

REPORT TO: HOUSING COMMITTEE - 14TH NOVEMBER 2011

**REPORT ON: DUNDEE CITY COUNCIL RESPONSE ON A CONSULTATION ON
"THE REGULATION OF SOCIAL RENTED HOUSING IN SCOTLAND"**

REPORT BY: DIRECTOR OF HOUSING

REPORT NO.: 502-2011

1. PURPOSE OF REPORT

1.1. The report contains the Council's response to the Scottish Housing Regulator's consultation paper issued in September on the Regulation of Social Rented Housing in Scotland.

2. RECOMMENDATIONS

2.1. Committee is requested to approve the response to the consultation, set out at Appendix 1, for submission to the Scottish Government.

3. FINANCIAL IMPLICATIONS

3.1. None.

4. MAIN TEXT

4.1. Under the Housing (Scotland) Act 2010 the Scottish Housing Regulator is now an independent body responsible for the regulation of social rented housing in Scotland.

4.2. The Scottish Housing Regulator has a statutory objective to safeguard and promote the interests of tenants and others who use social landlords services.

4.3. The Regulator plans to build on the successes of social housing regulation over the past 30 years and will be introducing new approaches to deliver good outcomes and strengthen landlords performance.

4.4. The Consultation sets out the core principles underpinning how the Regulator will operate. Their role will differ between registered social landlords and local authorities, reflecting the different scrutiny arrangements in place for each sector. The Regulator works through the joint scrutiny framework for local authorities with their scrutiny partners delivering through the shared risk assessment for all councils.

4.5. The new approach will be more risk based and will focus on significant risks and effective governance.

4.6. The Regulator will use their first year (2011/12) to develop and consult on plans for a new regulatory framework for social housing in Scotland. It will assume its full new powers from 1st April 2012.

4.7. Full details of the Scottish Housing Regulator and the consultation are available on line at: www.scottishhousingregulator.gov.uk/newregulator

5. **POLICY IMPLICATIONS**

- 5.1. This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti Poverty, Equality Impact Assessment and Risk Management. There are no issues to report.

6. **CONSULTATIONS**

- 6.1. The Chief Executive, Depute Chief Executive (Support Services), Director of Finance and all other Chief Officers have been consulted in the preparation of this report. No concerns were expressed.

7. **BACKGROUND PAPERS**

- 7.1. None.

Elaine Zwirlein
DIRECTOR OF HOUSING

October 2011

APPENDIX 1

DUNDEE CITY COUNCIL RESPONSE ON A CONSULTATION ON 'THE REGULATION OF SOCIAL RENTED HOUSING IN SCOTLAND'

Section 1 - The Scottish Housing Regulator

Question 1 - Do you agree with our proposed principles and approach to building a strategy for consulting and involving tenants? How can we ensure that tenants and others can contribute to our work?

Yes.

Question 2 - Do you agree with our proposed approach to co-operating with other regulators and scrutiny bodies? Are there alternative approaches we should consider?

Yes. It is agreed that the approach of ensuring a co-ordinated approach with other scrutiny bodies characterised by information sharing, co-operation and collaboration is appropriate. As is stated this should eliminate gaps and duplication.

Question 3 - Do you agree with our proposed approach to involving landlords and other sector interests? Are there alternative approaches we should consider?

Engagement with landlords and representative bodies such as COSLA and the Scottish Federation of Housing Associations is appropriate.

Section 2 - How we will regulate

Question 4 - Do you agree with our proposal on how we will identify risk in RSLs? Do you have any additional comments to make on this topic?

Yes.

Question 5 - Do you agree with our proposals on how we will identify risk in councils? Do you have any additional comments to make on this topic?

Yes. Joint scrutiny with other relevant regulatory agencies through the Local Authority Area Networks and the Assurance and Improvement Plan is in place and is working satisfactorily.

Question 6 - Do you agree with our proposed approach on regulatory engagement? Are there other factors we need to consider?

Yes. Engagement based on risk assessment seems appropriate.

Question 7 - Do you agree with our proposed approach on how we will enable tenants to raise significant performance failures with us? Are there alternative approaches we should consider?

Yes. The arrangements set out at 2.27 include satisfactory range of publicity and contact opportunities. Reviewing these arrangements within year one will enable evaluation and inclusion of necessary changes.

Question 8 - Do you agree with our proposed approach on whistleblowing, notifiable events and the disclosure of information to us by auditors? Are there other factors we should consider?

Yes.

Section 3 - How we will monitor the Scottish Social Housing Charter

Question 9 - Do you agree with our proposals on self assessment by landlords and tenants? What other factors should we consider in this area?

Yes. It is essential that there is flexibility for appropriate arrangements to be agreed between landlords and tenants to 'fit' the requirements within varied organisations. Cognisance must be taken of resource requirements in the wider sense i.e. the extent to which tenants will provide their input as volunteers to what could be extensive tenant input to self assessment.

Question 10 - Do you agree with our proposals on how landlords should involve tenants and others in self assessment? Are there other factors we should consider in this area?

Yes. As highlighted these should not be prescriptive, they need to be meaningful and workable. Landlords should ensure that opportunities exist for the harder to reach groups of service users.

Question 11 - Do you agree with our proposals on landlords submitting Annual Charter Performance Reports? Are there other approaches we should consider?

Yes. These annual reports, provided they are compiled appropriately, easily understandable and of reasonable length are a good way of holding landlords to account

Question 12 - Do you agree with our proposed approach to assessing and reporting on landlords progress against the Charter? Are there any other issues or factors we should consider?

Yes. Although given the number of social landlords some of the timescales included here seem challenging for the Regulator. Submission of annual reports is required by May and by August information will be published by the Regulator for all landlords

Section 4 - The Register of Social Landlords

Question 13 - Do you agree with our proposed regulatory registration criteria? Are there any alternative or additional criteria we should consider?

Yes.

Question 14 - Do you agree with our proposed de-registration criteria? Are there any additional or alternative criteria we should consider?

Yes.

Section 5 - Regulatory Standards of Governance and Financial Management

Question 15 - Do you agree with our proposed Regulatory Standards as set out in Annex A? Do you have any additional comment on these standards?

Yes.

Question 16 - Do you agree with our proposed guidance on Regulatory Standards? Do you have any additional comment on these standards?

Yes.

Question 17 Do you agree with our proposed constitutional standards ? Do you have any additional comment on these standards ?

Yes.

Question 18 Do you agree with the requirements set out in our guidance on RSL payments and benefits to governing body members and employees ? Do you have any additional comment on this area ?

Yes.

Question 19 - Do you agree with our proposals on governing body membership? Are there other issues we need to consider here?

Yes.

Question 20 - Do you agree with our proposal to work with the sector to develop a model code of conduct for governing body members? Are there any alternative approaches we should consider?

Yes. *It is essential that the highest standards of probity and conduct are promoted.*

Question 21 - Do you agree with our requirements set out in our guidance around additional audit for some RSLs? Are there any alternative approaches we should consider?

Yes.

Section 6 - How we will use our powers on enquiries and information

Question 22 - Do you agree with our proposals to conduct checks of a random selection of landlords to review information? Are there any alternative approaches we should consider?

The Regulator's approach to obtaining information from landlords should be focused to ensure that information collected is appropriate and targeted to the assessment process and minimises the staff time and costs of production. It is noted that for local authorities that routine requests would be for the annual return on the Social Housing Charter (ARC) and the annual return on the Scottish Housing Quality Standard.

Question 23 - Do you agree with our proposed approach to using our enquiry powers to gain additional information? Are there any alternative approaches we should consider?

It is noted that one of the mechanisms for obtaining additional information is 'using market research techniques'. Use of market research companies and related mechanisms are expensive and time consuming. To prevent duplication and to ensure that landlords are gathering information in the ways which the SHR will want guidance for landlords would be helpful and prevent waste.

Question 24 - Do you agree with our proposed approach to using our inquiry powers to get more assurance and investigate matters of concern? Are there any alternative approaches we should consider?

It is noted that there is the power under section 44 of the Act to 'arrange a survey of any landlord's accommodation' and that the landlord may be required to meet some or all of the expense. Given that landlords will work with the Regulator to provide survey information necessary and that this could be expensive this should only be required in very exceptional circumstances to ensure best use of scarce resources.

Question 25 - Do you agree with our proposed approach to using our inquiry powers to inspect to hold landlords to account? Are there any alternative approaches we should consider?

Yes, however inspections should be targeted, rapid and focused making best use of the staffing resources from both the Regulator and the landlord.

Question 26 - Do you agree with our proposals to do short notice or unannounced inspections? Are there any alternative approaches we should consider?

Yes, in exceptional circumstances where it is essential to act quickly to protect the interests of tenants.

Question 27 - Do you agree with our proposed approach to grading outcomes? Are there any alternative approaches we should consider?

In order to ensure greater transparency from the outcomes of inspections a clear framework, with clear criteria and perhaps a scoring mechanism should underpin the assessment outcome of excellent to unsatisfactory.

Section 7 - How we will use our intervention powers

Question 28 - Do you agree with our criteria for statutory intervention? Are there other criteria we should consider?

Yes.

Question 29 - Do you agree with our proposed approach to how we will intervene? Are there any alternative approaches we should consider?

Yes.

Question 30 - Do you agree with our proposals on what we expect regulated bodies to do following our statutory intervention? Are there additional factors we should consider?

Yes.

Section 8 - How we will consent to constitutional and organisational change

Question 31 - Do you agree with our proposed approach to consenting to changes to RSL constitutions? Do you have any comments on our proposed approach?

Yes.

Question 32 - Do you agree with our proposed approach to consenting to RSL organisational changes?

Yes.

Question 33 - Do you agree with our proposal to increase disposals covered by General Consent? Do you have any comments on this proposal?

Yes.

Question 34 - Do you agree with the proposal to increase the monetary limit to £100,000 for disposals through sale or excambion of social and non social housing land, untenanted social housing dwellings or other assets? Do you have any comments on this proposal?

Yes.

Question 35 - Do you agree with our proposal to permit through General Consent disposals covered by an agreed disposal strategy? Do you have any comments on this approach?

Yes.

Question 36 - Do you agree with our proposal to permit through General Consent disposals by granting of standard securities on the condition that we have sufficient assurance through our regulatory engagement?

Yes.

Question 37 - Do you agree with our proposal to continue the existing approach to giving consent to floating charges? Are there other factors we should consider?

Yes.