

Respondent Information Form and Consultation Questionnaire

CONSULTATION ON THE PROPOSED APPROACH TO THE REGULATION OF SOCIAL HOUSING IN SCOTLAND

FEEDBACK FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

ALACHO (ASSOCIATION OF CHIEF HOUSING OFFICERS) & SHBVN (SCOTTISH HOUSING BEST VALUE NETWORK)

Title Mr Ms Mrs Miss Dr *Please tick as appropriate*

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3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (on Scottish Housing Regulator website)?

Please tick as appropriate Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public.

Are you content for your **response** to be made available?

Please tick as appropriate Yes No

Consultation Questionnaire

ALACHO / SHBVN Response

Question 1.

Do you agree with our proposed principles and approach to building a strategy for consulting and involving tenants?

Councils have long been at the forefront of involving tenants and other customers in service delivery, and have no problems with the principles of tenant involvement outlined in the consultation document.

This is particularly so following the introduction of the Housing (Scotland) Act 2001 social landlords have successfully built strong relationships with their tenants. The aim of the legislation was to develop a platform on which successful and meaningful tenant participation.

Yes No

How can we make sure tenants and others can contribute to our work?

As most councils are well aware, generating meaningful tenant participation in the delivery of housing services is not easy. Issues of (low) numbers participating, legitimacy of representation and quality of response are common. Moreover, tenants and others are more ready to become involved in issues of direct consequence to their lives. Consultation on more abstract matters, even when these concern scrutiny of their landlord, may not always attract a meaningful response.

SHR, in common with councils, should therefore pursue a variety of means to gather tenant opinion on council performance, from speaking with representative tenant groups to more consumer focused techniques. Councils will also be able to supply a range of information on what works in their area and in their services, and will look forward to responding in detail to the SHR's forthcoming strategy for consulting and involving tenants and others in their work.

Question 2.**Do you agree with our proposed approach to co-operating with other regulators and scrutiny bodies**

Councils are content that SHR will work through the joint scrutiny and shared risk assessment framework agreed with other scrutiny bodies. We believe this is the correct approach. Many councils believe there has been a burdensome and unproductive approach to regulation over the last decade and therefore the move to a more proportionate and risk based approach is very much welcomed. Those councils which have already engaged with SHR in utilising the principles of the new approach have given positive accounts of the experience.

In our joint response to the SSHC, ALACHO and SHBVN argued for a more streamlined approach to the data submission aspect of regulation and offered to engage with SHR to this end. In scrutinising performance, we believe it is possible to achieve a more efficient approach without sacrificing the agreed imperatives of transparency, accountability and customer involvement. We also believe that the principle of one body taking the lead in this area and keeping others informed is the best way of avoiding duplication in the submission and analysis of information.

Yes No

Are there any alternative approaches we should consider?

Question 3.**Do you agree with our proposed approach to involving landlords and other sector interests?**

ALACHO and SHBVN concur that positive relationships between SHR and representative bodies should be a key characteristic of a mature regulatory regime, and we look forward to playing a continued constructive role in this process as the new regime beds in.

As the body set up by councils to facilitate benchmarking and the sharing of good practice it would be helpful if SHR were formally to recognise SHBVN as a key partner in continuing and enhancing meaningful engagement.

Yes No

Are there alternative approaches we should consider?

Question 4.

Do you agree with our proposals on how we will identify risk in RSLs?

Identification of risk in RSLs is clearly, at least in part, a highly technical exercise, requiring the requisite skills, particularly in the financial arena. In this context, some ALACHO members have expressed concern about the ever increasing complexity of RSL funding packages, which on occasions now also involve local authorities as lenders, leading to a greater risk of failure, with consequent risk not only to local authority finances but also to strategic housing outcomes. In these circumstances it may well be appropriate for local authorities to be formal consultees in relation to RSLs with whom financial relationships exist.

Yes No

Do you have any additional comments to make on this topic?

See Q4 above.

Question 5.

Do you agree with our proposals on how we will identify risk in councils?

Most councils are likely to be broadly content with the proposals for assessing risk, subject to the proviso that data submission is kept to the necessary minimum and duplication of effort avoided. Councils are well aware that in future the key source of information for the SHR will be the SSHC. Consequently, it is important that the standards and outcomes outlined in the Charter are reduced in number, refined, and rendered fit for the purpose the Charter intends.

ALACHO and SHBVN believe that an opportunity exists to develop an agreement between SHBVN & SHR to share information where appropriate to help inform the identification of risk.

Yes No

Do you have any additional comments to make on this topic?

Question 6.

Do you agree with our proposed approach on regulatory engagement?

The proposed approach on regularly engagement for councils seems reasonable. For their part, councils would expect to play a full part in discussing the level of regulatory engagement proposed for their organisation, via the Assurance and Improvement Plan and its implications for housing services.

Yes No

Are there any other factors we need to consider?

Question 7.

Do you agree with our proposed approach on how we will enable tenants to raise significant performance failures with us?

Councils have no issues with the principle of empowered tenants as a key part of the proposed regulatory framework. Many councils have worked hard to engender just such a culture in their own activities. Moreover, any one of the three definitions of "significant performance failures" would certainly give rise to concern in any council where these circumstances existed, resulting we believe in remedial action being taken. Consequently, ALACHO and SHBVN believe that the incidence of such performance failures will be small.

We also believe most, if not all, councils will have in place demonstrably effective procedures for engaging with tenants and other customers at all levels of service delivery, from policy development to performance monitoring, and that effective procedures for dealing with complaints about service failure, and the provision of redress where appropriate, will be part of that process.

The efficacy of this particular procedure will depend to a great extent on the ability of SHR to deal sensitively and appropriately with representations from tenants regarding perceived significant performance failures. With this in mind, ALACHO particularly welcomes the emphasis put on encouraging tenants to sort out problems with their landlord in the first instance, an important proviso if a culture of this kind of complaint is not to become the norm.

We are also pleased to see the provision of a review after one year. This is a sensible contingency for a new and potentially contentious provision. We would hope to be involved in this review, even though we do not expect to be dealing with a large volume of cases.

Yes No

Are there other approaches we should consider?

Question 8.

Do you agree with our proposed approach on whistleblowing, notifiable events and the disclosure of information to us by Auditors?

Facilitating “whistleblowing” and responding robustly to any consequences of such a policy, is an accepted and necessary part of good governance. ALACHO/SHBVN have no problem agreeing with this provision. Although applying only to RSLs, the procedures on notifiable events and disclosure of information also seem reasonable.

Yes No

Are there other factors we should consider?

Question 9.

Do you agree with our proposals on self-assessment by landlords and tenants?

Councils have long argued for the regulatory regime to be risk based, proportionate, and based on effective self assessment. Many councils can demonstrate effective self assessment models which have delivered efficiencies and continuous improvement. For example, the majority of Scottish councils operate the PSIF model of service improvement, or something similar, and we are keen to build on this culture. We also accept that more must be done to share good practice to ensure that all Scottish local authorities can demonstrate similar improvement processes to the best.

On finalisation of the Charter, we would expect councils to seek to integrate their performance management frameworks with the Charter’s standards and outcomes as eventually agreed, to evidence the results, and to demonstrate how customers and other tenants have been involved in the assessment process.

Through SHBVN in particular, councils are by now well used to benchmarking and peer review. Many have achieved external accreditation for their service delivery and service improvement processes. To ensure efficient use of resources, we believe strongly that responding to regulation and scrutiny imperatives should be a “by product” of councils existing performance management and improvement processes, and we will continue working to this end with SHR and others.

As SHR will be aware, SHBVN is currently developing an enhanced approach to support councils to adopt a set self assessment principles and is piloting this as part of a joint project with Angus Council, and would be happy to share experience of this work.

Yes No

What other issues or factors should we consider in this area?

Question 10.

Do you agree with our proposals on how landlords should involve tenants and others in self-assessment?

ALACHO believes most councils will have no difficulty in accepting the principle that tenants and other service users should be involved in key aspects of policy development, service delivery, and performance monitoring, as set out in Section 3.18 of the proposals.

We are also pleased to see the document acknowledge that “one size fits all” prescription is not appropriate in this area and that **agreement between landlords and tenants** on a preferred approach to self assessment locally will be a critical factor in effective self assessment models. That said, we also see the need for common denominators of effective self assessment and performance outcomes, to facilitate sector wide comparison.

We also agree on the need to find ways of involving service users who are often more difficult to reach; such as gypsy/travellers, homeless people and owners. This is an area where the dissemination of **good practice approaches** is likely to prove particularly helpful. We would hope to see SHR view the identification and promulgation of good practice as a key guiding principle of the new regulatory regime. ALACHO/SHBVN would be more than happy to participate in this process.

Yes No

Are there any other factors we should consider in this area?

Most councils have effective arrangements in place for tenant involvement and key to this, as the document acknowledges, is the existence of a **range of opportunities** for tenants to get involved in the housing service. This will range from a wish merely to be kept informed of housing service issues, usually through regular newsletters, to a more intensive relationship with housing staff and elected members, through for example, participation in joint policy development and performance review groups.

The vast majority of tenants appear not to want the detailed, more intensive involvement that active tenants and representative groups both desire and expect. It is nonetheless equally important that councils find ways of assessing wider customer views of service quality, and of taking these into account in self assessment procedures. With this in mind, evidence which arises naturally as a by product of service delivery, such as the analysis of repairs satisfaction receipts, new tenancy surveys, homeless service exit

surveys, or generic customer satisfaction surveys, will be an equally essential component of self assessment procedures.

Question 11.

Do you agree with our proposals on landlords submitting Annual Charter Performance Reports?

ALACHO and SHBVN have no problem in principle with this proposal, though much will depend on the prescriptive elements of the report described in Section 3.26. Although the form of these annual performance reports is to be flexible, decided in discussion with tenants and other customers, and the basic elements of the report appear to be reasonable, we would hope and expect that the requirements of submission will not be too burdensome and negate the value of the report to its intended audience.

ALACHO and SHBVN have argued elsewhere that the regulatory data collection and submission burden on councils could be streamlined, and that the opportunity exists to do this. We would be happy to be involved in further discussions with the Regulator as to how we might jointly achieve this objective.

Yes No

Are there any other approaches we should consider?

Question 12.

Do you agree with our proposed approach to assessing and reporting on landlords progress against the Charter?

It is clearly not possible to comment definitively on this aspect of the new regime until the Charter standards and outcomes are finalised and SHR's guidance on the measures to be used in assessing compliance with the Charter is published. Only then can the resource implications for councils be assessed against the proposed approach.

Yes No

Are there any other issues or factors we should consider?

We note and welcome SHR's intention to keep to a minimum the level of data sought from landlords in completing the ARC. As we say above, this principle should be a watchword of the new regime. However, there is a risk that the ARC becomes overly complicated and, in addition to generating additional workload, causes confusion and perhaps even duplication.

Annual performance reports are to be published each in September and are clearly aimed at tenants and other service users. Yet, following validation of Charter information submitted by councils each May, the ARC is to be formally published by SHR in August each year, and is also to be made available to tenants, via the SHR website. So one report is to be followed very quickly by another of potentially similar content and intent. There is clearly a case to be made that the two might be better combined into one report. Publication of a single report in September would not only avoid confusion, but would also be helpful to councils in resource terms, as the compilation and submission of key service information by the end of May, within two months of the financial year end, will be difficult for many authorities to achieve.

Question 13.

Do you agree with our proposed regulatory registration criteria?

We agree entirely with the four primary regulatory registration criteria. Together with the not for profit criterion, they should provide valuable safeguards for tenants of social landlords.

Yes No

Are there any alternative or additional criteria we should consider?

Question 14.

Do you agree with our proposed de-registration criteria?

We agree with the proposed criteria for de-registration and particularly welcome the requirement that an RSL proposing to de-register must have consulted the relevant local authority, and that the views of the latter are to be taken into account in SHR decisions concerning the potential de-registration of RSLs.

Yes No

Are there any additional or alternative criteria we should consider?

Question 15.

Do you agree with our proposed regulatory Standards as set out in Annex A?

The six regulatory standards of Governance and Financial Management appear to form a comprehensive basis for the efficient and effective operation of RSLs. It is for RSLs themselves to comment on the potential efficacy of the standards and any additional burdens they might place on their staff and committees. However, the RSL sector in Scotland has developed an enviable reputation in terms of product and governance. Given the size and scale of the sector and the numbers who rely on it for housing, it is vital this is maintained. The regulatory standards should undoubtedly assist in achieving that aim.

Yes No

Do you have any additional comments on these Standards?

Question 16.

Do you agree with our proposed guidance on Regulatory Standards?

Here too it is primarily for RSLs to comment on the value of the guidance in aiding understanding and compliance with the standards. However, the guidance appears to be a helpful and thorough supplement to the standards.

Yes No

Do you have any additional comments on the guidance?

ALACHO and SHBVN are aware that some aspects of the guidance have stimulated much comment and debate among RSLs, particularly in the west of Scotland, namely requirements under Section 12 of the guidance for six year maximum terms of service for committee members, and the potential, for the first time, for their remuneration. Whilst we would not wish to comment on this directly, we believe that local authorities will want to see an efficient and well managed RSL sector, capable of acting as effective strategic partners. Competent and experienced committee members will be an essential part of this relationship. We would hope therefore that these issues are resolved soon and would hope that a compromise solution can be reached.

Question 17.

Do you agree with our proposed constitutional standards as set out in Annexe B?

The proposed constitutional standards, as with the regulatory standards, appear to be comprehensive in scope and effect.

Yes No

Do you have any additional comments on these standards?

Question 18.

Do you agree with the requirements set out in our guidance on RSL payment and benefits to governing body members and employees?

See our comments at Q16 above.

Yes No

Do you have any additional comments on this area?

Question 19.

Do you agree with our proposals on governing body members?

Our comments at Q16 apply.

Yes No

Are there any issues we need to consider here?

Question 20.

Do you agree with our proposal to work with the sector to develop a model code of conduct for governing body members?

This proposal would seem to be sensible, but it is clearly for RSLs to comment on how helpful they would find a model code of conduct.

Yes No

Are there any alternative approaches we should consider?

Question 21.

Do you agree with our requirements set out in our guidance around additional audit for some RSLs?

We are content to leave responses here to RSLs, though in risk management terms the proposal seems sound.

Yes No

Are there alternative approaches we should consider?

Question 22.

Do you agree with our proposals to conduct checks of a random selection of landlords to review information?

ALACHO agrees in principle with the proposal to conduct checks of a random selection of landlords to review information and would accept this as a common element of any scrutiny process. Councils are likely to include audit and quality control checks as part of their existing performance management procedures. They are also well used to audit of

statutory KPIs by external auditors, and so will be confident about the quality of the information which they provide to external bodies and its ability to stand scrutiny. However, as with other aspects of the new regime, the key will be in SHR demonstrating a proportionate and fair approach to random checks. They should not become a substitute for the streamlined approach to scrutiny, characterised by self assessment and risk analysis, which it is hoped will become the hallmark of the new regime.

Yes No

Are there other approaches we should consider?

Question 23.

Do you agree with our proposed approach to using our inquiry powers to gain additional information?

ALACHO/SHBVN do not expect the use of inquiry powers by SHR to obtain additional information to be a frequent occurrence, especially as councils become familiar with the requirements of reporting against the Social Housing Charter. When it is deemed necessary to utilise powers under this clause, we would expect this to occur only when the requirement for additional information had been clearly established, and other routes to obtain the information from councils explored. We are encouraged to note that should such a situation arise, ongoing dialogue with the council concerned will be a key feature of the process.

Yes No

What other approaches should we consider?

Question 24.

Do you agree with our proposed approach to using our inquiry powers to get more assurance and investigate matters of concern?

As we do not expect the use of powers to require additional information to be frequently invoked, it follows that, as this is an escalation under the same procedure, our view is the same.

We would expect councils to be aware of the problems and challenges facing their housing service and to have realistic plans and cost estimates for meeting such challenges. Only in the (in our view unlikely) event that a council was unaware of a problem in a relevant area (such as housing quality, financial management etc.) and/or had no plans for improvement, or was wilfully ignoring a critical issue, with

potentially adverse consequences on customer service, would it appear to us that the use of inquiry powers under this aspect of the regulatory proposals be necessary.

Clearly, it would be wasteful of resources (SHR and councils') to embark on potentially expensive inquiries where councils themselves had already highlighted concerns and outlined plans for improvement in the area(s) concerned.

Yes No

What other approaches should we consider?

Question 25.

Do you agree with our proposed approach to using our inquiry powers to inspect to hold landlords to account?

See our response to Q23 and Q24... as the power to inspect under this section signifies a further escalation of inquiry powers from those outlined above, it follows that ALACHO/SHBVN views are the same as on earlier stages in this process. We do not expect the necessity for this form of intervention to arise frequently, and in evidence would cite the absence of such interventions from regulatory activities over the last 10 years or so. In the exceptional circumstances where inspections are deemed necessary, we are content that these should be guided by the principles outlined in Para. 6.20 of the consultation document, subject always to the risk assessment and proportionality tests being satisfied.

ALACHO/SHBVN support the concept and purpose of thematic inspections, not only as a means of identifying and better understanding issues, but even more so as a means of highlighting good practice in the sector, from which others might learn. In this area SHBVN can play an important role in the provision of benchmarking and performance information, not only to inform the thematic inspections themselves, but also to reduce the burden of data provision on those organisations taking part.

Yes No

What alternative or additional approaches should we consider?

Question 26.**Do you agree with our proposals to do short notice or unannounced inspections?**

We acknowledge that in extreme circumstances the provision for short notice or unannounced inspections is a necessary safeguard for tenants and other service users. As with other forms of action taken under inquiries and information powers, with the exception of thematic inspections, we would not expect their use to be widespread.

Yes No

Are there any other factors we should consider?**Question 27.****Do you agree with our proposed approach to grading outcomes?**

ALACHO / SHBVN welcome the shift from the former grading system to one of verbal descriptors, using language identical to that used by other regulatory regimes. We agree that the change should not only help SHR conduct assessments which are more transparent; it also has the potential to provide better guidance to landlords on where improvement is deemed necessary. We also envisage that the change in emphasis may require the acquisition of new skills by SHR, and trust that this will be planned for and accommodated in the organisation's training and development plans.

Yes No

Are there alternative approaches we should consider?**Question 28.****Do you agree with our criteria for statutory intervention?**

ALACHO and SHBVN are in broad agreement with the criteria for statutory intervention. We agree strongly with the principle of proportionate intervention with graduated intervention powers, and wholly concur with the view that, wherever possible, the regulated body "should be given the opportunity to resolve problems or secure improvement itself " prior to intervention powers being invoked.

Yes No

Are there other criteria we should consider?

Question 29.

Do you agree with our proposed approach to how we will intervene?

We are in broad agreement with the proposed approach to intervention and in particular welcome the assurance that appropriateness and proportionality will characterise the new approach.

Yes No

Are there alternative approaches we should consider?

Question 30.

Do you agree with our proposals on what we expect regulated bodies to do following our statutory intervention?

We note the requirements placed on regulated bodies following statutory intervention and would expect any council in such a position to comply with these.

Yes No

Are there additional factors we should consider?

We also note the requirement for SHR to approve any information released by a council to tenants, staff, other key stakeholders and/or the media about a statutory intervention. It seems to us that in the event of a disagreement over the factual or evidence based content of such information, there needs to be some process for dispute resolution.

Where a performance improvement plan is required, or enforcement notice served under statutory intervention powers, we also note the requirement to publish these and send to RTOs, with the caveat that, should no RTO exist, the information should be sent to all tenants. If the purpose is primarily to disseminate information to tenants it would seem sensible to do this directly via a council housing newsletter or similar, rather than rely on distribution through RTOs, who may not have the capacity to do this.

Question 31.

Do you agree with our proposed approach to consenting to changes to RSL constitutions?

This is a technical area, probably best left to RSLs for comment. However, in instances where significant constitutional change is proposed by an RSL of systemic importance, SHR may wish to consider whether the appropriate local authority should also be notified.

Yes No

Do you have any comments on our proposed approach?

Question 32.

Do you agree with our proposed approach to consenting to RSL organisation changes?

Our comments in relation to constitutional change also apply to this question, indeed probably more so. We believe that the appropriate council(s) should be consulted as a matter of course when significant organisational change is being proposed by an RSL of local systemic importance.

Yes No

Do you have any comments on our proposed approach?

Question 33.

Do you agree with our proposal to increase the disposals covered by general consent?

ALACHO/SHBVN have no comment to make on this proposal

Yes No

Do you have any comments on this proposal

Question 34.

Do you agree with the proposal to increase the monetary limit to £100,000 for disposals through sale or excambion of social and non-social housing land, untenanted social housing dwellings or other assets?

We have no comment to make on this proposal.

Yes No

Do you have any comments on this proposal?

Question 35.

Do you agree with our proposal to permit through general consent disposals covered by an agreed disposal strategy?

We have no comment to make on this proposal.

Yes No

Do you have any comments on this approach

Question 36.

Do you agree with the proposal to permit through general consent disposals by granting of standard securities on the condition that we have sufficient assurance through our regulatory engagement?

We have no comment to make on this proposal.

Yes No

Do you have any additional comments on this proposal?

Question 37.

Do you agree with our proposal to continue the existing approach to giving consent to floating charges?

We have no comment on this proposal.

Yes No

Are there any other factors we should consider?

Question 38 (EQIA).

Thinking about the groups mentioned above, what else do we need to know about to help us understand their diverse needs and/or experiences and where can we get this information?

ALACHO/SHBVN strongly support and share SHR's objective of achieving better understanding of the needs and experiences of disadvantaged groups in our society. We believe the information needed to do this is best gathered at a local level as part of the needs analysis conducted for local housing strategies. SHR led thematic inspections also have an important role in this area. ALACHO in particular would be happy to discuss with SHR how our joint knowledge base relating to disadvantaged groups might be improved.

A group not mentioned above but which is subject to significant discrimination and poor treatment by landlords and letting agents is of course private sector tenants. We realise of course that the regulatory proposals are aimed solely at protecting and empowering social housing tenants and other users of local authority housing services. We would like to see SHR play some role, along with others, in developing effective safeguards and a protective regulatory regime for this steadily increasing, and often highly vulnerable, client group.

Question 39 (EQIA).

Do you agree with our conclusion that our proposed approach will promote equality of opportunity?

ALACHO/SHBVN broadly agree that SHR's approach to the regulation of social housing provides an opportunity to promote equality of opportunity. However, another key element of the proposals is to enhance tenants' role in evaluating landlord performance. In our experience, tensions sometimes develop between tenant priorities and the legislative or equalities imperatives which regulation seeks to uphold. Reconciling potential differences will be an issue as we begin to measure performance against the social housing charter.

Yes No

What else do we need to do to achieve this?