



**SHARE event  
Thursday November 29, 2018**

**George Walker  
Chair, Scottish Housing Regulator**

Good morning. Thank you so much for inviting me to speak at this event with you. I'm trying not to be concerned about my place on the agenda – I see the next item is “*a short gentle relaxation session*” by Anne-Marie. I can promise you that I'm not planning to say anything that will need you to lie-down afterwards.

You have a great agenda today. And, as Chair of the Regulator, you won't be surprised to hear that I'm delighted to see so many people from the sector gathering to discuss governance.

Because, Good governance is the cornerstone of a successful RSL and of course, it underpins effective service delivery for your tenants.

Events like today are so important in helping landlords, discuss ideas, share their good practice and learn from each other. So I'm delighted to be included in your discussion.

I'm also pleased that regulation looks to be a theme running through the conference, as like it or not, good, effective and proportionate regulation is an important part of any well run sector. You're concluding today with a “*lived journey*” from an RSL that has come out the other side of statutory intervention. Should be fascinating.

Many of you will know that we're in the middle of a consultation process on our new regulatory framework for social housing. Our proposals are all about promoting and supporting a culture of assurance, openness and transparency. That's what I want to focus on for you this morning.

Our statutory objective hasn't changed. What we're doing is refreshing the tools we use to regulate.

Our consultation is in its second phase. We published a discussion paper setting out our early ideas at the start of the year. We had great feedback - written responses from more than ninety organisations and individuals, and lots of engaging discussion. You may well have contributed. And if you did – thank you.

We've continued that discussion. We've been out and about having roundtable events, speaking with tenant groups, landlords and other important stakeholders to hear feedback and ideas.

So it's an incredibly busy time. It's also an inclusive and hugely worthwhile process. The consultation is open until 14 December, and we welcome feedback from everyone who has an interest in our work. I'd encourage you to take part.

As I said, the regulatory framework we're proposing is centred on landlord self-assurance. The proposals build on our earlier ideas and all the feedback we got. I want to spend some time explaining our thinking here, because this is the area of our consultation where we are proposing most important “new stuff”.

First, let me explain what we want landlords to assure themselves about. We've set out a proposed and clear list of regulatory requirements for

landlords in the consultation. Many of these aren't new, but we've pulled them into one place so that it's easier to see what landlords are required to do.

The key requirements for all landlords, both local authorities and RSLs, to focus on:

- achieving the Scottish Social Housing Charter
- meeting legal duties in housing and homelessness, including human rights, equalities duties and in tenant safety
- the importance of tenant feedback and learning from complaints.

RSLs are also required to meet Standards of Governance and Financial Management.

Landlords would assure themselves that they are achieving the Charter, meeting their legal duties and all of these other requirements. They would then confirm this in a new Annual Assurance Statement - or explain any significant areas where they currently don't comply and set out what they are doing to fix them.

So far, there's been widespread support for this, and just about everyone we've spoken to has welcomed the proposed introduction of an Annual Assurance Statement for each landlord. Obviously you may have questions on the detail, and that's fine.

The Statements would be approved by each RSL's governing body – or local authority committee. But more importantly, the Statements should be owned by the governing body.

For chairs and governing body members in the room - it will be your statement that you are assured. We see the Statement as a useful tool, that should help you consider the questions to ask and the assurances that you need. Interestingly, some have flagged the statement as a positive opportunity for governing bodies to reflect on, and recognise, what they had achieved over the year.

So, there are some key principles for the Statement:

- It should be short and succinct
- It should contain a core set of statements with some prescribed wording, but the exact format is for each landlord to decide.
- Any more detailed narrative should be by exception, to set out any areas of non-compliance and what the landlord is doing to fix them.

The consultation includes guidance setting clear requirements for what the Statement needs to cover, with some example wording, but we are not proposing a template. We've provided some illustrations of what Statements might look like, to help people visualise how the process might work. I'll let you digest one illustration as I describe more about the process.

The Statement is about the landlord saying "we have seen enough evidence to be assured that we comply right now", and that landlords would then notify us during the year if anything changed significantly.

Tenant voice is important here too. The Annual Assurance Statement would be about landlords assuring themselves that you are delivering what your tenants want and need, at a price that they can afford to pay.

To do this properly, we strongly believe that you really do need to know what your tenants think.

Tenant feedback, including from complaints, gives governing bodies and committees an important, objective view of how the landlord is really performing, particularly against the Charter. And I know that many of you use this as a powerful tool.

So our draft guidance on the Statement requires landlords to consider feedback from tenants and other service users when deciding what to put in their Annual Assurance Statement. Another example of openness and transparency.

What we are proposing is a continuous, rolling approach to self-assurance. We wouldn't expect landlords to have to carry out a big one-off exercise each year, or to present a huge bundle of material to their governing bodies at the point of signing the Statement. It should be about looking across all of the sources of assurance and evidence that they have seen throughout the year, as part of routine ongoing performance reporting, assessment and policy development.

Then considering this alongside independent assurances from Internal Audit, external sources, and importantly feedback from tenants, other services users, staff and stakeholders.

In many ways, the way a governing body gets assurance - and the fact that it is assured – is actually much more important than the Statement itself.

So, it will be for you, the governing body members in the room, to determine whether your organisation complies with regulatory requirements and the Standards of Governance and Financial Management. You will then decide if you need to disclose any areas with which you don't fully comply. In doing that it will want to think about how material, significant or serious the non-compliance is. If your governing body is confident that it generally complies, then it may decide not to disclose what it sees as more minor improvements that are needed.

This illustration shows what an assurance statement might look like where a landlord does wish to highlight non-compliance.

We will use the Annual Assurance Statements to inform how we will engage with each landlord. We will consider carefully, firstly whether we need to engage with a landlord that discloses any areas of non-compliance, and secondly what the most proportionate engagement will be.

Of course there will be times, for most landlords, when you do not comply with every aspect of every requirement. We understand that few landlords can achieve 100% compliance at all times. For SHR it's about encouraging self-awareness and openness. So we will reflect this reality when we decide whether, when and how we engage with landlords. To be clear, we will not normally engage with a landlord where it generally complies, is aware of what it needs to do to improve, and has plans to make the improvements.

We may ask some landlords to give us more assurance around how they are tackling areas of more significant non-compliance.

And we will engage more directly with landlords where there is serious non-compliance which presents a risk to tenants' interests.

In our discussions so far people spoke about information that could be useful to support effective self-assurance. For example, illustrations of sources of assurance, questions for governing bodies to ask themselves and examples of what 'good' looks like, with signposting to information from SHR and from others.

We're not proposing to put this sort of information in the statutory guidance on the Assurance Statement, as we think it would be better to work towards an advisory toolkit. We see this as an online tool, and something that we keep up to date and add to over time as a resource to support governing bodies.

We want to develop the toolkit collaboratively, and to take some time to really explore content and what would be most useful. So, we are already talking to stakeholders such as GWSF, SFHA, ALACHO and landlords themselves about this.

Many of those we talked with about the discussion paper stressed the importance of us being transparent, and particularly about us stating clearly our view of each RSL.

At the moment we state the engagement level we have with each RSL – high, medium or low – rather than our regulatory judgement about them.

Some people have told us that that approach doesn't tell them a lot about an RSL. Many have told us that clarity on the Regulator's view will be critical in a regulatory framework that aims to build a culture of assurance and openness.

So, having considered this, and how this fits with transparency and self-assurance, we believe it is right that we should make our regulatory view of each RSL readily available to tenants, all landlords and other service users, with an interest in RSLs.

We're proposing to do this by publishing an engagement plan for each landlord. This will replace the high, medium or low engagement level for each RSL. And no more regulation plans.

The new engagement plan will focus on our judgement on each RSL's compliance with the Standards and regulatory requirements. Our work with the SFHA's working group and others has helped us to develop the approach we're now consulting on.

Each engagement plan would set out

- the information we require from the landlord
- any further work we are doing with it
- and why

These new Engagement plans would replace the Regulation Plans we currently publish for only some RSLs, and would be a new thing for local authorities. So, no more 'high', 'medium' or 'low' engagement levels.

As you know, we have a broader role with RSLs than local authorities, as the Housing Act requires us to monitor and assess their governance and financial management as well as their Charter performance. So for RSLs, we also propose to publish a new regulatory status.

We're proposing three levels of regulatory status for RSLs: compliant, working towards compliance, and statutory action.

The first is where we view the RSL as fully or generally complying with regulatory requirements and the Standards. Of course we recognise that organisations may not always be at 100% at all times. So that term generally compliant is really important.

'Working towards compliance' is where an RSL is not complying to a significant level but has demonstrated that it has the capacity and willingness to sort out its issues in a reasonable timeframe.

And 'statutory action' is where we have had to use our powers of intervention because of the seriousness or complexity of the non-compliance.

Based on the information we currently hold on RSLs, I really don't think it will surprise you that the vast majority would sit in the 'compliant' status.

So, what are the timescales for the consultation and changes? We'll be reflecting on all of the feedback from the consultation over the coming months. We plan to publish the new regulatory framework and guidance by the end of February, with all of this new approach going live in April 2019.

I've covered a lot of ground there. I'm really keen to hear your thoughts or take your questions.

So, to finish. It's more important than ever for governing bodies to assure themselves that they are focusing on the right things, managing risk, and delivering what tenants and service users want and need at a price they can afford to pay. The changes we're proposing to the regulatory framework are aimed at helping them do just that. Supporting responsible landlords do the right things for your tenants.

Thank you.