

South Ayrshire Council

**Report by Assistant Director – Place
to Leadership Panel
of 24 November 2020**

Subject: Annual Assurance Statement – Housing

1. Purpose

- 1.1 The purpose of this report is to provide Members with an update on the Regulatory Framework for Housing and to seek Panel approval to submit the Annual Assurance Statement to the Scottish Housing Regulator and publish the statement for tenants and other customers.

2. Recommendation

2.1 It is recommended that the Panel:

- 2.1.1 **notes the content of the Assurance Action Plan outlined in [Appendix 1](#), outlining the assurances and evidence in relation to the regulatory requirements;**
- 2.1.2 **approves the Annual Assurance Statement outlined in [Appendix 2](#) noting that the Council is complying with all of the requirements and outcomes, with the exception of full compliance in the area of gas safety, and this is directly related to the impact of Covid-19;**
- 2.1.3 **approves the submission of the Annual Assurance Statement to the Scottish Housing Regulator by 30 November 2020 and approves the statement to be published for tenants and others customers; and**
- 2.1.4 **notes the requirements of the new Regulatory Framework and the impacts of Covid-19 on specific activities and areas of service delivery relating to: the relet times for empty houses, homelessness services, rent arrears and income collection, progress to meet fire and carbon monoxide standards in Council owned housing stock and progress against the Scottish Housing Quality Standard (SHQS) and the Energy Efficiency Standard for Social Housing (ESSH).**

3. Background

- 3.1 The Leadership Panel of 17 September 2019 considered and approved the first Annual Assurance Statement for South Ayrshire Council under the new Regulatory Framework. This was submitted to the Scottish Housing Regulator (SHR) by 30 October 2019.

- 3.2 In February 2019, SHR published the new Regulatory Framework entitled 'Regulation of Social Housing in Scotland'. The Framework is SHR's statement on Performance of Functions setting out how they will regulate both Registered Social Landlords (RSL) and the housing and homelessness services provided by local authorities. A summary of the keys points from the Regulatory Framework is included at [Appendix 3](#).
- 3.3 SHR recognise that Social Landlords are facing unprecedented challenges as a result of the Covid-19 Pandemic. For 2020 only, SHR have made changes to the Regulatory Framework in respect of timescales and deadlines, as follows:

Element	Original Deadline Date	Amended Deadline Date
Landlords submission of 2019/20 Annual Return on the Charter (ARC) to SHR	31 May 2020	31 July 2020
Publication of Landlord Reports by SHR	31 August 2020	30 October 2020
Landlords submission of Annual Assurance Statement to SHR	31 October 2020	30 November 2020
Landlords to publish performance information to tenants	31 October 2020	31 December 2020

- 3.4 For both local authorities and RSLs, SHR monitor, assess, report and intervene (as appropriate) in matters relating to performance of housing activities, and how services are delivered to tenants, people who are homeless, Gypsy/Travellers who use official sites provided by landlords and factored owners. For the 2020 Annual Assurance Statement, Landlords are also being asked to consider the impact of Covid-19 and to outline any potential impacts and associated actions being undertaken to manage and mitigate this.
- 3.5 When considering each of the Charter outcomes, a landlord may decide that improvement action is required to meet an outcome and must consider the materiality of the issue. Website links to the Scottish Social Housing Charter and statutory guidance published by SHR on Annual Assurance Statements are included in the background papers section of the report for reference by Members.
- 3.6 The Regulator will use the approved Assurance Statement, along with the Annual Return on the Charter to consider and determine its engagement with landlords. In accordance with the amended timescales within the Regulatory Framework, SHR have indicated that they will begin to publish updated Engagement Plans for landlords at the end of March 2021.
- 3.7 South Ayrshire Council's 2019/20 ARC was submitted to SHR on 30 July 2020. The return provided details of the Council's performance across the range of indicators within the 16 Charter Outcomes. Prior to submission of the ARC and taking account of Covid-19 restrictions, a Skype Meeting was hosted on 29 July

2020 which was open to all Elected Members, tenant representatives and other interested tenants. At this session each of the indicators were discussed, information was provided on levels of performance and explanations were given for any variances in performance compared to 2018/19. The details from the 2019/20 Landlord Report published by SHR for South Ayrshire Council is attached in Appendix 4.

- 3.8 Within the Council's governance arrangements and in the Housing Service, there are a number of existing measures and processes in place to manage, scrutinise and report performance, providing assurances and evidence that the Council is complying with the charter outcomes. Prior to the submission of the 2019/20 ARC to SHR, Internal Audit conducted an audit of selected housing indicators and concluded that reasonable assurance could be taken from the controls in place and the supporting evidence available. Internal Audit is proposing to include an audit of the Annual Assurance Statement as part of the 2021/22 Audit Plan. All of the measures and arrangements outlined in the Assurance Action Plan at Appendix 1, support the Council's approach to scrutiny and offer evidence and assurance on compliance with the charter outcomes and regulatory requirements.

4. Proposals

- 4.1 Using available guidance, each of the Regulatory Requirements have been considered. It has been determined that the Council is complying with all of the requirements and outcomes, with the exception of full compliance in the area of gas safety, and this is directly related to the impact of Covid-19.

- 4.1.1 **Gas Safety Compliance** – In 2019/20, from the overall 7,141 properties that were due to receive a gas safety check, 7,128 were successfully completed within 365 days. There were 13 occasions where the gas safety check exceeded 365 days. This included 3 properties where the households refused access as they were “shielding” at that time as a consequence of Covid-19. All 13 of these properties from 2019/20 have now received their annual gas safety check and have valid gas safety certification in place.

In 2020/21, as at 2 November 2020, there were 157 properties where the gas safety check has exceeded 365 days. Gas Safety checks have now been completed in 135 of these properties and valid gas safety certification is in place. For the remaining 22 properties, 2 households have advised that they are unable to provide access at this time due to circumstances relating to Covid-19. Officers are continuing to engage with households to gain access to complete the safety check. 20 of these properties have internal gas meters. Since the lockdown commenced on 23 March 2020, gas safety checks in 4,946 properties have been successfully completed within target. In response to Covid-19 and since the introduction of the lockdown, the Council has: - agreed safe working arrangements with our Gas Contractor, adjusted the content of letters being issued to tenants to include information on the safety measures in place, officers are continually reviewing cases and there is increased contact to tenants by phone and door step visits to tenants' homes to maximise access. Since lockdown no forced entries have taken place to properties to conduct the gas safety check or cap the gas supply within the property. The Service is continuing to take all reasonable steps to manage this activity. The Council's current progress, existing operating arrangements and approach have been

discussed and notified to SHR, who are aware that all reasonable attempts are being made by the Council. Taking account of the number of times in the reporting year where the Council has not been able to meet its' statutory duty to complete the gas safety check within 365 days of the last safety check, and the ongoing instances being managed, this is deemed material and should be formally notified to SHR as part of this AAS.

The function and legislative requirement for Gas Safety compliance was already included within the Place Directorate Risk Register. This risk has been reassessed and updated to take account of the current position and impact of Covid-19, along with the specific actions to manage and mitigate it.

4.2 Although it has been determined that with the exception of gas safety, all other regulatory requirements are being met and there are no material issues relating to compliance in other areas of activity, the impact of Covid-19 has and continues to present significant operational challenges which are currently being managed within the Service. In considering current levels of performance, it is anticipated that levels of reported performance will decline in comparison to last year. All housing activities are being monitored closely and should any issues emerge which are deemed material and notifiable to SHR, these will be brought to the Panels attention. The main areas of current operational challenge include: -

4.2.1 **Average relet times for empty houses** – Performance in this area in 2019/20 was in the main unaffected by Covid-19. The Council's average relet time was 31.4 days compared to the Scottish average of 31.8 days. When the lockdown was introduced on 23 March 2020, only homeless households were permitted to move home, and this restriction remained in place until 29 June 2020 when the Scottish Government allowed house moves to resume. This reduced turnover within our stock, limited the Council's ability to meet housing need for homeless people and other applicants on our waiting list. This has been a keys area of service recovery, revised operating arrangements are in place with Property Maintenance to prioritise repairs in empty houses for those that have been accepted by or offered to homeless households. This will allow the Council to secure permanent accommodation as quickly as possible. Some processes are taking longer due to ongoing restrictions, social distancing requirements and safe working arrangements. Performance in this area has been adversely affected by the impact of Covid-19. For the first 6 months of 2020/21 up to 30 September 2020, the average relet time increased to 65 days.

4.2.2 **Homeless Applications and Provision of Temporary Accommodation** – The Council continues to fulfil its' legal duties to homeless households, dealing with homeless presentations and providing temporary accommodation where required. There is sustained pressure on available temporary accommodation. The Council has had to revert to using hotel accommodation on occasions to fulfil its' legislative duty. Updates are provided to SHR for this area of activity as part of the Covid-19 monthly return submitted by all landlords.

4.2.3 **Rent Arrears and Collection of Rental Income** – In 2019/20, 99.2% of rental income was collected by the Council compared to the Scottish average of 99.3% and gross rent arrears stood at 3.4% of rent due.

Historically the Council has performed well in this area. From recent 2019/20 benchmarking information provided to the Council from Scotland's Housing Network, the Council is the second best performing Local Authority in terms of overall arrears at 3.4% and the best performing Local Authority in respect of current tenant arrears which stood at 1.6% of the rent due.

Following Covid-19, the Council took the decision to suspend recovery action for the three-month period from 1 April – 30 June 2020. Officers are maintaining contact with tenants to provide ongoing advice and support to those who are experiencing hardship as a consequence of Covid-19. Every effort is being made to secure repayment arrangements as an alternative to formal recovery action, taking account of the temporary legislative changes introduced by the Scottish Government to provide additional protection to tenants. As at October 2020, the gross rent arrears were 5.6% of the rent due. Again, updates are provided to SHR for this area of activity as part of the Covid-19 monthly return.

- 4.2.4 ***Fire and Carbon Monoxide Detector Standard*** – This new standard was due to be effective from 1 February 2021. It will form part of future reporting arrangements against the Scottish Housing Quality Standard as part of the criteria for 'Tolerable Standard' and will form part of the Council's reporting against the 2020/21 ARC. As at 2 November 2020, approximately 60% of the Council's housing stock meets this standard. Property Maintenance have been undertaking programmes of work. However, work stopped when the lockdown was introduced on 23 March 2020 and re-commenced on 10 August 2020. Property Maintenance are actively working to maximise compliance, alongside planned work that will be undertaken by James Frew Ltd to complete elements of compliance work in properties which were programmed to be part of the 2020/21 Internal Modernisation Programme that has been temporarily postponed. Housing Services are managing any instances of no access or tenant refusal to allow the work to proceed, and Officers will continue to take all reasonable steps to maximise access. However, any non-compliance due to these reasons may have to be treated as exemptions in the Council's 2020/21 ARC submission to SHR

In a letter dated 2 July 2020, the Scottish Government Minister for Local Government, Housing and Planning wrote to Chief Executives. This letter outlined the expectation that landlords should aim to meet their statutory and regulatory requirements for social housing during the Pandemic. It is acknowledged that as a consequence of Covid-19, despite best endeavours, landlords may not meet the target deadline of 1 February 2021. However, it is expected that landlords have an action plan in place to meet a remedial timescale not more than three months past the original deadline (ie - 1 May 2021).

In addition, in order to maximise the Council's progress against the forthcoming SHQS requirement for Electrical Safety standards that will need to be met by 31 March 2022, Fixed Electrical Testing is currently being carried out at the same time as work to upgrade or replace fire and smoke detectors, where certification will be required before March 2022. This proactive approach has been put in place to reduce the instances where access is required to tenants homes', and will place the

Council in a stronger position to achieve this new standard by 31 March 2022.

There has been recent national media coverage, and the Scottish Government have included a statement on their website to advise that given the impact of Covid-19 and the difficulties this has created, they will be seeking Parliament's approval to delay the implementation of this legislation for a period of 12 months until February 2022.

4.2.5 **Scottish Housing Quality Standard and Energy Efficiency Standard for Social Housing** – In 2019/20, 97.7% of the Council's housing stock met SHQS and 92.5% met EESSH. Although internal modernisation works have been postponed in 2020/21 due to Covid-19, compliance works and programmes for other external works including roofing and render upgrades, external wall insulation and window replacement are proceeding which will continue to contribute to these standards.

4.3 The Assurance Action Plan outlined in Appendix 1, includes details of assurance and evidence available. Members are asked to consider the Assurance Action Plan outlined in Appendix 1 and approve the submission of the Annual Assurance Statement in Appendix 2 to the Scottish Housing Regulator and agree to publish this statement to tenants and other customers.

5. Legal and Procurement Implications

5.1 There are no direct legal implications arising from this report. The risk in respect of the Council's duty as a Landlord to carry out a gas safety check within a year of the previous safety check is included in the Place Directorate Risk Register and is being managed, taking account of relevant guidance.

5.2 There are no procurement implications arising from this report.

6. Financial Implications

6.1 Not applicable.

7. Human Resources Implications

7.1 Not applicable.

8. Risk

8.1 **Risk Implications of Adopting the Recommendations**

8.1.1 There are no risks associated with adopting the recommendations. The operational risk outlined at paragraph 4.3.1, which have arisen as a consequence of Covid-19, is being managed within the Service, taking account of relevant guidance.

8.2 **Risk Implications of Rejecting the Recommendations**

8.2.1 The risks associated with rejecting the recommendations are that the Council would fail to submit the Annual Assurance Statement to Scottish Housing Regulator by 30 November 2020, and it would fail to meet its' requirements in terms of the Regulatory Framework.

8.2.2 Rejecting the recommendations would impact on the reputation of the Council.

9. Equalities

9.1 The proposals in this report have been assessed through the Equality Impact Assessment Scoping process. There are no significant potential positive or negative equality impacts of agreeing the recommendations and therefore an Equalities Impact Assessment is not required. A copy of the Equalities Scoping Assessment is attached as [Appendix 5](#).

10. Sustainable Development Implications

10.1 ***Considering Strategic Environmental Assessment (SEA)*** - This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy or strategy.

11. Options Appraisal

11.1 An options appraisal has not been carried out in relation to the subject matter of this report.

12. Link to Council Plan

12.1 The matters referred to in this report contribute to Commitment 1 of the Council Plan: Fair and Effective Leadership/ Leadership that promotes fairness.

13. Results of Consultation

13.1 There has been consultation with Tenant Representatives and Interested Tenants and they were provided with a copy of the draft Assurance Action Plan. A Skype Meeting was held on 16 October 2020 and tenants were provided with an update on the current operational challenges being faced by the Council and they were consulted on the content of the Assurance Action Plan. Comments and feedback received from the meeting have been included in the Action Plan as outlined at Appendix 1.

13.2 Consultation has taken place with Councillor Philip Saxton, Portfolio Holder for Housing and Community Wellbeing, and the contents of this report reflect any feedback provided.

14. Next Steps for Decision Tracking Purposes

14.1 If the recommendations above are approved by Members, the Assistant Director – Place will ensure that all necessary steps are taken to ensure full implementation of the decision within the following timescales, with the completion status reported to the Leadership Panel in the 'Council and Leadership Panel Decision Log' at each of its meetings until such time as the decision is fully implemented:

<i>Implementation</i>	<i>Due date</i>	<i>Managed by</i>
Submit Annual Assurance Statement to Scottish Housing Regulator	30 November 2020	Service Lead – Housing Services
Publish approved Annual Assurance Statement for tenants and other customers	30 November 2020	Service Lead – Housing Services

Background Papers **Report to Leadership Panel of 17 September 2019 - [Annual Assurance Statement – Housing](#)**

Scottish Housing Regulator – [Annual Assurance Statements: advice for landlords on temporary changes to our regulatory approach in response to Covid-19](#)

Scottish Housing Regulator - [Lessons from the first round of Annual Assurance Statements](#)

Letter dated 2 July 2020 from Scottish Government – Minister for Local Government, Housing and Planning to Chief Executives - Meeting Statutory and Regulatory Targets for Social Housing During the Pandemic

Scottish Housing Regulator – [Engagement Plan for South Ayrshire Council – 31 March 2019 to 29 March 2020](#)

Scottish Housing Regulator - [Regulation of Social Housing In Scotland – Our Framework – February 2019](#)

[Scottish Government – Scottish Social Housing Charter – April 2017](#)

[Scottish Housing Regulator - Annual Assurance Statement – Statutory Guidance – February 2019](#)

[Audit Scotland - South Ayrshire Council – Local Scrutiny Plan 2018/19 – April 2018](#)

[Scottish Government: Fire and Smoke Alarms: Changes to the Law](#)

[Scottish Government: Proposed Delay to Fire Alarm Regulations](#)

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