

SCOTTISH HOUSING REGULATOR CONSULTATION: REGULATION OF SOCIAL HOUSING

SUBMISSION FROM THE SCOTTISH FEDERATION OF HOUSING ASSOCIATIONS (SFHA)

DECEMBER 2023

1. Introduction

- 1.1 SFHA is the membership body for, and collective voice of, housing associations and co-operatives in Scotland. We exist to represent, support and connect our members. Our purpose has never been as important as it will be over the coming years, as we work together following the coronavirus pandemic and ongoing cost of living crisis.
- 1.2 The SFHA has 137 members across Scotland and our members vary greatly in terms of size, geography and services delivered.
- 1.3 In these unprecedented times, our vision is that our members are central to Scotland's social and economic recovery and renewal. It is everyone's right to live in a safe, warm and affordable home, in a thriving community. Our members are uniquely positioned as community anchors across Scotland, supporting people and their communities.
- 1.4 Our mission is to sustain and strengthen the impact our members have on people and communities across Scotland.
- 1.5 SFHA welcomes the opportunity to comment on the SHR's consultation on its Regulatory Framework. SFHA recognises the crucial role that regulation plays within the sector, providing vital assurances to tenants, service users and lenders.
- 1.6 SFHA has discussed the consultation with its membership, including valuable feedback from our Governance Forum, Finance Forum and Building Safety and Maintenance Forum. Our response reflects the views expressed by our members.
- 1.7 In August 2023, SFHA submitted its response¹ to the SHR discussion paper that made some initial proposals for this consultation. SFHA raised a number of points within this paper, some of which have been addressed whilst some have not. Appendix 1 of this paper summarises the SFHA's key asks from our discussion paper response and if they have been reflected by the SHR as part of the consultation.
- 1.8 At the beginning of 2023, SFHA commissioned Altair to conduct a research project looking at the Regulatory Framework in practice². The project concluded in June 2023, with the findings presented to the SHR and SFHA members. Appendix 2 of

¹ SFHA (August 2023) [Response to SHR discussion paper](#)

² Altair (June 2023) [The Regulatory Framework in practice](#)

this report summarises if each recommendation has been reflected by the SHR as part of the consultation.

Executive summary

2. Key asks

- 2.1 SFHA members have highlighted the need for a period of calm and stability, so the minimal changes suggested in the final consultation paper are welcomed.
- 2.2 As we highlighted in our response to the discussion paper, SFHA asks that the SHR consider and respond to the 20 recommendations within the Altair research report *the Regulatory Framework in Practice* commissioned by SFHA. These predominantly refer to consistency of approach, approachability and communication. Appendix 2 summarises how the SHR has responded to each of the recommendations at this point, and those that remain outstanding.
- 2.3 The table below provides an overview of SFHA's key asks for each of the 19 questions within the discussion paper, as well as those not specifically referred to in the consultation document.

Question	Subject	SFHA Key Asks
1	Annual Assurance Statements (AAS)	That the SHR reflect the following in its AAS guidance: <ul style="list-style-type: none"> any specific requests by the SHR will not lead to each AAS becoming unwieldy with numerous additional requirements every year. any additional requirements will not be carried forward into the AAS the following year. that the SHR will consult the sector before any additions are made each year, highlighting the reasons for any proposed addition.
2	Annual Return on the Charter (ARC)	That the SHR provide some more details on the projected time frame for the ARC consultation in 2024. That any proposed changes to the ARC be kept to a minimum so that they do not disproportionately impact on existing systems for recording performance.
3	Methods for tenants to provide feedback and raise concerns to landlord	That the SHR: <ul style="list-style-type: none"> provide more detail on the drivers behind these changes. outline what its expectations are of landlords in adjusting their existing approach (if any).

Question	Subject	SFHA Key Asks
		<ul style="list-style-type: none"> remove the proposed additional requirement 4.2 to avoid duplication and any confusion for governing bodies.
4	Notifiable events	<p>That the SHR provide some further detail on when and how it will provide real life examples of notifiable events (as highlighted in the consultation paper).</p> <p>That the SHR reflect the following in its notifiable events guidance:</p> <ul style="list-style-type: none"> a notifiable event is not always concerning something negative. RSLs should not be actively trying to keep the volume of notifications they submit to the SHR low as the volume of notifications is not a reflection on RSL performance. how the landlord portal can be used to update the SHR regarding previously submitted notifiable events.
5	Regulatory status	No further comments.
6	Significant Performance Failures (SPFs)	That the SHR provide more detail around the timeframes for updating its leaflets to reflect the amendments at section 6 of the Regulatory Framework and provide an opportunity to comment on these as they are developed.
7	Annual Assurance Statements (AAS)	<p>That the SHR reflect the following in its AAS guidance:</p> <ul style="list-style-type: none"> any specific requests by the SHR will not lead to each AAS becoming unwieldy with numerous additional requirements every year. any additional requirements will not be carried forward into the AAS the following year. that the SHR will consult the sector before any additions are made each year, highlighting the reasons for any proposed addition.
8	Tenant consultation when SHR directs transfer of assets	No further comments.

Question	Subject	SFHA Key Asks
9	Determination of accounts	No further comments.
10	Determination of what is meant by the enforcement of a security over an RSL's Land	No further comments.
11	Financial viability	No further comments.
12	Group structures	No further comments.
13	Appealing a regulatory decision	That the SHR combine the separate guidance documents relating to appeal and review. This would provide one clear point of reference for challenging regulatory decisions and more clarity on the linkages between review and appeal.
14	Reviewing a regulatory decision	That the SHR combine the separate guidance documents relating to appeal and review. This would provide one clear point of reference for challenging regulatory decisions and more clarity on the linkages between review and appeal.
15	Notifiable events	<p>That the SHR provide some further detail on when and how it will provide real life examples of notifiable events (as highlighted in the consultation paper).</p> <p>That the SHR reflect the following in its notifiable events guidance:</p> <ul style="list-style-type: none"> • a notifiable event is not always concerning something negative. • RSLs should not be actively trying to keep the volume of notifications they submit to the SHR low as the volume of notifications is not a reflection on RSL performance. • how the landlord portal can be used to update the SHR regarding previously submitted notifiable events.
16	Preparation of financial statements	No further comments.
17	Auditors disclosing matters of material significance	No further comments.

Question	Subject	SFHA Key Asks
18	Tenant consultation when voluntarily transferring assets	No further comments.
19	SHR impact assessment	No further comments.
Other	SHR priorities	That the SHR provide clarification as to whether any further consultation will be undertaken on its Strategy prior to its publication in April 2024.
Other	Addition at 2.3 of Regulatory Framework	That the SHR provide further details about how compliance with this point will be measured, particularly as this could be interpreted to also include aspects of affordability which are beyond the control of the landlord (especially heating costs).
Other	Amendments to standard 5.3	That the SHR provide some further narrative regarding this amendment, with a view to SFHA's upcoming review of the Self-Assurance Toolkit in early 2024.
Other	Business planning	That the SHR clarify timescales for its intended review of its advisory guidance on business planning.
Other	Recommendations in Altair research report	That the SHR respond to each of the recommendations, especially those that do not appear to have been addressed at this stage.

Response

3. Annual Assurance Statements (Q1 & Q7)

- 3.1 The proposals outlined in the consultation relating to Annual Assurance Statements (AAS) are relatively minor and broadly in line with those outlined in the discussion paper issued by the SHR earlier this year.
- 3.2 The SHR suggests amendment of the statutory guidance on the AAS to allow it to identify specific areas or issues on which assurance should be explicitly set out in a landlord AAS. In recent years the SHR has asked for explicit statements in the AAS on equalities and EICRs, without this being formalised as part of the guidance.
- 3.3 In our response to the discussion paper, SFHA highlighted that it was crucial that any additional requirements be outlined earlier in the year than has previously been the case. It is welcomed that the SHR has specifically stated it will communicate this by April each year at 1.5 in the revised draft guidance.

- 3.4 We also outlined in our discussion paper response a need to ensure that the AAS did not become unwieldy with numerous additional requirements every year. This is not acknowledged within the additions to the AAS guidance, and it would be helpful if this was in some way incorporated into the point added into the guidance at 1.5. To this end, it would also be helpful if any additions to the AAS introduced by the SHR in this way apply for that year only and are not carried forward into the AAS the following year.
- 3.5 It is also essential that there is clarity about why any addition is made to the AAS. SFHA requests that the SHR consults with the sector before any additions are made each year, and that the AAS guidance reflects that it will do so. It is important to note that providing notice in April of additional requirements may still not provide enough time for RSLs if the request is for something complex/for something not readily available. Prior consultation is essential to ensure any additional request is reasonable and proportionate.

4. Annual Return on the Charter (ARC) (Q2)

- 4.1 The original discussion paper had included proposals to add indicators to the ARC relating to electrical, water, fire, asbestos and lift safety. It also highlighted that the SHR will make specific changes to indicators regarding EESSH following the Scottish Government's EESSH2 review.
- 4.2 Furthermore, it also asked for suggestions for monitoring the effectiveness of landlords' approach to managing reports and instances of damp and mould (with ARC indicators relating to damp and mould suggested by the SHR as one possible method). This was one of the aspects that generated the most debate during the discussion paper stage of the consultation.
- 4.3 In the consultation document, the SHR notes the complexity of collecting indicators relating to damp and mould, and the need for plenty of lead in time before bringing in any additional ARC indicators. These were both points highlighted by SFHA in our discussion paper response.
- 4.4 It is welcomed that the SHR has decided that more discussion is necessary on this issue, with a further in-depth consultation on the ARC now due to take place in 2024. SFHA requests more details on the projected time frame for this additional consultation.
- 4.5 RSLs have in place well established systems to collect data and report upon their ARC performance. As the review will relate to the whole ARC (not just the aspects relating to tenant and resident safety highlighted in the original discussion paper), it is important to highlight that more comprehensive changes to the ARC could be problematic to RSLs for this reason. SFHA requests that any proposed changes to the ARC be kept to a minimum so that they do not disproportionately impact on existing systems for recording performance.

5. Methods for tenants to provide feedback and raise concerns to their landlord (Q3)

- 5.1 The original discussion paper asked for views on whether the SHR should amend the section in the Regulatory Framework currently entitled "Tenant and Service User

Redress" to focus include a focus on providing tenants, residents and service users with easy and safe ways to provide feedback and raise concerns.

- 5.2 SFHA (and others) had requested some further information about the drivers behind such an amendment – given RSLs already have in place numerous and robust mechanisms for tenants to provide feedback and raise concerns. We had also suggested retaining the existing section for that reason.
- 5.3 Despite these concerns, the SHR has still made suggested amendments to Part 8 of the Regulatory Framework in the consultation paper. SFHA would again request more detail on the drivers behind these changes, as it remains unclear why such an amendment is necessary.
- 5.4 The paper also suggests changes to the Regulatory Standards of Governance and Financial Management as part of this amendment. SFHA requests more detail from the SHR on expectations in practice following these amendments, as it is not clear how RSLs are required to adjust their existing practices (if at all).
- 5.5 The word “actively” is added to Standard 2.4, so that it now states: “*The RSL **actively** seeks out the needs, priorities, views, concerns and aspirations of tenants, service users and stakeholders. The governing body listens to its tenants and service users and takes account of this information in its strategies, plans and decisions.*” SFHA seeks clarification from the SHR as to its expectations on RSLs to meet this amended requirement, and if anything further is required to meet the “**actively seeking**” aspect of this in particular.
- 5.6 The suggested new standard 4.2 places a requirement on governing bodies to “*ensure that the RSL provides tenants, residents and service users with easy and effective ways to provide feedback and raise concerns and ensures that the RSL considers this and provides a quick and effective response.*” By phrasing this requirement as the responsibility of the governing body (rather than the RSL as at 2.4), there is a potential risk that governing body members become more directly involved in operational matters or are approached by tenants more frequently to report matters that should be reported to staff. SFHA would suggest that this new standard is a duplication of 2.4 and that it should be removed.
- 5.7 The proposed changes to regulatory requirements will have implications for the SFHA’s upcoming review of the [Self-Assurance Toolkit](#) in early 2024, and clarification on how any new requirements would work in practice will be essential as part of the review.

6. Notifiable events (Q4 & Q15)

- 6.1 The SHR had proposed reviewing the Notifiable Events statutory guidance as part of the discussion paper phase of the consultation. This was also a recommendation of the [SFHA's Regulatory Framework in Practice research](#), as well as within our response to the SHR’s discussion paper. It is therefore welcomed that the Notifiable Events guidance has been amended as part of the consultation paper.
- 6.2 The SHR’s stated aim in making these amendments is to streamline the process so that only the most critical issues are brought to their attention. Whilst no changes are made to Appendix 1 of the guidance (that highlights examples of what might constitute a notifiable event), the consultation paper highlights an intention to develop ways to share more information with landlords about the type of notifiable events they

receive and what they do with those. This is welcomed, and in line with recommendations made in our research project and discussion paper response.

- 6.3 SFHA had asked for ways of ensuring consistency of approach and clarity on how notifiable events will be dealt with once reported. It is welcomed that these recommendations are reflected in the additions made at section 6 of the guidance (***what we will do with the information you give us***) and the intention to share more real-life examples stated in the consultation document.
- 6.4 SFHA would welcome further detail on when and how the SHR will share more real-life examples of notifiable events as highlighted above.
- 6.5 Some further additions to the guidance would be helpful to reflect that a notifiable event is not always concerning something negative, and that RSLs should not be actively trying to keep the volume of notifications they submit to the SHR low. It is important to reduce any anxiety RSLs may have in submitting a notifiable event and address any perception stakeholders (or external media) may have about how the volume of notifiable events submitted relates to an RSL's performance.
- 6.6 It would also be helpful to add something to the guidance on how the landlord portal can be used to update the SHR regarding previously submitted notifiable events. This means the RSL does not have to submit a new notifiable every time there is something further to update. This may help to reduce the overall volume of notifications received by the SHR.

7. Regulatory status (Q5)

- 7.1 The SHR currently articulates the regulatory status of RSLs as one of four categories: compliant, working towards compliance, statutory intervention or under review. The SHR had suggested during the discussion paper phase of the consultation an additional status (compliant with improvements needed) but has revised this approach following feedback received.
- 7.2 The SHR now proposes amending the existing categories so that it is clear which are complaint and which are non-complaint. The proposed changes are outlined on p26 of the revised Regulatory Framework included in the consultation document:
1. Compliant
 2. Non-compliant – working towards compliance
 3. Non-compliant – statutory intervention
 4. Under review (a temporary status used when the SHR is investigating new information that it has received since assessing an RSL's status)
- 7.3 This is a more minor amendment and less confusing than the previous suggestion within the discussion paper.

8. Significant Performance Failures (SPFs) (Q6)

- 8.1 In line with proposals in the original discussion paper, the consultation paper outlines several amendments to Section 6 of the Regulatory Framework. It is welcomed that for much of the section the language is simplified to refer to "serious concerns"

instead of “significant performance failures”. This language may be easier to understand for tenants.

- 8.2 In its response to the discussion paper, SFHA had suggested making it clearer that groups of tenants can report SPFs. We had also suggested finding ways to make it clearer to tenants when to approach the SPSO as opposed to report an SPF to the SHR. It is welcomed that both of these points are more explicitly stated within the revisions at 6.6.
- 8.3 The consultation paper highlights a commitment to update its leaflets/factsheets for tenants on significant performance failures to reflect the amendments suggested. Some further details around when this update might take place and an opportunity to comment on revisions would also be welcomed.

9. Tenant consultation (Q8 and Q18)

- 9.1 The consultation highlights proposed changes to two pieces of statutory guidance regarding tenant consultation, neither of which were trailed during as part of the discussion paper earlier in the year. In general, SFHA has limited comments on the proposed changes, as these appear to be more about tidying up the existing guidance than making any significant changes.

When SHR directs transfer of assets (Q8)

- 9.2 The SHR has only used these powers on two occasions, and states that the proposed amendments are based on lessons learned from this experience. The tracked changes more clearly signpost to the relevant legislation and the additional sections describing the requirement to consult with OSCR (section 5) and potential to communicate with other stakeholders (section 6) are helpful.

When voluntarily transferring assets (Q18)

- 9.3 SFHA has no further comment on the changes suggested to the document. The changes provide more clarification and make more explicit references to equalities considerations.

10. Financial requirements

- 10.1 There are a number of questions relating to financial requirements within the consultation paper. We consulted with our Finance Forum on each of the proposals outlined, and our response reflects feedback received.

Determination of accounts (Q9)

- 10.2 SFHA agrees with the SHR’s stated intention to consult on a revised version of this guidance once the current review of the SORP is completed in 2024 (taking account of Financial Reporting Standard 102).

Determination of what is meant by the enforcement of a security over an RSL’s Land (Q10)

- 10.3 SFHA has no further comment on the minor amendments suggested, which include updated references to Part 7 and Section 73 of the Housing (Scotland) Act 2010 and a reference to the Insolvency Act 1986.

Financial viability (Q11)

10.4 Two changes are suggested to the SHR's statutory guidance on financial viability: at 2.1 (relating to providing a signed and redacted set of statements) and at 2.4 (making it clearer that RSLs must submit an in-year return when there is a material change to borrowing or security arrangements). These changes are minor points of clarification and SFHA has no further comment.

Preparation of financial statements (Q16)

10.5 Some minor tracked changes are included in the consultation document to the SHR's Statutory guidance "Preparation of Financial Statements". SFHA has no further comment on these amendments.

Auditors disclosing matters of material significance (Q17)

10.6 Only very minor amendments are tracked to the statutory guidance "*Section 72: Reporting Matters of Material Significance*". SFHA has no further comment.

11. Group structures (Q12)

11.1 Amendment to this guidance was not trailed as part of the discussion paper phase of the consultation, so this will be the first opportunity to comment on these proposals. It is welcomed that the guidance now includes clearer reference to other linked requirements and SHR guidance, i.e.:

- Constitutional requirements
- Notifiable events statutory guidance
- Standards of Governance and Financial management (especially Standard 4.5 and Standard 7)
- Chapter 9 of the Regulatory Framework (concerning Registration Criteria)
- Tenant consultation and approval guidance
- Charity law/OSCR requirements

11.2 As the suggested changes are about more clearly cross referencing to other relevant existing guidance rather than adding new requirements, SFHA has no further comment.

12. Appealing/reviewing a regulatory decision (Q13 & Q14)

12.1 No significant amendments are suggested to the statutory guidance documents "*How to request the appeal of a regulatory decision*" and "*How to request the review of regulatory decision*".

12.2 Whilst the review process is a more informal route to challenge a regulatory decision than an appeal, it may be helpful to consider combining the two pieces of guidance so that the linkages between them are clear. The review guidance at section 4 encourages the review process to be used as the first method of challenge in most cases, but this is not stated within the appeals guidance.

12.3 SFHA had previously suggested – during the consultation on the original guidance back in 2018/2019 – the establishment of a truly independent appeals mechanism to be made available to RSLs for regulatory decisions. However, SFHA understands legislative change would be necessary for such a process to be implemented – which is not within the SHR's remit.

13. The SHR's impact assessment (Q19)

- 13.1 SFHA has no further comment on the combined impact assessment included at Annex 4 of the consultation.

14. Other matters not included in the consultation questions

- 14.1 There are a number of matters not included in the consultation questions that SFHA wishes to highlight as part of this response.

SHR Priorities

- 14.2 As part of its discussion paper issued earlier in the year, the SHR asked for views on its suggested priorities. These have been carried forward and referenced in the formal consultation document, i.e that landlords should be:

- listening and responding effectively to tenants and service users
- providing good quality and safe homes
- keeping homes as affordable as possible
- doing all they can to reduce the number of people who are experiencing homelessness

The paper also highlights that the SHR will continue its focus on equality and human rights in all landlords, alongside governance and financial management in RSLs.

- 14.3 The SFHA made some recommendations regarding the suggested priorities in its response to the discussion paper (see Appendix 1) which are acknowledged by the SHR in the consultation document.

- 14.4 There are no further questions asked as part of the formal consultation regarding these priorities, although the consultation paper states that it will use feedback received (as part of the discussion paper responses) to inform its Strategy for 2024 onwards. This is due to be published in April 2024, and SFHA would welcome clarification as to whether any further consultation will be undertaken on this document prior to publication.

Addition to Regulatory Framework at 2.3

- 14.5 At 2.3 in the revised Regulatory Framework, it is emphasised that each landlord is responsible for: *“ensuring that their tenants have warm, safe and affordable homes”*. SFHA requests that the SHR provide some further details about how compliance with this requirement will be measured, particularly as this could be interpreted to also include aspects of affordability which are beyond the control of the landlord (especially heating costs).

Amendment to Standard 5.3

- 14.6 Within the Standards of Governance and Financial Management – the following changes are highlighted to standard 5.3 (in bold): *The RSL pays due regard to the need to eliminate discrimination, **harassment and victimisation**, and advance equality **of opportunity** and human rights, and foster good relations across the range of protected characteristics in all areas of its work, including its governance arrangements.*

- 14.7 As this is not mentioned in the consultation document, SFHA would welcome some further narrative from the SHR regarding this amendment. All proposed changes to regulatory requirements will have implications for the SFHA's upcoming review of the [Self-Assurance Toolkit](#) in early 2024, and clarification on how any new requirements would work in practice will be essential as part of the review.

Business Planning

- 14.8 The SHR highlighted to SFHA an intention to consult on revisions to its [advisory guidance on business planning](#) as part of this process. As this guidance is not statutory, the review is perhaps being delayed until later in 2024. SFHA requests clarification on this point.

SFHA Regulatory Framework Research

- 14.9 20 recommendations were given in SFHA's [Regulatory framework in practice research](#), which were also highlighted as part of our response to the discussion paper. Whilst these are not acknowledged as part of the consultation document, some suggested amendments and changes in approach by the SHR are reflective of the points raised. A summary of the recommendations and the SHR response to date is provided at Appendix 2.
- 14.10 SFHA requests that the SHR respond to each of the recommendations, especially those that do not appear to have been addressed at this stage.

Appendix 1 – SFHA key asks from discussion paper and SHR response

Subject	SFHA Key Asks (in discussion paper response)	SHR response in consultation
SHR priorities	<p>The SHR:</p> <ul style="list-style-type: none"> • acknowledge within the framework the cost inherent in achieving the priorities listed, and to reassure the sector that it recognises the impact that this has on RSL rent. • acknowledges the need for a period of calm and stability within the priorities/framework • provide more clarity on the status of equality and human rights and governance and financial management (which are mentioned but not listed as priorities) • provide more clarity in the wording of the homelessness outcome, particularly acknowledging the difference in RSL and local authority roles • add a further priority (for the SHR) regarding its commitment to listening to the sector 	<p>The SHR highlights the intention to take discussion paper feedback into account when finalising its priorities as part of its Strategy from 2024 onwards (due to be published in April 2024). It is unclear if any further consultation will be undertaken on this document prior to publication.</p> <p>The SHR suggests no further changes to the priorities outlined in the discussion paper. However, it does acknowledge within the consultation paper document the significant numbers who asked for the priorities to reflect the economic climate and the difficulties in providing services/improving homes whilst keeping rents affordable. It also acknowledges feedback to make their expectations regarding homelessness clearer.</p> <p>The SHR also states in the consultation paper it will “<i>explore ideas to build on the regular face to face engagements we have with groups and forums of landlords and with their representative bodies,</i>” and “<i>continue to discuss opportunities for sharing and promoting good practice and learning</i>”.</p>
Annual Assurance Statement	<p>SFHA asks that:</p> <ul style="list-style-type: none"> • Any amendments to the AAS requirement each year be minimal to ensure consistency and that the statement does not become less meaningful by being too detailed. • Any additional points for inclusion in the AAS be communicated to RSLs earlier in the year. 	<p>There is no acknowledgement of this aspect in the proposed additions to the AAS guidance.</p> <p>The SHR propose to communicate any additional points for inclusion by April each year.</p>

Subject	SFHA Key Asks (in discussion paper response)	SHR response in consultation
Annual Return on the Charter	SFHA asks for: <ul style="list-style-type: none"> • clarity on what each of the ARC indicators are being collected for and how they will be used by the SHR • technical improvements within the landlord portal to make submitting ARC more user friendly • consideration of how the “right first time” indicator might be made more effective • potential further flexibility in how tenant satisfaction is measured 	There will be a separate formal consultation on the ARC in 2024, including the formation of a working group/groups.
Annual Return on the Charter	SFHA asks that: <ul style="list-style-type: none"> • any amendments to the ARC requirements have a significant lead in time and clear, consistent accompanying guidance. 	There will be a separate formal consultation on the ARC in 2024, including the formation of a working group/groups.
Damp and Mould	SFHA asks that: <ul style="list-style-type: none"> • the SHR consider if the existing mechanisms and requirements already provide it with the assurance necessary in terms of landlords’ approach. • any additional requirement acknowledges the difference between the various different types of damp and the necessary response to each • any additional requirement be subject to sector consultation with a significant lead in time for implementation • the SHR provide a steer on what additional information it may need from landlords in this area and how this might work in practice. 	There will be a separate formal consultation on the ARC in 2024, including the formation of a working group/groups.

Subject	SFHA Key Asks (in discussion paper response)	SHR response in consultation
Listening and responding to tenants & service users	SFHA asks that: <ul style="list-style-type: none"> • more detail on the drivers behind this suggested amendment • the current section and requirements be retained. 	The SHR did not provide any further detail on the drivers behind this change and has amended the section at p8 of the Regulatory Framework. It has also proposed revisions to the Standards of Governance and Financial management at 2.4 and 4.2 – with the latter a new standard.
Notifiable events	SFHA asks that the review of the SHR notifiable events guidance include: <ul style="list-style-type: none"> • ensuring consistency of approach when the SHR receives a notifiable event • consideration of proportionality in what is required to be reported • clarity on what must be notified and how this will be dealt with once reported 	The SHR has proposed revisions to the notifiable events guidance, including changes to Section 6 of the guidance “ <i>what we will do with the information you give us.</i> ” The SHR state in the consultation paper an intention to develop ways to share more information with landlords about the type of notifiable events they receive and what they do with those.
Regulatory status	SFHA asks that: <ul style="list-style-type: none"> • in order to avoid confusing stakeholders, no additional regulatory status be added 	The SHR has instead amended the existing categories to make it clearer that “working towards compliance” is a non-compliant category.
Significant performance failures	SFHA suggests that: <ul style="list-style-type: none"> • the SHR explore methods to more clearly integrate the SPF process with the SPSO complaints process to prevent confusion amongst tenants and service users • the SHR consider if SPFs if groups of tenants should be able to submit an SPF 	The SHR has proposed amendments that more clearly explain when a tenant should approach the SPSO. The SHR has proposed amendments that make it clearer that groups of tenants can report serious concerns to the SHR.
Anything else	SFHA asks that the SHR respond to each of the 20 recommendations in the Altair research report “ <i>the Regulatory Framework in practice.</i> ”	These are not specifically acknowledged within the consultation package, but some amendments within the consultation relate to the research recommendations (see Appendix 2)

Appendix 2 – Regulatory Framework in Practice research recommendations and SHR response

No.	Recommendation	SHR Response in Consultation Paper
The SHR should continue to:		
1.	Maintain the current principles and structure of the regulatory framework.	The consultation package does not propose any sweeping changes to the current principles and structure of the regulatory framework.
2.	Publish similar amounts of information already available to RSLs through its website.	It is proposed that the SHR continue this approach.
3.	Maintain its approach to statutory interventions that is outlined in current the regulatory framework.	No changes are proposed in approach to statutory intervention.
4.	Be transparent in publishing case studies on statutory interventions, lessons learned from interventions and information on how RSLs can ensure compliance with the regulatory framework.	It is proposed that the SHR continue this approach.
The SHR should start to:		
5.	Explore methods to address concerns over their approachability – including the potential of a more clearly defined co-regulatory approach.	This is not acknowledged, although the SHR does include a commitment within the consultation document to “ <i>explore ideas to build on the regular face to face engagements we have with groups and forums of landlords and with their representative bodies,</i> ” and “ <i>continue to discuss opportunities for sharing and promoting good practice and learning</i> ”.
6.	Offer more feedback opportunities for RSLs on the regulatory framework and its regulatory approach.	No further opportunities are offered as part of the consultation document, although more references to approaching Regulatory Managers when in doubt are added to the Notifiable Events guidance.
7.	Publish feedback from its landlord working groups in a timely and transparent manner.	In September, the SHR has published blogs on the Landlord working groups that took place in August: Rural and Islands landlord group blog Urban landlord group blog

No.	Recommendation	SHR Response in Consultation Paper
8.	Make clear the process and regularity of how membership of its landlord working groups will be rotated to ensure all RSLs have the opportunity to be involved.	The SHR states on its website under Landlord Groups that “membership of each group will be refreshed after a reasonable period of time”.
9.	Assess its approach to communicating with RSLs, ensuring communication is clear, concise and consistent.	No amendments are suggested to communication.
10.	Consider reviewing notifiable events guidance to provide further clarity on what constitutes a notifiable event, and how this will be dealt with by the SHR once reported (to ensure consistency).	The SHR has proposed revisions to the notifiable events guidance, including changes to Section 6 of the guidance “ <i>what we will do with the information you give us.</i> ” The SHR state in the consultation paper an intention to develop ways to share more information with landlords about the type of notifiable events they receive and what they do with those.
11.	Provide regular opportunities for RSLs to give feedback on their regulation managers.	No further opportunities are suggested.
12.	Clearly define parameters of the role for regulation managers and look at methods of ensuring consistency of approach.	No suggested amendments are made in this regard.
13.	Ensure that there are additional support routes available for RSLs from the SHR if they feel they are not receiving appropriate support.	This is not acknowledged, although further emphasis is placed on contacting regulation managers when in doubt as part of the Notifiable Events guidance.
14.	Provide further clarity on how the data collected by RSLs as part of statutory submissions is used by the SHR.	This is not specifically acknowledged but potentially could be included as part of the upcoming review of the ARC in 2024.
15.	Consider how information is shared with RSLs to ensure that they are utilising available SHR resources effectively.	This is not specifically acknowledged.

No.	Recommendation	SHR Response in Consultation Paper
16.	Consider reduced submission requirements for smaller RSLs, as is the case in other social housing regulators in the UK.	Whilst the SHR has not responded to this point directly within the consultation document, it did highlight to SFHA its view that this is already the case in Scotland. It highlighted that as the SHR asks for more information to be submitted by systemic organisations, that organisations who are not systemic are effectively already subject to reduced submission requirements.
17.	Improve the technology that enables RSLs to submit information.	This is not acknowledged in the consultation package, but recent changes have been made to improve security on the landlord portal .
18.	Provide further clarity on: <ul style="list-style-type: none"> • The implications of not following each guidance type within the framework • The purpose of each guidance type • The purpose of any amendments made to guidance sets • The changing terminology on each guidance type 	This is not acknowledged at this stage.
19.	Ensure the timing of amendments to guidance provides enough time for RSLs to take these on board ahead of regulatory submissions.	Whilst this is not directly referenced in the consultation document, the suggested amendments to the AAS proposals – stating that the SHR will outline any additional requirements by April each year – and the pushing back of the ARC/damp and mould proposals to allow for further consultation, are positive examples relating to this recommendation.
20.	Consider how the guidance issued by the SHR reflects the role and approach of regulation of social housing in Scotland.	This is not acknowledged at this stage, as it relates to topics of guidance that the SHR will decide to issue in the coming years. This may be picked up within the SHR Strategy document due for publication in April 2024.