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23 April 2025

Dear Convener

Thank you for your letter of 25th March following the Committee's annual scrutiny of the performance of the Scottish Housing Regulator (SHR).

I appreciate the additional in depth work the Committee undertook following concerns raised with you and the views that organisations and individuals provided during the open call and at the Committee sessions. I take the concerns you raise very seriously. At the same time, I note that the relationship between a regulator, and those who are regulated, may sometimes naturally lead to disagreement between the parties involved.

I thank the Committee for a copy of their letter to George Walker, Chair to the SHR and Michael Cameron, Chief Executive. I understand that the Board of the SHR are considering in detail all the issues raised and will be providing their response directly to the Committee.

I welcome the Committee's proposal that the Scottish Government should consider making appropriate legislative changes in order for the SHR to establish an independent appeals process. I have also heard the views of stakeholders, including the SHR itself, who would also welcome an independent appeals process that is well designed, appropriate, objective and independent. We are therefore supporting legislative changes as part of the Housing Bill to establish an independent appeals process.

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The Housing (Scotland) Act 2010 established a statutory right of appeal to the Court of Session for specific decisions but did not establish any wider specific statutory right of appeal against their regulatory decisions. The SHR therefore developed a non-statutory internal appeals process which covers a wider range of regulatory decisions and offers additional opportunities for challenge, beyond those set out in the Act.

Ministers and officials have been engaging with Evelyn Tweed MSP and other stakeholders including SFHA, ALACHO and Scottish Courts, to provide an amendment to the Housing (Scotland) Act 2010 to allow decisions of the SHR to be appealed to the First-tier Tribunal (FtT) instead of the Court of Session (CoS). This would reroute the existing rights of appeal from Court of Session to FtT with matters that were previously dealt with by the SHR's internal review and appeals process would be appealable to FtT.

In relation to the Scottish Regulators' Strategic Code of Practice, this is a voluntary Code of Practice, setting out how Scottish regulators should apply regulatory principles and build good practice when setting regulations. The SHR follow this code of practice.

There has never been, nor intended to be, any central monitoring of compliance by individual Regulators against the Code of Practice by the Scottish Government. This is covered within the SHR's existing internal reporting and monitoring arrangements.

However I would like to assure the Committee that as part of the Framework Agreement between Scottish Ministers and the SHR we have established and maintain effective working relations including regular meetings and dialogue between all levels of officials. In addition a quarterly Public Body risk assessment is undertaken for all Public Bodies (including the SHR) that would highlight any potential areas where further consideration or assurance is required.

I personally meet with the SHR board once a year to hear about their priorities and to highlight the Government's, and I regularly meet with the Chair and Chief Executive, with the last meeting taking place on 23rd April. As I detailed previously the Chair of the SHR, George Walker will write directly to the Committee on the issues raised.

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Yours sincerely,

PAUL MCLENNAN
MINISTER FOR HOUSING

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