



## **Response to “Our regulation of Social Housing in Scotland” a draft regulatory framework**

**14 December 2018**

### **Introduction**

As the representative body for Scotland’s Local Authority Chief Housing Officers ALACHO welcomes the opportunity to respond to the Scottish Housing Regulator’s proposals to modernise its regulatory framework and in particular the way the SHR has undertaken the consultation process and the development of the revised framework.

ALACHO members have a significant interest in this issue arising from:

- Our responsibility for the prevention of homelessness and in delivering services to homeless people and others in housing need;
- our role as major landlords in 26 of Scotland’s 32 local authority areas;
- our role as strategic housing authorities with an interest in the functioning of the local housing market, housing conditions and their impact on housing needs and demands;
- our wider equalities duties; and
- Local Government’s role in promoting wellbeing for local residents and balanced and safe communities.

We hope that our comments and observations as set out in this paper will be of help in finalising the regulatory framework and in developing the SHR’s approach.

We are particularly pleased to see the prominence that has been given to equalities and human rights within the document. However, we have some concerns as to how this is to be given effect in a way that improves human rights outcomes across the housing system.

In framing our response, we have opted not to use the detailed questions set out in the published feedback questionnaire but rather to focus on the need to be clear about how effective the SHR has been in recent years and how the proposed framework will improve this in the future.

## Our Response

### 1. Demonstrating the likely impact of the new regulatory framework

In our response to the SHR's discussion document submitted in March 2018 we agreed that the overall approach proposed was sound but raised some specific concerns about emerging risks across the sector.

In particular we highlighted the following:

- emerging evidence of a risk to affordability in some parts of the sector. 32% of social housing tenants now pay over 30% of their net income on rent. This combined with evidence of the impact of housing costs on poverty generally and child and fuel poverty in particular represent a significant risk to the sector's ability to house low income households and support wider anti-poverty initiatives;
- value for money both in terms of rent and public subsidy in new supply; the sector needs to get better at demonstrating that it is making the best use of rent in the delivery of day to day services and public subsidy for the provision of new homes;
- The sector wide and organisation specific risks arising from the recent "return to growth" in many parts of the sector. Social landlords have for many years operated in a context of sector decline, largely the result of the right to buy. The ending of the Right to Buy has meant that the number of social houses in some areas has grown for the first time since the 1980s. This change brings with it the need for a deeper understanding of supply, access and demand issues if wider problems of low demand are to be avoided;
- Demographic change including a shift in the profile of social tenants to include a growing proportion of working age households and younger single people. These changes will require changes to the way services are delivered to meet the aspirations of these tenants and whilst some landlords have made progress in this area the sector as a whole has a long way to go in the adoption of technology in service delivery;
- The long-term decline in the number of lets available across the sector and its impact on the capacity of social landlords to meet the needs of homeless households and others in housing need;
- growing evidence and concern that equalities outcomes across the housing system including social housing and homelessness services are at best inconsistent and for some groups could be interpreted as indicating a level of systemic discrimination; and
- The need to strengthen the culture of openness and accountability across the sector, improving engagement with tenants and communities and the ability of landlords to listen to and respond to the concerns of tenants.

As things stand we are not clear how the revised regulatory framework will ensure that these issues are addressed.

Looking back over the past five years we are of the view that the SHR hasn't fully met its objective of protecting tenants and other service users. In particular we are concerned that the regulator has paid too little attention to evidence poor performance in relation to:

- The completion of adaptations;
- Fair access to housing association lets for those facing homelessness;
- Improving and extending services for Gypsy/Travellers;
- Responding to and supporting tenants facing domestic abuse;
- Equalities and human rights; and
- Growing concerns about affordability particularly for larger, family homes.

All of these issues have been highlighted in a series of reports and reviews including the work of the Homelessness and Rough Sleepers Action group, publications from the Equalities and Human Rights Commission and Scottish Women's Aid but have not, as yet, been clearly reflected in the work of the Regulator. Nor is it clear how the revised regulatory framework will ensure that these, and other emerging performance gaps will be addressed by the regulator.

## **2. Understanding risk- drawing on a wider perspective**

At 2.9 in the regulatory framework the main risks that the SHR will focus on are described as:

- poor outcomes for tenants, people who are homeless and other service users
- poor quality of tenants' homes and investment failures
- poor financial performance and management (for RSLs only)
- poor governance (for RSLs only)

Whilst we welcome the statements about equalities and human rights in the Draft Regulatory Framework at para 2.14-2.17 we are less clear how the SHR will ensure that its own work including its understanding of risk to, and impact on, service users is properly underpinned by a focus on equalities and human rights. What is not clear is how risks are being measured and compared.

In this we would contrast the strong focus the regulator has had over the years on gas safety and repairs completion times compared to the very limited focus on the widespread failures in completing disabled adaptations within a reasonable timescale or the very low percentage of lets to homeless applicants across the RSL sector and particularly in the areas where the local authority is no longer a landlord.

We are, of course not suggesting that gas safety isn't important, but we are very clear that in terms of outcomes for tenants, the risk from a late gas safety inspection is significantly different when compared to the impact of having to wait over a year for an adapted bathroom. An experience that is far too common across the sector.

Similarly we would argue that whilst an efficient and effective repairs service is important to all tenants, the impact on an individual of, for example, an average wait of an extra two hours for a repair is significantly less than the impact of the obstacles including, for example

rent in advance or demonstrating that they are “tenancy ready”, that some RSL have routinely placed in the way of the ability of homeless people to secure a let from an RSL. Practices that have been largely unchallenged by the SHR despite the restriction they place on “fair access” for those facing homelessness.

Whilst acknowledging that there are practical judgments being made in the way the SHR focuses the resources that are available to it we are never the less of the view that a more honest assessment of these gaps in regulation over the past five years would have been helpful in formulating a response that reduced the risk of them being repeated in future.

In this context we are of the view that a better understanding of the impact of services on wellbeing and a sharper focus on equalities and human rights within the overall assessment of risk on the part of the SHR would help in ensuring a better balance in the assessment of risk.

We would make a similar point in relation to the response of most social landlords to issues of domestic abuse. The current default position has been to signpost victims to local homelessness services. Putting them on a path that may do nothing for their personal safety but one that will almost certainly add to the trauma they face and deepen their disadvantage in the longer term.

Evidence of how inappropriate the current response is having been available for a number of years. The sector is at the earliest stages of developing improved practice guidelines but the SHR has made no effective intervention on the issue despite the evidence of a significant performance failure and its impact on the wellbeing of many tenants.

### 3. Conclusion

By way of a conclusion we would note that the First Ministers Advisory Group on Human Rights Leadership has recently published its report “Recommendations For a New Human Rights Framework to Improve People’s lives”<sup>1</sup>.

The report includes recommendations to put human rights leadership on a firm statutory footing including:

- The right to respect for private and family life, home and correspondence
- The right to an adequate standard of living, including:
  - right to adequate housing
  - right to adequate food
  - right to protection against poverty and social exclusion
  - right to the enjoyment of the highest attainable standard of physical and mental health
  - right to social security and social protection
  - right to take part in cultural life
- The right to a healthy environment

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<sup>1</sup> <http://humanrightsleadership.scot/wp-content/uploads/2018/12/First-Ministers-Advisory-Group-on-Human-Rights-Leadership-Final-report-for-publication.pdf>

The report also makes further recommendations on specific rights belonging to children, women, persons with disabilities, on race and rights for older persons and for LGBTI communities

In all these areas housing and housing related services will have a central role in ensuring that these rights are respected and sustained. The SHR needs to ensure that its regulatory framework including its understanding and prioritisation of risks properly reflects these changes in future.

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