



Department for  
**Social  
Development**

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Social Housing   
**Reform Programme**

**PROPOSALS FOR A NEW  
REGULATORY FRAMEWORK  
FOR SOCIAL HOUSING PROVIDERS  
IN NORTHERN IRELAND**

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## ABOUT THIS DOCUMENT

This document is the second in a series of important consultations over the next year as part of the Department for Social Development's (DSD) Social Housing Reform Programme (the Programme). It sets out the DSD's current thinking on a new regulatory framework for Northern Ireland's social housing providers. This new regulatory framework will provide the rules and standards which ensure that social landlord and tenant services are maintained and delivered at the right level.

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## ABOUT THE SOCIAL HOUSING REFORM PROGRAMME

The Programme was launched in January 2013 with a mandate from the Northern Ireland Executive "to explore the potential for the reform of housing structures ... with a view to securing consensus on the way forward". The Programme's mandate was to look at:-

- **structural reform** of the Northern Ireland Housing Executive (NIHE), including its landlord functions (the management of NIHE properties) and regional functions (the strategic roles covering all housing in Northern Ireland whether private or social);
- **policy reform** of social housing rent, tenant participation, local government engagement, the regulation and inspection of social housing providers and the housing functions of DSD.

The Programme's vision is to establish:-

"housing structures that support the provision of social and affordable homes, in thriving communities where people are proud to live".

To support this vision the Programme has the following aims:-

- to improve housing structures, making the system financially sustainable for tenants and the Northern Ireland Executive;
- to ensure delivery of well-maintained housing stock and increased investment in social housing more generally;
- to improve the focus on strategy and regional delivery of services; and
- to create space and freedom for social landlords to play a more proactive role in the communities they serve.

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## THE NEED FOR CHANGE IN SOCIAL HOUSING IN NORTHERN IRELAND

The Programme aims reflect the potential need for change in social housing delivery. There has been no overall reform of social housing since the creation of the NIHE in 1971. This need has been identified in numerous reports stretching back to 2007 ("The Ford Report"). It stems also from work to update the 2009 survey of NIHE homes which estimated that the cost of maintaining

homes to an adequate standard could be approximately £204m per year (£6.1bn over 30 years). If the legitimate needs and aspirations of social housing tenants are to be met and the social and economic contribution of the sector is to be maximised, then change may be imperative.

The Programme examines this potential need for change critically, however, it does not assume change. It will consider options of “no change” and “minimal change” as it considers options. If significant change options are to be preferred they will clearly have to deliver more effectively on the mandate and aims of the Programme.

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PROPOSALS FOR CHANGE: CONSULTATIONS IN 2015

The Programme has had three broad phases. Phase 1 and Phase 2 included research and the development and consideration of options. They will result with the identification of preferred options. Phase 3 will then deliver those options if different from the status quo.

The critical conclusion of Phase 2 – the identification of preferred options - will take place through 2015. Consultation will play a vital part in ensuring that we hear the views of stakeholders and that the identification of proposals for change is as thorough and considered as possible. The planned list of proposals on which we intend to consult on through 2015 is below:-

	Consultation Topic/Title	What it is About
1	<i>A Tenant Participation Strategy for Northern Ireland: 2015 to 2020</i>	How government should develop tenant engagement and participation so tenants consistently play an active role in shaping the social housing services they receive. This was issued on 15 January 2015.
2	<i>Proposals for a New Regulatory Framework for social housing providers in Northern Ireland</i>	How government should engage with, assess and report on social landlords. This will include a new regulatory framework and a revised risk based approach to regulation.
3	<i>Social Housing Rent Policy for Northern Ireland</i>	How government can ensure that social housing rents: (1) are fair and affordable for the tenants who pay them; but also (2) bring in enough rental income to help maintain homes to a good standard.
4	Engagement with local government	How social housing structures engage effectively with the 11 new councils.
5	Future Structures for the delivery of Social	What structures should deliver social housing? What should be the future role of DSD? Should the NIHE continue to provide strategic regional functions alongside the function of being

	Housing	Northern Ireland’s largest single social landlord? Should this responsibility and the ownership of the NIHE’s stock of social housing transfer, in whole or in part, to separate organisations? Should it transfer to Housing Associations so that their ability to access private borrowing may bring new sources of investment to social housing – and help address its significant investment need? Where should the function of regulation and inspection sit?
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PROPOSALS FOR A NEW REGULATORY FRAMEWORK

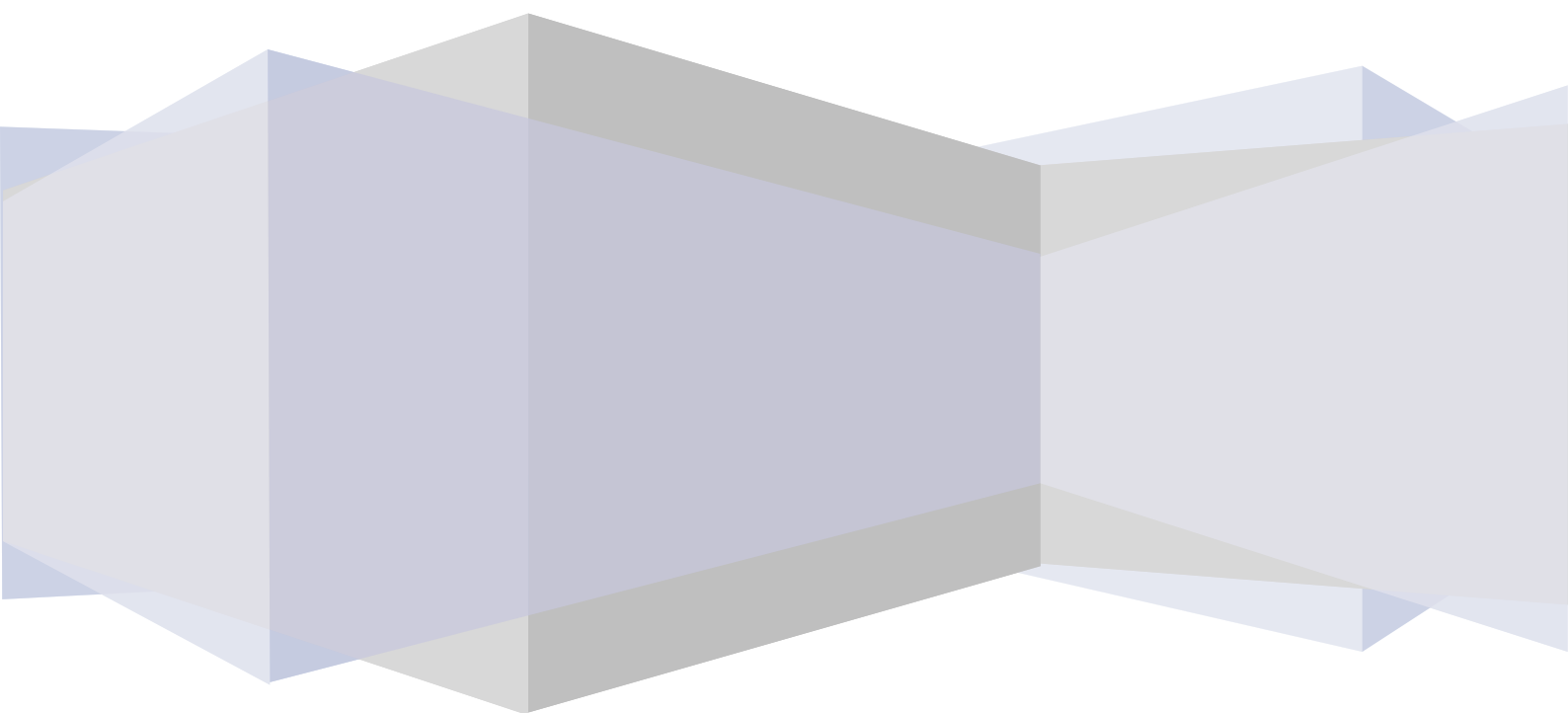
Following on from *A Tenant Participation Strategy for Northern Ireland: 2015 to 2020*, this document sets out the DSD’s proposals for a new regulatory framework for social housing providers. It considers the current approach to regulation of social housing providers in Northern Ireland and proposes a change in that approach, drawing on best practice elsewhere. The strategy acknowledges the improvement overall in the way Housing Associations have conducted their business since regulation started. It proposes how the regulatory framework can be enhanced not only to meet the current needs of stakeholders but also so that it is ready for whatever changes may happen within the social housing sector in the future. The proposed framework while focused on risk remains a robust tool for regulating Northern Ireland’s social housing providers. The Regulator will work with the boards and management teams of social housing providers to explain and promote the revised regulatory framework.

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# **Proposals for a New Regulatory Framework for Social Housing Providers in Northern Ireland**

**A Consultation Document**

**Department for Social Development**



## **Ministerial Foreword**

This consultation document seeks your views on the future nature of the regulation of social housing providers in Northern Ireland and proposes a new regulatory framework. This framework will not apply to private landlords.

Between them the Northern Ireland Housing Executive and 24 registered Housing Associations manage approximately 124,000 social homes in Northern Ireland. Given the importance of those homes to the tenants and the significant levels of public funds invested in those homes it is vital that the Assembly and tenants are assured of the ongoing financial and business health of the organisations at the heart of such an important sector for all of us in Northern Ireland.



The current Regulation and Inspection process was introduced in 2006 and since then the Department has worked with the registered Housing Associations to improve the overall management of the social housing sector. Recently the Department has embarked on a programme to introduce a similar approach to the Northern Ireland Housing Executive. The largest provider of social housing in Northern Ireland should be expected to meet the same standards as the Housing Associations.

A broad range of changes to the social housing sector are currently being considered by my Department's Social Housing Reform Programme. It is right, as part of this, that we should consider our regulatory framework to ensure that it not only continues to provide assurance to tenants and the Assembly but that it is robust enough to develop to meet the challenges that the sector may face in the coming years.

The proposals set out in this consultation document seek to provide the best framework possible to regulate the provision of tenant services and activities of social housing providers. In keeping with developments in other regulated areas, it is not my intention that regulation will create an additional burden for social landlords, rather a new regulatory framework must provide the assurance needed while supporting social landlords to become more innovative and focused on their delivery.

I encourage you to take the time to read and consider this consultation and I look forward to receiving your views on the policy and how it can be best delivered.

**Mervyn Storey MLA**

**Minister for Social Development**

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Sometimes official documents use terms and words that are not familiar to everyone; the list below provides explanations to some of those used in this consultation.

**Accountability** – the process by which the department and social housing providers can be held responsible for their actions.

**Accounting Officer** – senior officer in the Department ultimately responsible for use of Department’s resources.

**Capital Grant** – a sum of money given by the Government to an organisation to buy buildings, land and equipment or to make improvements to them.

**Commensurate Effort** – a flexible approach to regulatory engagement that considers a number of different issues when deciding how each social housing provider should be dealt with.

**Compliance based regulation** – an approach to regulation that focuses on processes rather than results.

**Due Regard** – to give fair consideration to and give sufficient attention to all of the facts.

**Enforcement Notice** – a document issued by the regulator requiring a social landlord to take action to rectify or avoid an identified failure or to protect its tenants or assets.

**Financial Sustainability/Viability** – an organisation that is financially sustainable/viable is one that will be there for its beneficiaries (tenants) in the long term.

**Governance** – the internal rules organisations use to ensure their business operates in an effective, transparent and accountable manner.

**Grant funding** – Grants are an important form of funding enabling organisations to provide services that make a real difference to people’s lives.

**Mandate** – the authority to undertake a piece of work.

**Market Price** – the level at which rents are set in the private sector.

**Policy** – a course of action adopted or proposed by Government.

**Regulator** (Regulatory Authority) – makes sure housing providers work effectively and fairly enforcing the regulatory framework throughout the sector.

**Regulatory Code** – a written document that sets out the standards that social housing providers are expected to meet.

**Regulatory Framework** (System/Regime) – a system of rules, standards and guidelines used to ensure housing services are maintained to an appropriate standard.

**Regulatory Powers** – the powers the regulator holds to enforce decisions.

**Risk-based Regulation** – an approach to regulation that focuses on identification and management of risks affecting the social housing sector and social housing providers.

**Social Housing Providers** – organisations involved in the development and management of social homes – in Northern Ireland this means the Northern Ireland Housing Executive and Northern Ireland’s Housing Associations.

**Social Housing Sector** – includes Northern Ireland Housing Executive and Northern Ireland’s Housing Associations.

**Social Housing Stock** – the properties owned and managed by social housing providers.

**Standard** – the measure that will be used to examine how social housing providers are performing.

**Strategy** – approach to delivering a policy intent.

**Supporting People Providers** – organisations that deliver the Supporting People Programme.

**Supporting People Programme** - is a government programme for funding, planning and monitoring housing related support services to help vulnerable people to live as independently as possible in the community.

## 1. INTRODUCTION

*This Chapter explains what a regulatory framework is and what it does. It considers how a regulatory framework is particularly important for social housing services. It also defines what is and what is not part of this consultation and sets out how the DSD has developed the proposals in this document.*

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### WHAT IS A REGULATORY FRAMEWORK

In terms of public services, a regulatory framework is a system of rules, standards and guidelines by which an authority seeks to ensure and maintain services to an appropriate quality. Currently, the regulatory authority for social housing is the Department for Social Development. It needs a regulatory framework that provides it and the DSD Minister with this kind of assurance about social housing services. The DSD needs to secure this assurance for the Northern Ireland Executive, for the Assembly, for social housing tenants, for taxpayers and for lenders.

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### THE CONSULTATION

This consultation is on the DSD's proposals for a new Regulatory Framework for social housing providers in Northern Ireland. This document sets out the proposed changes. It describes how the new Regulatory Framework will be implemented and how it will operate.

The DSD currently has a Regulation and Inspection regime which applies to registered Housing Associations in Northern Ireland. It plans to extend the application of this regulatory framework to the NIHE. Similarly, the new framework that is proposed in this document will apply to all social housing providers, including any new ones. Exactly how this will be realised in relation to the NIHE will be considered further as the framework is developed.

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### WHY REGULATE

The broad function of regulation has been stated – it seeks to ensure appropriate standards in services and providers. But within that, regulation serves a range of specific and important purposes; regulation seeks to protect the public funds that government invests in social housing. Without regulation there would be no assurances to all stakeholders that the social housing sector is operating effectively and that risks are being managed appropriately. Without regulation there would be no protection, for instance, for tenants, their homes and for the public purse against the risk of a Housing Association failure. A regulatory framework's relationship to finance is vital. Regulation provides assurance to lenders about the businesses in which they have invested. This is a vital part of maintaining such finance as a source of investment for social housing.

These are the broad reasons for the regulation of many public services. In addition to these, however, social housing needs regulation for its own particular reasons. At its heart, social housing is about affordable rents, at below market prices. Because of this, demand for social housing will tend to exceed supply. This will limit choice for tenants both at their point of entry

into the social housing system, and once they are within it. This can mean limited power for tenants in relationships with their landlords. In comparison with a market-based, housing economy, there can be less pressure for efficiency and quality.

Housing services affect the wider community. This is particularly true as such housing services become broader – and encompass elements of education or training. Social housing creates an environment that all society shares, lives and works in. It provides almost 124,000 households, 15.6% of all homes in Northern Ireland.

In social housing, therefore, there is a need for regulation above and beyond the generic case. Amongst the recipients of all types of public services, social housing tenants have a particular need for regulation that protects and empowers them. Alongside social housing tenants, the rest of society needs social housing to be regulated as it so significantly contributes to the shared environment and social fabric.

We may summarise then the need for regulation in social housing as follows:-

- to ensure the continued provision of high-quality housing services within our communities;
- to protect and empower tenants; and
- to assure investors including DSD and lenders.

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#### WHAT IS NOT COVERED

This consultation document looks only at the proposed regulatory framework i.e. the question of “how” we will regulate in the future. The consultation does not consider the “who” question – i.e. where the regulator will be located. As part of the Social Housing Reform Programme other work is being undertaken to examine the structures that will best support the delivery of social housing in the future. The question as to where the regulator will be located will form part of the considerations undertaken by that part of the programme.

Without trying to influence this wider work, it is fair to say that the current location of the role of regulation – within the DSD – poses questions about its independence. Can a department effectively regulate a function for which its Minister is politically responsible? If it is separate from the regulator, how will the DSD Accounting Officer obtain assurance on the Department’s subsidy for the social housing new-build programme? The proposals for structural reform that will be brought forward by the Social Housing Reform Programme later in 2015 will seek to answer such questions. Beyond question is that the regulatory function must remain independent of the landlord function.

The consultation does not consider the regulation of the private rented sector. The Department acknowledges that there are a significant number of private sector tenants who, but for the lack of social housing supply, are potential social housing tenants, however, the regulation of private sector landlords will be considered separately to this consultation.

The consultation does not consider the regulation of Supporting People Providers (only some of whom are Housing Associations). In its Housing Strategy the Department has committed to a review of the Supporting People Programme. The outcome of that review may have an impact on the regulatory framework, however, it will be considered separately to this consultation.

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## HOW WE DEVELOPED OUR PROPOSALS

The Social Housing Reform Programme has engaged, and continues to engage, collectively and individually with key stakeholders via meetings, conferences, forums and stakeholder events on all aspects of the Programme including a proposed revised regulatory framework. These engagements have been used to examine models of best practice in use here in Northern Ireland and in other jurisdictions. They have helped gather the views of our stakeholders on what works well and does not work so well in the current environment, as well as what they would like to see in the future.

In developing the revised regulatory framework we researched how regulation currently happens in Northern Ireland, including understanding the reasons for its introduction and the way in which it has developed over time. We also looked at how regulation is carried out in England, Scotland, Wales and the Republic of Ireland and while we established that we all regulate social housing providers we found that we all do it differently.

We have in particular spent time looking at this complex area with those that will be most affected by any changes that are introduced, the Housing Associations. We have worked with them on the new framework explaining how it will operate and when it will be introduced. We have also discussed the regulatory framework with the NIHE as they will be expected to demonstrate achievement of the standards set out in it. We have engaged with other stakeholders and will continue to do so – groups like tenants, lenders, other Government Departments etc.

The framework that has been developed and the processes around it are significantly different to the current approach and we will work with social housing providers' boards and management teams to ensure they recognise and understand their responsibilities under the proposed framework.

## 2. REGULATION: THE CASE FOR CHANGE

*This chapter sets out the nature of the regulatory framework that currently operates in Northern Ireland. It then considers how a regulatory framework is provided in England, Scotland, Wales and the Republic of Ireland – including recent reforms in these jurisdictions. The chapter concludes by outlining the need for change in Northern Ireland.*

### BACKGROUND

Social housing in Northern Ireland is currently provided through a number of organisations. The largest single provider for social housing in Northern Ireland is the NIHE, managing around 88,000 properties. In addition, there are currently 24 local registered Housing Associations, including the Northern Ireland Co-ownership Housing Association, who manage approximately 36,000 social homes. The registered Housing Associations are not-for-profit businesses that operate with registered charity status. They provide rented accommodation, specialise in accommodation for special needs groups and are the developers of new social housing for rent in Northern Ireland. DSD is responsible for the grant funding, monitoring, regulation and issue of guidance and policy directives to registered Housing Associations.

### CURRENT REGULATION AND INSPECTION REGIME IN NORTHERN IRELAND

Currently DSD is required to exercise supervision and control over registered Housing Associations in its role as the regulator of Housing Associations in Northern Ireland. The legislative basis is the Housing (Northern Ireland) Order 1992 and this regulatory role is carried out by the Governance and Inspection team within the Department's Housing Group. The team is responsible for providing the Department's Accounting Officer and the Northern Ireland Audit Office with assurance on the probity, regularity and integrity of expenditure in the operation and administration of registered Housing Associations.

#### *Regulatory Framework*

Since 2006 DSD has had in place 'The Regulatory Framework for Registered Housing Associations in Northern Ireland'. The framework sets out the arrangements which enable the Department, as the regulator, to achieve its regulatory objective to improve the accountability of Housing Associations. It ensures that Housing Associations are challenged, tested, reflect best practice and are operating as financially viable organisations.

#### *Housing Association Guide*

The Housing Association Guide is one of the key management tools employed by the Department's Governance and Inspection team to deliver its regulatory responsibility for registered Housing Associations. It sets out DSD's requirements for robust policy and procedural standards across all Housing Associations and equitable quality service provision for social housing tenants. It also contains the rules and procedures that Housing Associations must comply with if they are to receive the capital grant from the NIHE Development Programme Group, provided by

the Department. DSD, in its regulatory role, can consider issues that are directly relevant to the tenants or services users, for example, allocations, complaints and customer satisfaction.

Regulation currently combines a compliance based approach with a risk-based approach. The approach has evolved and in recent years some changes have been introduced. DSD's Governance and Inspection team carry out a risk-assessment of individual Housing Associations and have introduced a graduated approach to inspection, both of which are aimed at reducing the inspection impact on Housing Associations with a proven track record. The team also conduct "thematic inspections" which are based around a specific area and target a number of Housing Associations to provide further assurance.

Through this activity the DSD regulatory function performs a dual role; it confirms and ensures Housing Associations' compliance with the standards; it also provides assurance to the Accounting Officer on the payment of the Housing Association Grant – a function that does not rest with the regulator in other jurisdictions.

Consequently, Housing Associations in Northern Ireland have been the focus of much inspection activity over recent years. The results of these have helped shape a more mature Housing Association sector. Any significant failings in Housing Associations have been identified and subsequent improvements made to the benefit of tenants and the wider social housing sector.

Over the past five years Housing Associations have shown a positive response to the challenges of the inspection regime. The number of Associations that have failed the inspection has reduced significantly as has the volume of stock affected. There has also been a marked improvement in the area of property management i.e. maintenance.

The evidence of the maturing nature of the Housing Association sector can be demonstrated by comparing the findings from the initial round of inspections to the most recent round. During Round 1 inspections, which were completed by March 2010, 33 Housing Associations were inspected of which 14 failed overall (42%). Following a number of mergers, there were 27 Housing Associations, and the position at April 2014 was that the number failing after inspection had reduced to 4 (15%). More particularly, 21 Housing Associations, with responsibility for 42% of the sector's housing stock, failed the property management element during Round 1 inspections. By Round 3 this had reduced to five Housing Associations with responsibility for just 3% of the housing stock. Further information on these results can be seen in **Appendix 1**.

#### WHAT HAPPENS IN ENGLAND, SCOTLAND WALES & THE REPUBLIC OF IRELAND

Other jurisdictions have various approaches to regulation but common to all is a risk-based rather than a compliance-based approach. This approach is one where the regulator considers the environment in which social landlords operate, identifies the risks that could impact them and focuses regulatory activity accordingly. Such an approach involves the use of data analysis and sector wide information.

This approach is not a “one size fits all” approach and dialogue with the individual social housing provider can determine the potential impact of sector wide risks on them as individual businesses. The risk-based approach is also used to determine what, if any, risks are specific to the individual business and can be used to determine the level of ongoing engagement with the regulator. Where the regulator identifies issues through a risk-based approach, there are then escalated forms of intervention to help resolve these issues.

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## ENGLAND

The Department for Communities and Local Government (DCLG) has responsibility for social housing in England. The regulating authority is the Homes and Communities Agency (HCA). The HCA regulates against three key economic standards which cover Governance & Financial viability, Value for Money and Rent.

The regulator in England also has access to a range of penalties that can be used where the regulator feels that dialogue to support the provider has not brought about the improvements or is not appropriate.

The level of engagement that providers face will be dependent on:-

- the size of the organisation - with those owning less than 1000 units facing less engagement and with direct regulatory engagement usually in response to specific problems; and
- the risk profile of larger organisations – where there is information giving cause for concern or other evidence of a risk of failure on economic standards this would result in an increased level of regulatory engagement.

The HCA also has a number of consumer standards in place but in recent years have moved away from robust regulation against these except where there is the risk of “serious detriment” (harmful impact) to tenants due to a provider failing to meet one of those standards. Local Authorities in England are only subject to the consumer standards.

While the HCA is the regulator of social housing providers in England it exercises the regulatory functions through the HCA Regulation Committee which is appointed by the Secretary of State. The HCA Board and the HCA Regulation Committee have agreed a way of working in order to ensure that there is clarity on the roles of the (1) HCA (2) Regulation Committee and (3) Regulation Staff who operate the regulation functions on a day-to-day basis. This sets out how regulation functions will be exercised and how they will be managed within the HCA so that they are, and are seen to be, independent of other functions of the HCA.

The HCA is currently consulting on changes to its regulatory framework. The results have recently been published and have been considered as part of this review.



Scottish Ministers exercise regulatory powers through the Scottish Housing Regulator. This is a Non-Ministerial Department. The Scottish Housing Regulator regulates all Registered Social Landlords - Housing Associations and Local Authorities.

The Housing (Scotland) Act (2010), aimed in part at modernising how regulation is carried out, had two main purposes relating to regulation:-

- to create a transparent process to allow all stakeholders to work together to define the outcomes that Registered Social Landlords should be achieving for tenants and taxpayers. This resulted in the Scottish Social Housing Charter, drawn up by Ministers in consultation with stakeholders; and
- to ensure the right mix of powers to achieve proportionate and risk-based regulation in the interest of tenants.

The Scottish Social Housing Charter, approved by the Scottish Parliament in March 2012, sets out standards Registered Social Landlords must achieve and places much emphasis on the needs of tenants and other users. The regulator focuses on:-

- driving improvements in services;
- maintaining and improving Registered Social Landlords' governance; and
- financial health in Registered Social Landlords and cost and efficiency in all social landlords.

The regulatory system in Scotland is risk-based. The outcome of the Scottish Housing Regulator's assessment will determine to what degree they will engage with their Registered Social Landlords:-

- Low – regulator generally has sufficient assurance and needs little additional contact with the landlord unless other events arise, or they want to highlight areas for improvement to the landlord;
- Medium – where the profile indicates the regulator needs further assurance than is available from information returns alone, for example, they may need more information or a closer engagement with the landlord's senior management and governing body; or
- High – where the profile indicates the regulator needs the most intensive or continuous relationship, this may mean engaging in a more sustained way to develop a detailed understanding of current and potential areas of risk and the landlord's approach to managing them.

Regulation plans are developed and published for each Registered Social Landlord in the medium and high categories.

Local Authorities in Scotland are subject to regulation by the Scottish Housing Regulator who works with Audit Scotland and other scrutiny bodies on a joint approach to scrutiny activity for Local Authorities. The objectives of this approach are to maximise the efficiency and effectiveness of scrutiny work and minimise the impact of scrutiny activity on each Local Authority.

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## WALES

The regulatory function in Wales is located within the central Government's Housing Division. It aims to protect the interests of current and future tenants and other service users to:-

- ensure good quality social housing (in terms of the Welsh Housing Quality Standard), services which meet tenants' needs, value for money, and financial viability; and
- maintain the confidence of funders.

Welsh Ministers have worked together with housing and tenant organisations to develop a regulatory framework which includes 10 delivery outcomes or standards of performance. The Regulatory Board for Wales, an independent advisory body, oversees the operation of the regulatory framework. The current Regulatory Board has representation from Housing Associations, tenants, banking/finance sector, the Welsh Government along with two independent members.

The regulatory system in Wales includes a requirement for all Housing Associations to carry out regular self-assessments, which are then published and used as core evidence in the regulatory assessment.

In June 2013 the Regulatory Board for Wales published an interim evaluation of the regulatory framework which identified a number of issues with the way the regulatory framework was operating. As a result of the review a new style report has been introduced which sees the narrative content of the report increased and focused on the delivery outcomes.

The Welsh Government has sought views on proposals to bring Local Authorities into a framework similar to that which covers Housing Associations.

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## REPUBLIC OF IRELAND

The Department of the Environment, Community & Local Government in the Republic of Ireland has introduced – *Building for the Future, a Voluntary Regulation Code for Approved Housing Bodies in Ireland (July 2013)*. The Voluntary Regulation Code, which establishes financial accountability and governance rules for Approved Housing Bodies, is being introduced on a voluntary basis in preparation for the introduction of compulsory regulation of the sector by 2016.

The code sets out key governance, management, performance measurement and financial principles that will apply to all Approved Housing Bodies to some extent, depending on their individual circumstances such as size, scope and risk level, however, Local Authorities are not

subject to the regulatory code. The work of the regulation team is overseen by a Regulation Committee.

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## WHY CHANGE

The account above of regulatory practice in Northern Ireland and elsewhere implies a range of reasons why a new regulatory framework is necessary:-

- The current regulatory regime in Northern Ireland has helped develop a more mature Housing Association sector. The sector now needs a regulatory framework designed for its more developed state. The Management Boards of the NIHE and Housing Associations have ultimate responsibility for their organisation's performance and all that this entails – risk management, achievement of objectives, financial management, business planning etc.

There is now an opportunity to develop a regulatory framework which strikes a new balance between the need for assurance to stakeholders and the primacy of Management Boards in managing their business.

A recent report by PwC for the programme, analysing the capacity of the sector, found that a review of the current regulatory approach to be one of the factors to be considered in supporting a more mature sector in maximising the optimum use of this capacity.

- Indeed, stakeholders amongst the social housing profession have been consistent in their view that the nature of the regulatory regime within Northern Ireland should change with a much greater emphasis on a risk-based system, with a focus on outcomes rather than processes. There have been some steps in this direction – including recent changes to a more graduated use of inspection.
- Risk, not compliance, is the emphasis that guides regulation in other jurisdictions. This suggests that a more targeted regulatory approach – with less focus for instance on routine inspection – can nonetheless fulfil the key regulatory requirements; to maintain high quality services, protect and empower tenants and assure investors, including DSD and lenders.
- The current regulatory framework in Northern Ireland essentially dates from 2006. Review is due simply because government should always guard against the natural tendency it may have to gradually orientate a regulatory framework to its own priorities – which tend to involve a focus on providers. Northern Ireland's extensive *Housing Association Guide* may be a sign of this. For social housing regulation, where a focus on protecting and empowering tenants is so particularly significant, there is therefore a clear case for a fresh look at Northern Ireland's established framework. It is not perhaps surprising that while social landlords favour a move away from compliance based regulation, our development work found that tenants' key consideration was that the regulatory regime provides assurance and confidence in the services provided to them.

- The Department published (for consultation) its draft strategy for Tenant Participation as recently as 15 January 2015. This proposes, amongst other things, the regulation of how social landlords provide for the engagement, participation and empowerment of their tenants. Therefore, now is the perfect time to consider how the regulation of social housing providers in total can better support and protect tenants.

The wider context provides further reasons for change. The social housing sector is changing rapidly, as are tenants' expectations. With reduced public sector funding but continuing demand for affordable housing, social housing providers need to look for new opportunities for development and funding. The regulatory framework needs to adapt to this changing environment to ensure that services continue to be provided to the required standards. The challenge is a new regulatory framework that responds to change but does not stifle it, that protects tenants and ensures effective management of risks but still supports innovation and progressive change within the social housing sector

The Department has an opportunity to apply the principles of "Better Regulation" (as advanced across all UK Government Departments) to social housing, these are:-

- **Proportionality** – Regulators should intervene only when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised;
- **Transparency** – Regulators should be open, and keep regulation simple and user-friendly;
- **Consistency** – Government rules and standards must be joined up and implemented fairly;
- **Targeted** – Regulation should be focused on the problem and minimise side effects; and
- **Accountability** – Regulators should be able to justify decisions and be subject to public scrutiny.

To summarise – the case for a new regulatory framework is strong. It is evident in the need to always ensure that a regulatory framework remains focused on protecting and empowering social housing tenants. This is particularly timely in the light of the Department's current consultation on Tenant Participation. It is evident in the differing approaches recently adopted across the United Kingdom and the Republic of Ireland. It is evident in the work of the current regulatory regime which reflects a matured Housing Association sector. It is evident in the views of stakeholders. The challenge is how to move away from a compliance based approach, while providing the range of assurances that will ensure the continuation of high quality social housing services.

### 3. PROPOSALS FOR THE NEW REGULATORY FRAMEWORK

*This chapter sets out the objectives of a new regulatory framework and describes the new standards. It also examines the approach to regulation and introduces the changes the Department is proposing to complement it.*

#### OBJECTIVES OF A NEW REGULATORY FRAMEWORK

Our development of the case for change in the regulatory framework has identified the following objectives for new proposals. Our new regulatory framework must:-

- protect and empower tenants;
- ensure the continued provision of high-quality housing services within our communities;
- assure investors including DSD and lenders; and
- at the same time, be an example of “better regulation”.

These objectives partially reflect those adopted by the review taken forward in England by Professor Cave in 2007 – but adapted to Northern Ireland. They reflect the particular importance in Northern Ireland of a regulatory function that supports investment in Housing Associations. It is through Housing Associations, and the investment that they secure, that Northern Ireland is developing the 2000 new social homes that are currently needed each year in order to meet housing demand.

We propose a regulatory framework that has been designed to meet these objectives; in simple new standards, in the move to a risk-based approach, in the new focus on commensurate effort and in the additional powers proposed for the regulator.

#### NEW STANDARDS

The current approach, supported by an extensive guide for the practices and procedures of Housing Associations, should change to a clearer and simpler set of arrangements. These should be more consistent with a Housing Association movement that is less and less in need of extensive and detailed guidance. At the same time, tenants’ interests should be foremost while other crucial assurances are provided. Overall, there should be less direction but more that is effectively targeted – in keeping with better regulation.

Hence, the Department proposes to replace the current regulatory framework with one composed of simple standards in three areas:-

- **A consumer standard** - to demonstrate a focus on tenants. This will consider tenant involvement, complaints, services, understanding tenants needs etc. The recently published ‘*Tenant Participation Strategy for Northern Ireland: 2015 to 2020*’ proposes a regulatory standard in relation to tenant engagement. The standard being consulted on

has been included in this document and will be updated with any changes as a result of responses to that consultation. The consumer standard would also focus on ensuring tenants homes meet the standard, that landlords provide a cost effective repairs and maintenance service and deal with tenants concerns in areas such as maintaining neighbourhoods, anti-social behaviour etc.

Outcome	What This Means
<p><b>OUTCOME 1</b> Social housing providers 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.</p>	<ul style="list-style-type: none"> <li>• Social housing providers develop opportunities to allow tenants to participate in the decision making process around the delivery of services they receive;</li> <li>• Social housing providers consider how they can deliver on the requirements set out in the strategy;</li> <li>• Tenants are aware of the opportunities that exist for them to be involved and are assisted to take up those opportunities.</li> </ul>
<p><b>OUTCOME 2</b> Social housing providers shall provide premium homes with good service quality choices appropriate to the diverse needs of their tenants.</p>	<ul style="list-style-type: none"> <li>• Social housing providers will have delivery targets and report against them</li> <li>• Homes will meet the decent homes and fitness standards</li> <li>• Homes will be allocated in a fair and transparent manner</li> <li>• An effective complaints process is in place</li> <li>• Tenants will be consulted on service quality performance and housing options.</li> <li>• The needs of people with disabilities (young people and adults) and vulnerable adults will be adequately considered.</li> </ul>
<p><b>OUTCOME 3</b> Social housing providers shall concentrate effort to support vibrant communities that encourages tenant opportunities and promotes well-being.</p>	<ul style="list-style-type: none"> <li>• Community engagement initiatives will be supported.</li> <li>• Social housing providers will work in partnership with other Agencies to contribute to:- <ul style="list-style-type: none"> <li>○ keeping the neighbourhood and communal areas clean and safe,</li> <li>○ promoting well-being and tackling anti-social behaviour.</li> </ul> </li> </ul>

- **A governance standard** – which will consider robust risk management processes that support the business and allow them to be fully innovative while ensuring efficient use of public funds, internal and external governance arrangements designed to support the business deliver aims and objectives and the intended outcomes for tenants, management of “non-regulatory”<sup>1</sup> business functions etc.

<sup>1</sup> “Non-regulatory” business functions are those that are not linked to social housing for example where a housing association is involved in other business activities either on their own or as part of a group structure.

Outcome	What This Means
<p><b>OUTCOME 1</b> Social housing providers shall ensure effective governance arrangements that deliver their aims, objectives and intended outcomes for tenants and potential tenants in an effective, transparent and accountable manner.</p>	<p>Social housing providers will:-</p> <ul style="list-style-type: none"> <li>• Adhere to all relevant legislation.</li> <li>• Comply with their governing documents and all regulatory requirements.</li> <li>• Conduct their affairs with honesty and integrity.</li> <li>• Operate in an open, transparent and accountable manner to tenants, the regulator and partners.</li> <li>• Base decisions on good quality information and advice to identify and mitigate risks to the organisation’s purpose.</li> <li>• Have the skills and knowledge they need to be effective.</li> </ul>
<p><b>OUTCOME 2</b> Social housing providers shall adopt a robust approach to the assessment and management of risk and demonstrate informed and transparent decision-making processes.</p>	<p>Social housing providers will:-</p> <ul style="list-style-type: none"> <li>• Have an effective risk management and internal controls assurance framework.</li> <li>• Safeguard taxpayers’ interests and the reputation of the sector.</li> </ul>

- **A financial standard** – which will consider the mechanisms in place to protect assets and public funds, financial planning and assumptions, risk management as it relates to financial planning, approach to compliance with lenders covenants etc. as well as the approach to delivery of value for money and a robust assessment of the performance of all assets and resources.

<p><b>OUTCOME 1</b> Social housing providers shall manage their resources effectively to ensure financial viability is maintained in the short, medium and longer term.</p>	<p>Social housing providers shall ensure that:-</p> <ul style="list-style-type: none"> <li>• Effective controls and procedures are in place to ensure security of assets and the proper use of funds and there is appropriate financial reporting to the management and board in place.</li> <li>• Effective systems are in place to monitor and accurately report delivery of their plans.</li> <li>• The risks to delivery of financial plans are identified and effectively managed.</li> <li>• All financial reporting requirements are met, ensuring legislation and accounting standards are adhered to.</li> </ul>
<p><b>OUTCOME 2</b> Social housing providers shall articulate and deliver a comprehensive and strategic approach to achieving value for money in meeting their organisation’s objectives.</p>	<ul style="list-style-type: none"> <li>• Social housing providers shall annually undertake a robust assessment of all their assets and resources. This assessment will articulate the organisation’s approach to making decisions about how its resources are used to deliver objectives.</li> </ul>

The Department plans to consult on a rent policy for social housing in Northern Ireland later this year. This may include proposals regarding how social rents are regulated. Any regulation of rents will be proposed within the context of the regulatory framework.

Further information on the standards is set out in **Appendix 2**.

The regulatory framework and guidance will replace the parts of the *Housing Association Guide* that deal with regulated issues.

#### Consultation Question No. 1

Do you agree the standards in the revised Regulatory Framework should cover three areas i.e. Consumer, Governance and Financial?

Please provide your reasons.

#### Consultation Question No. 2

Where social housing providers demonstrate the standards set out in this consultation it will provide stakeholders with assurance on the effective and appropriate operation of their businesses.

Do you agree? Please provide your reasons.

### A RISK-BASED APPROACH TO REGULATION

A simple approach to standards should be complemented by a move to a risk-based approach to regulation. The current system in Northern Ireland, while having developed over the last few years, began as a compliance based system with an audit type rating system. At the time it was introduced this was a necessary approach given the issues faced by the sector and the level of assurance on Housing Association performance. However, as this approach itself has demonstrated, the sector has matured. A compliance based approach is no longer necessary or appropriate.

We should follow the lead provided by other jurisdictions and adopt a risk-based approach. This approach would focus on how providers and the sector as a whole identify and manage risk. The focus would be on inputs and outcomes rather than compliance. The regulatory framework would still provide guidance for the providers and the regulator may publish assessments of sector-wide risks. This approach would also increase the opportunity for participation in the regulatory framework by tenants through scrutiny panels, tenant inspections etc. The approach recognises the primacy of Housing Association Boards in managing and, importantly acknowledges the providers responsibility to stakeholders, including tenants in meeting the regulatory standards.



This approach will see a greater reliance on the providers supplying evidence against the standards as set out in this document and a significant reduction in the number and frequency of “on-site” inspections regarding regulation. Such inspections would only be required where the regulator became aware of an issue of concern. The regulator will review the evidence supplied by the providers and use that evidence to assess the providers against a new rating system. The providers should expect to provide evidence on an annual basis. The level of engagement with the regulator, however, will vary depending on a number of factors which are discussed under “commensurate effort”.

Under the current approach a narrative report is produced by the regulator following each inspection which includes one of four assurance ratings. The current ratings are shown below and further information is provided in **Appendix 3**:-

- Substantial Assurance;
- Satisfactory Assurance;
- Limited Assurance; or
- No Assurance.

As we move to a regulatory framework that is focused on risk rather than compliance the Department proposes to provide Associations with a more complete “judgement rating”. This will cover the consumer, governance and financial standards giving an assessment for each which will have the effect of providing a complete assessment alongside the narrative report. An example of how the ratings may be set is included at **Appendix 4**.

The Department acknowledges that the registered Housing Associations are subject to a number of regulators i.e. the Regulation and Quality Improvement Authority (RQIA) and the Northern Ireland Charities Commission. DSD will continue to work with these regulating authorities to ensure that the revised social housing regulatory regime works with their requirements.

Consultation Question No. 3

Do you agree that the regulator should provide a rating covering each standard (Consumer, Governance & Financial)?

Please provide your reasons.

#### COMMENSURATE EFFORT

All registered Housing Associations should be subject to regulation, however, with an increasingly complex sector, a variety of ambitions with regards to development and continuing pressure on government resources, consideration needs to be given to how the different Associations are regulated. That is not to say that they should not all face some form of regulation but rather to examine how best regulatory activity should be targeted.

Drawing on best practice, we propose a number of factors which could be used to direct regulatory activity more effectively:-

- **Size** – smaller, less dynamic Housing Associations, perhaps with no development plan/ambitions would face less engagement with the regulator – unless issues became apparent;
- **Development Plans** – given the reliance on grant it is sensible that those Associations who are developing Associations (i.e. those that build new homes) would face more engagement with the regulator;
- **Previous Regulatory History** – based on the premise that past performance is the best indicator of future performance the Housing Associations with a proven track record would face less direct engagement with the regulator, again unless issues are identified; or
- **Business Complexity** – while Northern Ireland does not yet have “for-profit” or other more complex business organisations in the social housing sector, the framework we develop today must be capable of adapting to any changing circumstances in the sector in the future.

We propose not to use these factors rigidly to direct regulatory work. Rather, the regulator would take each into account when deciding on the approach to take with an individual Housing Association. That decision would be part of an ongoing dialogue with each Housing Association.

This approach would mean that each of the providers would not have a full regulatory report each year as the level of engagement would be dictated by the factors outlined above. However, the quarterly and annual financial information along with the Annual Regulatory Return would still be received by the regulator which would allow for ongoing monitoring of the providers financial viability. It would be appropriate for the regulator to produce an annual Sector Risk Report that would provide the sector with an overview of the issues potentially affecting them. This report could also be used by the regulator to provide an annual review of regulatory activity and its performance.

This approach will have an impact on the level and type of inspections that would be carried out. While the regulator will always retain the need to conduct on site inspections these should reduce and will eventually be targeted only in cases where there are known issues.

#### Consultation Question No. 4

Regulation should be flexible enough to allow the regulator to adjust the approach for each social housing provider based on factors such as size, development plans, previous regulatory history and business complexity.

Do you agree? Please provide your reasons.

## ADDITIONAL POWERS FOR THE REGULATOR

A further area to consider is the powers that the regulator currently has and whether these need to be enhanced to complement the new regulatory framework. It is necessary to remember that the importance of a regulator possessing certain powers may only rarely be demonstrated by the regulator actually using the power. More generally, and perhaps more effectively, a regulator's possession of key powers can have a deterrent effect. Indeed, regulators in other jurisdictions have stressed this point – powers facilitate productive working with social landlords to resolve issues without the power, in fact, being used. This of course will only operate effectively in an atmosphere where there is open and challenging dialogue between Housing Associations and the regulator so that issues can be identified early and solutions sought.

There is a question as to whether the current approach facilitates swift action by the regulator to avoid situations where homes are put at risk. Many of the powers that are available to the regulator for such an instance are available only after a 3<sup>rd</sup> party has been appointed and an inquiry held into the issues the regulator has identified. Only when such an inquiry has concluded may the Department take effective action, such as:-

- the removal and replacement of a board member;
- direct the transfer of land from one Housing Association to another; and
- proceed with the process to wind up a Housing Association.

There has not yet been an inquiry in Northern Ireland. The regulator has worked closely with Housing Associations where issues have been identified to offer support and to work with the providers to develop solutions. This has helped prevent Housing Associations from failing.

The process of an inquiry itself can take time. In that time the issues can become more difficult to resolve and the Housing Association placed at even greater risk. Our new framework overall represents a reduction in the regulatory burden. The regulator will require providers to meet the agreed standards. As far as possible this should be achieved by common ownership of the standards, self-improvement mechanisms, regular tenant-led and other independent reality checks on progress and a continuous sharing of good practice. Responsibility to meet the standards falls on providers. Therefore, it is important that the regulator can act swiftly to address issues once they are known and before they become impossible to resolve – the protection of social homes both on behalf of the tenant and as an asset must be the key principle in how the regulator operates.

These additional powers would include (this list is not exhaustive):-

- **Enforcement notices** – the regulator should expect that Housing Associations would agree to voluntary remedial action, however, where this is not taken or urgent action is required the regulator would be able to issue an enforcement notice. Currently, the regulator has the option of serving enforcement notices in a limited number of circumstances and

further work will be undertaken to define the additional circumstances that may apply.

- **Penalties** – currently the regulator has the power to impose penalties in very limited circumstances relating to Housing Associations, further work will be undertaken to extend the scope of potential penalties – always taking into account the financial circumstances of the Association and the potential impact on tenants.
- **Compensation** – for example, where there has been a failure on behalf of the provider the regulator can direct that a payment is made to the injured party. This may apply to a tenant or group of tenants or where the Housing Association has failed to comply with a direction from an ombudsman to pay compensation.

Clearly any decision to introduce any of these (or other) powers would be consulted on and also needs to consider the inclusion of appeal rights for the providers against the decision of the regulator.

As set out at the start of this section these powers would be for exceptional cases where voluntary actions could not be agreed with the provider or having been agreed were not implemented. The key to ensuring these powers are not required will be the ongoing effective engagement and realistic negotiation between regulator and provider where there are issues to be addressed.

#### Consultation Question No. 5

The Department should introduce additional powers for the regulator to ensure the quick and effective resolution of any issues raised.

Do you agree? Please provide your reasons.

## IMPACT ASSESSMENTS

Section 75 of the Northern Ireland Act 1998 requires public authorities, in carrying out their functions relating to Northern Ireland, to have due regard to the need to promote equality between all the Section 75 groups. Without prejudice to these obligations, the Department is also required, in carrying out its functions relating to Northern Ireland, to have due regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group. Equality screening of this strategy identified no adverse impacts.

In accordance with guidance, screening was also carried out on a further three impact assessments, namely:-

- Regulatory;
- Social Inclusion; and
- Rural Proofing.

Screening in all three areas has been completed and no adverse impacts were identified. On this basis, the decision is that this strategy should not be subject to full impact assessments.

If you wish to comment on the Impact Assessment screening you have the opportunity to do so by completing the relevant question in Appendix 5 by post or online as described in Section 4.

### Consultation Question No. 6

Do you agree with the findings in the Impact Assessment screening reports? Please provide your reasons.

## ACKNOWLEDGEMENTS

The Department has worked with tenant groups, social housing providers and housing related organisations and other stakeholders to identify the key elements of this consultation document. The Department would like to thank the tenants and staff of the NIHE, the Housing Association sector, Northern Ireland Federation of Housing Associations, Supporting Communities NI, Chartered Institute of Housing, Housing Rights Service, the Voluntary and Community Sector in general, and any others who were involved in the development of this strategy and consultation.

## 4. RESPONDING TO THIS CONSULTATION

The consultation period runs from 12<sup>th</sup> March 2015 to 10<sup>th</sup> June 2015. The strategy document sets out the Department's proposals for a new Regulatory Framework for social housing providers in Northern Ireland. The Department would appreciate you taking the time to read through the proposals, consider them and give your views on any issues raised. The consultation questions are reproduced, along with information about the public consultation events, at **Appendix 5**.

Ways you can respond to the publication are detailed below.

### by post

Complete a copy of Appendix 5 and forward to:-

Regulatory Framework for NI Consultation  
Social Housing Reform Programme  
Ground Floor Lighthouse Building  
Gasworks Business Park  
BELFAST BT2 7JB

### online

Complete online by accessing the DSD website at [www.dsdni.gov.uk/consultations](http://www.dsdni.gov.uk/consultations) , or alternatively by accessing the NI Direct website at [www.nidirect.gov.uk](http://www.nidirect.gov.uk) . You will then have the option to view four separate links. On clicking the links a new window will open in survey monkey to enable you to complete the questionnaire and the event response form and submit online. The four links are:-

1. Proposals for a new Regulatory Framework for Social Housing Providers in Northern Ireland
2. Consultation Response
3. Public Consultation Events
4. Impact Assessment Screening Reports

If you have any queries on this document or require a copy in a different format you can contact us by telephone on: 028 9082 9031 or by e-mail at: [shrppolicy@dsdni.gov.uk](mailto:shrppolicy@dsdni.gov.uk)

Following the end of the consultation period, the Department will publish the responses in summary form, alongside a departmental view on the issues raised. Unless respondents indicate otherwise, all responses to this consultation may be published in full or summary form.

You should note that the Department is subject to the Freedom of Information Act 2000, which means that we have to consider any request made under the Act for information relating to responses to this consultation.

## APPENDIX 1 - INFORMATION ON CURRENT REGULATION RESULTS

## COMPARISON OF FINDINGS: ROUND 1 –V– ROUND 3

	Round 1 Position @ March 2010	Round 3 Position @ April 2014
	No (%)	No (%)
Number of Associations	33	27
Number that failed overall	14 (42%)	4 (15%)
Number that failed Finance	7 (21%)	4 (15%)
Number that failed Governance	12 (36%)	4 (15%)
Number that failed Property Development	10 (30%)	1 (4%)
Number that failed Property Management	21 (64%)	5 (19%)
Number that failed Housing Management	-	2 (7%)
Total Housing Association Stock	29,638	35,971
Stock with overall failed inspection rating	6,111 (21%)	1,132 (3%)
Stock with Prop Mgt having a failed rating	12,322 (42%)	1,132 (3%)

## APPENDIX 2 – REGULATORY STANDARDS AND SAMPLE EVIDENCE

## CONSUMER

**OUTCOME 1**

Social housing providers 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:-

- Social housing providers adopt a strategic approach to tenant participation in the development and review of housing and related services, or in response to service failure.
- Social housing providers have due regard to the tenant participation strategy for Northern Ireland.
- Social housing providers ensure that tenants and other users are made aware of and are clear about the participation activities and strategic approach to tenant participation.

**GUIDANCE:**

- *Social housing providers shall regularly seek the views of tenants, and be responsive to and consider those views.*
- *Social housing providers shall offer tenants a menu of participation activities so that they can participate as individuals, within formal or informal group structures or as specialist posts.*
- *Social housing providers shall provide opportunities for tenants to scrutinise the services they receive and the decisions that impact them.*
- *Social housing providers shall provide the appropriate training and support to tenants and staff to encourage, promote and provide the skills required to make participation an integral part of the organisation.*
- *Social housing providers shall develop relationships and engagement opportunities for tenants and others within the community or those whose role has an impact on tenants e.g. other government departments or housing providers.*

**OUTCOME 2**

Social housing providers shall provide premium homes with good service quality choices appropriate to the diverse needs of their tenants. Social housing providers shall ensure that:-

- Service delivery targets for repairs and maintenance are set, adhered to and reports produced.
- Homes meet, as a minimum, the Decent Homes and Fitness standards.
- Homes are allocated in a fair and transparent manner ensuring good tenancy management.
- An effective complaints process is in place, and detailed in the tenants handbook and annual reports are produced.
- Tenants are consulted on service quality performance and housing options.
- The needs of people with disabilities (young people and adults) and vulnerable adults are adequately considered.

**GUIDANCE:**

- *Social housing providers shall provide evidence of service delivery performance*
- *Social housing providers shall provide reports on tenant satisfaction surveys.*
- *Social housing providers shall provide reports on stock condition surveys.*
- *Social housing providers shall provide Value for Money statement and annual report to tenants.*

**OUTCOME 3**

Social housing providers shall concentrate effort to support vibrant communities that encourages tenant opportunities and promotes well-being. Social housing providers shall ensure that:-

- Community engagement initiatives are supported.
- They work in partnership with other Agencies to contribute to:-



- keeping the neighbourhood and communal areas clean and safe,
- promoting well-being and
- tackling anti-social behaviour.

**GUIDANCE:**

- *Social housing providers shall provide reports on tenant satisfaction surveys.*
- *Social housing providers shall provide reports on stock condition surveys.*

## APPENDIX 2 – REGULATORY STANDARDS AND SAMPLE EVIDENCE

## GOVERNANCE

**OUTCOME 1**

Social housing providers shall ensure effective governance arrangements that deliver their aims, objectives and intended outcomes for tenants and potential tenants in an effective, transparent and accountable manner. Governance arrangements shall ensure social housing providers:-

- Adhere to all relevant legislation.
- Comply with their governing documents and all regulatory requirements.
- Conduct their affairs with honesty and integrity.
- Operate in an open, transparent and accountable manner to tenants, the regulator and partners.
- Base decisions on good quality information and advice to identify and mitigate risks to the organisation's purpose.
- Have the skills and knowledge they need to be effective.

**GUIDANCE:**

- *Social housing providers shall adopt and comply with an appropriate code of governance. Governance arrangements should establish and maintain clear roles, responsibilities and accountabilities for their board, chair and chief executive and ensure appropriate probity arrangements are in place. Boards should assess the effectiveness of their governance arrangements at least once a year.*
- *Social housing providers shall promote and uphold the standard of behaviour and conduct it expects of its board and staff through an appropriate code of conduct.*
- *Social housing providers shall ensure that the board receives good quality information and advice from staff, and where necessary, from expert independent advisers, that is timely and appropriate. The board shall be able to evidence any of its decisions.*
- *Board members and senior officers understand their respective roles and working relationships are constructive and effective. The board shall provide the necessary challenge and hold the chief executive to account to their performance.*
- *Social housing providers shall have a formal and transparent process for the recruitment of board members; ensure that the board has the appropriate skills and composition through performance evaluation; provide relevant induction and training; provide ongoing support to the board.*
- *If the board decides to pay any of its members, it shall have policy framework to demonstrate how this will improve the quality of governance and financial management.*
- *Social housing providers shall ensure that they operate an appropriate strategic planning and control framework that identifies and manages risks to the delivery of their objectives and compliance with regulatory standards.*
- *Social housing providers shall provide tenants, service users and other partners with appropriate information on the organisation, its services and performances.*
- *Social housing providers shall communicate in a timely manner with the regulator on material issues that relate to non compliance with the economic standards.*
- *Social housing providers shall provide accurate and timely returns to the regulator in a form determined by the regulator.*

**OUTCOME 2**

Social housing providers shall adopt a robust approach to the assessment and management of risk

and demonstrate informed and transparent decision-making processes. Governance arrangements shall ensure Social housing providers:-

- Have an effective risk management and internal controls assurance framework.
- Safeguard taxpayers' interests and the reputation of the sector.

**GUIDANCE:**

- *Social housing providers shall ensure that there are appropriate systems of internal controls, that inform strategic decision-making, ongoing board scrutiny and financial management.*
- *Social housing providers shall ensure that appropriate arrangements are in place to ensure the independence of the internal and external audit functions.*
- *Social housing providers shall ensure that their risk management and internal controls assurance framework is reviewed regularly.*

## APPENDIX 2 – REGULATORY STANDARDS AND SAMPLE EVIDENCE

## FINANCIAL

**OUTCOME 1**

Social housing providers shall manage their resources effectively to ensure financial viability is maintained in the short, medium and longer term. Social housing providers shall ensure that:-

- Effective controls and procedures are in place to ensure security of assets and the proper use of funds and there is appropriate financial reporting to the management and board in place.
- Effective systems are in place to monitor and accurately report delivery of their plans.
- The risks to delivery of financial plans are identified and effectively managed.
- All financial reporting requirements are met, ensuring legislation is complied with and all relevant accounting standards are adhered to.

**GUIDANCE:**

- *Social housing providers shall ensure that they have a robust and prudent business planning and control framework. Through this framework they will ensure:-*
  - *there is security of assets, the proper use of public and private funds and access to sufficient liquidity at all times;*
  - *financial forecasts are based on appropriate and reasonable assumptions;*
  - *planning sufficiently considering the financial implications of risks to the delivery of plans;*
  - *they monitor, report on and comply with their funders' financial covenants.*
- *Social housing providers shall ensure that the board fully understands the implications of its treasury management strategy, ensures that it is in the organisation's best interests and understands the associated risks.*
- *Social housing providers shall ensure that they provide timely and accurate returns to the regulator, examples of evidence are:-*
  - *Business plan;*
  - *Annual regulatory return;*
  - *Quarterly financial returns;*
  - *Management and statutory accounts;*
  - *Audit management letter;*
  - *Report on fraud losses;*
  - *Audit reports.*

**OUTCOME 2**

Social housing providers shall articulate and deliver a comprehensive and strategic approach to achieving value for money in meeting their organisation's objectives.

**GUIDANCE:**

- *Social housing providers shall annually undertake a robust assessment of all their assets and resources. This assessment will articulate the organisation's approach to making decisions about how its resources are used to deliver objectives.*
- *Social housing providers shall have performance management and scrutiny functions which are effective at driving and delivering improved value for money performance.*
- *Social housing providers shall understand the costs and outcomes of delivering specific services.*
- *Social housing providers will articulate this self-assessment of the organisation's value for money in a transparent and accessible format to be published annually.*

## APPENDIX 3 - CURRENT REGULATION &amp; INSPECTION ASSURANCE RATINGS

**Rating 1 - Substantial Assurance**

To be given to social housing providers where there is a robust system of risk management, control and governance which ensure that objectives are fully achieved. Social housing providers in this category serve as an example of best practice. These social housing providers will have a well run system of internal control and a risk management programme resulting in all identified risks being addressed and mitigated.

**Rating 2 - Satisfactory Assurance**

To be given to social housing providers who have shown they have an effective system of control which will ensure the achievement of objectives. There may be some weaknesses but these would not be regarded as impacting significantly on the overall performance of the organisation.

**Rating 3 - Limited Assurance**

To be given to social housing providers where there is a considerable risk that the organisation will fail to meet its objectives or where the social housing provider has previously received an “Unacceptable” or “No Assurance” rating and they have shown progress in addressing previous shortcomings. Prompt action is required to improve the adequacy and effectiveness of risk management, control and governance.

**Rating 4 - No Assurance**

To be given to social housing providers where internal systems have failed or there is a real and substantial risk of the social housing provider failing to meet its objectives and where they are also failing to provide any of the following: sound corporate and financial governance, quality housing, value for money. Such social housing providers are considered a high risk to themselves and the public funds which they might receive.

## APPENDIX 4 – PROPOSED GOVERNANCE, FINANCIAL AND CONSUMER VIABILITY RATINGS

RATING	STANDARDS		
	Consumer (C)	Governance (G)	Financial (F)
1	Meets the requirements set out in the consumer standard.	Meets the requirements set out in the governance standard.	Meets the requirements set out in the financial viability standard and has demonstrated the capacity to mitigate its exposures effectively.
2	Meets the requirements set out in the consumer standard, but needs to improve some aspects of service to tenants/ service users to support continued compliance.	Meets the requirements set out in the governance standard, but needs to improve some aspects of its governance arrangements to support continued compliance.	Meets the requirements set out in the financial viability standard but needs to manage material financial exposures to support continued compliance.
3	Does not meet the requirements set out in the consumer standard. There are issues of regulatory concern and in agreement with the regulator, the provider is working to improve its position.	Does not meet the requirements set out in the governance standard. There are issues of regulatory concern and, in agreement with the regulator, the provider is working to improve its position.	Does not meet the requirements set out in the financial viability standard. There are issues of regulatory concern and, in agreement with the regulator, the provider is working to improve its position.
4	Does not meet the requirements set out in the consumer standard. There are issues of serious regulatory concern and the provider is subject to regulatory intervention or enforcement action.	Does not meet the requirements set out in the governance standard. There are issues of serious regulatory concern and the provider is subject to regulatory intervention or enforcement action.	Does not meet the requirements set out in the financial viability standard. There are issues of serious regulatory concern and the provider is subject to regulatory intervention or enforcement action.

APPENDIX 5 - CONSULTATION QUESTIONS

Consultation Question No. 1

Do you agree the standards in the revised Regulatory Framework should cover three areas i.e. Consumer, Governance and Financial?

Yes  No

Please provide your reasons.

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Consultation Question No. 2

Where social housing providers demonstrate the standards set out in this consultation it will provide stakeholders with assurance on the effective and appropriate operation of their businesses. Do you agree?

Yes  No

Please provide your reasons.

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Consultation Question No. 3

Do you agree that the regulator should provide a rating covering each standard (Consumer, Governance and Financial)?

Yes  No

Please provide your reasons.

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Consultation Question No. 4

Regulation should be flexible enough to allow the regulator to adjust the approach for each social housing provider based on factors such as size, development plans, previous regulatory history and business complexity? Do you Agree?

Yes  No

Please provide your reasons.

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Consultation Question No. 5

The Department should introduce additional powers for the regulator to ensure the quick and effective resolution of any issues. Do you Agree?

Yes  No

Please provide your reasons.

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Consultation Question No. 6

Do you agree with the findings in the Impact Assessment screening reports?

Yes  No

Please provide your reasons.

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Name of Respondent

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E-mail contact

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Please specify if you are:

NIHE Tenant

Housing Association Tenant

Other

Please provide Organisation Name: 

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## Public Events

The Department for Social Development will be hosting a series of public events as outlined below. We would encourage you to attend these events so that you can share your thoughts on our strategy and to voice any concerns you may have. Please indicate which event you wish to attend. If you would like to be kept up-to-date about the public consultation events please complete your contact details in the space provided below.

**Event 1**

City Hotel

Queens Quay

Londonderry

BT48 7AS

**Date:** Wednesday 15<sup>th</sup> April 2015**Time:** 10.30 amAttending: Yes  No **Event 2**

Belfast Central Mission

Grosvenor House

5 Glengall Street

Belfast

BT12 5AD

**Date:** Friday 17<sup>th</sup> April 2015**Time:** 10.30 amAttending: Yes  No **Event 3**

Craigavon Civic &amp; Conference Centre

Craigavon Borough Council

66 Lakeview Road

Craigavon

BT64 1AL

**Date:** Monday 20<sup>th</sup> April 2015**Time:** 2.30 pmAttending: Yes  No 

Name: \_\_\_\_\_

Organisation (if approp.): \_\_\_\_\_

E-mail contact: \_\_\_\_\_