



THE SCOTTISH HOUSING REGULATOR

Executive Agency Framework Document

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## **Foreword by the Cabinet Secretary**

I am pleased to establish The Scottish Housing Regulator, which will continue the work of the regulation function of Communities Scotland (the housing and regeneration agency that has been abolished and whose other functions have transferred into the core of Scottish Government). The regulator's primary purpose will be to protect the interests of current and future tenants, and other consumers of the housing and homelessness services provided by registered social landlords and local authorities. We recognise the important role that scrutiny plays in influencing a culture of continuous improvement and striving towards excellence in public services. We also recognise that the housing regulator can play a significant role in maintaining the confidence of private investors, improving the efficiency of housing providers and maximising the public value of assets.

The work of The Scottish Housing Regulator is directly aligned to the policy framework I have outlined in the discussion document "*Firm Foundations: the future of housing in Scotland*". In this I have confirmed the importance of regulation in our future plans for housing and set out our agenda for modernising it. In tandem, we intend to achieve a radical reform of the way external scrutiny operates in Scotland, and the longer term future of housing regulation will be set within this wider context.

This framework document sets out the purpose and responsibilities of The Scottish Housing Regulator, as well as its management and resources framework. The status of the regulator as an executive agency will safeguard its ability to work impartially and free from inappropriate influence, while we develop our longer term plans for housing regulation. This framework document is supplemented by a statutory Code of Practice which sets out our policy intention to enable the agency to exercise the regulatory powers and duties set out in the Housing (Scotland) Act 2001, on our behalf.

The Scottish Ministers are fully accountable to the Scottish Parliament for the activities of the agency and the standards of its work. In turn, the chief executive of the agency can exercise regulatory judgement objectively and without political interference, while remaining answerable to Ministers for the agency's operation and performance.

I am sure this agency will help to protect the interests of current and future tenants of social landlords, and other service users, and will be an important catalyst in delivering improvement in the quality of homes and services for communities across Scotland.

**Nicola Sturgeon**

**Cabinet Secretary for Health and Wellbeing**

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## **1. Purpose and Objectives**

1.1 The Scottish Housing Regulator (SHR) regulates registered social landlords and the landlord and homelessness functions of local authorities. The SHR's purpose is to regulate to:

- protect the interests of current and future tenants, and other service users;
- ensure the continuing provision of good quality social housing, in terms of decent homes, good services, value for money, and financial viability; and
- maintain the confidence of funders.

The SHR will agree with Scottish Ministers a Corporate Plan, including suitable objectives, to ensure this purpose is fulfilled.

1.2 Where necessary, the SHR will use the intervention powers in the Housing (Scotland) 2001 Act to tackle poor service delivery, poor governance or financial viability and to safeguard the interests of tenants and other consumers of housing and homelessness services.

## **2. Status**

2.1 The SHR is an executive agency of the Scottish Government under the terms of the Scotland Act 1998. The Scottish Government has set up the SHR as an interim agency, to exercise the regulatory powers in the Housing (Scotland) Act 2001. It has done this because the agency, Communities Scotland, that previously carried out the regulatory role (in addition to other functions) has been abolished. As an executive agency, the SHR will operate impartially in carrying out its regulation and scrutiny of the housing sector, while remaining directly accountable to the Scottish Ministers for its performance and use of public funds. This enables the SHR to conduct its regulation and inspection functions at an appropriate level of independence from Scottish Ministers, while working within the overall context of the Scottish Government's policy aims for housing.

2.2 The SHR carries out its functions on behalf of the Scottish Ministers. The Chief Executive has the right of direct access to Ministers and is responsible for the SHR's management, performance and future development. As a matter of general policy, SHR deals with all aspects of the regulation and inspection of social landlords. This includes the powers and duties outlined in Part 3 of the Housing (Scotland) Act 2001.

### **3. Values and ways of working**

- 3.1 The SHR will develop its own core values and ways of working. These will include the need to observe the principles of good regulation of public services by being independent, transparent, consistent, proportionate, accountable, targeted, and focused on the public interest. The SHR will also be expected to work effectively with other regulators. Ministers will set out in a Code of Practice their expectations about the way the SHR will exercise the powers in the Housing (Scotland) Act 2001.

### **4. Roles, responsibilities and relationships**

#### ***The Scottish Ministers***

- 4.1 The Scottish Ministers are responsible for setting the strategic policy and resources framework within which the SHR operates. They also:

- publish a statement setting out how they propose to exercise the functions referred to in Part 3 of the Housing (Scotland) Act 2001 (the Ministerial Code of Practice for the SHR);
- approve this framework document and any revisions to it;
- approve the SHR's corporate plan and strategic objectives;
- monitor the SHR's performance and achievement;
- determine the resources to be made available to the SHR to fulfil its functions and support its intervention strategy; and
- ensure that the Chief Executive of the SHR has right of direct access to appropriate Ministers.

- 4.2 The Scottish Ministers are accountable to the Scottish Parliament for the effective operation of the SHR in carrying out its duties on their behalf. They will not normally intervene in the day-to-day management of the agency.

#### ***The Scottish Government***

- 4.3 The Permanent Secretary of the Scottish Government is the Principal Accountable Officer for the Scottish Administration. The Director-General Justice and Communities is appointed by the Permanent Secretary as the Accountable Officer for the housing and regeneration budget. The Director-General or a senior officer appointed by the Director-General has the following responsibilities in relation to the SHR:

- to advise the Scottish Ministers in the exercise of their responsibilities in relation to the SHR;

- to ensure that the evidence and professional advice from the SHR is used to inform policy formulation, development and implementation;
- to appoint the agency's accountable officer;
- to ensure the SHR is consulted before any proposals are put to Ministers that may affect its operations;
- to discuss new policy issues relating to housing, regulation or public service reform with the SHR;
- to ensure that services are available, and are delivered to an appropriate standard, to support and facilitate the work of the SHR; and
- to provide advice to the Chief Executive to ensure that the agency's objectives and activities are consistent with wider Scottish Government policy objectives and developments, while respecting the independent nature of the regulatory role.

4.4 The senior responsible officer in the core Scottish Government may seek relevant business information from the SHR but will not normally intervene in the day-to-day management of the SHR. The senior responsible officer will provide support to the Chief Executive of the SHR in the exercise of his or her functions, and will assess the Chief Executive's performance for reporting purposes.

***The Chief Executive***

4.5 The SHR will be headed by a Chief Executive who will be directly accountable to the Scottish Ministers for the overall quality of the agency's work, the quality of the professional advice provided, its day-to-day management, its performance and planning for its future development.

4.6 The Chief Executive is responsible for:

- ensuring the SHR works in accordance with the Ministerial Code of Practice for the SHR;
- advising Scottish Ministers on the implementation and implications of relevant housing policy, and about issues arising from the implementation of the regulatory code of practice and this framework document;
- providing leadership and direction to the SHR and determining its organisation, management structure and development, to ensure it is fit for purpose, meets its obligations and commitments, and implements appropriate regulatory policies and approaches;

- acting as the agency's accountable officer;
- preparing and agreeing with the Scottish Ministers a corporate plan, and appropriate strategic objectives and reporting arrangements; and ensuring the plan is delivered and objectives met;
- preparing and submitting to the Auditor General for Scotland a set of annual accounts;
- laying the accounts and annual report before the Scottish Parliament and publishing them;
- managing staff matters, such as recruitment, motivation, staff development, and the promotion and maintenance of good staff relations;
- ensuring the statutory and general obligations on public bodies, and civil service standards, are met;
- ensuring that the SHR's actions are conducted in accordance with the Civil Service values and principles, its staff operate within the Civil Service Code and that the organisation complies with relevant legislation which places particular duties on public bodies including data protection, freedom of information, equalities legislation, health and safety requirements as well as other statutory or general obligations on public bodies;
- acting as the final internal adjudicator in the SHR's formal complaints procedure; and
- putting in place and maintaining appropriate systems to secure good financial delegation and control, corporate governance, risk and performance management, best value and continuous improvement.

4.7 The Chief Executive of the SHR will be assisted by a Regulation Board which will meet at least four times a year. It will be made up of senior officers from the agency, as determined by the Chief Executive, and a maximum of four external members who will operate as non-executive directors and who will be appointed to the board to bring an independent, external perspective to the work of the agency. The Chief Executive will be responsible for the recruitment of the agency's non-executive directors.

4.8 The Chief Executive will establish an audit committee to ensure proper procedures are followed for securing the propriety and regularity of public funds for which the Chief Executive is accountable. The audit committee will be chaired by a non-executive director.

4.9 The Chief Executive may establish any other standing or temporary committees that may be required to discharge the agency's responsibilities and functions.

## **5. Accountability**

### ***Accountability to the Scottish Parliament***

5.1 Through the Cabinet Secretary for Health and Well-Being and the Minister for Communities and Sport, the Scottish Ministers are accountable to the Scottish Parliament for the functions of the SHR.

5.2 Day-to-day operational responsibilities are delegated to the Chief Executive who is in turn directly accountable to Ministers.

### ***Appearance at Parliamentary Committees***

5.3 Scottish Ministers will decide who should represent them at Parliamentary Committee hearings. In practice, the Chief Executive will normally be asked to represent Scottish Ministers on matters relating to the SHR's delegated responsibilities. In some circumstances it may be appropriate also for the Director for Housing and Regeneration to attend with the Chief Executive.

5.4 The Chief Executive is liable to be required to appear before Committees of the Scottish Parliament, including the Audit Committee, to account for the discharge of his or her responsibilities under the terms of this *Framework Document*.

5.5 The Scottish Parliament has the power to request a particular individual to attend a Parliamentary Committee.

5.6 The Chief Executive is responsible for putting into effect any relevant recommendations of the Audit Committee or other Committees of the Scottish Parliament which are accepted by Scottish Ministers.

### ***Scottish Parliamentary Commissioner for Administration***

5.7 The SHR is subject to investigation by the Scottish Parliamentary Commissioner for Administration (the "Parliamentary Ombudsman").

### ***Freedom of Information***

- 5.8 The agency will publish its information in accordance with its publication scheme. The SHR's scheme forms part of the overarching publication scheme of the Scottish Administration. The SHR will respond to any requests for information it receives in line with the requirements of the Freedom of Information (Scotland) Act 2002.

### ***Parliamentary Questions***

- 5.9 The Chief Executive will ensure that, where appropriate, the SHR provides Ministers with the information required for the Minister to reply to written or oral Questions in the Scottish Parliament.

### ***Correspondence***

- 5.10 In line with current guidance, the Scottish Ministers will encourage Members of the Scottish Parliament (and MPs and MEPs) to communicate directly with the Chief Executive on operational responsibilities delegated to the SHR. The Chief Executive will therefore reply to MSPs' correspondence on operational and contractual matters relating to the SHR. All replies will be copied for information to appropriate Ministers.
- 5.11 The Chief Executive will ensure that matters on which it is appropriate for Ministers to communicate with MSPs (or members of the public) are referred to Ministers without delay. Where a correspondent is dissatisfied with a reply received from the Chief Executive on operational matters, he or she may request a reply from the Minister for Communities and Sport .
- 5.12 The Chief Executive will ensure that matters on which it is appropriate for Ministers to reply are referred to them within the timescales set. The Scottish Ministers will continue to reply to MSPs' correspondence relating to housing matters which are not delegated to the SHR.
- 5.13 Replies to correspondence with MSPs and members of the public, and answers to Parliamentary Questions, will conform with the timetable set for the Scottish Government as a whole.

### ***Accountable officer***

- 5.14 The Permanent Secretary of the Scottish Government is the Principal Accountable Officer. The Director-General Justice and Communities is the accountable officer

within the Scottish Government for the budget from which the Scottish Government funds the agency. The Principal Accountable Officer designates the Chief Executive as the agency accountable officer under section 15 of the Public Finance and Accountability (Scotland) Act 2000.

- 5.15 The Chief Executive will provide the Scottish Government with any information necessary to enable it to prepare resource accounts, and will report to the accountable officer within the Scottish Government, on a basis agreed between them, on the agency's expenditure.
- 5.16 The Chief Executive has a personal responsibility for the propriety and regularity of public finances as part of the Scottish Administration for which he or she is accountable. And for ensuring that the resources for which he or she is accountable are used economically, efficiently and effectively to deliver its agreed corporate plan objectives, and in line with the responsibilities set out in this framework document and Scottish Ministers' code of practice. The Chief Executive is also responsible for ensuring the agency complies with the Scottish Public Finance Manual and any other guidance and requirements issued by Scottish Government Finance.. This accountability is subject to the respective overall responsibilities of the Permanent Secretary of the Scottish Government as the principal accountable officer and the accountable officer within the Scottish Government.
- 5.17 As the agency's accountable officer, Chief Executive has a duty to secure Best Value, which includes the concepts of good corporate governance, performance management and continuous improvement. Guidance to accountable officers on what their organisations should be able to demonstrate in fulfilment of the duties which made up a Best Value regime is included in the Best Value section of the Scottish Public Finance Manual.
- 5.18 The Chief Executive is also responsible for putting into effect any recommendations of the Scottish Parliament accepted by the Scottish Government.
- 5.19 The SHR will publish a complaints procedure setting out how it will deal with complaints. As a public body anyone who is not satisfied with the way the agency has responded to the complaint may complain to the Scottish Public Services Ombudsman, who will deal direct with the Chief Executive about the case.

## **6. Resource planning and management**

- 6.1 The SHR is funded by the Scottish Ministers through the housing and regeneration budget. This budget covers all resource and capital expenditure, including direct administration costs. The agency's budget covering 2008-09 and 2009-10 will be deployed towards its programme of running costs and capital expenditure in pursuit of its corporate plan objectives.
- 6.2 The SHR will also have access to contingency funding from the housing and regeneration budget to cover the costs of statutory intervention, including (but not restricted to) the appointment of special managers and conducting a special inquiry.
- 6.3 The financial delegations from the Director-General Justice and Communities are set out in Annex 1. These arrangements should provide the Chief Executive maximum practicable flexibility to make efficient use of the resources available to the agency, within the context of strategic and policy objectives, and corporate plans agreed by Scottish Ministers. The delegated limits will be reviewed regularly and amended where this would assist the agency to achieve its objectives. The Chief Executive is responsible for ensuring that relevant government financial procedures are followed, and may delegate authority in accordance with relevant guidance. Where it does not fully use its budgetary provision, the agency may qualify for end year flexibility subject to Ministerial approval. In addition, within these delegations, the SHR may contract with others for functions and services. The Chief Executive is responsible for securing best value for money in making all procurement arrangements.

### ***Corporate Planning and Annual Report***

- 6.4 The SHR will develop a Corporate Plan for the period 2008-10. It will be agreed with the Scottish Ministers. The plan will set out the strategic management priorities of the agency. It will be a public document. Exceptionally, if policy or circumstances change significantly revisions may be proposed by the Scottish Ministers, after consultation with the SHR, or by the Chief Executive. Any revisions will be subject to approval by the Scottish Ministers.
- 6.5 The annual report will review the SHR's performance over the previous year, set out the use of statutory powers and show whether objectives set by Ministers have been delivered. The agency will keep proper records in relation to the accounts. The annual report and accounts will be audited by the Auditor General for Scotland and will be laid before the Scottish Parliament.

6.6 The SHR will ensure that a system of internal audit is provided in a way that best demonstrates value for money. The internal audit service may be provided by a part of the Scottish Government or another agent.

## **7. Staffing**

7.1 Staff of the SHR are civil servants within the Scottish Government, and will continue to be employed on civil service terms and conditions of service. They are covered by the civil service pensions arrangements unless they opt for other arrangements. The pay and grading structures for the agency will be the same as within the Scottish Government main bargaining unit. The only exception to this is staff who formerly worked for Scottish Homes and who transferred to the Scottish Government with the transfer of functions in 2001 to Communities Scotland. These staff were entitled to protected terms and conditions, as these staff transferred on the basis of no detriment. And acceptance by these staff of Scottish Government main terms and conditions of employment has been on an individual and voluntary basis. They may exercise their option to remain on their previous terms and conditions, including pay and grading structures, unless they voluntarily move to another post.

7.2 The Chief Executive of the SHR may review the terms and conditions of service of SHR staff in the business interests of the SHR and in so doing may seek advice from the Scottish Government's Human Resources Directorate. Variations to suit the SHR's particular circumstances may be introduced in terms and conditions of service with the approval of the Scottish Ministers and after full consultation with the Head of Corporate Services, the SHR's staff and their representatives.

7.3 The Chief Executive is responsible for ensuring there are adequate organisational development and human resource management arrangements in place for all staff, and for promoting good staff relations. The Chief Executive is responsible for determining the number and grades of staff up to and including C3 level employed by the agency, for the use of flexible working arrangements, and for all aspects of the personnel management of staff (other than pensions) within the terms of the civil service management code. The agency will use the services of the Scottish Government for recruitment and human resource matters. The personnel management of senior civil servants within the agency will be the responsibility of the core Scottish Government.

- 7.4 The SHR aims to offer all of its staff rewarding career opportunities and is committed to fostering career development, diversity and equal opportunities. Staff of the SHR will remain eligible for posts elsewhere in the Scottish Government and may apply to be considered for promotion. They can access career development advice from Scottish Government personnel. Professional staff will retain access to their head of profession. The SHR is responsible for line management of staff and for job-related professional training and continuing professional development. The Scottish Government corporate learning services is responsible for the generic training and development of staff as civil servants.
- 7.5 The Chief Executive of the SHR is free to determine new working arrangements for staff of the SHR, subject to consultation with staff representatives.
- 7.6 The SHR will determine, after consultation with staff and their representatives, arrangements to foster good staff relations. The SHR is committed to effective communication with its entire staff and their representatives, and will adhere to the principles of the Scottish Government Main Management and Trade Union Side Partnership Agreement.
- 7.7 The SHR is responsible for health and safety and will aim to achieve the highest standards of health and safety in its operations. The SHR will have access to arrangements made by the Scottish Government for staff welfare.

## **8. Support services**

- 8.1 The agency should consider the efficiency of sharing services with other parties, and may enter into an arrangement for services to be delivered by a part of the Scottish Government or another agent.
- 8.2 The SHR may draw on specialist support from the Scottish Government or other agencies, in particular:
- financial services;
  - HR and organisational development, including recruitment and training;
  - information systems and support for Scottish Government ICT systems;
  - purchasing systems;
  - internal audit services;
  - accommodation; and

- payroll and pension administration.

8.3 Support services may be provided in line with service level agreements and will remain under review to ensure that appropriate services are provided and with value for money in mind.

## **9. Reviewing the framework document**

9.1 This framework document will be reviewed by the Scottish Ministers (advised by the appropriate senior officer) and the SHR, as required by either party. Changes may be proposed in the light of experience or changed circumstances. It is likely that significant changes may be required as a result of social housing policy development and the review of external scrutiny arrangements in Scotland. Relevant parts of the Scottish Government will be consulted on any proposed changes before they are submitted to the Scottish Ministers for approval.

## **10. Enquiries**

10.1 Enquiries about this framework document should be addressed in the first instance to:

The Chief Executive  
The Scottish Housing Regulator  
Highlander House  
58 Waterloo Street,  
Glasgow G2 7DA

## Annex 1: Financial Delegations

Within agreed overall Spending Review and annual budget provision, and subject to guidance contained in the Scottish Public Finance Manual (SPFM) and the Scottish Government’s procurement manual, the Scottish Housing Regulator has delegated authority as set out below. “Unlimited” in the context of this annex means unlimited within the agreed overall Spending Review and annual budget provisions for the budget concerned.

1. Commit expenditure, authorise payments	Unlimited with the agreed level of resources for the year.
2. Accept receipts	Unlimited, subject to the level agreed with the Scottish Government Finance for inclusion in the annual Budget Bill.
3. Commission consultants	For individual contracts let without tender, up to a limit of £10,000, excluding recoverable VAT and any follow-up work that might be expected.  For individual contracts let by competitive tender, up to a limit of £150,000, excluding recoverable VAT, if appropriate, and any follow-up work that might be expected.
4. Authorise losses and special payments	£10,000 for individual losses/payments falling within any of the categories specified in the Scottish Public Finance Manual, including special or ex gratia payments.
5. Authorise capital expenditure	£100,000 per capital project

