

Memorandum of understanding

Between the Scottish Housing Regulator and the
Housing and Regeneration Directorate of the Scottish Government

June 2009



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1. Introduction

- 1.1 This Memorandum of Understanding (MoU) sets out how the Scottish Housing Regulator (SHR) and the Housing and Regeneration Directorate (HAR) of the Scottish Government will work together to achieve common outcomes.
- 1.2 The SHR is an executive agency of the Scottish Government under the terms of the Scotland Act 1998. It exercises the regulatory powers in the Housing (Scotland) Act 2001. SHR regulates registered social landlords and the landlord and homelessness functions of local authorities.
- 1.3 HAR is a directorate of the Scottish Government. Its purpose is to support the Government's Purpose – delivering sustainable economic growth - by working with its delivery partners and other stakeholders to create the right quality and types of homes and places for people to live, work and flourish.

2. Purpose

- 2.1 The purpose of this MoU is to set out the broad principles that SHR and HAR will follow to enable both parties to work together effectively. More detailed guidance covering operational matters will be available to staff.
- 2.2 SHR and HAR have strong common interests and mutually reinforcing objectives in relation to social housing, homelessness and factoring. This MoU will help provide the framework to achieve these. The outcomes we want to achieve through this MoU are:
 - well-informed policy making in both SHR and HAR;
 - public investment protected and directed to organisations that are performing satisfactorily
 - problems with regulated bodies dealt with quickly and effectively
 - the interests of tenants and other service users safeguarded
 - the confidence of private lenders and key stakeholders in the social housing sector maintained; and
 - effective communication between SHR and HAR.
- 2.3 Both parties are both committed to approaching all aspects of this MoU in a spirit of co-operation and trust, recognising each other's responsibilities and acknowledging that priorities and immediate interests may differ from time to time.

3. Information exchange

- 3.1 The guiding principle is that SHR and HAR will exchange information proactively. Most of the information that will be exchanged will be in the public domain or known to the third party concerned.
- 3.2 The SHR publishes a wide range of information about the social housing sector. This includes regulation plans, inspection reports, statistical, performance and financial data, and information on RSL governance. SHR will publicly announce the planned publication dates of the main statistical information. It will make HAR aware of its timescales for the analysis and publication of information so that HAR is able to use it to best effect to inform policy development and decision-making.
- 3.3 Both parties understand the need to guard the integrity and independence of the regulator and to respect the confidentiality of their dealings with third parties.
- 3.4 SHR and HAR will:
 - exchange information about identified areas of work that will require collaboration, information and analysis, significant input, or iterative exchanges, so that each party can plan effectively;
 - minimise duplication, maximise the efficiency of information collection and reduce burdens for regulated bodies;
 - consult each other when either party reviews data collections that both parties use;
 - make the other aware of the type of information it is collecting and the timescales for analysis and publication where it is relevant to the work of the other;
 - proactively exchange information that is likely to be made public where it is of mutual interest;
 - tell each other about cases that present a major or immediate risk to the achievement of our objectives; and
 - provide bespoke analysis of information for each other, subject to resource, timing and confidentiality constraints; and
 - handle safely and securely the information it receives from the other party and respect any specified limitations on its use.
- 3.5 Each party will share its key planning documents with the other, so that there is a wide understanding amongst staff of stand-alone and cross-cutting activities.
- 3.6 Both SHR and HAR are subject to the Freedom of Information (Scotland) Act 2002 (FoISA). Where either party is considering the release of information that originated from the other, it will consult with the other, recognising that the final decision lies with the party to which the request was made.

4. Policy development

- 4.1 It is Scottish Ministers' role to develop and agree strategic policy and investment frameworks for social housing. SHR has a role to provide independent, professional advice to inform policy development, implementation or review in areas where it has a regulatory interest.
- 4.2 HAR and SHR will work collaboratively on planned policy development in areas of mutual interest. Wherever possible, SHR's contributions will form part of an overall, planned approach from HAR, and HAR will give SHR advice notice of timescales and input.
- 4.3 Scottish Ministers and HAR will respect SHR's role in providing independent advice and will take account of this advice, though they retain the right to differ from SHR's view in matters of policy.
- 4.4 HAR will provide SHR with timely information about policy developments that are relevant to its objectives and in ways that enable it to maintain an overall understanding of the social housing sector and other areas that impact on its purpose or interests. And the SHR will bring to HAR's attention any operational matters that have a potential impact on wider policy issues.
- 4.5 SHR and HAR will establish operational arrangements which will reflect the principles set out here.

5. Investment decisions

- 5.1 SHR and HAR have a shared interest in protecting public investment and ensuring that funding goes to organisations that perform satisfactorily.
- 5.2 HAR will make its own judgements about which organisations to fund. It may wish to use information or analysis about individual RSLs published or otherwise provided by the SHR, to inform funding decisions.
- 5.3 The SHR will tell HAR in advance of the publication of any adverse assessment of a regulated body that is in receipt of, or has been allocated, grant funding. HAR will consult the SHR where it is deciding to withhold, reclaim or renegotiate financial assistance or grant for a regulated body and where this action is likely to have significant consequences for it.
- 5.4 The SHR will inform Scottish Ministers and HAR of any decision to take intervention action or end intervention action towards a regulated body in receipt of grant funding, before making the decision public.
- 5.5 Where the SHR exercises intervention powers it will liaise with HAR about the withdrawal or continuance of funding. In general, HAR will not fund regulated bodies where the SHR has significant concerns (usually expressed in a formal assessment) about its governance, service quality, stock investment or financial viability.

6. Liaison

- 6.1 We recognise that the success of this MoU will depend on the relationships we develop at all levels and in informal as well as formal exchanges. The liaison will cover more structured project or work planning and management, as well as an opportunity to exchange information about issues as they arise.
- 6.2 There will be regular contact between HAR and the SHR:
- a) The Director of HAR and the Chief Executive of the SHR will meet monthly.
 - b) The Chief Executive of the SHR and the Deputy Directors responsible for social housing policy and investment will meet monthly.
 - c) The Chief Executive of the SHR will attend the senior management team meeting at HAR at least once every six months.
 - d) SHR's Head of Policy and Corporate Services and HAR Divisions will be responsible for co-ordinating the implementation of the MoU. They will promote the MoU to staff and will lead on developing operational and monitoring arrangements.

7. Review

- 7.1 SHR and HAR will review this MoU after its first year of operation.

Signed on behalf of the Scottish Housing Regulator



13 July 2009

Chief Executive

Signed on behalf of the Housing and Regeneration Directorate, Scottish Government



13 July 2009

Director