**ABSTRACT:** This report sets out the draft Angus Council Response to The Regulation of Social Housing In Scotland – A Consultation.

1. **RECOMMENDATION(S)**
   1.1 It is recommended that the Committee:-
      
      (i) agree the draft response which is at Appendix 1;
      
      (ii) authorise the Director of Neighbourhood Services to submit the response, incorporating any agreed amendments made during the consultation event on 23 November 2011.

2. **BACKGROUND**
   2.1 The new Housing Regulator was created by the Housing (Scotland) Act 2010 (The Act) and will regulate nearly 200 RSLs and the landlord and homelessness functions of 32 local authorities. This response sets out Angus Council’s views on the Regulator’s Consultation document. Members have been invited to attend a Consultation Day (23 November 2011) during which this consultation will be explored in detail.

3. **RISKS**
   3.1 This report does not require any specific risk issues to be addressed.

4. **FINANCIAL IMPLICATIONS**
   4.1 There are no financial implications arising directly from this report.

5. **HUMAN RIGHTS IMPLICATIONS**
   5.1 There are no Human Rights implications for the Council arising directly from this report.

6. **EQUALITIES IMPLICATIONS**
   6.1 The issues dealt with in this report have been the subject of consideration from an equalities perspective. An equalities impact assessment is not required.

7. **SINGLE OUTCOME AGREEMENT**
   7.1 This report contributes to the following local outcomes contained within the single outcome agreement for Angus:-
   
   - Individuals are involved in their communities;
   - Individuals are supported in their own communities with good quality services.

8. **CONSULTATION**
   8.1 The Chief Executive, the Directors of Corporate Services, Infrastructure Services, Social Work and Health and the Heads of Finance and Law & Administration have been consulted on the content of this report.
9. CONCLUSION

9.1 Regulation is part of the landscape in all aspects of Local Government work. The new Scottish Housing Regulator is setting out its response to the legislative requirement upon it to regulate. It does so in a world where proportionality, risk and value for money are more prominent than they ever have been. Angus Council welcomes proportionate risk based regulation and has worked well with the new regulator in its initial establishment and we hope to build on those positive experiences as things move forward.

RON ASHTON
DIRECTOR OF NEIGHBOURHOOD SERVICES

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparation of this report.

Hsg/NS/AMcK/JM
Appendix 1

Angus Council’s Draft Response to the Consultation on “The Regulation of Scotland Housing in Scotland”

Angus Council welcomes the opportunity to comment on The Regulation of Social Housing in Scotland. Angus Council is a supporter of proportionate regulation which helps organisations enhance the service offering to customers and offer continuously improving performance and value for money.

Angus Council has worked closely with the Scottish Housing Regulator in the past and believes that regulation is a vital strand in our commitment to continuous improvement. We have recently worked closely with the Regulator during the Best Value II pilot and have been impressed by the Regulator’s adoption of the principles of self assessment and we believe that this consultation sets out to build on the Regulator’s experiences of BVII.

This consultation overlaps with the ongoing consultation on the Scottish Social Housing Charter which; given the inter-relationship of the two documents and their outcomes, means many of the questions posed by the Regulator cannot be fully answered at this time. It is, therefore, vital that the Regulator works in concert with the Scottish Government and housing providers in the development of the response to the Charter which we all hope will lead to a suite of regulation which is fit for purpose, proportionate and does not require significant new resource to respond to.

Response

Section 1: The Scottish Housing Regulator

1.4 Angus Council supports the desire for comparison information, however, the reliability of that comparison will depend on commonly agreed and operated methodologies for developing and collecting performance indicators. There is much work to be done in this area and whilst we are working very closely with the Scottish Housing Best Value Network (SHBVN), we believe closer attention to this level of detail is required to ensure comparisons between organisations are meaningful.

1.6 We fully endorse the principle of proportionality and in the context of Local Government believe that any regulation should be through the best value approach unless otherwise agreed with Scottish Local Authorities. We have seen first hand the Scottish Housing Regulator’s commitment to this and believe that this style of regulation is helpful and what the housing sector desires.

1.9 Angus Council has a long history of working closely with tenants and is committed to placing tenants at the heart of its decision making. The Regulator must, however, guard against only focussing on the use of Registered Tenant’s Organisations (RTOs) in relation to gathering tenant feedback. There is a danger that RTOs often represent very experienced tenants who have been active for a long time, this strength often masks the considerable efforts landlords are going to, to expand tenant input through the use of modern technology or the fact that many tenants want an involvement but perhaps not the commitment of being in an RTO. This need for new methods of flexible inclusion is a real challenge for the sector but one we are looking forward to getting to grips with, as we know the Regulator is.

Section 2: How We Regulate

It is to be hoped that all landlords share the Regulator’s objective of protecting the interests of tenants and other service users and that being the case, this new style of regulation can hopefully be more partnership and improvement focussed.

We welcome the Regulator’s commitment to the joint scrutiny framework and shared risk assessment. We are fully supportive of this approach and hope we can develop an open, transparent and flexible approach with the Regulator in relation to housing matters as we believe this can only benefit our service users.

We believe that we can assist the Regulator by being better at publishing our performance information online, by enhancing our twice yearly Tenant Scrutiny Panels and by continuing to ensure our newsletters are interesting and shaped by our tenants. Angus Council is embracing social media and we hope to explore how we can make more of modern communication to engage with our tenants in the coming months and years.
We endorse the Regulator’s Cycle and hope that the Scottish Social Housing Charter is fit for purpose. So much depends, for the Regulator and ourselves, on the Charter being a meaningful document and we have submitted our views on its current iteration.

2.21 We believe it is our responsibility to inform the Regulator as and when required. We trust the Regulator does not wish to be seen as a second Ombudsman and there must be clear guidance on how the Regulator engages where, for example, tenants complain about isolated day-to-day management issues. To this end we support the principles and direction set out in para 2.23.

Section 3: How we will monitor the Scottish Social Housing Charter?

It is obvious that the final shape of Scottish Social Housing Charter is critical to the ability of landlords to respond to the Regulator’s requests and frameworks. We believe that the Scottish Government are listening to the views of tenants and the housing sector in shaping the Charter following consultation and we look forward to the next version of the Charter.

3.15 Angus Council are currently using the Public Sector Improvement Framework (PSIF). It is a helpful tool and we are working with the SHBVN to see how the tool can be a one stop shop for customer involvement in terms of formal strategic assessment of services. The model can be refined to be a more customer focussed model. It will not, however, be the only engagement model we use, but we do believe it currently offers the most consistent route to reviewing our services in the round.

3.17 – 3.23 We have no significant concerns to this approach. We already publish performance in our tenant newsletter and run two Tenant Scrutiny Panels per year. In addition to this, every policy amendment to our key policies, procedures and service standards are debated and signed off by our tenant’s movement prior to being submitted to Committee for debate.

Section 4: Register of Social Landlords

We have no significant observations of this section.

Section 5: Regulatory Standards of Governance and Financial Management

We have no significant observations of this section.

Section 6: How we will use our powers on inquiries and information?

In relation to this section, it is hoped that a sufficient suite of information can be developed and published publically for both tenants and the Regulator that all necessary information can be accessed via the internet or at key local offices. In developing this as normal business, the burden on both the landlord and the Regulator can be minimised.

With regard to inquiry powers, we do not expect the Regulator to need to use these to secure the information it requires from Angus Council.

Section 7: How we will use our intervention powers?

We believe that intervention should only happen as a matter of last resort. Our approach will be to be open and transparent with our customers, have them help us design our performance reporting (our tenants already shape on our performance target setting) and the Regulator/our goal is to deliver for our tenants and in placing the tenants at the heart of that process, we trust the Regulator will take the necessary confidence that as a landlord, Angus Council is committed to both customer involvement and continuous improvement. We trust that in doing this, any dramatic intervention will never be required and that our partnership with the Regulator will successfully address any issues on an ongoing basis.

Section 8: How we will consent to constitutional change and disposals

We have no significant observations of this section.
Responses to Specific Questions

Q1. We agree that tenants should play a pivotal role in both shaping our services and in regulation. However, this should not be limited to members of RTOs alone. Part of self assessment by housing providers must ensure that their customer satisfaction processes provide adequate opportunity for a majority of their tenants to comment on services and effect change if required.

Q2. We agree that a joined up approach is the best way forward – however, this cannot be allowed to result in duplication of work, either by scrutiny bodies (leading to wasted public money) or for housing providers and their tenants (as an additional burden). A joined up approach means that one organisation carries out the duty and keeps the others informed, whilst information is provided once only. This means that a robust suite of indicators need to be agreed at the outset by all parties and are not added to haphazardly meet the data collection desires of organisations marginal to the core functions of the Housing sector.

Q3  Agreed.

Q4  We agree in the main with the methodology for the risk based approach to regulating RSLs. However, we think it could be enhanced by seeking the view of Local Authorities on governance and operational aspects of RSLs in their locality, in their role as strategic housing authorities.

Q5  We agree with the proposed risk based methodology for Local Authorities, shaped around compliance with the Scottish Social Housing Charter. This should, however, result in a light touch approach – self assessment must be at the heart of regulation and as long as authorities are meeting the standards and procedures agreed locally with tenants and performance is reported robustly, regularly and transparently, the Regulator’s input should be minimal.

Q6  Agreed.

Q7  Whilst we agree that significant performance failures should result in intervention by the Regulator, this must be proportional. It should not result in the Regulator becoming involved with operational day-to-day management issues when individual customers complain that decisions have gone against them. It must be retained for organisational failure – not merely unhappiness with policy implementation.

Q8  As above.

Q9  Agreed. There must be a recognition, however, that comparison between housing providers is inevitable, so performance reporting must be accurate, meaningful and based on similar methodologies. We are working with the SHBVN to improve the design of performance indicators and data collection. Differences in data collection processes should not be allowed to mask performance failure.

Q10 Agreed.

Q11 Agreed. Landlords’ progress towards the Charter should be reported in a way that is shaped by the views and needs of tenants and customers of individual organisations.

Q12 We agree in broad terms with the outlined assessment methodology. However, experience of the SHQS statistical return shows that there is sometimes a tendency towards requesting information beyond core explicit needs, creating a resource burden and leading to inevitable gaps in information. This needs to be resisted when the scope and detail of the ARC are designed. This document in particular, will lead to comparison between providers, when, as we know, the crude data can mask actual performance. The more important assessment tool here is the Charter performance report, as this gives the opportunity for context, narrative and comment by tenants themselves on locally agreed policy and procedure.

Q13 Agreed. We also believe that each Local Authority (as the strategic housing authority) should have a role in commenting on any new social landlords.

Q14 Agreed.

Q15 Agreed.

Q16 The guidance is comprehensive.
Q17 We have no comments.
Q18 We have no comments.
Q19 We have no comments.
Q20 We agree that a model code of conduct would be helpful. Indeed this may have benefits for local authorities too, in that elements could be applied to the operation and formation of tenant scrutiny panels and tenant led policy groups. The SFHA will have a valuable role to play here.
Q21 Agreed.
Q22 Whilst we agree that reviewing the performance of a random selection of landlords has merit, we think that this should be monitored over a period to avoid unnecessary repetition and ensure fairness. Alongside this approach, however, we believe that there should also be an additional risk based selection process to pro-actively monitor progress of poor performers.
Q23 We agree with this approach.
Q24 We agree with this approach.
Q25 We agree in broad terms with the proposed inquiry powers. However, we suggest, in the case of thematic inspections, that this could be carried out with the aid of benchmarking organisations such as the SHBVN. We would not wish to have to provide additional resources for this type of inspection directly unless absolutely necessary. The SHBVN already provides a valuable role in comparing data from many landlords, with a detailed understanding of wide-ranging issues. The views of ALACHO, COSLA and SFHA could also be harnessed without impinging on landlords directly.
Q26 We agree that short notice and unannounced inspections should have a place in the regulatory regime in cases where performance reporting is continuously suspect, or where extraordinary circumstances warrant it.
Q27 The grading outcomes are satisfactory.
Q28 We think that intervention should be as a matter of last resort, and should be proportionate. The intervention criteria proposed are open-ended but we thing this is acceptable given the need for flexibility and the fact that the Social Housing Charter is yet to be finalised.
Q29 We agree with the proposed approach to intervention.
Q30 Agreed.
Q31–38 We have no comments on these questions.
Q39 We agree that the proposals give an opportunity to promote equality. However, we think that there are elements of the Scottish Social Housing Charter (the main mechanism against which landlords will be regulated) which may lead to a tension between legislation and tenant priorities. Landlord’s services will need to be shaped to fit their customers’ views in order to meet the Charter and this could result in preferences which may not sit well with equalities. The Regulator will need to tread carefully in this area.