



**The Scottish
Government**

Ministerial Code of Practice for The Scottish Housing Regulator

Foreword by the Cabinet Secretary

I am pleased to publish this Code of Practice for The Scottish Housing Regulator.

The Housing (Scotland) Act 2001 sets out the powers available to Ministers in regulating and inspecting registered social landlords and local authorities in their housing and homelessness functions. But we recognise that these powers must be exercised at arms length from Ministers. So, as a matter of policy, we have set up The Scottish Housing Regulator to exercise these powers in a fair and impartial way, free from any inappropriate influence. In doing so, we recognise the important role that external scrutiny can play in improving performance and providing the kind of assurance we need that public services are pursuing best value. In social housing, we also recognise that the housing regulator plays a significant role in maintaining the confidence of private investors.

The purpose of this Code of Practice is to set out our expectations about the way The Scottish Housing Regulator will exercise the regulatory powers set out in the Housing (Scotland) Act 2001. The Code should be read alongside the framework document for the agency, which sets out the resource and management arrangements we have agreed with the regulator.

I am confident that The Scottish Housing Regulator will exercise Ministerial powers effectively to protect the interests of current and future tenants, and to ensure housing and homelessness services are high quality, continually improving, efficient, and responsive to local people's needs.

Nicola Sturgeon

Cabinet Secretary for Health and Wellbeing

Ministerial Code of Practice

1. Introduction

- 1.1 Section 80 of the Housing (Scotland) Act 2001 (the Act) requires that Scottish Ministers publish a statement that sets out how they propose to exercise their functions as referred to in Part 3 of that Act. Ministers published the first Code of Practice in November 2001 for Communities Scotland, the predecessor body to The Scottish Housing Regulator (SHR). The Act also requires Ministers to review and publish a further statement at least every five years. A revised Code of Practice was issued for Communities Scotland in November 2006.
- 1.2 This new Code of Practice takes account of the establishment of the Scottish Housing Regulator as an executive agency of the Scottish Government to take over the regulatory functions of Communities Scotland. This Code details how the Scottish Ministers intend to use their powers to regulate and inspect Registered Social Landlords (RSLs) and the landlord, homelessness and factoring functions of local authorities through the agency.

2. Rationale and purpose

- 2.1 The SHR's purpose should be 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.
- 2.2 In providing for the statutory regulation of RSLs and the inspection of the housing and related services of local authorities, Scottish Ministers wish to ensure that these organisations can benefit from a regulation and inspection regime that is impartial, rigorous and fair and is informed by professional best practice. They also wish to ensure that statutory powers provided in the Act are used appropriately and consistently and are not subject to undue influence.
- 2.3 Scottish Ministers expect that current and future tenants, and other consumers of housing and homelessness services, will benefit from a regulatory and inspection framework which promotes quality, continuous improvement, good practice, equality of opportunity and value for money in the social housing sector.

2.4 Scottish Ministers expect the regulator to operate independently, without fear or favour and have a public focus in all that it does. They expect that the SHR will observe the principles of good regulation by being independent, transparent, consistent, proportionate, accountable, targeted, and focused on the public interest.

3. The role of The Scottish Housing Regulator

3.1 The Scottish Housing Regulator is an executive agency of the Scottish Government and acts on behalf of Scottish Ministers. As a matter of general policy the SHR will deal with all aspects of the regulation and inspection of RSLs and the inspection of the housing and related services of local authorities. In carrying out these regulatory duties the SHR will operate in accordance with this Code of Practice, which encompasses Ministers' policy framework, and the Framework Document that establishes the responsibilities of the agency and its management and resource arrangements.

3.2 Scottish Ministers will agree key objectives with the SHR to ensure the effective operation of the powers in the Housing (Scotland) Act 2001 and to ensure it fulfils its core purpose.

4. Openness and accountability

4.1 The Scottish Ministers expect the SHR to operate to the highest standards of openness and accountability. The SHR is accountable to Scottish Ministers and, through them, to the Scottish Parliament.

4.2 The work of the SHR will be assisted by a Regulation Board. This Board will be chaired by the Chief Executive or his or her deputy and will include senior officers of the agency, as well as a maximum of four external non-executive directors. The non-executive directors will play an important role in making sure the regulator's work is free from any inappropriate influence;

4.5 The SHR will publish an annual report that sets out its activities and regulatory actions for the year. This report will be to Scottish Ministers, and will be published and made available to the Scottish Parliament.

4.6 Scottish Ministers expect the SHR to work closely with those who have an interest in its work and to maintain a participation structure which makes sure tenants and other

service users, the representative bodies of regulated bodies and funders and other key stakeholders actively contribute to the regulatory process.

5. Setting standards and giving guidance

- 5.1 Scottish Ministers will set out the strategic direction and standards for social housing. The SHR will hold landlords to account on compliance or performance against these standards and, where appropriate, will set out more detailed operational standards and timescales for required compliance. The SHR will provide advice to Scottish Ministers in setting standards.
- 5.2 The existing agreed set of Performance Standards for RSLs and local authorities will remain in place and will be used by the regulator to hold landlords and homelessness authorities to account, while the Government develops its approach to standard-setting and its future direction on social housing policy.
- 5.3 Any operational standards set by the regulator should ensure that the following key principles are observed:
- a) equality of opportunity exists across all aspects of social housing and related services;
 - b) tenants and other service users are encouraged and supported to participate in the management of the services they receive;
 - c) regulated bodies provide high quality services;
 - d) regulated bodies observe the highest ethical standards and operate in an open and accountable manner; and
 - e) value for money is achieved.
- 5.4 The SHR may have regard to the extent to which any guidance it issues – or any other guidance issued by Scottish Ministers – is or has been followed in determining whether action needs to be taken to secure the proper management of the provision of housing accommodation and related services by a local authority or a registered social landlord or whether there has been mismanagement.

6. Effective, proportionate and risk-based regulation

- 6.1 Scottish Ministers expect the SHR to operate a regulation and inspection framework that:
- a) takes account of regulatory risk;

- b) aims to protect the interests of current and future tenants and other consumers of housing and homelessness services;
- c) secures decent homes, good services, value for money and financial viability;
- d) promotes service improvements and holds social landlords to account;
- e) reflects Ministerial expectations in key policy areas;
- f) minimises regulatory burdens wherever possible; and
- g) makes best use of regulatory resources.

6.2 Scottish Ministers expect the SHR to be transparent about its regulatory assessments, clear in the language it uses to communicate these and use a range of flexible and proportionate regulatory responses. Scottish Ministers require the SHR to publish details of its inspection processes.

6.3 At the end of any inspection the SHR will provide a final report to the inspected body and registered tenants' groups within a timescale set by the SHR for each inspection, in accordance with its published guidance. Final reports will be posted on the SHR's web-site and, a reasonable number of hard copies will be made available on request to interested parties.

6.4 The SHR will ensure that adequate arrangements are made to follow up on any major issues arising from inspections.

7. Reviews and complaints

7.1 Ministers expect the SHR to publish procedures whereby inspected bodies can request a review of the outcome of an inspection process. The SHR will also have a clear, well-publicised procedure for dealing with complaints about how it conducts its regulatory and inspection activities.

8. Intervention

8.1 The Housing (Scotland) Act 2001 provides Scottish Ministers with a range of powers which can be used to intervene to secure improvements in the performance of an RSL or local authority.

8.2 The powers available to Scottish Ministers are different for RSLs and local authorities; this reflects the differences in the constitutional and governance arrangements of these organisations. Regardless of the different remedies available,

Scottish Ministers expect the principles underpinning the use of intervention powers to be applied consistently to all social landlords.

- 8.3 Scottish Ministers require that the scale of intervention is proportionate to the nature of the problem, with a graduated use of interventions wherever possible. The SHR, on behalf of Ministers, will operate these intervention powers in line with a published *Intervention Strategy* and will review this strategy from time to time.

9. Multiple regulation and influencing others

- 9.1 The SHR should promote its role as lead regulator for the social housing sector, aiming to influence other regulatory bodies, local authorities, policy makers, funding bodies and legislators to consider and better manage the extra burdens they place on the sector. It should aim to take primary responsibility for core regulatory tasks and enable other regulators to rely on its assessments and data.

- 9.2 Scottish Ministers recognise the importance of good working relationships between the SHR and other scrutiny bodies to avoid duplication and minimise the burden on the organisations audited, regulated and inspected. The SHR should establish and maintain agreements or memoranda of understanding with other bodies that set out arrangements for consultation on policy, inspection programming, information sharing, intervention and other operational issues to help us work better together.

- 9.3 The SHR will be expected to minimise its data demands on regulated organisations, and should work with other scrutiny bodies to share its information to allow those bodies to use that information and rely on its assessments.

- 9.4 The SHR should provide information and advice to inform the broader policy and legislative environment facing social landlords and homelessness authorities to help policy makers design policy, assess impact and consider options for policy implementation, enforcement and monitoring.

10. Equality of opportunity

- 10.1 Scottish Ministers expect the SHR to respect diversity and promote equality of opportunity in line with the Scottish Government's Equalities Strategy and equalities duties as a public body. The SHR will promote equality of opportunity in all its activities, develop an organisational culture that makes its work responsive to the

communities it services and values diversity in its workforce. The SHR will make assessment of equalities an integral part of its inspection and regulatory activity.

11. Review of Code of Practice

- 11.1 This Code of Practice will be reviewed when significant legislative or policy changes require this. Any proposed amendments will be subject to consultation with RSLs, local authorities, lenders, funders, tenants and others with an interest in the regulator's role.

This document can also be made available on tape, in Braille, large print and community languages. For information please telephone 0141 271 3810 or email shr@scottishhousingregulator.gsi.gov.uk

