

Ariane Burgess MSP
Convenor
Local Government, Housing and Planning
Committee, Scottish Parliament

28 February 2025

Sent by email

Dear Convenor,

I refer to our appearance at the Committee on 17 December 2024 and to the letter of 6 January 2025 sent to you by the Glasgow & West of Scotland Forum of Housing Associations.

I am writing to set out the Scottish Housing Regulator's (SHR) position in relation to the information provided to the Committee on 17 December in relation to Registered Social Landlords (RSLs) consulting tenants affected by a proposed disposal of land which will result in a tenant under a Scottish secure tenancy ceasing to be a tenant of the landlord making the disposal ("a disposal"). There is no requirement on an RSL that is proposing a disposal to have consulted tenants prior to it deciding to propose the disposal. However, once an RSL has decided to propose a disposal where there will be a change in landlord, the RSL is required to consult tenants in accordance with Parts 9 and 10 of the Housing (Scotland) Act 2010 ("the 2010 Act"), having regard to the statutory guidance issued by the SHR under section 115B of the 2010 Act and its other powers.

SHR sets out in the [Regulatory Framework](#) the Standards of Governance and Financial Management for RSLs. Standard 7 sets out that:

"The RSL ensures that any organisational changes or disposals it makes safeguard the interests of, and benefit, current and future tenants."

The guidance for standard 7 states that where an RSL is considering organisational or constitutional change, or acquisition or disposal of land or assets:

"7.3 The RSL ensures adequate consultation with, and support from, key stakeholders including tenants, members, funders (who may need to give specific approval) and local authorities as well as other regulators."

And:

"7.8 The RSL complies with regulatory guidance on tenant consultation, ballots and authorisation."

In relation to transfers of tenants' homes, "adequate consultation" with tenants is that which is consistent with the [statutory requirements on consultation and balloting](#) and with the [statutory guidance](#) provided by SHR. The legal duty and the regulatory requirement for an RSL to consult or ballot tenants applies when the RSL has decided to propose a transfer of engagements to another RSL. There is no requirement in legislation, the Regulatory Framework or statutory guidance for an RSL's governing body to consult with tenants prior to it deciding to propose a transfer of engagements; however, the governing body of an RSL can decide to effect a transfer of tenanted homes only after it has complied with the statutory requirements to consult / ballot tenants and with its own constitutional requirements. The Regulatory Framework does not place on RSLs any requirements of consultation beyond those that the Scottish Parliament has set in legislation, as SHR sets out in the statutory guidance.

Even though there is no regulatory or legislative requirement to consult prior to making the decision to propose a transfer, we would consider any consultation with tenants undertaken by an RSL in advance of it making a decision to propose a transfer to be good practice.

In meeting the statutory requirements on consultation and balloting, Reidvale Housing Association complied with that statutory guidance and so complied with the guidance on Standard 7 in the Regulatory Framework.

Reidvale's governing body notified us on 28 April 2022 that it had decided that it would be in the best interests of its tenants to seek a partner as the best way to address its serious failings in governance and financial management. From then on, and prior to the statutory requirements on consultation and balloting being complied with, we highlighted during our ongoing engagement with Reidvale the importance of it engaging with tenants on proposals and that we expected it to carry out effective consultation with tenants as required in our statutory guidance. We set out below a detailed timeline for the process Reidvale engaged in around consulting with tenants.

Since the incorporation of the Housing (Amendment) (Scotland) Act 2018, SHR has had more limited powers in relation to transfers of engagements. RSLs are no longer required to obtain the SHR's consent for the disposal of land or assets (including a transfer of tenants' homes). The policy objective of the Scottish Government, when it introduced the bill which led to the 2018 Act, was to ensure that the influence the SHR and local authorities can exercise over RSLs is compatible with RSLs being classified by the Office for National Statistics as private sector bodies in the United Kingdom national accounts. As a result, and in effect, SHR's regulatory role in a voluntary transfer of engagements does not extend beyond ensuring that a transferring RSL complies with the statutory requirements on consulting and balloting tenants.

We have had initial discussions with the Glasgow & West of Scotland Forum of Housing Associations about guidance for landlords who may be involved in transfers and we would be happy to work with stakeholders on such sector-produced guidance.

We would be happy to discuss any of this further with the Committee, including whether there needs to be a strengthening of provisions around transfers and tenant consultation.

Your sincerely,

**Michael Cameron
Chief Executive**

Timeline:

- 27 April 2022: Reidvale's governing body decided that it would be in the best interests of its tenants to seek a partner as the best way to address its serious failings in governance and financial management.
- 28 April 2022: Reidvale's governing body notified SHR of its decision.
- From 28 April 2022: through regular engagements with Reidvale SHR stressed the importance of it engaging with tenants on proposals and that it expected Reidvale to carry out effective consultation with tenants.
- May 2022: Reidvale's governing body paused the process to begin the search for a transfer partner in May 2022 to allow it to focus on addressing internal governance issues.
- September 2022: Reidvale's governing body re-commenced the transfer process and to begin the search for a suitable transfer partner
- November 2022: Reidvale developed its tenant consultation plan, in which it set out that it planned to conduct informal tenant consultation and stakeholder engagement from April to July 2023, followed by the statutory tenant consultation from August to December 2023.
- 9 November 2022: Reidvale issued a survey to all tenants and factored owners seeking their views on the objectives for a potential transfer and tenant priorities for a transfer.

- 25 November 2022: Reidvale closed the survey having received returns from 145 tenants and factored owners.
- November 2022: Reidvale invited expressions of interest from potential partners
- November 2022 – March 2023: Reidvale received expressions of interest from five RSLs, two of which went on to submit detailed proposals.
- January 2023: Reidvale sent a newsletter to all tenants and factored owners setting out the results of the survey: 55% agreed that Reidvale had captured their priorities for a potential transfer correctly, 29% were unsure, and 13% did not think the priorities were correct.
- February 2023: Reidvale commissioned TIS to act as an independent tenant adviser and to engage with its tenants about the RSL's future.
- April 2023: Reidvale assessed that Places for People Scotland presented the best proposal for the transfer
- April 2023: Reidvale carried out a further survey of all Reidvale tenants to find out the level of support for a transfer, it asked tenants if they were in favour of it appointing Places for People Scotland as the preferred transfer partner. The results of the survey were collated by TIS.
- May 2023: Reidvale advised tenants of the results from the survey - 46.3% of tenants responded to the survey and 76.6% were in favour of Reidvale appointing Places for People Scotland as the preferred transfer partner and moving forward to the next stage.
- May 2023: Reidvale selected Places for People Scotland as its preferred partner.
- June - July 2023: TIS and Reidvale conduct further consultation with tenants. Reidvale received 199 responses to the consultation, and TIS concluded that Reidvale had taken account of tenants' priorities in shaping the business case for the proposed transfer
- 22 September 2023: in accordance with statutory requirements, Reidvale issued the Stage 1 Notice to all of its tenants setting out the terms of the proposed transfer
- 6 November 2023: Reidvale issued the Stage 2 Notice to all of its tenants informing them of any changes to the proposal and explaining that the proposal requires the approval of tenants by way of ballot
- 10 November 2023 until 11 December 2023 – Reidvale balloted its tenants on a transfer to Places for People Scotland
- 14 December 2023: Reidvale advised SHR of the result of the ballot – 717 tenants voted (73% of all eligible tenants) with 443 in favour of the transfer (62% of those who voted) and 274 against the transfer (38% of those who voted).
- 15 January 2024: Reidvale held a Special General Meeting of its shareholders to vote on the proposed transfer; 208 shareholders attended in person or by proxy and of those 70 voted in favour of the transfer (34%) and 138 voted against (66%).

- Reidvale did not secure the two-thirds of voting shareholders that it required to approve the outcome of the ballot of its tenants, and on that basis it could not proceed with the transfer of engagements to Places for People Scotland.