

EAST RENFREWSHIRE COUNCILCABINET18 February 2016Report by Director of EnvironmentTENANT PARTICIPATION AND ENGAGEMENT**PURPOSE OF REPORT**

1. To advise the Cabinet on the views of Scottish Housing Regulator in relation to the Council's Customer Engagement and Tenant Participation Strategy and to seek an amendment to the strategy.

RECOMMENDATIONS

2. In view of the findings of the Scottish Housing Regulator the Cabinet is asked to approve the following amendments to the Customer Engagement and Tenant Participation Strategy:

- (a) Include the East Renfrewshire Tenants and Residents Federation as a participant in the Registered Tenants Organisation (RTO) Forum;
- (b) Extend the frequency of the RTO Forum to four-six times a year and expand its role as a scrutiny body; and
- (c) Review ERC's registration criteria for RTOs operating within East Renfrewshire.

BACKGROUND

3. Tenant Participation is required under the Housing (Scotland) 2001 Act.

4. The means by which East Renfrewshire Council's Housing Service obtains the views of customers had historically been undertaken through traditional methods of tenant participation, and had focused on using local, geographically based Registered Tenant Organisations which are recorded as such under housing legislation.

5. East Renfrewshire currently has 7 RTOs. These are Neilston, Auchenback, Mearns Village Community Association (MVCA), Thornliebank & Giffnock, Arthurlie, Sheltered Housing in East Renfrewshire (SHER), East Renfrewshire Tenants and Residents Federation (ERT&RF or the Federation). The Federation is an "umbrella" body that represents the six other RTOs, although evidence suggests this is not an accepted view.

6. The Housing Service works closely with RTOs and variously provides officer and administrative support, grant funding, information and guidance to each representative group. The Housing Service attends RTO meetings on request and encourages RTO participation in events including neighbourhood inspections, consultation exercises, conferences etc.

7. RTOs are frequently asked to provide or will form a view on a range of matters. This may relate for example to a rent increase or spending priorities. This view is then conveyed to Elected Members.

8. Elected Members over a number of years have expressed concern over the representativeness of the views of RTOs and the transparency of the process by which these views are reached. It was felt that RTOs when expressing a view are often unable to evidence that they represent the voice of tenants and that the views expressed can often seem to be at variance with the views of tenants generally.

9. As a result of this, relations between the Council and some of the RTOs has historically not been as fruitful as we would have wished, a fact reflected in the Communities Scotland Inspection of Housing Services in 2005 and the Scottish Housing Regulator's report of 2010.

10. More recently the Scottish Government's Social Housing Charter came into force in April 2012. The Charter sets out standards and outcomes relating to what:

- tenants can expect from social landlords, in terms of the quality and value for money of the services they receive, the standard of their homes, and opportunities for communication and participation in the decisions that affect them;
- homeless people can expect from social landlords in terms of access to help and advice, the quality of temporary accommodation, and continuing support to help homeless people access and keep a home; and,
- owners can expect from the property management services they receive from social landlords.

11. There are two key Charter outcomes that relate to tenant and customer engagement:

- Outcome 2 – Communication – tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides;
- Outcome 3 – Participation – tenants and other customers find it easy to participate in and influence their landlord's decisions at a level they feel comfortable with.

12. The publication of the Charter coincided with the Council's wish to act upon its concerns over widening the decision-making process for Council tenants improving engagement and ultimately the quality of service delivery.

13. In addition, the Community Empowerment (Scotland) Bill was introduced to the Scottish Parliament in June 2014. As Members will be aware the aim of the Bill was for public service providers to give communities a say in how services are given. It suggested that people who shape and run public services should ask local people what services they need and they should also ask how these should be delivered. In addition it highlighted that there needed to be more ways for people who run services to talk with people about the kind of services they want.

14. In view of the background and the expectation created by the Charter and the emerging Community Empowerment (Scotland) Bill a Housing Services Customer Engagement Strategy was prepared. This was approved by the Cabinet in October 2014.

15. The report highlighted that the Council wished to deliver the right services in the right manner and at the right time. It recognised that to be a successful business the Housing Service needed to listen to its customers and provide a service that suits their needs and expectations. The report made clear some key points as set out below

- Our method of engaging with customers had historically been largely through Tenant and Resident Associations supplemented by the use of questionnaires. This methodology was substantially influenced by the requirements laid out in the Housing (Scotland) Act 2001.
- Whilst these legislative duties still remain there are three key reasons why it is necessary to change this approach.
- Firstly, the current methods of engagement largely through Tenant and Resident Associations can be restrictive and don't recognise the way some people wish to engage. For example:
 - some people may not be able or may not want to attend meetings;
 - some people may prefer to give feedback anonymously;
 - some people may want to talk to us face to face whereas other people may prefer to use interviews or meetings to put their views across;
 - some people may not feel confident enough to speak out at meetings and would prefer to meet one to one or use questionnaires.
- As a result of these pressures, a number of Tenant and Resident Associations had struggled to achieve adequate attendance at their meetings with the result that it is harder for such groups to adequately represent the communities in which they are located.
- Secondly, the Council was particularly aware that certain groups of people tend to be less well represented. This may be due to the way we seek feedback or that they are simply happy with the service they receive. These groups include:
 - younger people
 - those living in temporary accommodation
 - minority ethnic groups
 - carers and carer support groups
 - the elderly
 - those who wish to use our services in the future such as waiting list applicants, school pupils etc
- Thirdly, the current method can overly focus upon tenants and does not adequately involve other customers such as waiting list applicants, factored owners or homeless people.

16. The proposed Customer Engagement Strategy aimed to address these weaknesses in the structure at that time particularly in that rather than Tenant and Resident Associations being the overwhelmingly dominant method it should be one of a range of methods that will be deployed.

17. Importantly, the report made clear that Housing Services had undertaken an extensive process of consultation in relation to the proposed Customer Engagement Strategy

- Each tenant had received a summary of the proposals through the tenants' newsletter. Comments had been encouraged both verbally, in writing and on line. Focus groups had been convened and all four Registered Tenant Organisations (at that time) had been provided with opportunities to provide feedback as had 5 non-registered tenant organisations.
- The response from the Registered Tenant Organisations had varied ranging from opposition to partial support for the proposals. A number of non-registered Tenant Organisations did not formally respond.
- Comments received from the focus groups, and individual tenants had been supportive of the proposals.

18. The report concluded that the Council could therefore be confident that the proposed approach had the support of the majority of the customer base.

19. The Customer Engagement Strategy (CES) introduced a range of additional methods of engagement in order to encourage participation and to obtain better customer feedback.

20. These methods included:

- Tenants Assembly – meets 2/3 times per year – This involves Housing Services writing to a randomly selected group of 300 tenants and inviting the first thirty to respond to the Assembly. Two have taken place so far and whilst both have had low numbers in attendance the feedback from both has been very positive.
- A range of surveys– Housing Services complete a survey of 500 tenants every 2 years to determine key performance issues. In addition the service also undertakes a range of surveys throughout the year for homeless households, new tenants, response repair and capital improvements.
- Reviewing and analysing complaints, comments and compliments to improve the service.
- RTO Forum – This is a forum that representatives of RTOs attend. Since the introduction of the Community Engagement Strategy Housing Services have held 3 forums covering subjects such as rent setting, capital programme, annual performance and the future plans for Housing Services.
- Interested Tenants Register – The Housing Service maintains a list of tenants who have participated in the past and we will contact them again on future issues. This is to develop and improve participation throughout the wider tenant body.
- Neighbourhood Inspections – Throughout the summer months neighbourhood inspections are undertaken with Council officials walking round local areas with tenants to inspect the local environment. The inspections are open to all tenants (and residents of mixed tenure estates) and are promoted in the tenant newsletter and through the Council's social media platforms.

21. Part of the Customer Engagement Strategy saw the replacement of the previous Housing Services Liaison Group (HSLG) with a RTO Forum. The Forum was established to be open to geographical RTOs with meetings held twice each year. The purpose of the forum was to engage with RTO's around local issues, discuss local or national policy and undertake performance monitoring. This moved from six meetings a year to two meetings a year. This allowed some of the staff resources to be switched away from traditional tenant participation towards a more inclusive approach to customer engagement. Rather than use a lot of resources to communicate with the same small number of people each year the resources were spread more widely in order to achieve a greater participation level.

22. However, it was explained to RTOs that they could still ask officers to attend their meetings to provide support and guidance. In addition it is worth noting that ERC operate a registration criteria towards RTOs that is very generous meaning that the "bar" to compliance was set quite low thereby permitting groups that were encountering difficulties in demonstrating tenant representation and participation at their meetings etc. the opportunity to register. An assessment of the registration criteria of some other Councils suggest that they set the bar much higher. The registration criteria of RTOs will now be reviewed.

23. The East Renfrewshire Council Tenants and Residents Federation was excluded from the RTO Forum on the basis that all of its members already attended the Forum through membership of their RTOs. All three of the RTOs regularly in attendance at the Federation (Arthurlie, MVCA and SHER) also attend the RTO Forum.

24. A further reason for the exclusion of the Federation is that despite any claims to the contrary it is felt that it does not represent all of the RTOs in East Renfrewshire given that a number of them clearly choose not to attend. For example of the six geographical RTOs within the Council area, three did not attend a Federation meeting in 2015.

25. The Federation objected to the Customer Engagement Strategy at the time and submitted a complaint to the Council in June 2015. This complaint was not upheld.

26. The Federation subsequently made a complaint to the Scottish Housing Regulator about East Renfrewshire Council failing to:

- consult and engage with the Federation in a meaningful way;
- allow the Federation and its members to participate and influence the decisions the Council makes; and
- consult with residents in two sheltered housing complexes and take account of their views before taking a decision to accommodate homeless people within the complexes.

27. Council staff have not seen a copy of the complaint. However, it is understood that the complaint was made in July 2015. East Renfrewshire Council has not been provided with the minutes of the meeting of the Federation at which a decision was taken to submit this complaint to the Scottish Housing Regulator. It is therefore unclear when the decision was taken by the Federation to complain, who was present when this decision was taken and whether those present were in fact representing tenants views.

28. A copy of the Scottish Housing Regulators response to the complaint is attached (Appendix 1).

REPORT

29. The Housing Service's current performance data in relation to tenant participation would suggest a significant majority of tenants are satisfied or very satisfied. Survey data in 2014 showed that 81% of tenants are happy with the levels of tenant participation for East Renfrewshire. This is far in excess of the average response of 69% for this aspect of the Charter for local authority landlords in Scotland.

30. On a more general note the Cabinet will be aware of the very significant performance improvements across a range of Housing Services. These include improving culture, being more customer-focused, improving the quality and response times for repairs, reducing void rent loss, developing a digital plan and appointing a Tenant Customer Engagement Officer.

31. However, as can be seen from Appendix 1 the Scottish Housing Regulator has concluded that there has been a "**Significant Performance Failure** by East Renfrewshire Council (Council) due to a failure to:

1. *comply with the duty under section 54(1) and (2) of the Housing (Scotland) Act 2001 to notify your tenants on proposals that could have a significant effect on them and take into consideration any representation made as a result; and*
2. *achieve Standard 3 of the Scottish Social Housing Charter which states that Social landlords should manage their businesses so that "tenants and other customers find it easy to participate in and influence their landlord's decisions at a level they feel comfortable with".*

32. A copy of Section 54 of the Housing (Scotland) Act 2001 is attached (Appendix 2)

33. Other key points raised by the Scottish Housing Regulator in the letter include:

- the Community Engagement Strategy does not set out a formal route to allow the Federation to participate and influence the Council as a registered RTO and therefore the Council failed to make adequate arrangements for obtaining and taking account of the RTO (i.e. the Federations) views. In addition, the Federation members are unhappy with the level of engagement they now have with the Council and ultimately the ability they have to participate in a meaningful and effective way.
- The current approach adopted by the Council does not meet the outcome and standards of the Scottish Social Housing Charter. In particular standard 3 of the Scottish Social Housing Charter in relation to participation states that a social landlord should manage its business so that tenants and other customers find it easy to participate in and influence their landlords decision at a level they feel comfortable with. It is clear from the information presented that the Federation and its RTO members do not find it easy to participate and influence the Council's decisions.
- Whilst the Scottish Housing Regulator is not prescriptive about how landlords involve their tenants and customers in assessing their performance they require landlords to:
 - Agree their approach with tenants
 - Ensure that it is effective and meaningful – that the chosen approach gives tenants a demonstrable say in the assessment of performance
 - Publicise the approach to tenants
 - Ensure that it can be verified – that the landlord can show that the agreed approach to involve tenants has happened

- The range of evidence they saw has confirmed to the Scottish Housing Regulator that the new structures that have been put in place to liaise with RTOs have reduced their ability to participate in and influence the decision the Council makes
- The Council might wish to contact an organisation such as TIS or TPAS to work with the Council to develop the Council's relationships with the Federation and its RTOs with a view to possibly reviewing the Council's participation structures and scrutiny activities to ensure it is consulting with its tenants and customers in a way that meets its statutory obligations and regulatory requirements
- The Council is expected to take these issues seriously and to develop a plan to address the issues raised
- The Council is expected to engage with the Scottish Housing Regulator about its plans to address these issues

34. More detail on what a significant performance failure is and its possible consequences is contained at Appendix 3. No other Council in Scotland has been found to have had a Significant Performance Failure. Guidance from the Scottish Housing Regulator advised that a significant performance failure will occur when a landlord fails to do something, or takes action that puts tenants' interests at risk. It will normally relate to the landlord's failure to meet its legal requirements or tenant commitments, and it **will affect many or all of the landlord's tenants**. A significant performance failure will relate to services provided to tenants. For RSLs it will also apply to governance and financial matters. When a service failure affects only one tenant or a small number of tenants then this should be dealt with as a complaint."

PROPOSALS

35. It is proposed to

- continue with the wider approach to tenant participation and engagement as approved by the Cabinet
- continue to work with RTOs and the Federation to address the issues raised in the Scottish Housing Regulator's letter
- extend the frequency of the RTO forum to four/six meetings per year
- include the East Renfrewshire Tenants and Residents Federation as a participant in the Registered Tenants Organisation forum
- review ERC's registration criteria for RTOs operating within East Renfrewshire

36. It is proposed also that the role of the RTO forum be changed to undertake a scrutiny function. The RTOs will meet with frontline service managers four/six times per year and review key policy and procedural areas. Full training on scrutiny will be provided and the forum will be supported to contribute fully to the forum agenda.

FINANCE AND EFFICIENCY

37. There are no financial implications associated with this paper.

CONSULTATION

38. No consultation was necessary.

PARTNERSHIP WORKING

39. This report has been produced in partnership with Legal Services and Housing Services.

IMPLICATIONS OF THE PROPOSALS

40. There are no implications in relation to staffing, property, legal, IT or equalities associated with this report.

CONCLUSIONS

41. The proposals contained within the Customer Engagement Strategy were clearly aimed at improving tenant engagement and were felt to be compliant with and in the spirit of relevant legislation and guidance.

42. The SHR has formed a view that East Renfrewshire Council has failed to comply with the duty under Section 54 (1) and (2) of the Housing (Scotland) Act 2001 to notify tenants on proposals that could have a significant effect on them and take into consideration any representation made as a result.

43. The SHR has also concluded that this breach constitutes a significant performance failure.

44. Our evidence on tenant participation suggests that the vast majority of our tenants are happy with participation. Concern remains that a number of the RTOs within ERC are unable to demonstrate or produce evidence that they are representative and that some of their processes lack transparency. However, it is proposed that work will continue with these groups to address this by providing support and appropriate resources.

RECOMMENDATIONS

45. The Cabinet is asked to approve the following amendments to the Customer Engagement and Tenant Participation Strategy:

- (a) Include the East Renfrewshire Tenant's and Residents Federation as a participant in the Registered Tenants Organisation (RTO) Forum;
- (b) Extend the frequency of the RTO Forum to four-six times a year and expand its role as a scrutiny body; and
- (c) Review ERCs registration criteria for RTOs operating within East Renfrewshire.

Director of Environment

For further information contact: Andrew Cahill, Director of Environment, 0141 577 3036 or andrew.cahill@eastrenfrewshire.gov.uk

Convener contact details

Councillor Danny Devlin
(Convener for Housing and Maintenance Services)

Home: 0141 580 0288
Office: 0141 577 3107/8

January 2016

KEY WORDS: housing, Scottish housing regulator, customer engagement, tenant participation, significant performance failure

BLANK PAGE



Mr Phil Daws
 Head of Environment
 (Housing and Property Services)
 East Renfrewshire Council
 211 Main Street
 Barrhead
 G78 1SY

4 December 2015

Dear Phil,

**Significant Performance Failure (SPF) complaint.
 East Renfrewshire Tenants Resident Federation (Federation)**

Thank you for meeting with us on 20 November to discuss our findings about the allegation of a Significant Performance Failure (SPF) raised by the Federation.

The Federation is a Registered Tenant organisation (RTO) and is an umbrella organisation for the majority of the Council's RTOs.

We explained to you that we considered the alleged SPF reported to us by the Federation in line with our Complaints and Significant Performance Failures Factsheet published in August 2013. We reviewed the information provided by the Federation to assess whether or not there has been a SPF, and we met with the Federation on a number of occasions to seek more information and discuss their concerns. We also had a very helpful meeting with you on 31 August to discuss the potential SPF.

As you know, the Federation made a complaint about East Renfrewshire Council failing to:

1. consult and engage with the Federation in a meaningful way;
2. allow the Federation and its members to participate and influence the decisions the Council makes; and
3. consult with residents in two sheltered housing complexes and take account of their views before taking a decision to accommodate homeless people within the complexes.

Our letter to you dated 16 October set out the Federations allegations in detail and you responded to this letter on 2 November, and we considered the information you provided in response to the allegations as part of our investigation process.

We have now concluded our investigation into the SPF reported by the Federation and we have decided that there has been a Significant Performance Failure by East Renfrewshire Council (Council) due to a failure to:

1. comply with the duty under section 54(1) and (2) of the Housing (Scotland) Act 2001 to notify your tenants on proposals that could have a significant effect on them and take into consideration any representation made as a result; and
2. achieve Standard 3 of the Scottish Social Housing Charter which states that Social landlords should manage their businesses so that "tenants and other customers find

it easy to participate in and influence their landlord's decisions at a level they feel comfortable with".

The Housing (Scotland) Act 2001 states that tenant participation strategies must include provision for the arrangements for obtaining and taking account of the view of RTOs, this should include:

- arrangements for obtaining and taking account of the RTO views; and
- provision for notifying RTOs on the matters on which the landlord expects to be making proposals and impact on tenants.

You explained the Council developed a Customer Engagement Strategy (CES) and as part of this put in place new structures such as a Tenant's Assembly to capture the views of tenants who are not part of a RTO. It also introduced a number of changes to the way the Council consulted with its RTOs including which RTOs would be consulted, who would attend meetings with RTOs, and the issues RTO's would be consulted and involved in.

The CES does not set out a formal route to allow the Federation to participate and influence the Council as a registered RTO and therefore the Council failed to make adequate arrangements for obtaining and taking account of the RTO views. In addition, the Federation members are unhappy with the level of engagement they now have with the Council and ultimately the ability they have to participate in a meaningful and effective way.

We explained to you that we welcome the Councils approach in developing new ways to capture the view of those customers who are not part of an RTO. Nevertheless, we believe the current approach adopted by the Council does not meet the outcome and standards of the Scottish Social Housing Charter. In particular as set out above Standard 3 of the Scottish Social Housing Charter, "Participation", states a social landlord should manage its business so that tenants and other customers find it easy to participate in and influence their landlord's decisions at a level they feel comfortable with. It is clear from the information presented to us that the Federation and its RTO members do not find it easy to participate and influence the Councils decisions.

Our approach to monitoring landlords' achievement of the Charter outcomes and standards emphasises the importance of tenants being involved in the scrutiny of landlords' performance. This is firmly rooted in the principle that a landlord should:

1. understand its tenants' priorities and needs;
2. involve them in setting policies, objectives and standards;
3. involve them in the implementation of decisions; and
4. support them to hold the landlord to account.

We explained to you that there are a broad range of ways in which tenants and customers can be involved in a landlord's assessment of its performance, and there will be different levels at which they want to be involved. Therefore, we are not prescriptive about how landlords involve their tenants and customers in assessing their performance, but we require landlords to:

1. agree their approach with tenants;
2. ensure that it is effective and meaningful – that the chosen approach gives tenants a demonstrable say in the assessment of performance;
3. publicise the approach to tenants; and
4. ensure that it can be verified – that the landlord can show that the agreed approach to involve tenants has happened.

The range of evidence we saw has confirmed to us that the new structures which have been put in place to liaise with RTOs have reduced their ability to participate in and influence the decisions the Council makes.

When we met with you, we discussed how the Council could address the concerns that have been raised with us by the RTOs. We suggested you might wish to contact an organisation such as TIS or TPAS to work with you to develop the Councils relationship with the Federation and its RTOs. We also suggested that perhaps TIS or TPAS given their expertise could provide assistance to review the Councils participation structures and scrutiny activities to ensure it is consulting with its tenants and customers in a way that meets its statutory obligations and regulatory requirements. You agreed this may be a good approach and that you will consider this.

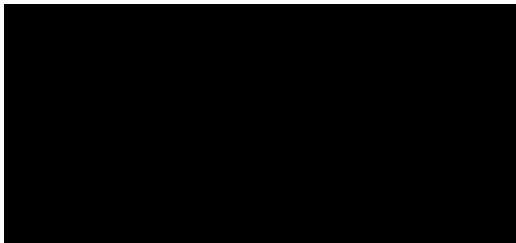
We explained to you that we expect the Council to take these issues seriously and to develop a plan to address the issues we have raised. We also expect the Council to engage with us about its plans to address these issues.

We will reflect our engagement with the Council on this matter through the Shared Risk Assessment Process, the level of engagement will very much depend on the Councils response to the issues we have raised.

We have advised the Federation of our findings. We will formally write to them once we receive the Councils response and importantly what actions the Council intends to take as a result of our findings.

We are happy to discuss this with you or meet with you if you would find that helpful.

Yours sincerely



Katrina Kelly
Regulation Manger (Acting)
Governance and Performance

BLANK PAGE

Housing (Scotland) Act 2001**54 Consultation with tenants and registered tenant organisations.**

(1) A local authority landlord and a registered social landlord under a Scottish secure tenancy or a short Scottish secure tenancy must notify the tenant and every registered tenant organisation of -

- (a) any proposal to which subsection (2) applies, and
- (b) the likely effect of the proposal on the tenant,

and must have regard to any representations made to it, within such reasonable period as is specified in the notice, by the tenant or any such organisation in relation to the proposal.

(2) This subsection applies to a proposal by the landlord concerning -

- (a) its policy in relation to housing management, repairs or maintenance, where the proposal, if implemented, is likely significantly to affect the tenant,
- (b) the standard of service in relation to housing management, repairs and maintenance which it intends to provide,
- (b) its tenant participation strategy under section 53,
- (c) a disposal which would result in a change of landlord or, if different, of owner of the house which is the subject of the tenancy.

(3) This section is without prejudice to section 53.

BLANK PAGE

What is a significant performance failure?

A significant performance failure (SPF) is designed to allow tenants to raise concerns directly with the SHR.

The guidance leaflet for SPF advises tenants to contact the SHR when the landlord fails to do something, or takes action that puts tenants' interest at risk. It will normally relate to the landlord's failure to meet its legal requirement or tenant commitment, and will affect many or all of the landlord's tenants. Examples are given such as:

- Fails to carry out health and safety requirements, such as annual gas safety checks
- Fails to allocate houses in line with its legal responsibilities
- Is not maintaining tenants' homes or carrying out repairs in line with published responsibilities
- Does not consult with tenants about issues such as proposed rent increases and other policies that affect tenants; and
- Is failing to allow tenants to participate and influence the decisions landlords make

The regulatory guidance also states that a SPF is where a landlord:

- Consistently and repeatedly fails to achieve outcomes in the Scottish Social Housing Charter (SSHC) or those agreed local with tenants:
- Has not reported its performance annually to its tenants or the annual reported performance does not reflect actual performance; or
- Has materially failed to meet the Regulatory Standards on governance and financial accountability (RSL's only).

Intervention

The Housing (Scotland) Act 2010 allows the SHR to intervene to protect the interests of tenants and service users. The following intervention powers apply to local authorities:

- Requiring to submit a performance improvement plan
- Serving an enforcement notice
- Appointment of a manager for housing activities

With regards to local authorities the SHR will decide the appropriate regulatory intervention and discuss it with the scrutiny colleagues as part of the shared risk assessment process.

Before deciding to intervene the SHR will consider:

- The seriousness of the performance problem or failure in relation to the SSHC and the impact on service users.
- The risk and urgency as a result of the failure
- The willingness of the organisation to address the failure
- The effect the failure has on the reputation of the landlord and the sector as a whole.

If the SHR decides to intervene they will write to the landlord and explain the powers being used and what is required. The decision will be published by the SHR.

Where the intervention requires a performance improvement plan, the landlord will be expected to publish the plan and issue a copy to all registered tenant organisations.

Right of Review/Appeal

There is currently no right of review or appeal. However in November 2015, the SHR began to consult on a new mechanism that would allow for appeals against certain regulatory decisions, this would include any statutory intervention.

What should you do?

If you are a tenant and are aware of a significant performance failure you should:

- » raise the issue with your landlord;
- » give them a reasonable time to respond; and
- » give them a reasonable time to fix the failure.

If your landlord does not deal with the failure, or it agrees to do something and nothing happens, then you can report this to us.

How to report a significant performance failure?

The simplest way to report a significant performance failure is to complete the form on our website and email it to us. This can be found on our website scottishhousingregulator.gov.uk. You can also telephone, fax, write or email us (details are at the end of this leaflet). We will also accept a report of a significant performance failure from individuals or groups representing tenants, such as registered tenants' organisations, or groups of tenants.

What we will do

When we receive a report that there has been a significant performance failure, we will:

- » review the information provided to assess whether it is, or is not, a significant performance failure;
- » respond to you within 20 working days; and
- » tell you or the tenants' group what action, if any, we intend to take.

If you require further information on significant performance failures or about making a complaint please contact:

Carolyn Anderson

Phone: 0141 305 4199

Fax: 0141 221 5030

Email: spf@scottishhousingregulator.gsi.gov.uk

Or write to:

Scottish Housing Regulator
58 Waterloo Street
Glasgow G2 7DA



Complaints and Significant Performance Failures

Complaints and Significant Performance Failures

Complaint or significant performance failure?

If you are a tenant of a registered social landlord (RSL), such as a housing association or co-operative, or you are a council tenant, and you are unhappy about the services you receive or have concerns about the way your landlord is operating, then you have the right to make a complaint and/or report a significant performance failure.

The following information describes the difference between a complaint and a significant performance failure. It lets you know what you should do under each circumstance and tells you who you should report a complaint or a significant performance failure to.

When to complain

If you are a tenant of an RSL, or a council, your landlord has certain responsibilities.

These responsibilities are generally set out in your tenancy agreement. They will also be detailed in policies and procedures and other material

that your landlord may produce, such as a tenants' handbook.

Generally your landlord should let you know its responsibilities in areas such as:

- » how it will maintain your property;
- » the repairs it will do and how quickly it will do them;
- » how it will deal with anti-social behaviour; and
- » its customer care standards and how you should be treated.

If you feel that your landlord has provided a poor service, delivered a service badly, or failed to provide a service, you have the right to complain.

How to complain

Tell your landlord what you want to complain about. Give them the chance to put things right. You can normally complain in person at your landlord's office,

57

in writing, by phone, by e-mail or by asking someone else to do it on your behalf.

If you are not happy with your landlord's initial response, get a copy of its complaints procedure. The procedure will detail further steps in the complaints process. Ask to have your complaint progressed to the next stage.

If you remain unhappy after you have followed your landlord's complaints procedure, you may be able to have your complaint reviewed by the Scottish Public Services Ombudsman. More information on the role of the Ombudsman is available from: 4 Melville Street, Edinburgh, EH3 7NS; phone **0800 377 7330**; fax **0800 377 7331**; or email: **ask@spso.org.uk**.

When to report a significant performance failure

A significant performance failure will occur when a landlord fails to do something, or takes action that puts tenants' interests at risk. It will normally relate to the landlord's failure to meet its legal requirements or tenant commitments, **and it will affect many or all of the landlord's**

tenants. A significant performance failure will relate to services provided to tenants. For RSLs it will also apply to governance and financial matters. When a service failure affects only one tenant or a small number of tenants then this should be dealt with as a complaint.

For example, a significant performance failure could occur when your landlord:

- » fails to carry out health and safety requirements, such as annual gas safety checks;
- » fails to allocate houses in line with its legal responsibilities or good practice;
- » is not maintaining tenants' homes or carrying out repairs in line with its published responsibilities;
- » does not consult with tenants about issues such as proposed rent increases and other policies that affect tenants; and
- » is failing to allow tenants to participate and influence the decisions the landlord makes.

BLANK PAGE