

## **Differences between English and Scottish Social Housing systems**

### **1. Introduction**

1.1 The structure and risk profile of the social housing sector in Scotland differs in a number of important respects from that in England. The key differences are set out below. Areas where special provisions exist for the Wheatley Group, compared to those likely to exist for English registered providers (“RPs”), are also highlighted. Wheatley Group does not own or lease any housing assets outside Scotland.

### **2. Constitutional context**

2.1 Housing, including social housing, has been a matter devolved to the Scottish Government since 1999. Affordable housing has consistently been a high political priority spanning successive administrations and continues to receive cross-party support (all of the major political parties included commitments to materially increase the supply of affordable homes in their 2021 election manifestos).

2.2 One of the most important powers devolved to the Scottish Government is the ability to permit the continued payment of housing benefit from the Department of Work and Pensions directly to housing associations. This option is also available for all tenants on Universal Credit in Scotland that does not exist in England. This means Scottish housing associations have a significant risk mitigation not available to their English counterparts.

2.3 In terms of the possibility of a future independence referendum, it is a constitutional requirement that the UK Government would need to agree to this being held. The UK Government has indicated that it would not be prepared to make such an agreement.

### **3. Significant policy divergence**

3.1 In Scotland there is a high level of political and policy support for social housing. The Scottish Government published their Housing to 2040 strategy<sup>1</sup>, setting out commitments to deliver 110,000 new affordable homes in the ten-year period to 2032, of which 70% will be for social rent (77,000).

3.2 UK Government decisions affecting English RPs generally do not affect Scottish housing associations. There are no government-imposed rent cuts or caps, the ‘bedroom tax’ is mitigated and the Right-to-Buy was abolished in July 2016. The key differences are summarised in the following table:

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<sup>1</sup> [Housing to 2040 - gov.scot \(www.gov.scot\)](https://www.gov.scot/housing-to-2040)

Position at 16 June 2022:

	English RPs	Scottish RSLs
<b>Right to Buy</b>	Right to Buy being extended to housing associations and/or permitted for tenants in receipt of benefits (2022 proposal)	The Scottish Parliament's Housing (Scotland) Act 2014 provided for Right to Buy to be <b>abolished in Scotland from 31 July 2016</b> .
<b>Rent regime</b>	Following a 4-year period of 1% rate cuts from 2016-20, social rented properties in England are subject to a cap of CPI + 1%, with rent caps applicable based on size of property <sup>2</sup>	Housing Associations are <b>free to set rents with no central government rent controls or caps</b> and Scottish Ministers have confirmed that this will continue to be the case.
<b>Grant support for new build</b>	Low levels of grant funding being re-introduced to support strategic partnership, delivering mixed tenure housing (social, subsidised, shared equity, for sale). The majority of RPs subsidise development of affordable homes via commercial activity (i.e. build-for-sale).	<b>New build grant levels significantly higher than England</b> (social rent benchmark £78k; mid-market rent benchmark £53.5k; additional funding of up to £15k per unit for zero/low carbon heating, working-from-home space, access to outdoor space/balconies, EV charging points, broadband etc.)
<b>Universal Credit</b>	Being rolled out and will include housing benefit. Introduces risk of individuals paying their rent for the first time and consequent risk of increase in arrears and bad debts.	"Scottish flexibilities" in place which allow Universal Credit claimants to <b>continue payment of housing benefit straight to social landlords</b> – mitigating the risk of rent arrears.
<b>Bedroom tax</b>	Applies in full – reduces housing benefit entitlement and increases payment/income risks to housing associations.	Bedroom tax effectively <b>abolished</b> in Scotland through Scottish Government subsidy.
<b>Regulatory context</b>	Social Housing Regulator with risk-based regulation and in-depth assessments on selected providers.	<b>A different regulator</b> – the Scottish Housing Regulator, which actively monitors the smaller number of HAs and has a track record of interventionist behaviour.  "We view oversight as being very strong in Scotland, and regulatory powers are extensive, including facilitating asset transfers and mergers for failing providers". (S&P May 2022)
<b>Diversification model</b>	Move to higher risk activities including build-for-sale and other speculative property development activity	More traditional, <b>low risk business model based on social housing</b> . No build for sale.

3.3 These differences are leading to some credit rating differential emerging, with Wheatley's credit rating of A+ from Standard & Poor's not being affected by downgrades due to sales risk or exposure to significant landbank holdings.

<sup>2</sup> [Limit on annual rent increases 2022-23 \(from April 2022\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/limit-on-annual-rent-increases-2022-23)

- 3.4 Social housing is more prevalent in Scotland than England, comprising 23% of all Scottish housing stock (11% RSLs / 12% Local Authorities), compared to 16.6% in England (10.2% RPs / 6.4% Local Authorities). Scotland has a lower rate of owner-occupation than England, 58.2% compared to 63.8%. Statistics based on March 2020 returns<sup>3</sup>
- 3.5 Affordable homes in Scotland includes two tenures; social rent and mid-market rent (MMR). MMR is broadly equivalent to the English affordable rent regime, with properties available to customers earning between £21k - £40k p.a. Rental payments for MMR properties are higher than social rent (rental levels around 20% higher than social and around 80% of the Local Housing Allowance), and accordingly the grant subsidies available for this tenure are lower than for socially rented properties (benchmark at £53.5k for MMR, £78k for social rent).
- 3.6 In Scotland RSLs are not permitted to issue Private Rented Tenancy agreements so full market and mid-market rent activities are carried out by a separate commercial vehicle.
- 4. Less emphasis on commercial activity to compensate for reducing grant levels**
- 4.1 As a consequence of continuing and significantly higher grant levels for new supply, Scottish RSLs do not face the same pressures as English RPs in relation to diversification of income sources. Private sale or rental housing represents a minimal part of RSL activity in Scotland. Wheatley has no current or planned build for sale activities.
- 5. Significantly greater revenue flexibility – no rent regulation, no rent cut**
- 5.1 Unlike England, there is no system of rent regulation in Scotland. RSLs are free to set rents as they wish, qualified only by obligations in the scope of the Scottish Social Housing Charter and Housing Act (Scotland) 2001 which require RSLs to consult tenants and have regard to their views when setting rents and service charges.
- 6. Regulatory framework for resolution of situations of landlord financial distress**
- 6.1 The regulatory framework has significant powers in making interventions to RSLs who are experiencing financial distress. It is one of the functions of the Scottish Housing Regulator (SHR), an independent body established in 2011, to make early regulatory interventions, where appropriate, relating to the financial and governance performance of RSLs. The Regulator has substantial powers of enforcement which, despite its short history, it has a track record of using. These powers range from the requirement for landlords under scrutiny to produce an improvement plan to the appointment of a manager to manage financial or other affairs.
- 6.2 The Office of National Statistics (“ONS”) decision to reclassify housing associations as part of the private sector following revised legislation has been applied similarly in Scotland and England. The changes to the regulatory system in Scotland have substantially mirrored those in England.

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<sup>3</sup> [Dwelling stock by tenure, UK - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/dwelling-stock-by-tenure-uk)

## **7. Fire safety**

- 7.1 Building regulations were changed in Scotland in 2005 making it mandatory for builders to ensure any external cladding inhibits fire spreading. While the UK Government's Independent Expert Panel on Fire Safety published consolidated advice on building safety in January 2020, which was subsequently withdrawn in January 2022 with the housing sector awaiting an update later this year (2022), Scottish building and fire regulations, standards and guidance are devolved. The Building and Fire Safety Ministerial Working Group, established in March 2020 published final technical advice in August 2021<sup>4</sup>. We undertake 3-yearly fire risk assessments in all group Multi Storey Flats (136 premises) and Living Well buildings (assisted living for older residents – 44 premises), promptly completing any fire safety actions identified.
- 7.2 Wheatley's Fire Prevention and Mitigation Framework complies with all current fire safety legislation and best practice guidance including the Fire (Scotland) Act 2005, Fire Safety (Scotland) Regulations 2006, Practical Fire Safety Guidance for Existing High Rise Domestic Premise and Practical Fire Safety Guidance for Specialised Housing. Homes of all tenures in Scotland were required, by law, to have interlinked smoke and heat detectors since February 2022. All of Wheatley's properties comply with this legislation.

## **8. Strategic Housing Investment Plans**

- 8.1 A Strategic Housing Investment Plan or SHIP is a plan which all 32 Scottish local authorities are required to submit annually to the Scottish Government. The key purpose of the SHIP is to:
- Set out key investment priorities for affordable housing
  - Demonstrate how the priorities will be delivered
  - Identify the resources required for delivery
  - Enable the involvement of key partners

These documents, which cover the forthcoming 5-year period, are available in the public domain on the websites of each of the local authorities.

## **9. Homeless Legislation**

- 9.1 The Homelessness (Scotland) Act 2003 established the target for all unintentionally homeless people in Scotland to have the right to a permanent home. RSLs play an important role in meeting that target, both through work to prevent homelessness and in housing homeless households. Section 5 of the Act gave housing associations a duty to accept homelessness referrals from local authorities in particular circumstances.

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<sup>4</sup><https://www.gov.scot/publications/scottish-advice-note-determining-fire-risk-posed-external-wall-systems-existing-multi-storey-residential-buildings/>

9.2 Wheatley Group has a strategic target to provide a minimum of 50% of new lets to homeless people and households over the course of the next 5 years (10,000 homes). The most recent publication of homelessness in Scotland figures (2020/21)<sup>5</sup> there were 33,792 homeless households (30,345 adults and 11,804 children).

## **10. Care Regulation**

10.1 The Care Inspectorate is the independent regulator of social care and social work services across Scotland. The Care Inspectorate regulates a range of care services, undertakes strategic inspections of local authorities' social work departments and is also responsible for the scrutiny of children services as set out in the Public Services Reform (Scotland) Act 2010. It inspects and grades care services with respect to the quality of care, environment, staffing, management and leadership.

10.2 The Care Inspectorate's regulatory and scrutiny functions ensure that:

- Vulnerable people are safe
- The quality of these services improves
- People know the standards they have a right to expect
- They can report publicly on the quality of these services across Scotland
- They can support and encourage the development of better ways of delivering these services.

10.3 In discharging its regulatory and scrutiny functions the Care Inspectorate works in partnership with various stakeholders including Education Scotland, COSLA, Scottish Care, and the Scottish Social Services Council (SSSC).

## **11. Wheatley-specific factors**

11.1 GHA pension liabilities are subject to a Glasgow City Council guarantee. As part of the transfer of social housing from Glasgow City Council to GHA in 2003, the City Council provided a guarantee over all future GHA pension liabilities to the Strathclyde Pension Fund (part of the Local Government Pension Scheme).

11.2 GHA has a role as an "equal partner" in public policy delivery. Glasgow's Community Planning partners such as the Council and NHS Board have in effect contracted with the Scottish Government to plan, resource and deliver services together with local communities.

## **12. Relationships with Glasgow City Council, the City of Edinburgh Council and Dumfries & Galloway Council**

12.1 Wheatley has strong bilateral relationships with both of the largest local authorities in Scotland. GHA is identified in GCC's SHIP as a key partner in relation to new build affordable housing and urban renewal through the Transformational Regeneration Programme. In Edinburgh, the same situation exists in relation to our subsidiary Dunedin Canmore.

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<sup>5</sup> [Homelessness in Scotland: 2020 to 2021 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/homelessness-in-scotland-2020-to-2021/pages/1-introduction.aspx)

- 12.2 Glasgow and Edinburgh Councils administer grant funding for new build to RSLs through an arrangement known as “Transfer of the Management of Development Funding” (TMDF) from Scottish Government. This arrangement only exists in Glasgow and Edinburgh council areas but gives these councils discretion to manage funding allocations to RSLs within certain parameters. Outwith Glasgow and Edinburgh, new build grant is administered directly by the Scottish Government in conjunction with local authorities.
- 12.3 Dumfries & Galloway Housing Partnership (DGHP) joined the Wheatley Group in December 2019. As a standalone entity, DGHP is the second largest RSL in Scotland with just over 10,000 homes across the region. Wheatley is a key strategic partner of Dumfries & Galloway council and hosts the common housing register for all housing providers across the region.