

## Members' Library Service Request Form

Date of Document	27/06/13
Originator	Christine Dora
Originator's Ref (if any)	
Document Title	Draft Guidance on the Operation of a Housing Revenue Account (HRA) in Scotland - consultation response

Please indicate if access to the document is to be "unrestricted" or "restricted", with regard to the terms of the Local Government (Access to Information) Act 1985.

Unrestricted	<input checked="" type="checkbox"/>	Restricted	<input type="checkbox"/>
--------------	-------------------------------------	------------	--------------------------

If the document is "restricted", please state on what grounds (click on grey area for drop-down menu):

For Publication
-----------------

Please indicate which committee this document should be recorded into (click on grey area for drop-down menu):

East Lothian Council
----------------------

Additional information:

This is a response submitted by officials on behalf of the Council, to a limited consultation by the Scottish Government. Consultation paper also attached for ease of reference.

Authorised By	Monica Patterson
Designation	Executive Director
Date	27/06/13

For Office Use Only:	
Library Reference	151/13
Date Received	27/06/13
Bulletin	June13

## Draft Guidance on the Operation of a Housing Revenue Account (HRA) in Scotland

### Questions

**Q1** Do you agree with the six key principles summarised in paragraph 3 and figure 1?

Yes	<input type="checkbox"/>
-----	--------------------------

**Q2** Is the list of outcomes in paragraphs 5 and 6 a complete list i.e. does it cover everything you would expect of your local authority landlord?

Yes	<input type="checkbox"/>
-----	--------------------------

If no – what is missing

----------

**Q3** Aside from the legal requirements for keeping a separate HRA and the requirements of the Scottish Social Housing Charter, do you feel that council tenants should obtain transparency on how a housing revenue account operates?

Yes:	The HRA is a separate statutory fund. Annual accounts are produced for it in line with the SERCOP (Service Reporting Code of Practice), and are audited every year. Auditors should be reviewing councils' compliance with this and with items like the charging of central support costs. If there is a problem with transparency then we suggest that the SERCOP is probably the right place to start. The consultation should take proper cognisance of SERCOP.
------	--

**Q4** With the exception of the council housing stock, should tenants and Registered Tenants' Organisations have a full say in the future of HRA assets that are under-used by council tenants (e.g. land or commercial assets currently unrelated to the council housing stock); how the costs of upkeep are funded if retained in the HRA; or whether such assets are transferred out of the HRA and on what terms?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

The document does not make clear how far the "full say" would extend. Does this mean every transfer/ change being approved?

It is worth bearing in mind that any transfer from the HRA must be approved by the Scottish Government anyway.

Officers have concerns that consultation on specific sites and buildings with tenant groups could have a major operational impact on asset management, causing delays and impinging on commercially sensitive issues. At present, local elected members have an opportunity to comment, together with detailed background information, District Valuer's valuations etc for audit purposes. In officers' view this approach represents sufficient diligence to demonstrate best value both for HRA assets and the Council.

It is not clear that under-use of HRA assets is a big problem at present, and it does not appear to be a big problem in East Lothian. Officers consider that tenant and RTO involvement would be best deployed in agreeing a strategic asset management strategy, setting out the future use of under-used HRA assets.

**Q5** Is further research, evidence and clarification required in Scotland on the concept of "Core", "Non-Core" + "Core Plus" HRA and "Core" General Fund costs as outlined in paragraph 41?

Yes, further evidence and research is required but officers consider the paper sets out a good starting-point for discussion on p21-22. It is good to see the reiteration that this is a landlord's account.

One striking omission from the list is "tenant participation".

There is room for a good debate on a number of fronts: e.g. should policy and management of functions in respect of landlord activity not be seen as a Core HRA service?

**Q6** In view of the tightening of local authority resources, are there any areas of its landlord service which you feel could be prioritised as being "core" or funded more appropriately not just by council tenants but by the wider population?

--	--

If yes – which areas?

Classification should be guided by the operating principles.

**Q7** Having read through the guidance, do you feel that any further clarification of what it is seeking to do is required?

--	--

If yes – which areas?

See comments above.

If you wish to provide any further comments, please use this space:

1. There can be little to argue with in the general principles set out, but the document is not clear on how the ongoing use of these principles is to be evidenced/ demonstrated going forward.
2. The operation of the HRA is not just a matter for tenants. The assets belong to the Council in stewardship for the people of East Lothian as a whole.
3. The HRA often pays for environmental improvements in areas that include Council housing. It is the Council's understanding that there is no power to oblige owner/occupiers to contribute financially. The paper makes the assumption that there is a legal basis to recharge private owners for this type of work, and also that payment would be forthcoming. This brings the prospect of significant bureaucracy and attendant cost, plus of course the risk that the work would stop being done at all, to the detriment of HRA tenants and to the wider group of residents. Presumably the Council could consult tenants on whether they wanted this work to be done using the HRA? We would not wish to exclude tenants from improving their area.
4. We try to foster good relationships with tenants and residents organisations. We can of course build on the existing relationships to encourage further involvement.

The diagram on p21 of the consultation paper is not clear enough in respect of anti-social behaviour.

Your comments will only be used by the Scottish Government to finalise the guidance. Although this is option, if you are happy to provide your name and address, please do so here:

Name:

Address:

### **How to feed in your views**

Responses should be received by close of business on **5 July 2013**.

This form should be sent by e-mail to [hraguidance@scotland.gsi.gov.uk](mailto:hraguidance@scotland.gsi.gov.uk)

If you wish to send a hard copy of your response, please send this to:

Lesley Dyker  
Scottish Government  
Housing Supply Division  
50-54 Rose Street  
Aberdeen AB10 1UD

# CONSULTATIVE DRAFT GUIDANCE ON THE OPERATION OF LOCAL AUTHORITY HOUSING REVENUE ACCOUNTS (HRAS) IN SCOTLAND

## Key messages

1. This Guidance is being produced following discussions between representatives of local authority landlords, Registered Tenant Organisations (RTOs), Audit Scotland and Scottish Government.
2. The social and geographical council housing landscape in Scotland has changed significantly since the principal current housing revenue account (HRA) legislation was put in place in the Housing (Scotland) Act, 1987. Council housing tenants are more geographically dispersed but income poverty in local authority housing households is, paradoxically, more concentrated than it was a generation ago.
3. Care needs to be taken to make sure that expenditure once aimed at traditional 'council housing areas' provides maximum benefit to today's, more geographically dispersed population of council tenants. Guidance for local authority landlords is required to reflect this changed social and geographical landscape and this document therefore aims to reflect a number of key principles that local authorities must observe which are:

- Ensuring compliance with existing HRA legislation
- Ensuring that HRA assets should principally benefit HRA tenants either in direct usage or as investment properties providing a financial return
- Properly recording the methodology for calculating and allocating HRA costs (including internal costs charged by the Council to the HRA) systematically and in sufficient financial detail to know who benefits from the services these costs relate to
- Updating the HRA cost allocation process regularly to reflect market and other changes including the allocation to the HRA of the appropriate proportion of council Trading Operation surpluses attributable to council housing activities
- Where legally entitled, charging non-council tenants benefiting from HRA-provided services that are currently only charged to council tenants
- That regular discussions on the level and nature of HRA financial transparency take place with tenants themselves, Registered Tenants' Organisations (RTOs) or other tenant representatives in relation to the income credited to, and expenditure charged to, the HRA in accordance with the principles underlying the Scottish Social Housing Charter

4. The key principles for debiting and crediting the HRA are summarised in Figure 1 (which is at the end of this document).

#### Question 1

Do you agree with the six key principles summarised in paragraph 3 and figure 1?

#### Background and context

5. Scottish Government has direct responsibility for setting the policy and accounting framework for local authority housing accounts in Scotland. The 26 Scottish local authority landlords who own and manage housing stock are required to operate a Housing Revenue Account (HRA). The main income source for the HRA is rental income from tenants (approximately £1 billion in 2012-13). From this rental income, current and future tenants should expect to receive:<sup>1</sup>

- a) properties and management services of high **quality** which includes not only managing and maintaining the fabric of the properties but ensuring that they meet the appropriate energy efficiency and carbon emission standards that will apply in future years<sup>2</sup>
- b) the opportunity to rent properties at **affordable rent levels**
- c) full **consultation** by their landlord on important matters and also to have a say on how housing services are delivered and managed in their community

6. In addition, where affordable and sustainable for the HRA, the provision of a **new supply** of council houses for rent where there is established housing need.

#### Question 2

Is the list of outcomes in paragraphs 5 and 6 a complete list i.e. does it cover everything you would expect of your local authority landlord?

7. In order for each of these outcomes to be achieved, Scottish Government believes that a transparent accounting and financial framework should exist for all 26 HRAs in Scotland. It is important that the make-up of the costs being charged, and the income being received by each HRA is clear and easily understandable to tenants in line with the requirements of the Scottish Social Housing Charter (see paragraph 21-22 below).

---

<sup>1</sup> An HRA is a separate account that all local authorities who own general needs letting stock are required to keep under section 204(4) of the Housing (Scotland) Act 1987. The Account is a record over time of the income and expenditure on its housing stock, land and on other miscellaneous buildings that are accounted for part of their housing stock. .

<sup>2</sup> The Scottish Housing Quality Standard (SHQS) was introduced in February 2004 and is the Scottish Government's principal measure of housing quality in Scotland.

8. The aim of this document is to set out the role of the HRA and how it should operate. This guidance supplements, but does not replace the statutory requirement for authorities to account for the costs associated with the HRA as set out in the Housing (Scotland) Act 1987. In particular, this guidance seeks to ensure that costs charged to the HRA ultimately benefit tenants. Our aim is that the Guidance will assist:

- 315,000 council **tenants** (September 2012) in Scotland to understand, and be much better informed, about what should and should not be credited and debited to the HRA.
- 26 local authority **landlords** in working to the same set of guidelines about what they should and should not be crediting and debiting to the HRA and be assured that other councils will be expected to follow exactly the same set of principles as them
- **Audit Scotland**, who audit the housing revenue accounts of local authorities in Scotland, and who may wish to examine and analyse the annual revenues and expenditures in the accounts and assess whether they are all appropriate according to an updated set of guidelines, as well as the 1987 Act
- the **Scottish Housing Regulator** in monitoring landlords' achievements with respect to the Scottish Social Housing Charter.

### Question 3

Aside from the legal requirements for keeping a separate HRA and the requirements of the Scottish Social Housing Charter, do you feel that council tenants should obtain transparency on how a housing revenue account operates?

9. Much of the current policy framework regarding the operation of housing revenue accounts (HRA) in Scotland is contained in primary legislation i.e. the Housing (Scotland) Act 1987 though there are a few more recent pieces of legislation that also impinge on the operation of HRAs.<sup>3</sup> Whilst the 1987 legislation is still applicable to today's council housing landscape, the landscape has itself changed considerably since then which means the original legislation is operating in a very different environment than it was a generation ago. These changes include:

#### Geographical tenure changes in traditional council housing areas

10. Former local authority housing-dominated areas now have a much greater mix of tenures across individual estates and within individual flatted blocks. This is due to the continued operation of Right to Buy from its introduction in 1980 and through its various guises to the present day; private sector (with or without public funding) new build activity in previously 'mono-

---

<sup>3</sup> The Housing (Scotland) Act 1987 is relevantly amended by the Housing (Scotland) Act 1988, the Leasehold Reform, Housing and Urban Development Act 1993, and the Local Government etc. (Scotland) Act 1994.



tenure' areas; the growth of non-traditional forms of owner-occupation such as shared equity properties in former council housing-only areas; the growth of the buy-to-let sector in private rented sector properties (sometimes as a follow-on consequence of RTB); and numerous partial local authority stock transfers to Registered Social Landlords that took place in the 1990s and 2000s.

11. Many council estates are therefore no longer solely council estates and it can even be the case that council tenants are now in the minority in some traditional council housing areas. These changes can mean that costs charged to the HRA for services in areas that were once exclusively inhabited by council tenants may no longer exclusively benefit council tenants e.g. the maintenance of common areas adjacent to the housing stock such as green space. If tenants of other organisations, owner-occupiers or even the entire neighbourhood benefit from services currently paid for by council tenants, then there is a strong argument that HRA should only be charged for a share of the total costs of that service provision.

### Rising expectations

12. As well as the wider economic situation, society's expectations which include those of council tenants, other residents and consumers generally have placed increasing demands on most public services which include council housing services. They are frequently being called upon to provide services to meet the needs of wider communities and neighbourhoods which are beyond the traditional remit of a council landlord service. Greater clarity and transparency is required on what services should normally be charged to council housing budgets and paid for by rents, and what additional, wider services should be charged either to council tenants, the wider community or both.

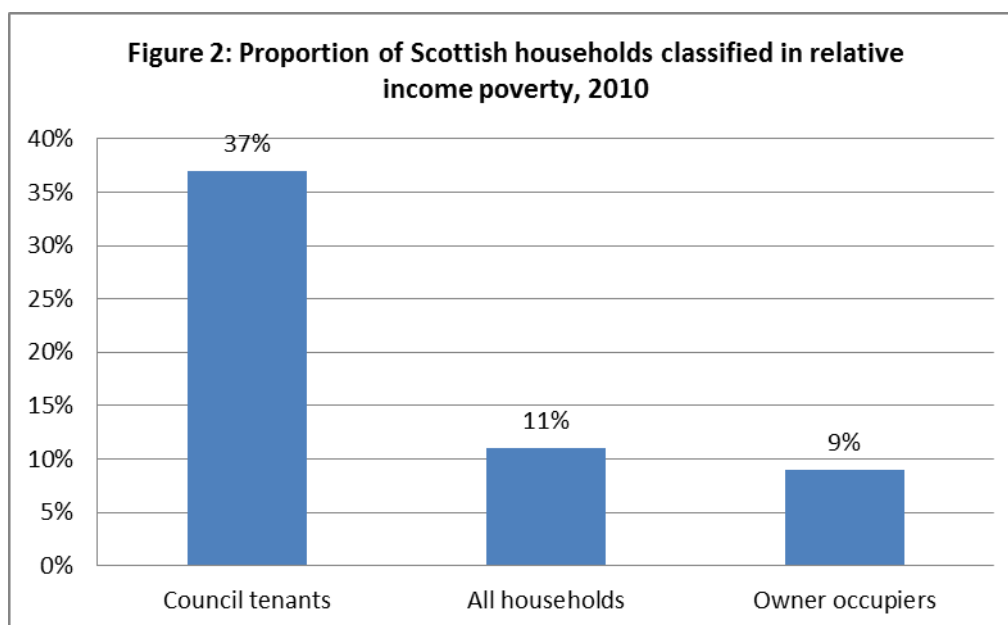
### Greater concentrations of income poverty in the council house sector

13. Whilst council housing should not be perceived as housing the poorest in society, the evidence shows there is a greater concentration of income poverty in the council rented sector now compared to when the principal HRA legislation was introduced in the 1980s. Figure 2 shows that in that year around [12] per cent of council tenants were in income poverty compared to a very similar proportion in owner-occupied households (10 per cent) and private rented sector households (10? per cent). By 2010, some 37 per cent of council tenants were in relative income poverty whereas only 9 per cent of owner-occupiers and 10? per cent of private rented sector tenants were classed as being in relative poverty.<sup>4</sup> The relative incomes, and indeed economic activity profile generally, of today's 'cohort' of council tenants is therefore very different to that of the 1987 cohort. This concentration of income poverty in specific tenures such as council housing requires close attention to ensure that the financial resources targeted on council housing (such as HRA expenditures) are not displaced or misplaced to the wider

---

<sup>4</sup> Definition of income poverty to be included along with statistical sources.

population who are much less likely to be in income poverty. If HRA expenditure is therefore not carefully targeted on council tenants, it will not benefit some of the poorest households in Scotland.



**Figure 2**

### Greater local accountability

14. HRA capital investment, to improve or enhance existing properties or to build new housing, is now undertaken within an entirely different financial regime to that existing in 1987. The Local Government in Scotland Act 2003 places a local authority under a statutory duty to determine the amount they can afford to allocate to capital expenditure. In doing so they are required to have regard to the Prudential Code issued by the Chartered Institute of Public Finance and Accountancy (CIPFA). This requirement is contained in SSI 2004/29, the Local Authority Capital Expenditure Limits (Scotland) Regulations 2004. The Prudential Code requires that the capital investment plans of the local authority are affordable, prudent and sustainable.

15. A local authority has the freedom to borrow for capital investment and is responsible for making their own decisions about how much they can afford to borrow to support capital expenditure plans. In relation to HRA the council, as landlord, has responsibility for ensuring the HRA operates not only in accordance with the law but also that HRA capital investment plans are affordable, sustainable and prudent. This means that they must consider the implications of any upward impact on council rent levels when deciding to borrow to fund any capital investment plans.

### **The need for guidance**

16. Whilst legislation provides the specific requirement to operate an HRA and broadly sets out what may be charged (debited) to the HRA and what income should be credited to the HRA, the legislation cannot fully answer all

the questions that are likely to be asked as to whether each account is operating as was originally envisaged. This can lead to HRAs in one area of Scotland operating differently than in other areas. Guidance can assist in ensuring that there is consistency across Scotland and ensure that both landlords and tenants have a shared understanding as to how the legislation is to apply. This does not mean that each HRA will be identical as landlords will need to consider the specific needs of their area. However, guidance can act as a discussion document between landlords and tenants as to the differences which apply to their area. There are a number of reasons why guidance and more transparency on the operation of HRAs in Scotland is now required:

#### Guidance on this subject area doesn't exist for Scotland

17. Although the principal legislation dates from 1987, there has been no specific guidance on the operation of the HRA produced by the (then) Scottish Office, (then) Scottish Executive or Scottish Government. The aggregated HRA represented £1 billion or around a quarter of local authority income in 2012-13, so it is reasonable to expect guidance which focuses on fairness and transparency on how tenants' rental income is spent given the significant sums involved.

#### Rising council rents

18. Over the last decade, virtually all council landlords in Scotland have increased rents at above inflation. This has occurred for a variety of reasons some common and some individual. Costs that are not transparent as to their purpose or benefit will come under increased scrutiny from tenants when they are required to pay higher real rent levels.

#### Tighter public sector budgets

19. Wider economic circumstances are seeing significant restraint on public sector spending including that on welfare. Housing benefit accounted for over 60% of HRA income in Scotland in 2012-13. Current UK Government reforms to the welfare system, including housing benefit, could result in greater pressure being placed on HRA income and many tenants could be adversely affected by both tight public sector budgets and welfare reform.

#### Increasing demands on the HRA

20. There are a number of objectives which need to be met from the rental income to meet a range of measurable outcomes than was the case when the HRA legislation was written in 1987. These include:

- Providing sufficient monies to ensure the council housing stock meets the Scottish Housing Quality Standard (SHQS) by April 2015<sup>5</sup>. In 1987

---

<sup>5</sup> The Scottish Housing Quality Standard (SHQS) was introduced in February 2004 and is the Scottish Government's principal measure of housing quality in Scotland. Guidance on the 55 elements of the SHQS published in March 2010 can be found [here](#).

there was no specific minimum housing standard for the social sector in Scotland beyond the statutory tolerable standard which applies across all tenures. With the introduction of the SHQS in 2004, social tenants can now expect to enjoy a higher quality property as it sets additional criteria in terms of being free from serious disrepair, is energy efficient, has modern facilities and provides a healthy, safe and secure housing environment. Having a specific housing quality target to meet makes it more important to ensure that the available revenue is maximised subject to the legal and accounting framework as otherwise that target might be missed

- The increasing legislative and non-legislative demands to make council housing more energy efficient; to reduce pressure on tenants' fuel costs (to help eradicate fuel poverty in Scotland as far as is reasonably practicable by 2016); and reduce carbon emissions from council housing in the period to 2020 and beyond. By contrast, when the principal HRA legislation was introduced in 1987, there was no co—ordinated policy target or explicit set of local or national policies for reducing fuel poverty or significantly reducing carbon emissions from the council housing stock
- Local authorities intend to invest nearly £0.9 billion of HRA resources between 2013 and 2015 to meet SHQS as outlined [here](#).

### Scottish Social Housing Charter

21. The Scottish Government's Social Housing Charter, which became operational in April 2012, requires all social landlords to achieve 16 separate outcomes that relate to measuring performance of each landlord.<sup>6</sup> Outcomes 14 and 15 of the Charter state:

*“Social landlords set rents and service charges in consultation with their tenants and other customers so that:*

***Outcome 14: a balance is struck between the levels of service provided, the costs of the services and how far current and prospective tenants and service users can afford them***

***Outcome 15: tenants get clear information on how rents and other money is spent including information on items of expenditure above thresholds agreed between landlords and tenants***

*These outcomes reflect a landlord's legal duty to consult tenants about rent setting; the importance of taking account of what current and prospective tenants and other customers are likely to be able to afford; and the*

---

<sup>6</sup> Details of the Scottish Social Housing Charter can be found [here](#).

*importance that many tenants place on being able to find out how their money is spent. Each landlord must decide, in discussion with tenants and other customers, whether to publish information about expenditure above a particular level, and in what form and detail. What matters is that discussions take place and the decisions made reflect the views of tenants and other customers.”*

**Source: Scottish Social Housing Charter: April 2012**

22. Though the Charter is still in its relative infancy, one of its aims is to re-focus landlord attention on financial transparency and accountability across all social landlords, not just local authority landlords. However, although Registered Social Landlords already operate ‘ring-fenced’ businesses where their tenants will generally not be required to pick up the costs of providing services to wider groups of residents, this is not necessarily the case for local authority tenants. Council tenants may see it as unfair on them that they might be expected to pick up such costs, if indeed they will be asked to.

### **Key principles for debiting and crediting the HRA**

#### Key principle 1: Ensuring compliance with HRA legislation

#### **The local authority must comply with what the law says on the operation of an HRA**

23. The principle of working within the law is routine and familiar to local authorities but the underlying legal requirements are often buried in the legislation which is often difficult to access and interpret for the majority of people interested in the subject.

#### Correctly accounting for HRA assets

24. A property has to be accounted for within the HRA if it is currently provided under Part 1 of the 1987 Act and various earlier equivalents. The account also extends to any outstanding debt costs or receipts which arose when a property was so provided and which are still outstanding following its disposal. If a property is not provided under the powers listed in paragraph 1 of schedule 15 to the 1987 Act, or in directions under section 203 of that Act, the authority must not account for it in the HRA.

25. Equally, properties which may originally have been provided under Part 1 of the 1987 Act (or its predecessor powers) may no longer fulfil their original purpose in benefiting tenants or, in the case of investment properties, may not generate a financial return to the HRA. This financial return may take the form of rental income over and above the costs of maintaining the asset or may be in terms of future capital appreciation. If these criteria are not being met, the authority should consider their removal from the HRA. Examples of properties which might fall into this category are estate shops and other commercial premises, such as banks, post offices, workshops, industrial estates and surgeries, where there is no longer any connection with the local authority’s housing stock. There should be a distinction made however between those

assets which are providing (or might provide) a positive financial return to the HRA and those which are not. These decisions are for the local authority to take, though they should be able to explain the basis of the decision to Scottish Government (as they must to gain Scottish Ministers' consent – see paragraph 30-31) and also be able to explain such decisions to their tenants and auditors if required to.

#### Correctly accounting for HRA income and expenditure

26. Income and expenditure in relation to a local authority's own direct provision of housing must be recorded separately within a HRA as provided for by section 203(2) of the [Housing \(Scotland\) Act 1987](#). HRAs in Scotland are therefore a separate account within the General Fund of a council. Schedule 15 to that Act details the income and expenditure which should be charged to the HRA. The main items of income and expenditure to be accounted for are:

- a) rental income from houses (and other HRA assets);
- b) income from the investment of HRA money (whether cash balances or monies received from the sale of HRA property);
- c) expenditure on managing, maintaining, repairing and improving the council housing stock;
- d) expenditure on debt (loan charges) relating to amounts borrowed to fund capital expenditure on HRA properties (existing or new).
- e) An estimated debit or credit should be made where the actual cost or income is not known (accrual accounting is required in line with proper accounting practices)

27. The legislation also sets out items that should not be debited to the HRA and these include:

- a) provision of shops, laundry facilities and furniture (though provision of garages and some other tenancy facilities can be debited);
- b) any expenditure which exceeds the expenditure required for the provision of the service to tenants.

#### Powers of Scottish Ministers regarding the HRA

28. There are a number of Ministerial powers of that have been in place since the introduction of the 1987 Act. For example, Schedule 15 of the 1987 Act states that local authorities may, with the consent of Scottish Ministers, exclude any items of income or expenditure from the HRA should they wish to either for their own reasons or in agreement with auditors and/or tenants. In addition, and again with Ministers' consent, local authorities may include any items of income or expenditure. In recent years, local authorities have not sought to invoke these powers but they have remained in place since 1987.

29. If the HRA has been improperly credited or debited, Scottish Ministers, may, after consultation with the local authority concerned, give directions for the appropriate credits or debits to be made to rectify the Account.

30. Since April 2010 no limits have been set on financial contributions from the General Fund to the HRA though any such a contribution would require the consent of Scottish Ministers under paragraph 2(5) of schedule 15 to the 1987 Act.

31. Authorities should be aware of the powers available to them to hold property when they are considering whether to dispose of it or transfer it out of the HRA. Section 12(7) of the 1987 Act requires authorities to obtain Scottish Ministers' consent before a house or part of a house can be disposed of. If a property is transferred between the HRA and any other revenue account within the General Fund, this will involve adjustments to the HRA in accordance with the relevant determinations under section 203(2).

32. Disposals of land, buildings or any other assets from the HRA irrespective of size or value require the consent of Scottish Ministers principally under section 12(7) of the 1987 Act. This requirement is in addition to the requirements of the *Disposal of Land by Local Authorities (Scotland) Regulations 2010 (SSI 2010/160)* on disposals of land for less than best consideration. In other words, where such a disposal is envisaged for HRA land, the local authority must both follow the procedures in the Regulations and obtain Ministerial consent under the 1987 Act. Guidance, published in October 2012, for local authorities on applying to Scottish Ministers for consent when disposing of HRA assets (or transferring assets between HRA and General Fund under section 203(2)) is available here (link not available yet). The Guidance contains a standard application form to be completed for each asset being transferred. The information required by the form for disposing of small plots of garden ground is minimal compared to more substantial tracts of land or for buildings. This Guidance may be revised from time to time to reflect current policy.

### Summary

33. In summary, the statutory basis of the HRA is that the Account should be a 'landlord account' within the General Fund. It should therefore accurately reflect the income and expenditure arising from a housing authority's landlord functions. If costs appearing in the account are not landlord-related then the account should not be charged for them unless there is a clear rationale for the HRA paying a proportion of the costs and they fall within the categories set out at paragraph 3 of schedule 15 to the 1987 Act.

Key principle 2: HRA assets should benefit HRA tenants either through direct use or a positive financial return

**Councils should regularly review the role of HRA assets to determine whether those assets continue to provide tenants with exclusive or substantial benefits either directly or through a positive financial return**

**as investment assets. If an HRA asset does not provide such benefits, the council, as landlord, should consider options for that asset which include disposal to a third party or transfer to the General Fund of the council (with a financial adjustment to reflect the transfer of value).**

34. As stated in paragraph 32, the 1987 Act provides Scottish Ministers with the power to include or exclude any asset from the HRA. This may be because it is no longer relevant to tenants or if it is providing a drain on the local authority's finances.

35. The council, as landlord, should demonstrate good stewardship of assets, i.e. practice good asset management planning. An asset register should detail the assets which are owned (or leased) by the HRA. These assets should be actively managed and periodically reviewed to ensure they continue to provide a positive benefit to the HRA. General guidance on asset management in local government can be found [here](#). Guidance on asset management for social landlords can be found [here](#).

36. Asset management is required for all HRA assets as follows:

#### *Dwellings*

37. A dwelling owned by the HRA may be available for general needs letting at an affordable rent but it will still need to form part of the wider HRA asset management plans. This will ensure that appropriate investment is made to meet the appropriate quality standard for housing (SHQS). More strategically, asset management planning is required to help ensure the housing stock contains an appropriate mix of types of housing to meet the needs of the local area and community. The council, in both its role for strategic housing policy, and as landlord, should work together to ensure appropriate housing is provided.

#### *Land*

38. Land may have been acquired for an HRA purpose, such as future housing provision. Councils should ensure that such land-holding continues to be held for a specific purpose. Should the land no longer be held for a specific HRA purpose the council should consider all the options available for that land. This could include the transfer to the General Fund with an appropriate financial compensation, or sale of that land on the open market. In considering options for the land, consideration should be given to the economic conditions prevailing. It may be beneficial to the HRA for the land to continue to be held until capital values increase at times of economic downturn. In all cases of surplus land-holding, the council should be considering all options and be actively managing the landholdings of the HRA.

39. Land held by the HRA, maintained by the HRA at a cost, but which is available and accessible to other residents of the area (e.g. recreational areas), is by definition not held for the exclusive use of tenants. In such circumstances it is reasonable for tenants to expect a financial contribution



from the General Fund or (in certain circumstances) from the residents of the area reflecting the wider use of that land beyond council tenants' usage. The Council may wish to go further and transfer the land out of the HRA in line with the principles outlined in existing Guidance as described in paragraph 31-32.

#### *Investment property*

40. An investment property (land or building) held by the HRA also requires active asset management. Councils should ensure that holding investment properties provides a positive financial benefit to the HRA.

#### **Question 4**

With the exception of the council housing stock, should tenants and Registered Tenants' Organisations have a full say in the future of HRA assets that are under-used by council tenants (e.g. land or commercial assets currently unrelated to the council housing stock); how the costs of upkeep are funded if retained in the HRA; or whether such assets are transferred out of the HRA and on what terms?

Key principle 3: Record the allocation of HRA costs systematically and in sufficient detail to know who benefits from the services they relate to

**Once established that the asset should be accounted for on the HRA, costs should (in principle) be allocated on the basis of whether the tenants are the exclusive beneficiaries (100% of costs charged) or partial beneficiaries (less than 100% of costs charged to HRA) using an evidenced-based method of cost allocation using a database or similar record**

41. Schedule 15 of the 1987 Act provides broad categories of expenditure to be charged to the HRA but does not specify sub-categories. For statistical purposes and to comply with section 204(4) of the 1987 Act, the 26 local authorities with HRAs are required to provide the Scottish Government with a financial estimate (budget) which does require some classification of HRA expenditure but this classification is aggregated at a fairly high level. Work done for the Department for Communities and Local Government (DCLG) in England in the lead up to the introduction of 'self-financing' HRAs in England (which commenced in April 2012) has adopted a three-way classification which could be adopted in Scotland. Though not a legal requirement, Scottish Government believes a greater degree of HRA cost breakdown is in keeping with the principles outlined in the Scottish Social Housing Charter (as laid out in paragraph 21-22 above) and is content to adopt the principle of such a classification for the purposes of producing transparent HRA guidance. The construction and publication of an accessible HRA cost spread sheet or database will help illustrate the methodology by which costs are allocated is laid out as an example in Annex 1. The HRA cost classification Scottish

Government is suggesting, on the basis of this existing research, is a four-way classification as follows:

- **‘Core’ HRA costs** – ‘traditional’ landlord services, including rent collection, management of repairs, housing management and allocations
- **‘Core plus’ HRA costs** – where it is difficult to gain a consensus around a strict definition of core HRA costs, it is therefore necessary to itemise a range of services where there is now a general expectation that council landlords will provide a service and again, where a proportion of cost might be met from the HRA
- **‘Non-core’ HRA costs** – services might include tackling anti-social behaviour and providing advice on welfare benefits, debt and employment with a proportion of such costs possibly being met by the HRA
- **‘Core’ General Fund costs** – these are clearly not the responsibility of tenants and include areas such as education and transport paid for out of wider local budgets. This category is included simply to show a distinction between expenditure that might be HRA and that which definitely isn’t and so extends the three-way classification by a further category

42. The costs of operating HRAs in Scotland are estimated annually during the financial year in which they occur and these estimates are subsequently revised the following year. They are published by Scottish Government every autumn [here](#). Repair and maintenance (33 per cent of aggregate HRA income), management and supervision (24 per cent) and debt charges (24 per cent of income) make up over four-fifths of total HRA resources in Scotland in 2012-13 so it is in these three broad categories where the largest proportions of charges to tenants are usually to be found. These costs include the charges the General Fund has made to the HRA for whatever goods and services are provided internally such as legal services, human resources, IT, and finance services. The evaluation of the ‘Housemark Activity Cost Benchmark Pilot (2011)’ which involved a number of local authorities reported the following on the calculation of such costs in section 3.16 of the report<sup>7</sup>:

*“Several of the pilot participants reported difficulties with capturing financial data on central charges, office costs, and the costs of IT. The pilot experience highlighted to several of the participants how little they knew about how charges for central services are put together and whether they represented good value for money for their tenants. Several of the participants, particularly from local authorities, indicated that in the light of this, they may wish to have discussions with their central teams about these charges.”*

---

<sup>7</sup> The report is published [here](#).

43. The local authority landlord can in some instances, be well placed to provide wider services for neighbourhoods and communities that go beyond 'Core' HRA services. Research into the HRA management and costs in England found that:

*"A large and growing proportion of management costs, perhaps up to 40%, are being incurred in 'non-core' service areas and whilst a proportion of these costs are recovered through a diverse range of income streams including grants, service charges and other contributions, the net cost of these services is significant and growing."*<sup>8</sup>

44. In keeping a separate housing landlord account, there is a basic requirement to spend time allocating costs according to who benefits from them. However, as discussed in paragraph 5, a number of housing policies over time have inadvertently blurred the line between traditional council landlord services and the additional services that wider communities expect to see from their local authority whether this is paid for from the HRA or not. This implies a greater degree of accurate cost allocation is necessary now than was required a generation ago. Discussion with tenants and auditors is inevitable if the costs are to be understood and allocated appropriately. The relationship between 'core,' 'a core-plus' and 'non-core' cost is shown in Figure 3 which is at the end of this guidance. Clearly, the more 'non-core' costs that are attributed to the HRA (moving outwards from the blue to the green to the yellow circles) the more rent will have to be charged per tenant to balance the HRA, other things equal.

45. A significant issue in establishing a transparent allocation of HRA costs is the quality of data on costs between the HRA and General Fund. Below are two possible scenarios to illustrate the importance of having good quality management cost data:

- **Scenario 1:** Service A is not handled by the housing department but by another department and the housing department pays a recharge for that service. However, the figure the housing department is charged is not calculated in any scientific way and may even be inflated so that the HRA (and council tenants) is unwittingly paying for the service 'by the back door.' It is perfectly possible to accurately track who the service is being used by and then to calculate an accurate HRA share i.e. it might be all council tenants, all non-council tenants or a mixture of the two. This could be flagged in the housing management system or in their customer information systems (e.g. customer contact centre). The same information could be made available to the department in charge of the service so that when charging for the service they can cross reference cases and accurately charge according to whether tenants, the wider community or a mixture of the two are the users. This will ultimately result in a near-proper allocation of HRA costs

---

<sup>8</sup> Housing Quality Network (HQN) research – full source will be provided.

- **Scenario 2:** A second scenario is that Service A is fully paid for by the General Fund, even though a proportion clearly relates to council tenants. The same issue as above applies i.e. the non-recording of information by management systems as to whether council tenants or non-council tenants are using the service. However, in this scenario, it is not only the HRA not paying a fair share which is the issue but also the local authority is not realising (through a lack of management data) that they are providing the service to tenants of housing associations and/or owner-occupiers in their authority. The local authority could, if they wished, suggest that a fair proportion of the costs are paid by the housing association based on data evidence. This will incentivise the housing association to re-direct their own service to their own tenants. If the housing association was not properly recording data either, they too might even be providing a ‘free’ service to non-housing association tenants.

46. If there is ambiguity as to whether a particular cost should fall on the HRA, the test to be applied should be *‘who benefits from the good or service in question?’* If services are provided for the wider community or as part of a general local authority obligation, the costs should simply fall to the General Fund. However, if the cost of a service that is currently being paid for by the HRA can be seen to be of wider benefit than beyond council tenants, then the costs should be appropriately and fairly apportioned between the HRA and the General Fund by using the appropriate and up-to-date evidence-based indicator(s). In the interests of transparency, the local authority must make clear the methodology for apportioning the costs in a way that is transparent for tenants, tenant representatives and auditors. There may be disputed areas of items of income and expenditure where differing, and perhaps unique, local circumstances will suggest different approaches to apportioning costs. These are the decisions where specific local evidence might be more appropriate than using national evidence. The methodology should highlight such areas and explain the basis for these local decisions irrespectively. In general terms, the principle should remain in place that “who benefits” will be the key criteria for cost allocation where there is legal and accounting ambiguity. The template in Annex 1 has been included as an illustration so that local authorities and tenants can understand the breakdown of some typical HRA costs; who benefits from them; and how the costs could be allocated between HRA and the General Fund. This type of template provides a basis for a regular discussion between tenants and council landlords regarding the apportionment of HRA costs.

#### **Question 5**

Is further research, evidence and clarification required in Scotland on the concept of “Core”, “Non-Core” + “Core Plus” HRA and “Core” General Fund costs as outlined in paragraph 41?

47. One of the benefits of adopting a classification of costs such as this is that it could be very useful to help generate thinking on how a council housing service can make on-going cost efficiencies or in thinking about an alternative charging basis to help fund the provision of HRA services. The fact that services can be classified as 'core' and 'non-core' would form one possible basis (there are others) on which to base discussions with tenants on the future of services provided by the HRA. It would also promote much better awareness of how reductions (or indeed expansions) in services would affect council tenants and non-council tenants alike.

#### **Question 6**

In view of the tightening of local authority resources, are there any areas of its landlord service which you feel could be prioritised as being "core" or funded more appropriately not just by council tenants but by the wider population?

Key principle 4: Update the cost allocation methodology, including the methodology for allocating of Trading Account surpluses, regularly

**Methodology on HRA charges including any charges made by General Fund should be updated regularly and not be allowed to become out of date. This includes the methodology for calculating any Trading Account surpluses that should be returned to the HRA as client. Infrequent updates might result in inaccurate charging of either council tenants or the wider community**

48. The methodology for arriving at an appropriate allocation of costs to the HRA needs to be regularly reviewed otherwise it may quickly become out of date. Some of the reasons cost allocations could become inaccurate include:

- Market prices of goods and services purchased by the HRA change over time and with the economic cycle in particular
- Improved procurement methods for purchasing goods and services can deliver cost savings irrespective of market conditions and the HRA should be sharing in these improvements
- The changing cost base of the central services charged to the HRA by the General Fund is not appropriately or proportionately calculated and/or regularly reviewed i.e. if the General Fund is making cost efficiencies then these should be reflected in the allocation of costs to HRA and the benefit passed to tenants as laid out, for example, in the legal requirement in paragraph 27(b) above
- New costs may arise and old costs disappear from the HRA each year

49. The main point here is that if the cost allocation process is simply left static, or even if costs are updated by inflation every year (for example) this may be leading to an inaccurate allocation of costs to tenants and/or council taxpayers. An updatable methodology is therefore not only preferable from an accuracy perspective but is more transparent and fairer.

50. Some services, such as repairs and maintenance, may be provided to the HRA under a range of arrangements:

- If provided through external contracts the charge to the HRA will be the contracted charge.
- The service may be provided directly by the council through its own internal workforce. Where the service is provided on the basis of a recharge of costs, the basis of the recharge must be clear and transparent as outlined in paragraph 2. A council may decide, for management purposes, to maintain a trading account to be able to identify all the costs of service provision and hence the costs to be recharged to internal clients, of which the HRA may be one of many. Any final surplus or deficit on this trading account must be returned or reapportioned to the internal clients, including the HRA. Guidance on Trading Accounts was published by Chartered Institute of Public Finance and Accountancy/Local Authority (Scotland) Accounts Advisory Committee (CIPFA/LASAAC) and is available [here](#).
- In some cases the service may be provided by the council workforce but be provided in a competitive environment. A competitive environment is deemed to exist where users have discretion to procure services from an in-house provider, or externally. Where users can only exercise discretion over the volume and/or quality of service but not the source, the service is not operating in a competitive environment. Users may encompass either the general public, the Council as a corporate body, or its service departments. The HRA is considered to be a user. Where a service is provided in a competitive environment there may be a statutory duty to maintain a statutory trading account. The statutory duty arises where the trading operation is considered to be significant. Each council sets its own parameters for significance. Material surpluses or deficits on all trading operations, arising from services provided internally to council services (internal clients) can distort the spending profile of the user service (client). Material surpluses or deficits should therefore be returned, or reapportioned, to the internal client (including the HRA as client). Councils should discuss with Registered Tenant Organisations what is considered to be a 'material' surplus and therefore what can be returned.
- As per section 28 and 29 of Housing Scotland Act 2001, should a tenant seek permission from the authority to undertake improvement work to the property themselves, the HRA is not responsible for the maintenance of the improvements while the tenant is resident. However, should the tenant then subsequently move house, the tenant would be entitled to

compensation for the improvements that they previously sought permission to undertake.

51. However the service is being provided, a council is under a statutory duty to secure best value (Section 1 of the Local Government in Scotland Act 2003). There is no compulsion to maintain trading accounts where the council believes best value can be demonstrated without market testing or tendering, and where users are not permitted to buy services externally. The Council does, however, have to be able to clearly demonstrate that best value is being achieved in the absence of the use of any form of competition for services which have active external markets.

Key principle 5: Where legally entitled, consider charging specific non-council tenants for HRA-provided services

**If there are localised groups of non-council tenants benefiting from HRA-paid for services, local authorities should look at ways to charge such groups for such services to reduce the burden on council tenants**

52. As well as understanding that the General Fund should be asked to contribute to HRA for certain services, there are also clear situations where the HRA should seek separate individual contributions from groups of individuals who live in the vicinity of council housing and who benefit from the services that may be being paid for exclusively by the HRA or even by a combination of the HRA and General Fund. Such examples might include grass-cutting of common areas or maintenance of paths around flatted properties, garage sites and drying areas where these flatted blocks contain a mixture of council tenants and non-council tenants e.g. private rented sector landlords or owner-occupiers. Local authorities in many cases may be well within their legal rights to charge owners for their share of the maintenance of common parts, and in terms of fairness to tenants and the proper use of the HRA, they should be doing so where they have the right to charge. Thus, where appropriate, council service charges should be implemented to ensure that all residents pay for the services they receive. In doing this, each local authority should be aware of the legal position in each particular locality and be equally aware of the rights of the homeowners, and not assume a blanket right to levy charges regardless of proper consultation, title deeds, voting majorities and the requirements of the property factor Code of Conduct laid out [here](#). Currently, a number of councils appear to undertake factoring work on behalf of tenants of other social landlords or owner-occupied properties. At the time of writing, some 20 out of the 32 local authorities have applied and have been entered on the property factor register, and therefore consider themselves to be factors within the definition of the Property Factors (Scotland) Act 2011.

53. As well as ongoing maintenance, some SHQS capital work which would invariably be paid for from HRA funds will require work to common parts (for example, repairs to building fabric or cavity wall insulation) will require some landlords to seek to charge owner occupiers in mixed blocks for their share of

the cost. Again, where legally entitled to, councils should seek to supplement HRA income by charging non-council tenants as appropriate.

54. HRA statistical returns (see paragraph 42) show that the total estimated HRA service charges in 2012-13 were £13.4 million (1.3% of total HRA income). However, some 13 out of 26 councils with HRAs appear to levy no service charges – at least according to their returns. This may reflect the individual circumstances and policy decisions of councils. However, councils should be able to justify to their tenants why not making a charge to non-council tenants is appropriate if it is within their legal rights, especially if council tenants are being charged for the same services that other residents are benefiting from without charge.

Key principle 6: Have regular, transparent tenant engagement and discussion on HRA charges

55. The Scottish Social Housing Charter is clear that tenants should have regular, open discussions with their landlords about what is and isn't being debited and credited to the HRA. Annex 1 provides a template for such a cost breakdown using (as an example) the “core/core-plus/non-core” categorisation used in England. Some of the entries may not apply in every HRA and, equally, other items of cost in some HRAs may be missing from this template. These discussions could therefore take the form of a line-by-line itemisation that could be categorised according to an agreed set of rules or, be a more general discussion depending on the agreed position with tenants. The point is that engagement with tenants on HRA charges must follow some kind of systematic process that addresses the concerns of tenants, if there are any. The Scottish Housing Charter (Outcome 15) as laid out in paragraph 21-22 above also states that as well as the items of expenditure the thresholds for the inclusion of certain expenditure items can be agreed between landlords and tenants. The discussion of expenditure thresholds in HRAs, and the way in which information is provided, how often and in what form, should therefore feature in regular discussions between councils and tenants.

**Question 7**

Having read through the guidance, do you feel that any further clarification of what it is seeking to do is required?

**Closing remarks**

56. This consultative draft guidance on the operation of housing revenue accounts in Scotland is being issued to local authority landlords so that they can better ensure that resources meant for local authority housing tenants actually benefit local authority tenants. We expect it to be used by, and be referred to, as necessary not only by landlords and tenants but by Audit Scotland and the Scottish Housing Regulator as they see fit.



57. Scottish Government now seeks your responses on the 7 questions outlined above. Please address all responses to [hraguidance@scotland.gsi.gov.uk](mailto:hraguidance@scotland.gsi.gov.uk) by **Friday 5 July 2013**.

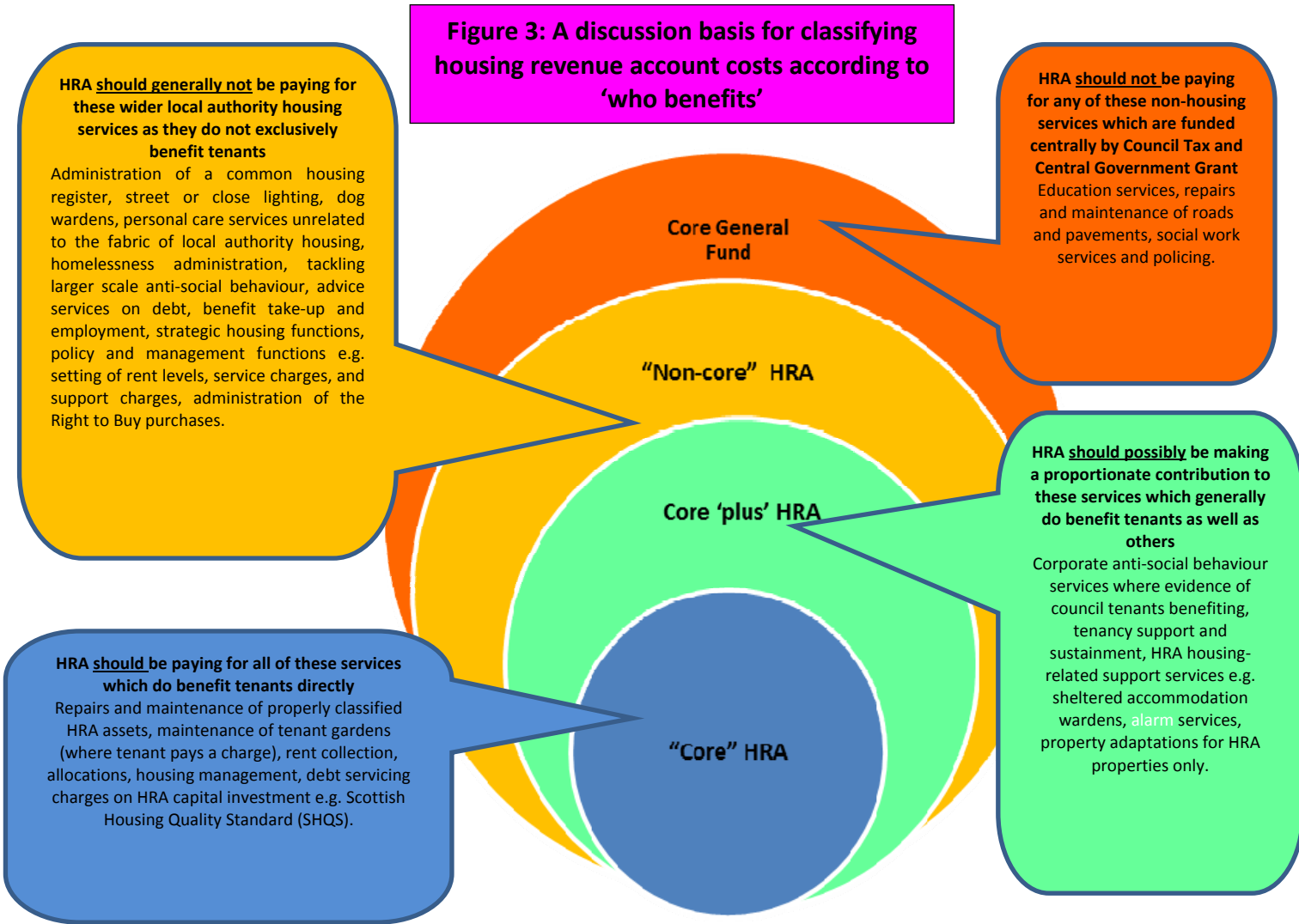
58. If you have any questions on the consultation process please contact the mailbox and a member of staff will contact you shortly afterwards.

**Scottish Government**  
10 May 2013

Figure 1: Key principles in operating the housing revenue account



**Figure 3: A discussion basis for classifying housing revenue account costs according to 'who benefits'**



**Annex 1: An example of a cost breakdown for the HRA to enable discussions between tenants and council landlords**

Line		Beneficiaries	Charging policy						
			1	2	3	4	5	6	7
			HRA pays 100%	General Fund pays 100%	HRA contribution to General Fund	General Fund contribution to HRA	Separate charges made direct to specific HRA tenants to offset cost to other council tenants	Charges that could be made direct to specific non-HRA tenants and owner-occupiers to offset costs	
<b>'Core' HRA landlord services</b>									
1	Repair and maintenance of the (HRA housing stock)								
2	Responsive repairs	Council tenants							
3	Planned and cyclical maintenance	Council tenants							
4	Rechargeable (tenant-inflicted damage) repairs	Council tenants							
<b>General HRA tenancy management</b>									
5	Rent collection and arrears recovery	Council tenants							
6	Service charge collection and recovery	Council tenants							
7	Void and re-let management	Council tenants							
8	Allocations (HRA properties only)	Council tenants							
9	Management of repairs (HRA properties only)	Council tenants							
10	General advice on tenancy matters (Council tenants)	Council tenants							
<b>Core 'Plus' HRA landlord services</b>									
<b>HRA housing related support services</b>									
11	Sheltered accommodation wardens	Council tenants and other residents							
12	Alarm services	Council tenants and other residents							
13	Adaptations	Council tenants							
<b>'Non-Core' HRA services</b>									
<b>General estate management</b>									
14	Communal cleaning e.g. common entrance areas, landings	All residents of the block							
15	Communal heating and lighting	All residents of the block							
16	Street lighting	All residents							
17	Lifts	All residents of the block							
18	Common grounds maintenance	All residents							
19	Community centres	All residents							
20	Play areas	All residents							
21	Estate officers and caretakers	All residents							
22	Neighbourhood Wardens	All residents							
23	Anti Social Behaviour (confined to council properties)	All residents							
24	Dog wardens	All residents							
25	Concierge	All residents of the block							
26	CCTV	All residents							
27	Maintenance of HRA gardens	Mainly council tenants							
<b>Policy and strategy</b>									
28	Strategic management costs	All residents							
29	Administration of setting of rent levels, service charges etc								
30	Administration of Right to Buy (RTB) sales	RTB purchasers							
31	Administration of a common housing register								
32	Personal (non-housing) care services								
33	Homelessness service administration	All residents							
34	Housing advice services								
35	Debt and benefits advice services								
36	Employment advice								
<b>Repair and maintenance (non-HRA housing stock)</b>									
37	Responsive repairs	Non-council tenants							
38	Planned and cyclical maintenance	Non-council tenants							
39	Maintenance of non-HRA gardens	Non-council tenants							
40	Adaptations	Non-council tenants							