

## Local Government and Communities Parliamentary Committee

### Scottish Housing Regulator

#### Submission from Patrick Gilbride

I am writing as a retired housing association professional. I have been engaging with various politicians and a range of relevant publications over the past few months in an effort to bring political and media attention to the current role and misuse of powers of the Scottish Housing Regulator (SHR) together with the consequences for tenants, including some of the poorest and most vulnerable members of our society. The observations in this submission are based on my opinions and reflection from my experience. I hope this will provide a general overview of the many serious issues surfacing in the wake of recent SHR interventions and what amounts in my opinion to totally disproportionate action by the SHR most of it relating to what I would regard as bullying, harassment and intimidation of housing association committee members and staff

These areas of concern and more are shared by many practitioners and professionals as well as many voluntary community representatives who have encountered in any way interaction with the SHR, especially within the past ten years or so. No housing practitioner would doubt the necessity and value of a professional regulation and support function: this was exactly what we had in the earlier days of the housing association movement when the routine inspection process was respected, supportive and effective. Sadly, what we have now in my opinion is an unrecognisable governing body which is elitist, remote, domineering, out of control, all-powerful and self-important. It seems to deliberately undermine associations and has been developed into something to be feared rather than respected, with associations desperate to avoid contact with it unless absolutely necessary. You would be very wary and anxious about any routine inspection, and fearful of any whistleblowing allegation or other complaint made against your association, with very good reason. Any anomaly or minor procedural error is reported by regulation staff as a potential catastrophe, and subject to disproportionate, unreasonable action. Cumulatively these can create a very misleading impression of a generally competent organisation. It now seems to me that investigations or interventions of this kind, despite their monumental effect on housing organisations are sometimes made by those with limited responsibilities, experience and knowledge. It seems to me that they can produce scathing attacks on organisations without needing any agreement or approval from anyone within the association, or anyone from within the SHR, and in turn the SHR is accountable to no-one in Government. These are called Regulation Plans and often bear no resemblance to the real situation within a housing association.

I left the position and the community I served in April, 2018, having worked for the same organisation for 34 years, almost 30 as Director. We had wonderful staff and an even more amazing management committee who learned and developed to become

clever, knowledgeable, dedicated, caring, enthusiastic and trusted representatives of their community. Many were able to use their new skills to move into permanent employment within the housing profession. I was always of the opinion that we should be using our housing and development function as the foundation for a wider range of related activities and services. We developed and expanded to a prescribed plan involving initially tenement rehabilitation followed by new build provision and then acquisition of some local Scottish Homes housing stock. Our sheltered housing care service was second to none, with constant on-site 24-hour a day care. We invested over £30 million in the area, created 900 homes, employed 50 staff, catered for every category of housing need and managed 20 community projects. We launched and managed a company specialising in home care for the vulnerable and elderly unique to our area, and created an Out of School Care Group, catering for 70 local children and allowing parents back to work or study. We were the first association in Scotland to have a computerised housing-needs based allocations system, the first to provide temporary and permanent housing accommodation for the homeless and the first to offer the Scottish Refugee Council temporary accommodation for asylum seekers. We had some of the lowest rents in the country for what I would argue was the best quality service and had frozen our rents for a year before my departure. We had some of the highest levels of tenant satisfaction across all service areas in Scotland and the lowest number of complaints. We were about to become the first association in Scotland to pay off our residual debt in full and consequently be able to retain the amount of rent collected, somewhere in the region of £3 million per annum. We received confirmation from external consultants that our finances and our Business Plan were all in great shape. We had just received the Gold Award for Investors in People. This was a well-managed organisation with no problems and a bright future. I myself was about to retire and we had a strategic plan to take the association forward while maintaining the high standards expected by our tenants.

I only have space here to provide a few honest, specific examples from my own experience but these examples are common to most recent cases of intervention. One single case in point involves the SHR response to whistleblowing. While this can be a valid tool for exposing malpractice in the right hands, this has become one of the most encouraged and supported strategies employed by the regulator despite what any capable outside observer would recognise as some of the many dangers in prioritising such an approach before regular, routine and supportive monitoring. This is another area where experienced and balanced professionals must be aware of the motives of any whistleblower.

Another area of concern is how the regulator controls minutes of meetings to justify their intervention. My understanding is that drafts of initial meetings show that the management committee did not want or need enforced regulator appointees as the committee had several members who held professional posts in their working life and felt more than capable of doing what the regulator and the housing association required. When amended by the regulator the final version of this minute, which formed part of the Regulation Plan indicated that committee members had requested appointees.

It is my understanding that regulator appointees are selected from the same small core group of individuals who the regulator use time and time again in the intervention process. This is a controversial role with many within the movement opposed to the

concept of voluntary committee members being now so often replaced by regulation-approved retired or, even more bizarrely, currently employed staff members. While in theory some experienced members are brought in to support the committee, statutory appointees are in practice there to support the regulator and are actually their eyes and ears. This was in my opinion what happened to me, where discussions with appointees prior to the appointment of the investigating consultant led me to believe that the regulator, with their appointee's support, had already decided my fate and the outcome of the investigation before it had even been started.

With reference to the appointment of a consultant to investigate a whistleblower's allegations concerning the association I belonged to, the committee took advice from advisory bodies and selected a number of well-established and well-respected Scottish housing consultants, all of whom were rejected by the regulator causing a committee member to exclaim in frustration, "just tell us who you want then!". The regulator did and an expensive London-based consultant was appointed. I understand this consultant was regularly employed by the Regulator in a variety of areas including policy and research, and a look at other situations where the regulator has intervened will in my view reveal the same consultant appointed, and the same results, time and time again. This in my opinion is neither appropriate, objective nor impartial and suggests an unethical, unprofessional relationship of mutual benefit and conflicts of interest which the regulator would be first to criticise, and which I consider was demonstrated throughout the investigation process where the consultant directly reported to the regulator despite being funded by the association. It is also again disappointing that the minutes of relevant meetings will state that the association requested this consultant, which is untrue.

I am particularly concerned over the role of the Regulator and their influence on the outcome of the investigation. In the present case, I understand from a senior staff member at the association that they were advised by the consultant that they had found no case to answer. However, I further understand that the Regulator was dissatisfied with that outcome and then asked the consultant to consider further allegations.

Within months the reputation of the organisation was destroyed. We had lost most of our committee members, several key staff members, had SHR appointees filling the Board, and SHR staff managing the organisation. I encountered serious health issues during this period of intervention through what I would characterise as the intimidating behaviour of the regulator who at no point during this whole sorry process even had the decency to speak to me directly. Another Committee member resigned.

The demands placed on part-time voluntary members were exceptional and members were left to effectively manage the association through this turbulent period without staff support. Members were subjected to the dramatic consequences of failure to comply, and what in my opinion amounts to threatening and intimidatory actions, impossible timescales, separation of committee members from normal channels of support, bullying, lack of debate. Remaining members were in my view pushed into accepting the Regulation Plan as the SHR published version of the situation at their association, while not actually recognising the organisation as their own and which they had successfully managed for thirty years.

The cost of intervention was colossal, particularly when related to the extended disciplinary action which was never concluded as there was no-one left to do so. My understanding is that the overall cost to the tenant was over £500,000 when including the various consultants brought in to cover staff vacancies, with repayment starting immediately in the form of a rent increase. I am told that the regulator-appointed senior officer charged £90,000 for a few month's part-time consultancy work.

The final point I would like to make is in relation to performance and tenant satisfaction. In an article about the role of the regulator published by the National on 30 July 2020 (which repeats the quotation used in the self-congratulatory comments in the Regulation Plan of October 2019) the Chair of the association stated that since the regulator's involvement the association's performance had dramatically improved. In my view this is not correct and if you compare published performance information from the years leading up to intervention to those since you will see that all key performance indicators, particularly tenant satisfaction, were higher before regulation intervention, and the association and the regulator are making statements and claims which are in my view factually incorrect and misleading to the public.

The fact is that there was little wrong at this housing association. There was no element of risk to the tenants who were for 40 years provided with some of the best and most innovative services in the country, provided by some of the most dedicated, knowledgeable, honest, caring people to ever have served the public sector. The association will never be the same and I and others caught up in this will never get over how we were in my opinion victimised, intimidated, humiliated and bullied during the intervention process. This glaring example of disproportionate intervention cannot simply be measured in terms of financial cost, huge though it is: no account is ever taken of the human cost to those caught up in it with careers and reputations ruined and the community left behind bewildered by what has gone on in the association that they were once so proud of.

The SHR has recently been under more scrutiny than ever before. Serious credible concerns are being raised by many housing professionals and are met with little more than bland arrogance in the obvious hope that they can ride the storm and move on unscathed. Who regulates the regulator? There is no-one or no body to hold them to account or deal with any complaints about them. It says it all when there is no complaints process on the SHR website. Sooner or later there must be a full Government-led inquiry into the real effects of regulation on the housing association sector.

I apologise for providing such a volume of information for what was intended as a simple overview of regulation issues, but please also understand that given my difficult experience of the way intervention affected me and my colleagues I have what I consider to be many more volumes which I would be happy to provide to any review of the role of the Scottish Housing Regulator if required.