



The Scottish Housing Regulator's Consultation on the Revised Regulatory Framework from April 2019

GWSF response, December 2018

1 Introduction

1.1 On behalf of our 64 member associations, GWSF welcomes the opportunity to respond to the consultation. Our response has been drawn up following a number of membership consultation sessions, and after consideration by our Board.

1.2 We would be happy to discuss with SHR any aspect of our response, and note that the joint GWSF/SFHA/SHR working group, which has been inputting into SHR's process of developing some of the practical aspects of the proposed changes, will be meeting again in late January to discuss consultation responses and how these are being acted on. GWSF has welcomed the chance provided by this group to explore some of the practical implementation issues associated with the new proposals, particularly around the new requirement to produce annual assurance statements.

1.3 Our response addresses the main changes proposed to the regulatory framework and guidance, but we also comment on some aspects of the intervention process which relate to the use of existing intervention powers.

2 The importance of strong regulation

2.1 GWSF and its members welcome robust regulation. It enables us to demonstrate to tenants, the wider public, lenders, politicians and other stakeholders that our sector demands high standards of governance and services for tenants and is assessed against those standards.

2.2 From time to time there may be aspects of the regulatory system which concern us and which we want to discuss with SHR, for example where we may feel that elements of the implementation of the regulatory framework may not be proportionate. We welcome SHR's ongoing willingness to discuss these and other issues with us on a regular basis. Any such concerns we may have are generally raised in the context of our members' recognition that strong regulation is extremely important for the sector overall.

3 At a glance - the main points of our response

It is welcome that SHR acknowledges feedback that it needs to find ways of 'getting out more' and GWSF looks forward to discussing this further with SHR.

SHR should explicitly acknowledge that a key element of a 'strong tenant voice' is the tenants who serve on the committees/boards of community controlled housing associations.

Equalities and human rights issues lend themselves more to a good practice/learning approach than one of rigid regulation.

The proposed 'toolkit' approach to support landlords to meet regulatory requirements is welcome, and GWSF looks forward to contributing to its development.

Some governance standards are more clear cut than others, and so it would be helpful for SHR to produce a list of specific, minimum requirements it considers are needed to meet the key governance and financial management standards.

It is helpful that SHR has distinguished statutory guidance from advisory guidance, but statements relating to some guidance such as on business planning mean its status remains unclear.

On the revised governance standards we have made specific comments in relation to severance payments and annual appraisals for committee/board members.

In agreeing their annual assurance statements, there will be challenges for associations in deciding what is a material non-compliance, and so we welcome indications from SHR of a more supportive approach in the first year.

GWSF is keen to maintain a dialogue with SHR over the ongoing need to ensure that, because of the crippling cost of statutory action, this is not triggered unless all other potential alternatives have been properly considered.

Greater transparency over the financial costs of statutory action is needed.

The guidance on what to do when a senior officer is leaving requires further revision in relation to references to committees/boards 'considering their options'.

GWSF welcomes the reduction in the number of Charter indicators, albeit noting that some associations may wish to continue monitoring some of these for their own purposes. We have made specific comments on a number of amended indicators.

4 The overall approach to how SHR regulates

4.1 GWSF is broadly happy with the summary, in section 2 of the main Regulatory Framework document, of how SHR intends to regulate. Below under section 9 ('Taking action where this is needed') we highlight some current concerns the Forum has about how SHR reaches decisions to trigger statutory measures.

Finding new ways of engaging with the sector

4.2 We note that the revised section 2 of the regulatory framework does not comment on potential new ways in which SHR might engage with the sector. In the main consultation document, though, it is welcome that SHR acknowledges feedback that it needs to find ways of 'getting out more'. This was a point made by GWSF and others in the response to the original discussion paper, and we welcome the commitment to exploring this further. This need to improve contact with the sector is especially important in view of the fact that a significant proportion of our members tell us they would be hesitant about contacting SHR for informal advice about a particular issue.

4.3 On top of what we understand may be increased one-to-one contact in the form of SHR visits to individual associations, GWSF believes there could be a number of opportunities for constructive face to face engagements between SHR staff and different groups and forums of housing associations/social landlords, for example over specific issues which are topical at the time. Such forum-style discussions could look at how SHR assesses performance in a particular area, and at what issues and challenges associations face in achieving high standards of performance/compliance in that area.

Promoting a strong tenant voice

4.4 It may not be deliberate but it does sometimes seem that SHR sees tenants as recipients of a service and waiting to be offered opportunities to influence how their landlord makes decisions. In community controlled housing associations, tenants generally make up the majority of the committee/board and, therefore, are running the association. This does not of course mean that there should not be chances for the wider body of tenants to be involved in the association's decision making if they want to be, but it can sometimes be exasperating not to see the role of tenant committee/board members more openly acknowledged by SHR.

SHR's approach to equalities and human rights

4.5 We recognise that SHR has had discussions with the Equality and Human Rights Commission about how social landlords meet their equalities and human rights

duties. SHR's wish to put more emphasis on this area probably reflects a broader trend for such issues to be more prominent now than was previously the case.

4.6 Our members will always be keen to ensure that they are doing all they can to meet their legal duties positively. That said, this issue does throw up some particular challenges. One is that it can be easy to talk in quite vague, non-specific terms about meeting equalities duties. We accept that it is important for all housing associations to have a positive approach to the principles around equalities and human rights, but it is more helpful to practitioners when specific issues are being considered – such as access to housing for disabled people, dealing with domestic abuse, or tackling harassment or hate crime, for example.

4.7 Another challenge has always been around the requirements on associations to collect equalities data, when sometimes they may not be sure whether and how best to use it to inform policies and service provision. There are also understandable reservations among members about the low response rate from tenants/applicants etc. to certain questions and around the validity of the results from, for example, asking people if they consider themselves to be disabled.

4.8 There is perhaps an assumption from some agencies that associations cannot meet their equalities duties if they do not collect this data, but GWSF believes this is not clear cut. For example, it is possible for an association to have policies and practices which respect and are sensitive to the needs of lesbian and gay tenants without needing to know which tenants, and exactly how many tenants, are in this category.

4.9 There appears to be a lack of clarity over how collection of personal data can be done in such a way as to meet GDPR requirements, and guidance on this from SHR would be extremely helpful.

4.10 Another risk is that regulatory expectations around meeting equalities duties can result in mechanistic rather than meaningful processes, for example around the need to produce equality impact assessments of each policy. Such assessments become meaningful when they are seen as an integral element of creating or reviewing a policy rather than something tacked on to a policy at the end of the process.

4.11 We believe that many equalities issues lend themselves to an approach based on sharing good practice, rather than a more rigid regulatory approach. We know members would welcome further guidance and the opportunity to learn from how organisations across the UK have met their equalities duties and positively promoted equalities, and we welcome indications from SHR that the proposed toolkit could helpfully cover equalities issues.

A 'toolkit' approach to sharing good practice

4.12 GWSF welcomes the commitment from SHR to lead on a toolkit approach and to work with the sector, including GWSF, SFHA and others such as Scotland's Housing Network and HouseMark Scotland, to develop the toolkit as an ongoing project. Such an approach to sharing good practice and enabling associations to learn from each other will be widely welcomed. Some practical issues around the understandable need for membership bodies to restrict access to their products to their paying members may need to be addressed (as an example, this has been an issue in relation to revisions to the Model Rules, which non-SFHA members do not receive).

5 The new/revised regulatory requirements

5.1 It is helpful that all the regulatory requirements for landlords have been moved into one place in the draft framework.

5.2 Some of the requirements are clear and 'black and white' and easy for associations to assess compliance with – for example the requirement to have details of committee/board members on the association's website. Others are less clear cut – not least the full set of governance and financial management standards: these are clear as a set of principles, but it may not always be as clear cut whether an association is adequately complying with a given standard. We think it would be helpful for SHR to produce (through consultation with GWSF and SFHA) a list of specific, minimum requirements it considers are needed to meet the key governance and financial management standards. This is something we come back to in our comments below on annual assurance statements.

5.3 With regard to the requirement to put details of committee/board members online, this is obviously important in terms of demonstrating openness and transparency. However, some members have indicated that there may be occasional instances where noting the name of a committee/board member on the website may potentially compromise someone's safety – for example where someone does not wish a violent ex-partner to know that they live in the area. For community controlled housing associations (and even more so for those that are fully mutual co-operatives), this is a particular concern as most or all of the committee/board members will be living in the association's (often very small) area of activity. We assume that SHR, with a mind to associations meeting their equalities and human rights duties, will be happy for associations to exercise discretion on this sensitive issue.

Statutory guidance v advisory guidance

5.4 It is welcome that SHR is seeking to be much clearer which of its guidance is statutory and which is advisory, as within the current framework there has been a degree of confusion over this. Some associations have been criticised by SHR for not adhering to guidance – most notably on business planning – which has the status of advisory ‘recommended practice’. This guidance is advisory only, and has not been through the formal consultation process in place for statutory guidance.

5.5 There may, though, still be some way to go to get this distinction right. Under ‘business planning’, at para 8.7, the draft guidance on Notifiable Events repeats the following statement from the current guidance (GWSF’s underlining):

‘If the RSL’s business plan is not up-to-date or does not meet our recommended practice, we would expect the governing body to consider the future of the RSL by carrying out a strategic options appraisal.’

5.6 Given that SHR is seeking to make a clearer distinction between its advisory and statutory guidance, and that the business planning guidance is not statutory, it would appear that the highlighted statement is inappropriate. Also unclear is the statement (in para 8.5) that RSLs should ‘have regard to’ the guidance: what does this mean? If this remains unclear it leaves too much leeway for SHR to come to what may seem like subjective judgements about individual associations’ business plans.

6 Revised standards of governance and financial management

6.1 GWSF recognises that many of the proposed changes to the standards are relatively modest changes of emphasis rather than being new standards. We have noted some observations on a small number of the changes below.

Severance payments - new standards 5.7 and 5.8

6.2 GWSF recognises why the revised standards include a reference to severance payments. It is appropriate that associations, as with any other employer, continue to have discretion to use these where judged in the best interests of the association, but excessive use of them can be a sign of broader problems. There are, though, some practical issues we would want to raise.

6.3 Standing Orders may vary between different associations, and it may be more appropriate for the standards to require that severance payments are approved in line with Standing Orders, rather than simply ‘approved by the governing body’.

6.4 GWSF recognises that it would not be acceptable for a committee/board to have no knowledge of severance payments being made, but there are important issues of internal confidentiality to take on board here. We believe it should be sufficient for the committee/board to know that a payment has been made in accordance with the policy, and how much the payment is. The name and position of the employee should *not* be provided to the committee/board, unless required by the Standing Orders.

Succession planning for new committee/board members – new addition to standard 6.1

6.5 GWSF welcomes the additional emphasis on the importance of succession planning for new committee/board members. It is clear that the absence of such succession planning has occasionally led to a lack of turnover which can lead to apathy or unwillingness to challenge existing chairs and other long serving committee/board members.

6.6 In the longer term, GWSF would welcome an exploratory discussion with members and with SHR about the current requirements in terms of the size of committees/boards. Some members have asked whether slightly smaller committees may be appropriate as long as this does not signal any relaxation in the importance of ensuring the right balance of skills and experience and the right level of succession planning.

Annual performance reviews for all committee/board members – new standard 6.3

6.7 Ensuring the right balance of skills and experience among committee/board members is obviously important for all associations. As worded, though, this requirement may seem unduly 'heavy'. It was helpful to hear SHR state (at the joint GWSF/SFHA consultation session on 7 November) that one way of meeting this requirement could be to have an informal discussion with all committee/board members annually, with a more formal appraisal-type process every three years. This would seem sensible and proportionate and could be done in line with the three-yearly standing down process for each member. In light of this we would ask that the wording of the new standard be amended to take on board this more proportionate approach.

7 Annual assurance statements

7.1 GWSF members generally have no in-principle objection to the introduction of annual assurance statements, and generally recognise that the statements are seen as the final stage of a broad, year-round process of ensuring that committees/boards are on top of how the association is performing and meeting key standards.

7.2 It is of course right that committee/board members feel they have the right assurance about compliance with legislative and regulatory requirements and standards, and that they feel they can challenge senior staff where they are not yet happy that they have such assurance. At a time when many associations are in a process of succession planning and seeking to attract new committee/board members and retain them, a challenge for our sector will be to ensure that the overall self-assessment/self-assurance process is meaningful, genuinely stimulating and informative: no association wishes to make its committee/board members feel they are floundering in compliance-related bureaucracy.

7.3 Members have raised some questions about the detail of how assurance statements might work in practice. SHR has sought to provide some guidance on its expectation that only 'material' compliance failures should be highlighted. This is helpful, but GWSF's sense is that there is still a degree of uncertainty among some members about how to assess (a) whether a requirement or standard has been complied with in the first place, (b) whether any failure is material, and (c) whether individual non-material failures could be deemed to be material in combination with others.

7.4 One reason for this uncertainty is that whilst some requirements are very clear and unequivocal, many of the standards of governance and financial management are high-level principles, compliance with which is often not at all black and white and may involve some subjective judgements, as the guidance acknowledges. The sector has never had any kind of structured dialogue with SHR about how the full range of standards can be achieved: to have done so would have carried the risk of a degree of prescription not likely to be welcomed by associations. So assessing compliance with the more subjective standards can never be an exact science and, ideally, SHR would take issue with an association only where a clear, objective standard has not been achieved or complied with.

7.5 This is why (as in para. 5.2 above) we have called for SHR to produce, through consultation with GWSF and SFHA, a list of specific, minimum requirements it considers are needed to meet the key governance and financial management standards.

7.6 It is perhaps inevitable that there will be some uncertainty around 'confessing' to compliance failures. Some associations may choose to contact their regulation manager to seek advice on a compliance issue, whilst other associations have indicated reticence about doing this. For this reason, we very much welcome that SHR has signalled, during consultation events, that it will take a 'softer' approach to assessing assurance statements in the first year, and will aim to augment the proposed toolkit by providing further guidance based on the experience of the first round of statements being submitted and assessed.

7.7 In the meantime GWSF would be hopeful that the very act of an association acknowledging that a standard is not being achieved, along with its commentary on the action being taken to address the issue, will lead to a reasonable approach from SHR when considering the failures as part of its overall risk assessment for an association.

7.8 The Forum recognises that one aim in introducing the requirement to produce annual assurance statements is to improve the chances of associations – and in particular their committees/boards – identifying problem areas which might otherwise have continued to go unidentified and/or unchallenged. It remains to be seen whether the process will change behaviours in what we believe is a very small minority of associations where there may be significant failings which are not recognised by either senior staff or the committee/board. If the process does not by itself change behaviours and raise self-awareness in an association, its assurance statement will leave SHR none the wiser about the problems, unless other aspects of the risk assessment process (or alerts from internal audit or whistle blowing etc.) bring these to light.

7.9 There will be some timing issues for members around the respective production of their annual reports, Charter reports, annual assurance statements and the holding of their AGMs. It is understandable that associations will want their assurance statements to be informed by the latest Charter data, which is normally published by SHR around the end of August. Any steps SHR might be able to take to release Charter data sooner than this will help associations meet the timing challenges they face over the late summer/autumn period.

7.10 The draft guidance on assurance statements says that the statements must be informed by tenant feedback. It is hard to imagine any circumstances in which this could be otherwise, given that a number of Charter outcomes are measured explicitly by tenant feedback. If SHR has broader types of tenant feedback in mind it might be helpful to expand on this in the guidance.

7.11 In avoiding a prescriptive template but offering some suggested wordings for the format of assurance statements, we believe SHR has struck the right balance. It is certainly the case that offering no suggested wording would have added further to what will already be an uncertain process for associations in the first year.

Internal audit

7.12 In confirming the expected new requirement for all associations to have a process for internal audit, GWSF welcomes the fact that SHR has not sought further prescription about exactly how the process is managed (an approach that is consistent with SFHA's recent guidance on internal audit). We know, for example,

that many of our members have, or plan to have, an audit committee, but structural decisions such as on this point should rightly be left to each association.

7.13 Similarly we welcome the important discretion associations will have to decide what sort of internal audit expertise to use for what purpose. Some associations have expressed the view that they might not use a single firm/consultant to carry out their entire internal audit process and instead use recognised experts in particular fields – for example if their development function or governance processes were being audited.

7.14 There are some anxieties within the sector about whether there are sufficient, suitable consultants to take on the additional services which some associations will now require, and this is something we will be keen to monitor over the coming months.

8 An engagement plan for every landlord

8.1 GWSF is generally supportive of the proposal to issue an engagement plan for every social landlord. This addresses the fact that under the current system, some regulation plans are issued not because of any fault on the association's part but because, for example, it has a subsidiary or a new/expanded development programme.

8.2 There may well be some practical issues thrown up in the initial stages of implementing this new approach, and GWSF would expect to be discussing any such issues in the normal course of its regular meetings with SHR.

9 Taking action where it is needed

9.1 This part of the regulatory framework document reasserts SHR's existing intention that regulation should be risk-based and proportionate, and feedback from many of our members suggests this is the experience they have of the regulatory system.

9.2 From time to time, though, some other member associations indicate to us their belief that a regulatory action may not have been proportionate, and has been inconsistent with the declared intention to – for example – 'give landlords the opportunity to improve where there are problems'.

9.3 It will continue to be crucial for SHR to resort to taking statutory action (in the form of committee/board and statutory manager appointments) only where there is no viable alternative for dealing with the challenges an association is facing. The additional financial impact of imposing statutory action can be as destabilising on an

association as the original problems themselves, as illustrated by the example below.

9.4 The Forum generally understands why statutory measures have been taken in most of the instances reported by SHR in its regulation plans and associated announcements in recent years. Whilst recognising that the particular circumstances of individual cases are always unique, and acknowledging that SHR cannot of course discuss individual cases with us, we do have concerns over a current case where we believe that statutory action may have been taken prematurely and in a disproportionate manner. On top of the usual high costs of paying for the statutory manager, the action will trigger the repricing of a loan which will cost tenants more than £2.5 million over the next 10 years. In cases such as this, if SHR is to convince itself and others that its action is nonetheless in the best interests of tenants, it needs to be certain that no other alternatives to statutory action are available.

9.5 There is a sense that when SHR perceives there to be serious problems within an association and engagement levels are ramped up, there is a momentum which can be hard to slow down, with some associations having a feeling of 'rabbit in the headlights' as events unfold, often very quickly. We recognise the importance of SHR having the powers to act quickly where this is deemed necessary, but think there could be some adjustments which would broaden the options for dealing with situations where serious problems have been identified in an association.

9.6 One idea, which may just be a formalisation of the SHR's existing approach, would be for a time-specific 'improvement notice' (or something along these lines) to be issued which required specific problems to be resolved within a particular period, the length of which would depend on the nature and severity of the problems. This would be a clear stage, ahead of any statutory action being triggered, but with SHR retaining the power to trigger statutory action after (or even, in extreme cases, during) the notice period.

9.7 A similar and related suggestion is that where immediate viability is not in question, there could be some kind of 'breathing space' or 'cooling off' period which would allow measured decisions to be made on whether any realistic alternatives to statutory action might be available. We are not convinced that statutory measures, with all the financial penalties they bring, are necessarily always the best way forward when alternative, less draconian measures may be just as effective – or more effective – in supporting the association to deal with its challenges. This is not about associations not facing up to the seriousness of the situation, but about assessing whether, in some cases, there may be alternative ways of addressing the challenges, at least for a trial period and in such a way as to fully retain SHR's powers to take statutory action where it chooses to.

9.8 One option which may be open to some associations is not only to make co-options to the committee/board but to also engage external managerial input to work alongside and support existing senior staff. Such managerial support would in no way be equivalent to a statutory manager as this would be a voluntary appointment by the association, but it may in some cases be enough to help the association deal with its problems and avert the need for statutory action – albeit the statutory action could be triggered at any point if deemed by SHR to be necessary and urgent. GWSF would be willing to explore how it could assist associations to identify such sources of support where it is needed.

9.9 Having discussed this issue with SHR in early December, we understand SHR's view that in each case it ultimately comes down to its judgement as to whether an association has the willingness and capacity to deliver the necessary changes. It remains important, though, that an association can legitimately question aspects of the intervention process without this always being deemed to be obstructiveness or denial of problems.

Transparency over statutory appointments

9.10 Statutory managers clearly have a critical role in supporting associations to address the problems they face, and a number of our members report positive experience of receiving such support for the long-term benefit of the association.

9.11 In some cases, though, despite the remit being published, the precise remit of a statutory manager can be unclear, not least to the committee/board and staff of an association. Day to day monitoring of the role of a statutory manager can sometimes appear to fall between the association's committee/board and SHR. This can lead to uncertainty, for example over the respective roles of the manager and senior officer (or interim senior officer) where both are in place, and confusion too over the extent to which the manager themselves will be conducting reviews (such as governance reviews) or commissioning other consultants to do this. In each individual case, the greatest possible clarity around the role of the statutory manager is incredibly important in order to reassure all parties that the manager will achieve specific outcomes in as cost-effective a manner as possible.

9.12 In relation to how statutory managers are appointed, there is some helpful information on the SHR's website, but GWSF remains of the view that the criteria for selection of managers is unduly restrictive, most notably with the requirement that a prospective manager must have served as an interim director in another association. This unnecessarily excludes experienced senior officers who may well have dealt with difficult challenges in their own association(s) and have valuable experience of leading and supporting associations in Scotland.

9.13 There appears to be rather less information available about how SHR makes committee/board appointments. GWSF is very happy that experienced staff and committee/board members from community controlled housing associations are willing and able to act as appointees in support of associations which are encountering serious difficulties. But the overall process for selecting appointees does lack transparency, both in terms of how individual people are identified and in terms of how an appropriate balance of appointees is identified for a particular association.

Transparency over the financial cost of intervention

9.14 Whilst we would not question the need for regulatory intervention in most of the cases we are aware of in recent years, there are legitimate concerns in the sector about the costs: both how much the costs are and whether there is sufficient transparency over them. This applies both to the direct costs of statutory managers and other consultants and the indirect (but often crippling) costs of repriced loans etc.

9.15 Almost any kind of remedial action will lead to costs being incurred: this is the price paid for poor management or governance over what might have been a long period of time. However, controlling and accounting for such costs can sometimes appear to be lacking, with statutory managers appointed by and responsible to SHR but potentially without sufficient oversight of the costs being incurred. A vulnerable association, and in particular its committee/board, is unlikely to feel confident enough to challenge what costs are being incurred.

9.16 SHR may take the view that the costs are a private matter for each association, but we think the sector would not find it unreasonable for SHR's reports of statutory action to detail the overall costs incurred in each case. Apart from anything else this will act as a salient warning to associations that the price to pay for poor management or governance is usually a high one.

SHR's role in relation to associations' structural options

9.17 GWSF acknowledges that SHR continues to assert that it has no 'merger agenda' and that its only role is to deal with challenges in individual associations and ensure tenants' interests are to the fore. We also recognise that by far the greatest threat to the continuing independence of community controlled housing associations is poor management, weak governance or anything else which is likely to bring serious regulatory intervention.

9.18 Nonetheless we believe that there may be elements of the statutory intervention process which, at what is obviously a difficult and vulnerable time for an association, can influence it in the particular direction of merger/partnership. Again recognising

the positive experience some associations have had in terms of the role their statutory manager has carried out, a few member associations have reported their concern over some statutory managers who appear to have brought with them preconceived views on the merits or otherwise of smaller associations. We appreciate that any individual will bring with them a particular background and set of experiences, but it is extremely important that statutory managers support associations to find the best way of dealing with the problems they face, without any bias in favour of one particular structural option.

9.19 GWSF believes it is not unreasonable for all statutory managers and appointees, and SHR itself, to start off from a default position that retention of an association's independence is the assumption, unless there are serious financial viability issues or other highly exceptional circumstances. This is not intended as a straitjacket, as the circumstances of every individual case will always be different. But particularly where an association provides good services to tenants and is in good financial health, the role it has played in its community for what might be 40 years or more should not be given up without the clearest possible demonstration that structural change – including local control over the association's assets – is in the best interests of tenants.

9.20 It would be accurate to say that tenants are not consulted at every stage of the process of deciding whether to seek a partner and then, where applicable, choosing the preferred partner. GWSF fought hard to ensure that legislative provisions for ballots in merger/group structure arrangements were introduced and then protected. But we must acknowledge that ballots take place only at the final stage of the process, with a decision to seek a partnership long since made. This shortcoming makes it even more important that any decision to give up independence is taken only with the greatest care.

10 Revised guidance on notifiable events

10.1 We have already made comments above on the reference (in the Notifiable Events guidance) to the SHR's business planning guidance and on notifying SHR about severance payments.

10.2 Additionally we would note the new requirement on associations to notify SHR if a local council raises concerns about the association's homelessness performance. GWSF would ask whether any provision is being made for a local authority to notify SHR if a housing association raises concerns about the council's homelessness performance.

10.3 On the same issue we would also assert that the requirement should apply only where one party believes the other's homelessness performance is of sufficient

concern to warrant putting those concerns in writing. It is not sensible for either party to be left wondering whether a passing comment in a telephone call or at a meeting constitutes a notifiable event.

10.4 It has always seemed odd that SHR guidance on what an association should do when the senior officer indicates they are leaving is contained in the notifiable events guidance. Beyond the obvious statement that this is a notifiable event, the rest of the guidance would be more appropriately located elsewhere, for example in the business planning guidance (notwithstanding the lack of clarity over the status of this).

10.5 Regardless of where this guidance on senior officer departures is located, we believe some further reviewing of the wording would be helpful. Around 2015/16 a welcome change was made to the guidance, as noted below, but it remains confusing in parts. Para 8.4 states that a RSL 'must inform us as soon as it knows that the senior officer intends to leave and we expect appropriate management arrangements to be put in place **while** *the governing body reviews its options.*' (our italics). This latter part of para 8.4 should be removed as it appears to be at odds with the next para, 8.5, which states that 'RSLs must have an up to date business plan.....The governing body should refer to its business plan and use this to decide its next steps following the departure of the senior officer'. It is also at odds with para 8.6, which states (following the amendment in 2015/16) 'this process should be part of the governing body's ongoing consideration of its business plan rather than being explored only on the departure of the senior officer'.

10.6 Hence there should not normally be a need for a governing body to 'review its options' just because the senior officer has signalled that they will be leaving, and so the latter part of para 8.4 should be omitted.

11 Revised Charter indicators

11.1 GWSF broadly welcomes the intention to reduce the overall number of Charter indicators, though we recognise that some associations may still wish to monitor some of these indicators for their own purposes.

11.2 Inevitably, at any time when there are even modest changes to Charter indicators, this can mean that associations need to manage some practical challenges in terms of housing management and other monitoring systems and software. Only towards the end of February 2019 will associations know what the final revised indicators are, and these will require to be monitored from 1 April – i.e. just a few weeks later. This could be problematic for associations dependent on external software suppliers to make the necessary changes.

11.3 We are aware that different member associations will have comments on particular indicators. Below we have focused on those which have been raised with us most commonly.

Repairs – ‘right first time’

11.4 This continues to be among the most discussed indicators and there are differing views – and levels of scepticism – about it among members. GWSF recognises that, in principle, this indicator measures something that is really important to tenants. But we would ask whether the vagaries of how it is interpreted weaken the reliability and comparability of the outcomes recorded by each landlord to such an extent that the data may not be worth collecting.

Repairs appointments

11.5 SHR is proposing to remove the indicator on ‘repairs appointments kept’. We understand that this is partly because of feedback from some associations that this indicator may put pressure on social landlords to introduce a more formal appointment system, and/or there may be some confusion as to what counts as an appointment system. So whilst we recognise the concern some members may have about this indicator going, we can understand the reasoning. Obviously those landlords wanting to monitor their own performance on this can continue to do so.

Average number of repairs per occupied property

11.6 Similarly we can see that some landlords may wish to continue to monitor this themselves even though SHR is proposing to drop it. We recognise that SHR has never used the information that this indicator provides and that it believes the sector’s overall performance on repairs is very good, this was an indicator it could live without.

Satisfaction with the neighbourhood

11.7 SHR is proposing to remove the words in red italics below from the existing indicator ‘% of tenants satisfied with the *management of the* neighbourhood they live in’. Whilst either version could potentially lead to criticisms of the landlord when other agencies have or share responsibility for aspects of the neighbourhood, retention of the words ‘management of’ seems to more clearly make this indicator mainly about the landlord’s role.

Anti-social behaviour cases

11.8 We note that SHR is planning to change this indicator from ‘cases resolved within locally agreed targets’ to a simpler ‘cases resolved’. We are aware that there

are differing views on this. On the one hand, it could be argued that because different landlords have different timescales for resolving cases, comparisons can be misleading. On the other hand, those associations which feel they have adopted challenging timescales will feel that their strong performance fails to show up against that of other associations which may have resolved cases in a longer timescale (notwithstanding, of course, that it remains up to each landlord to judge when a case has been resolved). On balance we can understand why the change is being proposed.

Average time taken to complete adaptations

11.9 This indicator has not changed. GWSF would simply want to flag that this issue is likely to increase in prominence in the coming years as more and more older people seek to get the support they need to stay at home. Different associations have different approaches to carrying out adaptations, and funding will always be a tricky issue. We would suggest that this issue could lend itself to a 'thematic study' approach rather than one where comparisons are made based purely on the indicator outcomes for each landlord.

Average time in temporary accommodation

11.10 We understand this local authority homelessness indicator is being dropped only because this is now being recorded in returns to the Scottish Government. Clearly it will be a very important trend to continue to monitor.

Type of tenancy

11.11 This indicator too is proposed to be dropped, with SHR saying it has not used the information it has provided. The grounds for giving Short SSTs are strictly defined in law and so GWSF would not expect to see this becoming a significant issue, even after the 2014 provisions (on tenancies and anti social behaviour) have been introduced in 2019.

Rent collected and rent arrears

11.12 SHR is proposing to limit these indicators to current tenant arrears and exclude former tenant arrears. Members have expressed differing views on this – some believe it is important for SHR to continue monitoring levels of former tenant arrears, whilst for others there have been sensitivities in the past about SHR criticising associations for writing off a large percentage of a small amount of former tenant arrears.

11.13 Some members note that this indicator continues to include technical arrears which are largely outwith the landlord's control.

Notices issued

11.14 We note that 'notices of possession issued' is proposed to be dropped, leaving the indicator on '% of court actions initiated which resulted in eviction'. We recognise that practices vary widely on how, and how frequently, notices are issued, and that this makes comparisons relatively meaningless. It may be something some associations wish to continue monitoring for their own purposes.

Data moving from the ARC to the landlord portal

11.15 We note that some data is being moved to the organisation details section of the landlord portal, such as stock in ownership, stock by size and type, average weekly rents by apartment size, split of lets etc. GWSF trusts that this information will still be made available as part of SHR's annual ARC dataset: it is fundamental to benchmarking as associations seek to provide their committees/boards with 'per unit' comparative data.

12 Appeals

12.1 As we would have hoped and expected, the review and appeals process has not been in regular use, with most issues resolved through other means. However, the recent case where an association has (unsuccessfully) appealed SHR's decision to trigger statutory action does illustrate a fundamental difficulty with the appeals process. Appealing such a decision when the statutory action has been triggered, including potential/likely action in the form of repriced loans, is not a satisfactory situation as it is impossible to see how statutory action could be fully reversed were an appeal to be successful.

13 Thematic work

13.1 GWSF welcomes the commitment from SHR to continue to use thematic studies to look in-depth at specific issues. These studies enable experience and good practice to be shared in a constructive and non-threatening way. We welcome too the additional commitment to include equalities issues in this work, as looking at equalities issues and 'performance' can best be done through this type of approach.

14 Next steps

14.1 As well as continuing our regular liaison meetings with SHR, we look forward to a further meeting, in late January, of the joint GWSF/SFHA/SHR advisory group to hear SHR's assessment of the consultation responses and the changes SHR proposes to make to the draft framework and guidance as a result.