

Faifley Housing Association Ltd

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Regulatory Status : *Working towards compliance*

The RSL does not meet regulatory requirements, including the Standards of Governance and Financial Management, and it is working to achieve compliance.

Why We Are Engaging With Faifley

We are engaging with Faifley about its **governance** and **financial health**.

COVID-19 has significantly impacted the services provided by social landlords in 2020 and will continue to influence how services are provided in 2021. We will continue to monitor, assess and report upon how each landlord is responding and we will keep our regulatory engagement under review so that we can continue to respond to the challenges of COVID-19.

Faifley failed to comply with the regulatory requirement to submit an Annual Assurance Statement (AAS) by 31 October 2019. It subsequently submitted an AAS in mid-November 2019 which acknowledged its non-compliance with the Regulatory Standards of Governance and Financial Management (the Regulatory Standards).

Faifley's Senior Officer left the organisation in February 2020 and it appointed an Interim Director who took steps to refresh and strengthen its governing body. The governing body had become depleted through multiple resignations which left its number below the minimum seven required by its constitution.

Faifley commissioned a comprehensive independent governance review to establish the extent of its compliance with both the regulatory requirements and the Regulatory Standards.

The review completed in May 2020 and found that Faifley does not fully meet any of the Regulatory Standards. The review identified the lack of a business plan, serious weaknesses in the capacity of the governing body over time and failures to plan for and fulfil legal obligations associated with tenants' safety. It concluded that the governing body had not understood or fulfilled its role and responsibilities and did not provide effective leadership and strategic direction over a number of years. The lack of a business plan and effective decision-making framework meant the governing body reacted to operational matters as they arose, exposing Faifley to a range of significant financial, regulatory and statutory risks, including breaches of health and safety legislation for tenants and staff and in relation to equalities legislation. The review also identified that Faifley did not have a comprehensive performance measurement framework or consistent approach to performance monitoring. It had incorrectly reported elements of the Annual Return on the Charter (ARC) in relation

to rental income and had misreported its levels of compliance with the Scottish Housing Quality Standard and Energy Efficiency Standard for Social Housing.

The review also identified serious weaknesses in relation to financial management, asset management and procurement. In particular, the review identified a potential failure to make adequate provision for the long term maintenance of the stock. As well as compromising the interests of tenants this represents a substantial potential risk to the long term viability of the RSL. The governing body accepted all of the review findings and has been working proactively and constructively with us to address these serious and widespread weaknesses. It has taken steps to strengthen its governing body, including co-opting additional expertise to support it.

The lack of a business continuity plan meant that Faifley also faced significant challenges when the impact of COVID-19 became apparent. The lack of support for its IT system added further challenge and organisational risk.

In August 2020 the governing body decided to commission a comprehensive strategic options appraisal to address the implications of the governance review findings and to ensure that the significant weaknesses in governance, statutory compliance, financial viability and capacity and capability to respond are thoroughly considered. The governing body will consider the outcome from the strategic options review at the end of March 2021.

Faifley completed an audit of its compliance with tenant health and safety requirements as a matter of urgency and a programme to address the failings identified has been put in place. It also commissioned an external validation of key performance areas in this year's ARC prior to submission and has taken steps to address the weaknesses identified in its performance reporting.

The Housing (Scotland) Act (2010) requires us to monitor and assess the financial well-being, governance and performance of each Registered Social Landlord.

Our current assessment is that Faifley is working towards compliance with the Regulatory Standards. We set out below the information that Faifley must provide in order to assure us that it can achieve compliance.

What Faifley Must Do

Faifley must:

- continue to provide us with details of its strategy for addressing the weaknesses it has identified in its governance, financial management and health and safety compliance;
- send us copies of its governing body papers as they become available;
- share the outcome from the strategic options review and the governing body's response to this with us; and

- review its stock condition survey and ensure that its financial plans reflect the investment needed.

What We Will Do

We will:

- review the governing body papers and engage as required;
- meet with Faifley's governing body in April 2021 to discuss the findings from the strategic options appraisal and the next steps for the organisation;
- review our engagement with Faifley in light of these discussions and decide what further information we require in relation to its business plan, financial projections, the outcome of the health and safety audit and any other risks to the organisation; and
- update our published engagement plan in light of any material change to our planned engagement with Faifley.

Regulatory Returns

Faifley must provide us with the following annual regulatory returns and alert us to notifiable events as appropriate:

- Annual Assurance Statement;
- audited financial statements and external auditor's management letter;
- loan portfolio return;
- five year financial projections; and
- Annual Return on the Charter.

It should also notify us of any material changes to its Annual Assurance Statement, and any tenant and resident safety matter which has been reported to or is being investigated by the Health and Safety Executive or reports from regulatory or statutory authorities or insurance providers, relating to safety concerns.

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