

# **SCOTTISH FEDERATION OF HOUSING ASSOCIATIONS**

## **WRITTEN SUBMISSION**

### **Update regarding Scottish Housing Regulator**

#### **Introduction**

SFHA welcomes the level of interest and scrutiny of the Scottish Housing Regulator (SHR) being undertaken by the Infrastructure and Capital Investment Committee. Regulation is a crucial aspect of our sector, providing assurances to tenants, service users, lenders and other stakeholders that the highest standards of probity will be maintained. As acknowledged by the SHR, the sector has an excellent reputation, and SFHA recognises the role that regulation plays in maintaining this.

SFHA provided written and oral evidence to the Infrastructure and Capital Investment Committee in November 2014 to inform the Committee's scrutiny of the Scottish Housing Regulator. Following on from this, the Committee helpfully agreed to meet informally with a small group of SFHA members in January, who provided invaluable input by sharing their experience directly with the Committee.

Following oral evidence from the SHR in January we have noted with keen interest the various correspondence between the Committee and SHR. We noted that in the Committee's most recent correspondence to the SHR on 26 March 2015, the Committee asked for the SHR to provide further oral evidence, and in particular to focus on:

- progress towards the induction of an appeals process and
- the personal use by governing bodies and staff of the same contractors and suppliers that are used by RSLs.

SFHA welcomes the opportunity to provide a further update, and will focus primarily on these two issues.

#### **Use of an RSL's Contractors/Suppliers By Staff and Governing Body Members**

The SFHA has for some time been seeking to develop a Model Entitlements, Payments and Benefits Policy that not only recognises the diverse nature of the sector and the practical constraints that an organisation's individual circumstances represent, but that also satisfies the expectations of the SHR. The use of an RSL's contractors/suppliers by staff and Governing Body Members is covered as part of this policy, and our aim has been to reach an agreement with the SHR on a policy that is principled, proportionate and practicable.

The Use of Contractors/Suppliers element of the policy has proven the most contentious both with our membership and with the Scottish Housing Regulator. The policy has been subject to much debate and amendment over the past year, and following dialogue with the SHR we

circulated a final draft to our members, stating that this represented a policy that would fully satisfy the SHR's requirements and that we intended to publish on the basis of a one year introductory period. Members were encouraged to indicate any in principle objections to SFHA by Thursday 18 June.

The policy states that where possible staff and Governing Body Members should avoid using the organisation's contractors/suppliers for their own private purposes. An individual could, however, be permitted to use the organisation's contractors/suppliers if they could demonstrate that there is no suitable alternative contractor/supplier providing the service required in their local area, and they can also demonstrate that they would receive no preferential treatment in terms of service or cost.

From analysing the responses received following the consultation period, several members have indicated that they have profound concerns and in principle objections with the policy as written and feel it may be unworkable in their circumstances. Responses have been received from a broad spectrum of organisations, including several who operate in rural areas as well as larger organisations who have large numbers of staff and use a large number of contractors, who feel that this would be impractical and disproportionate.

The SHR has since indicated that each association could have the option of opting out of a specific provision within the policy when an RSL believed it was genuinely difficult to comply with in their circumstances, provided it put in place an alternative provision that met the principle and spirit of the model policy. This degree of flexibility is helpful in that it appears to acknowledge that it is impracticable and unhelpful to insist upon a one size fits all approach given the diversity of the sector – both in terms of geography and scale.

As such SFHA is minded to publish the policy as a starting point for RSLs, to adapt as they may reasonably consider they require to suit their organisation's individual circumstances. We would, however, welcome confirmation from the ICI Committee that it will commit to reviewing how the policy is working in practice as part of its continued scrutiny of the SHR. We would also be keen for the Committee to revisit how the flexible approach identified has been applied by both our members and by the SHR.

With this assurance from the Committee, we intend to publish on Friday 26 June on a one year introductory basis, and include a statement to be agreed with the SHR in our communications to our members.

## **Appeals Mechanism**

In our previous evidence, we had highlighted the importance of the development of an independent appeals mechanism. We are pleased to note from the SHR's Work Plan for 2015/16 the intention to develop, consult on and implement such a process by March 2016. SFHA looks forward to feeding into this process, and ask the Committee to ensure the final mechanism is truly independent and provides an avenue of redress for all relevant aspects of the SHR's decision making.

For instance, we would be keen to ensure that if an organisation were to opt out of any element of the Entitlements, Payments and Benefits Policy due to their individual circumstances, and the SHR were to then decide that the organisation's identified alternative approach was inappropriate, that an avenue of independent appeal would exist.

## **Further Scrutiny**

The SFHA and its members raised a number of issues in our previous evidence regarding proportionality, transparency and tone of the SHR in its operations and communication. We are pleased that in response to the ICI Committee evidence, we have had more constructive, positive engagement with the SHR and it has been making efforts to provide further clarity to RSLs through its publications – including the publication of a Work Plan for 2015/16 and a series of documents entitled "How We Work".

This is welcomed, but we would encourage the Committee to continue the same level of scrutiny moving forward in order to evaluate progress over a longer time frame. In particular, we would like the Committee's assurance that it will continue to scrutinise the effectiveness of the Model Policy on Entitlements, Payments and Benefits to ensure proportionality and flexibility in its application.

**Scottish Federation Housing Association**

**18 June 2015**