February Board, which will be published towards the end of March will record a change in approach to external stakeholders.

#### 5. Options

5.1 The Board can continue with the current agenda format focussing on items for decision, information and assurance with time slots for each item. Alternatively the Board can pilot a consent based approach. The consent approach is explained in appendix one along with examples of how this could have been applied to December, October and August SHR Board agendas.

#### 6. Risks and implications

6.1 **Financial** – the Board may save meeting time and have time to focus on other aspects of SHR work.

6.2 **Legal** – none

6.3 **Environmental** – none

6.4 **Equalities & Diversity** –The Chair and Corporate Governance Manager would need to ensure that all members including any new members who join in April are comfortable and understand the mechanics. All members will need to actively engage and ensure that each member is acting in line with the approach and the Board as a whole is governing effectively and retaining appropriate oversight.

6.5 **Privacy & Data Protection** – none

6.6 **Communications & Media** – none

6.7 **Reputation** – It is essential that SHR maintains its reputation for good governance as this contributes to its credibility and ability to regulate effectively. The Board will need to be comfortable that any approach it takes to governance may be copied and put into practice within the sector that it regulates.

6.8 **For Regulated Bodies** – none



## Appendix One

### A consent agenda approach

A consent agenda is a board meeting practice that groups routine business and reports into [one agenda item](#). The consent agenda can be approved in one action, rather than filing agenda time on each item separately. Using a consent agenda can save time and be an efficient tool to help make productive use of meeting time when it's used appropriately.

A consent agenda moves routine items along quickly so that the board has time for discussing more important issues.

The types of items that appear on a consent agenda are non-controversial items or routine items that are discussed at every meeting. They can also be items that have been previously discussed at length where there is group consensus. The following SHR agenda items could be found on a consent agenda:

- Minutes
- The budget report (but not approval of annual budget, any in year budget decisions and the mid year budget review)
- CEO report
- Chair's report
- Committee reports such as ARAC update
- All items for information or assurance such as the Regulatory Framework Review Consultation updates

Mock up agendas for the last two meetings are appended to show how this might work for SHR. I have not included matters arising which could arguable be included to allow for some flexibility in terms of verbal updates.

### How does it work in practice?

1. The chair decides which items will be placed on the consent agenda. The consent agenda would appear as part of the normal meeting agenda.
2. Board members will see the agenda and associated documents a week in advance of the Board meeting.
3. It is suggested to notify the Chair up to the day before the meeting, but he will retain flexibility and consider on the day if any of the consent agenda items should be moved to the regular discussion items.
4. If a member requests that an item be moved, it must be moved. Any reason is sufficient to move an item. A member can move an item to discuss the item, to query the item, or to disagree with it.
5. Once the item has been moved, the Chair may decide to take up the matter immediately or create a discussion slot for the item.
6. When there are no items to be moved or if all requested items have been moved, the chair reads out loud the remaining consent items. The chair can move to approve and note the consent agenda. Hearing no objections, he can announce that the items on the consent agenda have been noted and approved. It's not necessary to take a vote or check consensus for the consent agenda items.
7. The secretary should include the full text of the resolutions, reports, and recommendations that were adopted as part of the consent agenda in the minutes.

If a board member needs clarification on a consent agenda item or if she or he just has a question, she or he should ask the appropriate member prior to the meeting. It's possible that other members have the same question. This should give the member being asked time to prepare an answer and distribute it to all members prior to the meeting. Consent agenda items shouldn't be pulled from the agenda just to have a question answered.

If a member disagrees with the consent agenda item or wants to move it to the regular agenda, the member would request that the item be pulled from the consent agenda. The chair would ask if the members are in favor of approving the consent agenda minus the pulled item, pause for objections, and then adopt the consent agenda as noted.

### Potential Risks

Problems in using a consent agenda can occur when members approve consent agendas without first reviewing documents. The result is that consent items can be hastily approved and result in a cover-up. For example, if members are not reviewing financial items, overspending or wrong spending can occur without appropriate oversight. Remember that consent agenda items are routine and non-controversial, but even routine items should be reviewed by the entire board. A diligent, well-rounded board holds each other accountable.

Transparency and accountability are key parts of using a consent agenda. All board members have a responsibility for making sure that consent agenda items are distributed in enough time to review them prior to the meeting. Each board member also has a responsibility to read and review consent agenda items and address any concerns prior to the meeting.