

Framework Agreement between Scottish Ministers and the Scottish Housing Regulator

March 2018



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Framework Agreement between Scottish Ministers and the Scottish Housing Regulator

1. Introduction

- 1.1 The Scottish Housing Regulator ('the Regulator'), established by Part 1 of the Housing (Scotland) Act 2010, is a body corporate. By virtue of an order made under Section 104 of the Scotland Act 1998, it is part of the Scottish Administration. It is not part of the Scottish Government and for administrative purposes it is classified as a Non-Ministerial Department (NMD).
- 1.2 This Framework Document sets out the terms of an agreement between the Regulator and Scottish Ministers, in relation to the governance, financing and operation of the functions of the Regulator.

2. The Regulator's role and functions

- 2.1 The 2010 Act gives the Regulator a single statutory objective, to safeguard and promote the interests of persons who are or who may become homeless, tenants of social landlords, or recipients of housing services provided by social landlords.
- 2.2 The Act also sets out the Regulator's general functions. These are:
 - a) to keep a publicly available register of social landlords, and
 - b) to monitor, assess and report regularly on (and, where appropriate, to make regulatory interventions relation to):
 - social landlords' performance of housing activities; and
 - registered social landlords' financial well-being and standards of governance.
- 2.3 By regulating effectively to achieve its statutory objective, the Regulator will contribute to the Scottish Government's Purpose Targets. It will play its part in supporting the delivery of the current Scottish Government National Outcomes and those that will be implemented in 2018 following the current review:

- Our public services are high quality, continually improving, efficient and responsive to local people's needs.
- We live in well –designed, sustainable places where we are able to access the amenities and services we need.
- We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others.
- We live longer, healthier lives.
- We have tackled significant inequalities in Scottish society.
- We have improved the life chances for children, young people and families at risk.

3. Roles, responsibilities and relationships

Scottish Ministers

- 3.1 Scottish Ministers are responsible for formulating and implementing housing policy, including policy on social housing and the legislative framework for the regulation of social housing.
- 3.2 Under the 2010 Act, Ministers are responsible for appointing and reappointing members of the Regulator. They also have responsibilities in connection with the following of the Regulator's functions:
- The Regulator must obtain the approval of Ministers for the terms of its staff.
 - The Regulator may not dispose of land or give guarantees without the consent of Ministers.
 - The Regulator may not determine the location of its premises without the consent of Ministers.
- 3.3 Ministers are also responsible for setting the Regulator's budget subject to Parliamentary approval. Subject to Ministers' role at 3.2 above, the Regulator is responsible for preparing its Corporate Plan.

The Board of the Regulator

- 3.4 The Regulator's functions lie with a Board of Non Executive members who are appointed by Scottish Ministers through the public appointments process. The Board is responsible for the leadership and strategic direction of the organisation, ensuring

that it achieves its statutory objective and carries out its functions effectively and efficiently. The Board will ensure that the Regulator has appropriate arrangements in place for corporate, business and workforce planning, risk and financial management, and reporting on its performance.

- 3.5 Board Members have collective responsibility for the actions and decisions of the Regulator and are accountable to the Scottish Parliament.
- 3.6 The Chair of the Regulator's Board is appointed by Scottish Ministers and leads the Board in reaching decisions and pursuing its strategy. The Chair has a particular role in representing the Regulator to stakeholders. The Chair will carry out annual appraisal interviews with other members of the Board.
- 3.7 The Regulator will work with Scottish Government officials to support recruitment and reappointments to the Regulator's Board. This will ensure that the Chair and Board members have the range of skills and qualities needed to lead and set strategic direction so the Regulator can achieve its statutory objective and carry out its functions.

The Director General (DG) for Education, Communities and Justice

- 3.8 The DG for Education, Communities and Justice as Portfolio Accountable Officer, is responsible for ensuring that effective and healthy working relationships are maintained between the Regulator and Scottish Ministers, and that the financial and other management controls applied by the Scottish Government are appropriate and sufficient to safeguard public funds. The DG should also be satisfied that the controls being applied by the Regulator conform to the requirements both of propriety and of good financial management.
- 3.9 The DG will promote alignment between the Regulator and the Scottish Government as appropriate, for example ensuring that:
 - the Board and Chief Executive are aware of strategic developments and decisions which may impact on the Regulator;
 - the position of the Regulator is taken into account in relevant Scottish Government policy decisions, and that the Scottish Government has due regard for advice provided by the Regulator;

- appropriate Scottish Government corporate services are available to support and facilitate the work of the Regulator; and
- an appropriate Framework Agreement is in place, and maintained.

- 3.10 The DG will ensure that the appraisal of the Regulator's Chief Executive is considered as part of the Senior Civil Service pay and performance system. The appraisal will be carried out by the Regulator's Chair, and counter-signed by the DG (or an appropriate member of the DG's staff).
- 3.11 The DG will ensure that an annual appraisal interview with the Regulator's Chair to discuss and review the Chair's performance takes place. The appraisal will be carried out by the Director for Housing and Social Justice.

The Regulator's Chief Executive

- 3.12 The Regulator's Chief Executive is responsible for the day-to-day operation of the organisation's functions and for leading its staff. The Chief Executive is held to account by the Board for the efficient and effective management and delivery of the Regulator's business.
- 3.13 The Chief Executive is designated as the Accountable Officer for the Regulator by the Principal Accountable Officer for the Scottish Administration (in accordance with the terms of the Public Finance and Accountability (Scotland) Act 2000). The Chief Executive is personally answerable to the Parliament for the effective and efficient operation of the Regulator, for safeguarding the public funds for which they have charge, for ensuring propriety and regularity in the handling of those funds, and ensuring that the Regulator complies with the requirements of the Scottish Public Finance Manual.
- 3.14 The Chief Executive has a duty to secure Best Value, in accordance with Scottish Government guidance for Accountable Officers. This includes the concepts of good corporate governance, performance management and continuous improvement.

4. Relationship between Scottish Ministers and the Regulator

- 4.1 The 2010 Act provides for the Regulator to perform its functions independently of Ministers by specifying that Ministers must not give directions relating to, or otherwise seek to control, the performance of the Regulator's functions.
- 4.2 Scottish Ministers and the Regulator are committed to the principle of good communications, especially where the work of one has bearings upon the responsibilities of the other. The Regulator will therefore ensure that the Government's Housing and Social Justice Directorate (HSJD) is informed in advance of any significant announcements or publications which may have implications for the Government. The Directorate will, in turn, inform the Regulator in advance of any significant announcements or publications which may have implications for the Regulator or the regulated sector.
- 4.3 The Government and the Regulator will establish and maintain effective working relations through regular contact with each other, including regular meetings.
 - The Chair and other members of the Regulator's Board will meet the Minister with portfolio responsibility for housing at least once each year.
 - The Chair will meet the Minister separately at least once each year.
 - The Chair will meet with the DG for Education, Communities and Justice or members of the DG's staff, at least three times each year.
 - The Board will meet with the DG, or members of the DG's staff, once each year.

The Government and Regulator will review these meeting arrangements from time to time.

- 4.4 Officials in the Government's HSJD will maintain routine contact with the Regulator through staff nominated by the Regulator for that purpose.

- 4.5 The Government will look to the Regulator for advice on the regulatory implications of aspects of social housing policy, where the Regulator has particular expertise, knowledge or information that could assist the Government's formulation or implementation of policy. The Regulator will also draw relevant issues to the Government's attention.
- 4.6 The Regulator and HSJD will maintain effective arrangements for communicating and exchanging information about the social housing sector.

5. Financial regime

- 5.1 As an NMD, the Regulator's budget will appear separately in the annual Budget Bill to the Scottish Parliament. When setting budget proposals, the Scottish Government will liaise with the Regulator to identify its resource requirements. The budget for the Regulator will be considered together with that of the Communities portfolio. It will ultimately be for Scottish Ministers to determine the budget proposals to be submitted to Parliament.
- 5.2 The Regulator is responsible for preparing and managing its budget for each financial year, and for ensuring that expenditure is in line with this budget. The Regulator will provide monitoring information on its expenditure to the Scottish Government Finance Directorate as requested. The Regulator's accounts will not be formally consolidated with Scottish Government accounts.
- 5.3 The Government and Regulator will agree financial contingency arrangements for dealing with any unbudgeted costs associated with the use of the Regulator's statutory intervention powers, or the use of other provisions of the 2010 Act (including, but not restricted to, section 88 on Regulator assistance to a registered social landlord and unbudgeted costs associated with legal action).
- 5.4 The Regulator has established and will maintain appropriate financial procedures in accordance with the Scottish Public Finance Manual. It will ensure that appropriate counter-fraud arrangements and policies are in place.
- 5.5 Subject to budgetary limitations, and the requirements of the Scottish Public Finance Manual, the Regulator has full authority to incur expenditure on individual items.

- 5.6 Each year, the Regulator will prepare and publish a report on the exercise of its functions and will lay this before Parliament, along with a copy of its annual accounts. The Regulator will be subject to external audit by the Auditor General for Scotland (AGS) or by auditors appointed by the AGS.

6. Scottish Parliament

Parliamentary Committee Attendance

- 6.1 The Scottish Parliament has the power to require any Board member, Chief Executive or any member of staff of the Regulator to attend a Parliamentary Committee.
- 6.2 As Accountable Officer, the Chief Executive may be required to appear before the Public Audit Committee of the Scottish Parliament, or before other Committees in the capacity of Chief Executive.

Parliamentary Questions and Correspondence

- 6.3 Members of the Scottish Parliament (MSPs), through Parliamentary Questions (PQs), may ask Ministers about their own relations with the Regulator and Ministers will answer such questions. However, Scottish Ministers are not accountable for the Regulator's operations. Where PQs ask about matters that are the responsibility of the Regulator, the Minister's answer will state this position and refer the MSP to the Regulator.
- 6.4 Should Scottish Ministers receive correspondence about the Regulator's operations from MSPs, members of the public or other stakeholders, this will be forwarded to the Regulator. The Government will inform the correspondent that their letter or email has been passed to the Regulator, and the Regulator will reply to them directly (within its published response timescales).

7. Use of Scottish Government services and contracts

- 7.1 The Regulator and the Government are committed to the use of shared services, and to ensuring that services meet an agreed standard (see section 9.3 below). The

expectation is that the Regulator will continue to use Scottish Government corporate services and negotiated contracts. Where the Regulator is giving consideration to withdrawing from shared service contracts, it will enter into discussions with the Portfolio Accountable Officer prior to making any financial or contractual commitments.

- 7.2 The Regulator will continue to receive the following direct services from the Scottish Government:
 - Financial services (including the Scottish Government Accounting System (SEAS) and Easebuy);
 - Internal audit;
 - HR services (including payroll and pension administration);
 - Information services and information systems (ISIS); and
 - Facilities and estates services.
- 7.3 The Government will not change the level of service provision provided to the Regulator, withdraw services or increase costs (where applicable) without prior consultation with the Regulator, and there will be an appropriate period of notice before any changes take effect.
- 7.4 The Government and the Regulator will agree individual Service Level Agreements (SLAs), Memoranda of Understanding (MoUs) or an appropriate equivalent detailing service options and standards in each of these areas. Each SLA or MoU will include timescales for review.
- 7.5 The Government and the Regulator may also agree for the Regulator to receive services from other parts of the Government.
- 7.6 Government HR and finance officers will provide annual Certificates of Assurance to the Regulator's Accountable Officer, within the required timescales for the Regulator's audit and assurance processes.

8. Staff of the Regulator

- 8.1 The Regulator's staff are civil servants within the Scottish Administration. For staff in bands A-C, their terms and conditions are negotiated through the Scottish Government Main bargaining unit. As such, they are subject to public sector pay policy. The Regulator's Chief Executive is a Senior Civil Servant (SCS) Deputy Director. The SCS is reserved and therefore the Chief Executive's contract of employment will follow the standard terms and conditions as set down by the UK Cabinet Office in the Civil Service Management Code.
- 8.2 The Regulator may wish to review aspects of the terms and conditions of service of its staff (below SCS), in the business interests of the Regulator, and in doing so it would require to seek advice from the Scottish Government's Directorate for People. Variations in terms and conditions of service to suit the Regulator's particular circumstances may be introduced with the approval of Scottish Ministers and after full consultation with the Director of Human Resources and Organisational Development, the Regulator's staff and their representatives. Subject to the provisions of the 2010 Act, the Regulator has the authority to withdraw from the SG Main bargaining unit if it decides that the organisation should have its own terms and conditions for staff below SCS level.
- 8.3 The Regulator is responsible for determining the numbers and levels of staff (up to and including C3 level) and its management structure, and for ensuring that staff recruitment arrangements are fair, open and transparent. Recognising the Regulator's particular business needs and the requirement for specialist regulatory and analytical skills, the Government's Directorate for HR and Organisational Development will work with the Regulator to agree effective, flexible and responsive recruitment strategies.
- 8.4 The Regulator is also responsible for ensuring there are adequate organisational development and performance management arrangements in place for Band A-C staff. The performance management arrangements for the Chief Executive (and any other senior civil servants appointed) will be the responsibility of the Scottish Government, agreed in conjunction with the Chair of the Regulator.

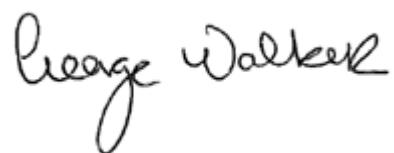
- 8.5 The Regulator is committed to effective communication and engagement with its entire staff and their representatives, and will adhere to the principles of the Scottish Government Partnership Agreement with the Council of Scottish Government Unions.
- 8.6 The Regulator aims to offer its staff rewarding career opportunities, and is committed to fostering career development, well-being, diversity and equal opportunities. The Regulator will have an appropriate learning and development strategy which supports staff career development and achievement of the Regulator's statutory objective. Band A-C staff will remain eligible for posts in the Scottish Government and can access advice and training from the Scottish Government free of charge. Scottish Government staff will also be eligible to apply for posts with the Regulator that will be advertised through the SG internal vacancy arrangements. The Scottish Government HR senior staff team will have responsibility for career development issues regarding the Chief Executive and any other senior civil service appointments, in conjunction with the Chair of the Regulator.
- 8.7 The Regulator is responsible for health and safety and will aim to achieve the highest standards of health and safety in its operations. The Regulator will have access to arrangements made by the Scottish Government for staff well being.

9. Reviewing this agreement

- 9.1 This Framework Agreement will be reviewed as necessary but no less than every three years with the next scheduled review completed by March 2021. Amendments may also be proposed by the Scottish Government or the Regulator at any other time, in light of experience or changed circumstances, and any revisions will be agreed by the Regulator and Scottish Ministers. The Framework Agreement will be published on the SHR website.

Date

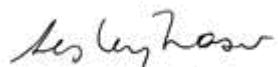
Signed on behalf of the Scottish Housing Regulator

A handwritten signature in black ink that appears to read "George Walker". The signature is fluid and cursive, with "George" on the top line and "Walker" on the bottom line.

Chairperson

Date

Signed on behalf of Scottish Ministers

A handwritten signature in black ink that appears to read "Lesley Hason". The signature is fluid and cursive, with "Lesley" on the top line and "Hason" on the bottom line.

Director for Housing and Social Justice