Glasgow and West of Scotland Forum of Housing Associations

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Ariane Burgess
Convenor
Local Government, Housing and Planning Committee
Scottish Parliament

Copied to:

- Alexander Stewart MSP
- Paul Sweeney MSP
- Michael Cameron, CEO, Scottish Housing Regulator

Dear Ariane

Committee session with SHR 17 December 2024

May I firstly thank you and the Committee for providing GWSF with the opportunity to appear on 3 December to give evidence about the Scottish Housing Regulator.

We listened to the subsequent session with SHR on 17 December with great interest. I'm keen to clarify the position on an important issue which both Alexander Stewart and Paul Sweeney brought up and to which Michael Cameron responded, and I have set things out as clearly as I can below.

Alexander Stewart asked the following question: 'Some evidence that we have received has been critical of the attitude towards community-based housing associations and the perceived merger culture. The forum gave the example of Reidvale Housing Association, which it said did not inform or consult tenants about an options appraisal process. It said that the regulator "simply let go" that breach of a regulatory standard. That was the perception.'

Michael Cameron gave the following reply: 'The 2010 Act sets out that an RSL that is proposing to transfer its homes to another landlord must consult each affected tenant and conduct a ballot or seek their written agreement to such a transfer, and the RSL must notify the regulator of the result of the ballot or the written agreement before transferring the homes. Therefore, an RSL has a legal duty to consult or ballot tenants when it proposes to transfer engagement to another RSL, but there is

no duty on an RSL to have that level of consultation with its tenants prior to proposing the transfer and undertaking a ballot. We set out in our guidance the requirements on landlords relating to tenant balloting and consultation. Reidvale Housing Association complied with that guidance. Earlier in the process, it notified us of its intended approach. At that time, we engaged with it and said that it would be good practice for it to engage with its tenants prior to taking the decision to propose a transfer.'

There are a number of what we believe to be misleading elements of this reply:

1. The reply focuses on the 2010 Act provisions on the requirement for consultation in the form of a ballot at the end of a transfer process, adding that no such consultation is legally required before that point. This is correct in legal terms. However, Mr Stewart's question, and the subsequent question from Paul Sweeney, did not relate to these legal provisions, but to the regulatory standard (number 7.3 in the Standards of Governance and Financial Management) which sets out that an association considering a major constitutional change must consult tenants and other stakeholders *before* any such decision is made.

2. Mr Cameron goes on to say that 'earlier in the process' SHR engaged with Reidvale and said it would be good practice to engage with tenants prior to deciding to propose a transfer. Our understanding is that this communication between SHR and Reidvale took place only after the transfer decision had been made and after GWSF had publicly highlighted the absence of tenant consultation and the fact that this was a breach of regulatory standards. Further, Mr Cameron refers to suggesting to Reidvale that such consultation was 'good practice', when in fact consultation prior to any transfer decision is a clear regulatory requirement.

3. We suggest it is, at best, inaccurate for Mr Cameron to claim that SHR's suggestion to Reidvale to engage with tenants was made *before* the transfer decision was taken. The transfer decision was taken at the end of April 2022 but the engagement Mr Cameron is referring to came significantly later than this, after the decision had been announced (May 2022) and GWSF had highlighted SHR's acquiescence in the breach of standards.

Why is this so important? SHR, whose primary objective is to protect the interest of tenants, knew at the time that there were no plans for tenants to be consulted prior to the transfer decision being made. For the last almost three years now, GWSF has highlighted SHR's failure to challenge Reidvale's blatant breach of regulatory standards as evidence of transfers sometimes being tacitly encouraged or influenced by SHR.

The Committee session was a further example of SHR continuing to try to deflect attention away from this failure and focus instead on the completely separate matter of legal obligations around the tenant ballot that happens long after the original transfer decision is taken.

If the Committee requires any further clarification on this issue please just let me know.

Yours sincerely

David Bookbinder
Director, GWSF