

Consultation response

Risk and proportionality: Refocusing the regulation and inspection framework for housing

From the Shelter policy library

May 2006

www.shelter.org.uk

© 2006 Shelter. All rights reserved. This document is only for your personal, non-commercial use.

This document contains information and policies that were correct at the time of publication.

Shelter

TEMPLATE FOR RESPONSES

Questions

Section on Definitions

Question 1:

What do you think are the most significant costs and benefits of our current regulation and inspection framework?

There are many benefits of regulation and inspection. Shelter feels that the way in which inspection feeds into development of practice is very much under-exploited. Inspection reports are a huge source of good practice, some of which is further published, either in bespoke reports or on the Communities Scotland website. But this only really scratches the surface of the practice issues might emerge from inspection and the means by which they might be channelled into different forms of practice development – written briefings, events, training, web-based discussion forums.

As well as expanding our training function in recent years, Shelter has also paid much greater attention to how we collect and disseminate practice. We would welcome the opportunity to meet further with Communities Scotland and the other main organisations with an interest in practice development to discuss how the inspection process can be built upon more systematically and in a more co-ordinated way.

We believe Communities Scotland would welcome this as a way in which inspection can be 'sold' much more positively to the housing sector.

As a detailed point, the final bullet point in 1.4 might usefully refer to the 2012 Homelessness target as the complementary high-level target to the SHQS.

Section on Our Proposals

Question 3:

Will our proposals on risk-based regulation achieve a more proportionate and targeted approach?

The effectiveness of a risk-based approach will partly depend on how effective the regulatory statement is. In the list of topics in table 1 it is important that, under the management section, there is a heading to reflect contribution to homelessness – for example, prevention of homelessness through eviction and provision of support; meeting homeless people's needs through allocations; and provision of temporary accommodation. If these are not included then a RSL could be performing poorly against them but it would not be picked up in risk assessment.

We have argued that Communities Scotland regulation and inspection process should promote section 5 referrals as the mainstream route by which homeless people are referred from local authorities to RSLs and we would like to see that

reflected in the criteria used by inspectors to assess RSL performance. Further details and the arguments are in our briefing on section 5 referrals on our website. <http://scotland.shelter.org.uk/policy/policy-421.cfm/ct/2/pg/2/plitem/198>

We are also keen that 'risk' includes some assessment of the scale at which an organisation operates. For example, the three large whole stock transfer RSLs loom so large over the provision of social housing in their areas that a higher degree of scrutiny over their work is inevitable for the foreseeable future.

Equally, risk might not necessarily mean poor performance. A particular organisation might be pioneering a number of new policy initiatives such that a higher level of scrutiny is warranted. An example here is City of Edinburgh Council, which is innovating in areas such as choice-based lettings, private sector leasing and flat payments in housing benefit. Other organisations may be equally innovative in different ways.

See too our response to question 12 below as to how risk may also be assessed from the data that is collected for the Homelessness Monitoring Group.

Question 4:

Should we move away from a programme of inspecting local authorities and RSLs once every five years?

This seems reasonable, as long as all LA inspections are completed first time round, as indicated. The average inspection cycle for LAs might still be five years, but there would be more variation around that, such that some LAs might be inspected with a gap of three years; others with a gap of seven years. Some thought has to be given to how this might dovetail with the move to more niche-based rather than whole-service inspections. Would it be possible for inspectors to be inspecting a poorly-performing temporary accommodation service within a three year period but leaving a six year gap before looking again at a hitherto successful floating support service in the same authority? Are there not economies of scale in inspectors visiting? Equally, it is important that connections between parts of a service are not lost by a more fragmented approach. For example, a progressive approach to preventing homelessness might be compromised by poor practice on the housing management side.

With this caveat, we are also interested in the possibility of responsive inspections, based on emerging issues. In our experience, from time to time, a part of a service does break down and the possibility of inspection on a short timescale would offer a safety net to addressing this.

The issue of risk-based assessment seems mainly to be about RSLs in the paper. But there are implications for local authorities too. Giving greater scope for responsive inspections would allow inspection of authorities which had emerged as higher risk.

Question 5:

Should we stop using grades to summarise performance in whole service areas and have a one-stage appeals process?

Yes – we agree that grades receive too much attention and deflect attention away from improvements that need to be made. Where an organisation gets an 'A' grade, it is rarely without some caveats but these may be lost in the overall picture. Meanwhile a low grade tends to be quite demoralising for staff. So grades can lead to either complacency or resentment, neither of which is useful.

In our response to question 12 we set out our view that inspection should reflect homelessness strategy as much as homelessness service. But this should not be at the cost of neglecting the impact of the service on the service-user. Dispensing with grades would allow inspection much more cleanly to separate out positive remarks on strategy or process and governance from more reflective comments on outcomes for individual clients.

Question 6:

How should we enable the views of service users to influence our selection of organisations for inspection?

One of the issues here is proportionality – it is easier to justify involvement of service-users when there is already a definite commitment to inspect the service of which they are the intended beneficiaries.

One way around this is to have a greater involvement of organisations, like Shelter, who bring a substantial service-users' *perspective* from direct services (without pretending that we directly represent the views of service users).

At the moment Shelter contributes on a case-by-case basis to particular inspections as a third party. However, we are currently changing the way we organise internally to enhance the way we contribute to the inspection process as we recognise it as a key driver of practice. So we would be happy to have further dialogue with Communities Scotland about ways in which we can contribute to the programme priorities overall.

Question 7:

What improvements would you suggest to the way we inspect and report our findings?

See our answer to Q1

Question 8:

What should we focus on most over the next few years?

Shelter strongly welcomes the inclusion of homelessness and, in particular, the capacity of both councils and RSLs to meet the 2012 target. We see this and the

SHQS, as the two key drivers of Scottish housing policy over the next 5-10 years so it is right that both should rank high in the priorities for inspection and regulation.

However, we also believe that the way homelessness is considered needs to be refined, as outlined in our response to question 12 below.

Question 9

What changes would you like in the information we collect?

Reference is made to a working group to review information requirements. It would be useful to move towards comparable information between LAs and RSLs on key indicators such as evictions and allocations. In particular, in a recent exercise on section 5 referrals we found a element of confusion about what the APSR was recording. It is important to resolve that confusion.

Question 10

Do you agree that we should be notified about significant events and are those listed the right kind of events?

Yes – we see this as a very useful additional dimension to regulation and inspection. We support the inclusion of adverse media interest as a criterion but would suggest that this be refined to include *potential* adverse media interest. That way, individuals or organisations who otherwise saw media attention as their only way of getting action could be persuaded to see Communities Scotland as a port of call, *before* media needed to be involved.

Question 12

What role should Communities Scotland play in relation to other regulators, audit bodies and inspectorates?

As regards other formal regulators, it would be useful to keep a close eye on the consistency of messages sent out by Audit Scotland in its performance indicators. There has been some movement in recent years but we need to be vigilant that indicators of aspects of housing management like rent arrears and voids processes do not run counter to good practice sought in homelessness inspections.

But this issue is relevant not only to the formal inspection or regulation processes which are described but to other means by which progress in housing practice is tracked. We are thinking here of the Homelessness Monitoring Group (HMG) which has a substantial interest in tracking changes in homelessness services and delivery of strategy. Communities Scotland has a place on the HMG but it would be worth looking in more detail at how the inspection process feeds into to the national tracking of progress, given both the changes to inspection and the refinements to the system for collecting data from local authorities on implementation of homelessness strategies (from 2006-07 onwards).

In particular, Shelter has supported the move towards giving local authorities greater discretion on how they move towards 2012. This is consistent with the strategic role that authorities have. However, we have also warned of the risk that some authorities might not choose to drive progress as actively as others. It is important for the Homelessness Monitoring Group to pick up early indication that homelessness strategies are not being implemented as successfully as they might. An exercise which Shelter carried out in summer of 2005 for our own development purposes showed that when asked to give frank views, local authority homelessness staff raised concerns about service delivery more fully than in the formal submissions to the Scottish Executive. There is an understandable reluctance at times to concede problems and to err on the side of picking out the more positive developments in implementing strategy.

Communities Scotland's inspections act as a reality check on that. But may usefully in the future:

1. Draw on the annual submissions by authorities to HMG as a formal part of the assessment of risk. This would include the possibility of responsive inspection where the monitoring data showed cause for concern.
2. Reflect the outcomes agreed for these submissions as an explicit part of the inspection process.
3. Ensure that as much attention is paid to development of homelessness *strategy* as to the implementation of the homelessness *service*. For example, in the long term, the availability of lets to meet the 2012 target will be as important to meet the needs of service users as the detailed way in which the homelessness assessment process operates. See also our response to question 5 on this.

RESPONDENT INFORMATION FORM

Please complete the details below and include it with your response. This will help make sure we handle your response appropriately.

Name: Gavin Corbett

Postal Address: Shelter Scotland, 6 South Charlotte Street, Edinburgh, EH2 4AW

Consultation title: Policy Manager

1. Are you responding as: (please tick one box)

- | | | | |
|-----|--------------------------------------|--------------|--------------------------|
| (a) | an individual | (go to 2a/b) | <input type="checkbox"/> |
| (b) | on behalf of a group or organisation | (go to 2c) | <input type="checkbox"/> |

2a. Individuals:

Do you agree to your response being made available to the public?

Yes (go to 2b below)

No, not at all

2b. Where confidentiality is not requested, we will make your response available to the public on the following basis (please tick **one of the following boxes)**

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

2c On behalf of groups or organisations:

Your name and address as respondents will be made available to the public. Are you content for your response to be made available also?

Yes

No