

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.
- 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 (“HAs”). This option is also available for all tenants on Universal Credit whereby Scottish HAs can receive UC payments directly for rental payments in contrast to English RPs. This means Scottish HAs have a significant risk mitigation not available to their English counterparts.
- 2.3 The UK Supreme Court ruling provided the legal certainty that the Scottish Government has no power to hold an independence referendum without the consent of the UK Government through the mechanism of Section 30 of the Scotland Act 1998 in their judgement delivered in November 2022. Any future referendum on Scottish Independence would therefore depend on the UK Government’s consent with neither major UK political party indicating support at this time.

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 ¹, 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. The key differences are summarised in the following table:

¹ [Housing to 2040](#)

	English RPs	Scottish RSLs
Right to Buy	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 abolished in Scotland from 31 July 2016 .
Rent regime (social rent)	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 ²	Housing Associations are free to set rents with no central government rent controls or caps
Rent regime (Mid-Market and Private Sector Rent)	The English affordable rent regime is broadly similar to Mid-Market Rent (MMR). MMR is a subsidised housing tenure for people earning between £21k to £40k. PRS is not subject to rent control.	MMR and PRS homes are subject to rent caps under transitional arrangements from the Scottish Government while the new Housing (Scotland) Bill is scrutinised by Parliament. Rental arrangements for FY24/25 are subject to a cap at +12% .
Grant support for new build	Low levels of grant funding being re-introduced to support strategic partnership, delivering mixed tenure housing (social, subsidised, shared equity, for sale). Many RPs subsidise development of affordable homes via commercial activity (i.e. build-for-sale).	New build grant levels significantly higher than England (social rent benchmark £91.2k; mid-market rent benchmark £62.5k; additional funding of up to £20.2k per unit for zero/low carbon heating, working-from-home space, access to outdoor space/balconies, EV charging points, broadband etc.) ³
Universal Credit	Being rolled out and includes 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 continue payment of housing benefit straight to social landlords – mitigating the risk of rent arrears.
Bedroom tax	Applies in full – reduces housing benefit entitlement and increases payment/income risks to HAs.	Bedroom tax effectively abolished in Scotland through Scottish Government subsidy.
Regulatory context	Social Housing Regulator with risk-based regulation and in-depth assessments on selected providers.	A different regulator – the Scottish Housing Regulator, which actively monitors the smaller number of HAs and has a track record of interventionist behaviour.
Diversification model	Move to higher risk activities including build-for-sale and other speculative property development activity	More traditional, low risk business model based on social housing . No build for sale.

² [Limit on annual rent increases to April 2025](#)

³ [New Build grant levels](#)

- 3.3 Social housing is more prevalent in Scotland than England, comprising 23% of all Scottish housing stock (11% RSLs / 12% Local Authorities), compared to 16.4% in England (10.1% RPs / 6.3% Local Authorities). Scotland has similar rate of owner-occupation than England, 63.7% compared to 64.1%. Statistics based on March 2022 returns.⁴
- 3.4 Affordable homes in Scotland include 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 up to £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.
- 3.5 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 (Wheatley activities are undertaken by Lowther Homes Limited).
- 4. Less emphasis on commercial activity to compensate for reducing grant levels**
- 4.1 The Scottish Government new build grant regime enables Scottish RSLs to avoid higher risk build-for-sale or other cross-subsidy activities, reducing the requirement to diversify income sources. Wheatley has no current or planned build for sale activities.
- 5. Significantly greater revenue flexibility**
- 5.1 Unlike England, there is no system of rent regulation in Scotland for social rented properties. Around 96% of Wheatley's housing assets are social rent units. 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.
- 5.2 MMR and PRS rents are currently subject to a rent cap of 12% for FY24/25.
- 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.

⁴ [Dwelling stock by tenure, UK - ONS 31 March 2022 data](#)

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 2021⁵. 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.
- 9.2 Wheatley Group has a strategic target to provide a minimum of 50% of new lets to homeless people and households during the strategy period 2021-26 (10,000 homes). The most recent publication of homelessness in Scotland figures (2022/23)⁶ there were 32,242 homeless households (36,848 adults and 16,263 children).

⁵[Scottish Government advice note: Multi Storey external wall systems](#)

⁶ <https://www.gov.scot/publications/homelessness-in-scotland-2022-23/>

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 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 Wheatley Homes Glasgow pension liabilities are subject to a Glasgow City Council guarantee. As part of the transfer of social housing from Glasgow City Council to Wheatley Homes Glasgow in 2003, the City Council provided a guarantee over all future Wheatley Homes Glasgow pension liabilities to the Strathclyde Pension Fund (part of the Local Government Pension Scheme).
- 11.2 Wheatley Homes Glasgow 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 our largest local authority partners with strategic agreements in place with GCC⁷ and D&G⁸. Our RSLs are identified as key partners in relation to new build affordable housing and urban renewal in Glasgow, Edinburgh, and Dumfries & Galloway.
- 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. For all other council areas, new build grant is administered directly by the Scottish Government in conjunction with the relevant local authority team.

⁷ [GCC strategic agreement](#)

⁸ [D&G strategic agreement](#)