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Statutory intervention at Thistle Housing Association

Published

03 February 2022

Updated

03 February 2022

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About this report

1.

This report sets out the reasons for our statutory intervention in Thistle Housing Association ('Thistle') and the outcome of that intervention.

2.

We began engaging with Thistle in November 2016. Our intervention began in August 2018 and ended in April 2021 after we directed Thistle to transfer its homes to Sanctuary Scotland Housing Association ('Sanctuary Scotland').

3.

Thistle's homes and other assets and liabilities transferred to Sanctuary Scotland on 1 March 2021. We then removed Thistle from the Register of Social Landlords ('the Register') on 27 April 2021.

About Thistle

4.

Thistle was registered as a social landlord in 2001. It owned and managed 946 homes and provided factoring services to 786 owners in the Toryglen area of Glasgow. It was a registered charity and employed around 21 people.

5.

Thistle's turnover for the eleven month period to 28 February 2021 was £4.6m. Its debt per unit was £10,500. The last full year turnover to 31 March 2020 was £4.5m.

Our regulatory requirements

6.

Our current regulatory requirements are set out in our [Regulatory Framework](#). Prior to February 2019 our then [Regulatory Framework](#) contained six Regulatory Standards of Governance and Financial Management ('the Regulatory Standards') RSLs were required to comply with:

1. the governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users.
2. the RSL is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these priorities.
3. the RSL manages its resources to ensure its financial well-being and economic effectiveness.
4. the governing body bases its decisions on good quality information and advice and identifies and mitigates risks to the organisation's purpose.
5. the RSL conducts its affairs with honesty and integrity.
6. the governing body and senior officers have the skills and knowledge they need to be effective.

7.

The [Regulatory Framework](#) also set out the levels of engagement we may have with individual RSLs; low, medium or high. In November 2016 we had low engagement with Thistle. This means that the information it had submitted to us did not highlight risks to tenants' interests. On that basis, we did not need additional assurance from Thistle unless other events arose. We required Thistle to submit the standard annual regulatory returns and alert us to notifiable events.

8.

We have published statutory guidance on [notifiable events](#). These are events that RSLs must tell us about. Prior to February 2019 our then [notifiable events](#) guidance explained that these are events that may seriously put at risk:

- tenants' and service users' interests or safety;
- the RSL's financial health, public investment, or lenders' confidence; or

- the good governance and reputation of an individual RSL or the RSL sector.

9.

Governing bodies must regularly assess whether there is any action they require to take to ensure ongoing compliance with current [Regulatory Standards](#) and requirements. We expect RSLs' [Annual Assurance Statement](#) ('AAS') processes to incorporate this assessment and we may seek assurance about this during our engagement. Governing bodies should have regard to the matters highlighted in this report when assessing compliance.

Our intervention in Thistle

Our initial engagement with Thistle

10.

In November 2016 we contacted Thistle after a tenant representative raised concerns with us about two gas leaks. Thistle explained that it had commissioned a major works programme to ensure compliance with the Scottish Housing Quality Standard ('SHQS'). Thistle told us that there had been five gas leaks caused during the works in October 2016. There had also been a tenant and resident demonstration and negative media attention because the works programme had been significantly delayed: only 6% of around 700 properties had been finished by the intended November 2016 completion date.

11.

Thistle had not reported the gas leaks or the negative media attention to us and its governing body in accordance with the statutory notifiable events guidance.

12.

We engaged with Thistle to gain assurance about its approach to gas safety, notifiable events and the potentially serious financial and reputational implications of the delay to the major works programme. We identified that the works programme was large-scale and complex, but Thistle's management of the programme did not recognise the scale or complexities involved.

13.

In February 2017 Thistle told us that it accepted that it had failed to comply with regulatory requirements on notifiable events and confirmed it would commission an independent investigation into its handling of the notifiable events (the 'Notifiable Events Investigation'). We continued to engage with Thistle and met the governing body in April 2017 to discuss our concerns about its compliance with regulatory requirements, the Regulatory Standards and the Scottish Social Housing Charter ('SSHC'). Appendix 1 summarises the compliance weaknesses we identified. Taken together, they raised serious concerns about Thistle's capacity to manage all of the issues and risks it faced.

14.

In May 2017 Thistle provided us with the findings of the Notifiable Events Investigation. The Investigation concluded that there were weaknesses in Thistle's governance and in its procedures and included a number of recommendations for improvement.

15.

Thistle told us that it acknowledged our concerns and confirmed that it was committed to addressing its weaknesses. Thistle confirmed that it would implement all of the recommendations made in the Notifiable Event Investigation. In view of the seriousness of the matters raised, Thistle planned to commission an independent, comprehensive review of its governance arrangements (the 'Governance Review').

16.

During this time we were aware of growing concern from residents and this was reflected in ongoing negative media coverage of Thistle's management of the major works programme. We met the governing body in June 2017 to discuss how Thistle was managing all of the risks it faced and we set out the assurance we required from the Governance Review.

17.

We suggested Thistle may find it helpful to co-opt additional expertise to its governing body to help oversee the Governance Review and take forward the necessary improvements. Thistle co-opted two people with extensive housing experience to the governing body in August 2017: Stephen Black (Chief Executive, Atrium Homes) and Charlie Millar (Chief Executive, Cassiltoun Housing Association).

18.

It was not until October 2017 that Thistle commissioned the Governance Review. We met the Chair and Senior Officer in November 2017 and sought assurance about progress with the Governance Review and Thistle's strategy to resolve its weaknesses which now also

included addressing a range of quality control issues with the major works programme. The programme was now scheduled to complete in February 2018, 15 months late.

19.

Thistle provided us with the Governance Review in March 2018. This was much later than we had expected given the seriousness of the issues Thistle faced. The Governance Review identified compliance failures across all six Regulatory Standards and that a number of the failures were significant in their own right. It made 61 recommendations for improvement, around half of which were identified as 'serious and urgent'. Thistle told us at the time that it accepted the recommendations and would take forward the necessary improvements via a Governance Improvement Programme.

20.

We engaged with Thistle throughout the spring and summer of 2018 about its proposals to implement the recommendations in the Governance Review and develop its Governance Improvement Programme. We met the Chair and the two co-optees in June 2018 and discussed the governing body's response to the review, including whether Thistle had the capacity to deliver the necessary improvements within the timescales it had set (by March 2019).

21.

RSLs need to assure us that they comply with all regulatory requirements. Given our serious concerns about Thistle's capacity to address the issues it faced and achieve compliance with regulatory requirements, we carried out our own assessment of its compliance. We based this on evidence from our engagement from November 2016 and the findings of the Notifiable Events Investigation, the Governance Review and Thistle's response to both.

22.

We met with the governing body in July 2018 to set out our assessment and explain our conclusions. We judged that Thistle's failures to comply with the Regulatory Standards and outcome two of the SSHC (which covers landlords' communication with tenants and customers) were serious and widespread, demonstrated systemic weaknesses in its governance and leadership and that its governing body and leadership did not understand their respective roles or regulatory requirements and the actions necessary to comply with the requirements. Appendix 1 sets out more information about our assessment.

23.

We advised Thistle that we were considering use of statutory powers of intervention under the Housing (Scotland) Act 2010 ('the 2010 Act') and provided Thistle with an opportunity to make representations about our proposals. Thistle confirmed that it accepted the findings and recommendations set out in the Governance Review and that it was committed to improvement. Thistle did however express concerns about the cost of a potential intervention and the risk that its lender would see statutory intervention as a breach of its loan agreement and seek to reserve its rights under the agreement and re-price the loan. Thistle told us that it considered it had the necessary skills, knowledge and experience to address its weaknesses but would welcome some additional support on the governing body.

24.

Throughout our engagement, local residents continued to raise concerns with Thistle and with us about Thistle's poor communications and management of the major works programme. Thistle's approach had severely damaged its relationship with local residents and attracted continuing negative media attention. Dealing with the media coverage and resident concerns used a significant amount of Thistle's resources which would otherwise have been focused on addressing its issues. The damage to Thistle's reputation also had the potential to damage the reputation of the sector.

Why we intervened

25.

The 2010 Act requires us to make regulatory interventions in relation to an RSL's financial health, governance or performance of housing activities if we judge that it is appropriate to do so in order to protect the interests of tenants and service users and provided the relevant statutory tests are met.

26.

In August 2018, following the lengthy period of engagement described above and Thistle having failed to address the issues it faced, also set out above and in Appendix 1, we judged that it was appropriate to use our powers of intervention to:

- appoint a statutory manager under section 58 of the 2010 Act; and
- appoint five members (including one of the co-optees previously appointed by Thistle) to Thistle's governing body under section 65 of the 2010 Act for an initial period of six months.

27.

We did this because:

- Thistle's failures and non-compliance were serious, widespread and they related to all six of the Regulatory Standards as well as outcome two of the SSHC. A number of failures were significant in their own right;
- the extent of Thistle's weaknesses and non-compliance demonstrated that there were serious weaknesses in its governance. This represented a serious threat to the interests of Thistle's tenants and service users;
- the scale of improvement work required was significant. Delivery of the Governance Improvement Programme would require extensive and intensive commitment and effort from the governing body and staff, particularly senior staff. It would also require strong leadership and relationship management, open and transparent communication with stakeholders, robust decision-making based on good quality information and expertise in change management including driving cultural change;
- Thistle had itself failed to recognise the extent of its non-compliance and its weaknesses. This gave rise to serious doubts that Thistle had the necessary skills, knowledge and experience to be effective in its oversight of its Governance Improvement Programme;
- the scale of the improvements required urgent action. From our engagement Thistle had not always delivered, or had been very slow to deliver agreed actions;
- we therefore concluded that Thistle did not have the governance and leadership capacity to deliver sustainable change and ensure that improvements were embedded in its organisational culture.

28.

The statutory manager was Mike Hanrahan. He was appointed for six months and his remit was to:

- address the failings in Thistle's governance identified in the Governance Review (March 2018) and any other governance issues identified;
- oversee the implementation of the Governance Improvement Programme and embed sustainable change in the organisation;
- support the governing body to ensure that Thistle could comply with the Regulatory Standards and outcome two of the SSHC;

- carry out a review to identify the best strategic solutions for Thistle's tenants and service users; and
- ensure that Thistle's stakeholders, including its tenants and funders, were kept up to date with progress on addressing the issues that led to intervention.

29.

The governing body appointees were:

- Stephen Black (Chief Executive, Atrium Homes), appointed August 2018 to January 2019
- Michael Clarke (former Chief Executive, Rosehill Housing Co-operative), appointed August 2018 to April 2021
- Bob Hartness (Deputy CEO (Finance) nghomes), appointed August 2018 to April 2021
- Sharon Keenan (Chief Executive, Clydebank housing Association), appointed August 2018 to April 2021
- Kenny Stocks (former Chief Executive, Ardenglen Housing Association), appointed August 2018 to November 2019

30.

The governing body appointees' remit was to:

- address the failings in Thistle's governance identified in the Governance Review (March 2018) and any other governance issues identified;
- support the governing body to implement the governance improvement programme and embed sustainable change in the organisation;
- support the governing body to ensure that Thistle complied with the Regulatory Standards and outcome two of the SSHC; and
- support the manager and the governing body to carry out a review to identify the best strategic solutions for Thistle's tenants and service users.

31.

In November 2018, Thistle lodged a non-statutory appeal against our decision to use our statutory powers of intervention. The Appeal Panel [upheld our original decision](#) in November 2018. Thistle decided not to challenge the outcome of the appeal.

32.

We continued to engage with Thistle about its implementation of the Governance Improvement Programme, the serious delays and difficulties in managing the major works programme, its communications with service users and stakeholders and its weaknesses in its approach to complaints handling. We became aware of a number of ongoing serious quality and safety issues in relation to the major works programme, including two reported health and safety incidents involving materials falling off roofs and chimney copes. We also found a level of resistance within the organisation to working effectively with the statutory appointees to address Thistle's weaknesses, and this was hampering progress with implementing the Governance Improvement Programme.

33.

One of the statutory appointees resigned in January 2019 and we appointed Lawrie West (former Integration Director, Caledonia Housing Association, Senior Interim Manager Consultant) to the governing body (January 2019 to April 2021). We appointed John Mulholland as statutory manager in May 2019.

34.

In August 2019, five of Thistle's elected governing body members resigned, leaving the governing body at its constitutional minimum of seven members, five of whom were appointees. This was a serious risk to the governing body's capacity, so we decided to increase the number of appointees on the governing body to nine. The four additional appointees were:

- John Duncan (former Director of Property Assets, Eildon Housing Association, Development and Property Director, Clyde Valley Housing Association), appointed August 2019 - April 2021
- Fanchea Kelly (Chief Executive, Blackwood Homes and Care), appointed August 2019 - April 2021
- Julie Smillie (Chief Executive, Molendinar Park Housing Association), appointed August 2019 - April 2021
- Bryony Willett (Chief Executive, Maryhill Housing Association), appointed August 2019 - April 2021

35.

The statutory manager and the governing body appointees had begun to uncover further potentially serious compliance failures and historic governance and management

weaknesses which had not been recognised or understood by Thistle's governing body or leadership. Appendix 1 sets out these failures in detail. As a result, we amended the statutory appointees' remits in August 2019 to include addressing the weaknesses and failures in Thistle's management of matters relating to the health and safety of its tenants and other service users. The statutory manager and governing body appointees supported Thistle to ensure it achieved compliance with urgent health and safety requirements. Thistle commissioned urgent asbestos and legionella surveys in August 2019, approved a comprehensive compliance strategy and action plan in October 2019 and appointed interim compliance expertise to oversee implementation of the strategy.

36.

In recognition of the scale and complexity of its problems, the statutory manager and governing body appointees supported Thistle to appoint an Interim Director and expert strategic asset and compliance support in August 2019. Thistle's Director left the organisation in September 2019. Two new elected members joined the governing body in September 2019 and a statutory appointee was elected Chair.

37.

Thistle completed the independent review to establish the best strategic solutions for its tenants and service users in October 2019 (the 'Strategic Review'). The Strategic Review concluded that Thistle's business plan was not viable or sustainable in the short, medium or long term and offered no contingency against risk. Thistle decided that the interests of its tenants and residents would best be served by a transfer of its homes to another RSL. We amended the statutory manager and governing body appointees' remits to include supporting Thistle to develop a strategy to transfer its homes to another RSL.

38.

One of the statutory appointees resigned in November 2019.

39.

By this time Thistle was almost wholly reliant on the statutory appointees and other external support to maintain effective governance, without which it did not have the leadership and management capacity, skills or resources to achieve compliance with Regulatory Standards and requirements.

Transfer of Thistle's homes to Sanctuary Scotland

40.

With this support, Thistle progressed its transfer strategy and in January 2020 sought expressions of interest from a transfer partner. Thistle's transfer partner criteria included the provision of urgent leadership, asset and compliance support. Following an open selection process Thistle decided to progress plans for a transfer of its engagements to Sanctuary Scotland in February 2020.

41.

From March 2020 Sanctuary Scotland supported Thistle through a Service Level Agreement to ensure that Thistle could continue to address its weaknesses, develop a joint transfer proposal, and respond effectively to the implementation of Covid-19 restrictions (the latter from late March 2020). Sanctuary Scotland supported Thistle to commission a robust quality assurance survey of all of the works completed during the major works programme in order to establish the nature and cost of all required remedial works. From this point, Thistle was entirely dependent upon the support of Sanctuary Scotland to continue to operate and provide services to tenants and residents throughout the Covid-19 pandemic.

42.

The remaining four elected governing body members resigned during summer 2020. Thistle's governing body then comprised eight members who were all statutory appointees. Thistle was now entirely reliant on the support of the statutory manager and governing body appointees to continue to function.

43.

The governing bodies of Thistle and Sanctuary Scotland approved a joint transfer business case in August 2020.

44.

In September 2020 Thistle held a Special General Meeting ('SGM') to consider updating its rules to the new 'Model Rules for RSLs' which permit business to be conducted virtually. Some members used the SGM as an opportunity to voice their concerns about the major works programme, and as a consequence Thistle was unable to secure the required level of approval for the rule change at the SGM.

45.

Following a comprehensive consultation programme and an independent ballot of tenants in October 2020, 92% of tenants on a 70% turnout voted in favour of the transfer to Sanctuary Scotland.

46.

In October 2020 we reviewed and extended the appointment of the statutory manager and eight statutory appointees until April 2021 to enable delivery of the transfer to Sanctuary Scotland.

47.

Despite the positive ballot result, Thistle's governing body was concerned that following the unsuccessful SGM, it may not be possible to secure the required member approval for the transfer and as a result there may be a significant delay to the transfer. This would be against the wishes of Thistle's tenants. Thistle therefore requested that we consider using our statutory powers under section 67 of the 2010 Act to direct the transfer of all of Thistle's assets to Sanctuary Scotland.

48.

Our statutory objective is to safeguard the interests of tenants and service users. We considered that any further delay to the proposed transfer would not be in the interests of Thistle's tenants and service users. We decided that it was appropriate to use our powers under section 67 to direct a transfer of Thistle's assets to Sanctuary Scotland, having made inquiries and determining that the statutory conditions had been met as:

- there had been mismanagement in Thistle's affairs;
- Thistle's viability was in jeopardy for governance reasons;
- Thistle could not provide housing services to an acceptable standard; and
- the transfer of all of Thistle's assets to Sanctuary Scotland would improve their management.

49.

In accordance with Section 67 we consulted with, and took account of the views of, Thistle's tenants, residents, its secured creditor and the Office of the Scottish Charity Regulator ('OSCR'). The overwhelming majority of tenants and residents who responded to our consultation supported the directed transfer proposal. Thistle's lender (its only secured creditor) also confirmed its support and OSCR confirmed that it was content that the charitable purposes of Thistle and Sanctuary Scotland were the same. We were therefore satisfied that Sanctuary Scotland would secure the proper application of Thistle's assets for the purposes that were set out in Thistle's entry in the Scottish Charity Register.

50.

Having considered the positive outcome of the consultation, the views expressed by the consultees and all other material considerations, we concluded that the requirements of section 67 of the 2010 Act were met and used our statutory powers to direct Thistle to transfer all of its assets to Sanctuary Scotland by 1 March 2021.

51.

The transfer to Sanctuary Scotland was completed on 1 March 2021 and we removed Thistle from the Register of Social Landlords on 26 April 2021.

52.

The serious, wide-ranging and complex issues Thistle faced, alongside the governing body and leadership's failure to recognise the extent of its weaknesses and work co-operatively with the statutory appointees and ourselves to put things right, resulted in one of our longest and most complex statutory interventions. Appendix 2 summarises our engagement from November 2016 and our 33-month statutory intervention from August 2018 to April 2021.

53.

Thistle met the costs of the statutory managers' services and expenses during the intervention period (£354,773). The two co-optees and nine statutory appointees to the governing body gave their time voluntarily over the 12-month co-option and 33-month intervention periods. Their collective skills, knowledge and expertise ensured that Thistle was able to address its serious and urgent weaknesses, continue to deliver services to tenants and residents and deliver a successful transfer to Sanctuary Scotland and this was at no additional cost to tenants and residents.

The positive outcomes from intervention

54.

The transfer secured the following positive outcomes for Thistle's tenants and residents:

- improved management by a landlord and factor that complies with Regulatory Standards and requirements.
- a range of transfer commitments including:

- ensuring full compliance with health and safety requirements;
- development of a comprehensive asset management strategy, including bringing forward a range of improvement works to homes, with £11 million investment in years 1-3 compared to the £3.6 million planned by Thistle;
- fully resolving the outstanding issues relating to the major works programme and related asbestos removal work;
- ensuring compliance with the Scottish Housing Quality Standard;
- improving rent affordability with a 3-year rent cap;
- delivering a range of environmental improvements and other new local services; and
- retaining a local presence.

55.

Sanctuary Scotland commenced delivery of its commitments in relation to urgent health and safety compliance and resolving the major works programme issues prior to the transfer taking place in order to protect the health and safety of tenants and residents.

56.

Following transfer, we continued to engage with Sanctuary Scotland about progress with the integration of Thistle into Sanctuary Scotland and with the delivery of the transfer commitments.

Appendix 1 - Thistle’s non-compliance with Regulatory Standards and requirements identified: April 2017, August 2018 and post-August 2018

Area of Non-Compliance

Identified:

April 2017	August 2018	Post August
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RS1: the governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users

Thistle's governing body and leadership lacked awareness of the Regulatory Framework and regulatory requirements, including statutory regulatory guidance, and the actions necessary to comply with the requirements and guidance.

▲ ▲ ▲

Thistle's governing body failed to effectively set and oversee delivery of its strategic plans. Its objectives, corporate plan, risk management strategy, asset management strategy, financial strategy and annual business plan were all overdue for review and did not reflect its operating context or risks facing the organisation.

▲

Thistle's governing body and leadership failed to ensure that its governance policies and arrangements were fit for purpose. There were weaknesses in Thistle's key governance documents including its standing orders (which failed to ensure compliance with its constitution), delegated authorities (which lacked clarity on the specific decisions and actions delegated to sub-committees and senior staff) and financial regulations (which were inconsistent with the delegated authorities), all of which were overdue for review.

▲

Thistle's leadership had failed to implement its policy review schedule and a number of operational policies were also significantly overdue for review including the procurement policy, anti-social behaviour policy, data protection policy and complaints policy (which was not consistent with the Scottish Public Services Ombudsman's ('SPSO') guidance issued in 2011). Twenty two service policies also required to be reviewed and as a result Thistle's tenants and service users had had no recent opportunity to influence the policies.

Thistle's governing body did not effectively scrutinise performance or sufficiently challenge the leadership team. Thistle's leadership team did not regularly or consistently report progress with actions back to the governing body.



These issues were particularly marked throughout delivery of the major works programme. An independent investigation into the governance and management of the programme (May 2020) concluded that there were serious weaknesses in Thistle's overall governance, leadership, decision-making, management approach and practices and capacity to effectively deliver the major works programme. Thistle's failures included governance issues in relation to how the contract was accepted, a lack of proper management throughout and culminated in acceptance that works had been satisfactorily completed despite clear reservations about the quality of the works.



Thistle's governing body and leadership failed to ensure it complied with its legal obligations in relation



to procurement. Thistle had knowingly breached procurement legislation in a previous major works programme. By acting unlawfully Thistle had exposed itself to a potential legal challenge

Thistle had also made a payment to the major works programme contractor that exceeded the contractual amount due without having first taken appropriate legal or professional advice. This had adverse implications for Thistle in a subsequent contractual dispute.

Thistle's governing body and leadership failed to ensure that it complied with its legal obligations as a charity. It did not routinely consider its status as a charity when making decisions and this status was not reflected in its governance documents. ▲

Thistle's governing body and leadership failed to ensure it complied with its legal obligations in relation to Health and Safety. Two independent reviews (August and September 2019) of Thistle's health and safety compliance arrangements identified substantial systemic and historic weaknesses in Thistle's approach across all areas examined including asbestos, electrical, fire, gas, lift and water/legionella safety. ▲

The Health and Safety Executive ('HSE') served a statutory Improvement Notice on Thistle in August 2019 for contravening 'The Control of Asbestos Regulations 2012, regulations 4(3) to 4(10) inclusive'.

A detailed review of Thistle's approach to gas safety (November 2019) identified a number of weaknesses in its processes, including 22 properties where the annual gas service was carried out out-with the required 12-month period.

An independent audit of Thistle's compliance with employer health and safety requirements (October 2019) identified serious and historic weaknesses in Thistle's approach, including fire and legionella risk assessments not being available and its general Health and Safety risk assessment and control manual being out of date.

Thistle had failed to adequately prioritise health and safety compliance and failed to create a clear lead responsibility for compliance and oversight of its range of activities. As a result, Thistle lacked the capacity and expertise to ensure it achieved ongoing compliance; Thistle's compliance programming, monitoring and quality assurance processes were inadequate and this ultimately put tenants, residents and staff at risk. Thistle had also failed to integrate compliance within its overall approach to asset management and consequently its strategic plans, including its asset management and financial plans, did not reflect the investment required to achieve ongoing compliance.

On a number of occasions individual governing body members failed to accept collective responsibility for governing body decisions, failed to act in the best interests of Thistle and potentially acted to undermine the collective decision-making of the full governing body.



RS2: The RSL is open about and accountable for what it does.

SSHC outcome two: tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord.

There were weaknesses in Thistle's general approach to sharing information with its stakeholders. Thistle:

- failed to develop and implement an effective communications strategy about the major works programme; ▲
- at the same time, had restricted telephone hours and no website or other social media platform for communication with tenants and residents; ▲
- failed to make the minutes of its governing body meetings publicly available, despite this being its stated policy and in accordance with good practice; ▲
- failed to provide information to its tenants and residents in easily accessible formats and its tenants' handbook required to be updated; and
- whilst Thistle had published an Annual Report on the Charter ('ARC'), it did not include information on tenancy sustainment, equalities or access to housing and did not explain what Thistle would do to improve poorer performance. ▲

The information that Thistle did share with stakeholders was not robust. Over a lengthy period Thistle provided inaccurate, incomplete, or misleading ▲

information to its governing body, tenants, residents, members, and ourselves about the major works programme and other areas of its business including its business plan, its financial plans, health and safety issues (including asbestos management) and its ARC.

Thistle told stakeholders that there would be no additional costs as a result of the required remedial works to the properties included in the major works programme. The independent review of the works programme (October 2019) confirmed that there were significant unquantified liabilities in relation to a range of necessary roof, render and window remedial works. These costs were not accounted for in Thistle's plans.

An independent validation of Thistle's ARC (October 2019) identified systemic and historic weaknesses and failures relating to the evidence, reporting and calculation of data across all areas examined; only three out of thirty indicators were validated.

Weaknesses in Thistle's approach to communicating with tenants and residents and dealing with complaints, specifically its unwillingness to listen to concerns raised by tenants and residents about its poor management of the major works programme, and to take action to put things right, significantly damaged its relationship with tenants and residents. ▲

As a result, Thistle received ongoing and complex complaints from residents which then diverted resources from tackling Thistle's issues. Two independent surveys of tenants and residents (March and October 2019) identified dissatisfaction with ▲

aspects of service delivery and that tenants and residents did not trust Thistle to act in their best interests.

Thistle ultimately failed to recognise that it is accountable to tenants, residents and other key stakeholders and failed to manage its accountabilities. Thistle's issues were exacerbated by its unwillingness to listen to concerns raised by tenants, residents and ourselves. It failed to accept that these concerns were evidence of weaknesses in management and governance and was unwilling to accept responsibility and take swift and appropriate action to put things right. Consultation carried out during the Strategic Review identified a real disconnect between the views of Thistle's staff and the views of their tenants and residents on the quality of customer service.



Following intervention, some elected members of the governing body and the leadership failed to work openly and co-operatively with the statutory appointees and ourselves and this hampered implementation of improvement actions.



Thistle consistently failed to comply with the statutory guidance on notifiable events and engage effectively with us about notifiable events. Thistle failed to inform us of notifiable events in 2016, 2017 and 2018 in accordance with the guidance and failed to implement three of the seven recommendations made in the Notifiable Events Investigation (April 2017).



RS3: the RSL manages its resources to ensure its financial well-being and economic effectiveness

As a result of the deficiencies in its business planning and reporting framework (set out above at RS1), Thistle's governing body and leadership failed to ensure that it considered the financial implications of the risks to the delivery of its plans. This was particularly acute in relation to the delivery of its asset management plans and the major works programme.



Thistle's financial strategy did not reflect its current operating environment. As a result, Thistle's had not based its financial forecasts or plans on appropriate and reasonable assumptions and information:

- Thistle had last carried out a full stock condition survey in 2010. Financial projections should be supported by an independent stock condition survey which is normally no more than five years old;
- Thistle's plans did not include any contingency for the unquantified remedial works resulting from the major works programme or the significant professional fees it had incurred both during and after the programme; and
- Thistle required to carry out additional works to ensure tenant, resident and staff health and safety and these costs were likewise not reflected in its financial plans.



There were serious weaknesses in Thistle's financial



management approach and practices:

- key financial documents including its financial regulations, delegated authorities and internal financial controls whilst inadequate and overdue for review, were not always adhered to;
- Thistle had failed to implement an internal audit function in the knowledge that it ought to have done so;
- Thistle had no policy or consistent approach to considering and ensuring it achieved value for money; and
- Thistle's Finance and Staffing sub-committee received only verbal updates on the major works programme, a major undertaking for Thistle. The governing body was not provided with regular, sufficiently detailed financial information about the programme. Without a clear view of the full cost of the programme, and the financial risks and exposure, the governing body failed to fulfil its scrutiny role.



Thistle did not understand its role as a property factor and did not have structures and systems in place which distinguished clearly between this and its landlord function. Deficiencies in Thistle's approach meant that it was liable to factored owners for the quality of work in the major works programmes. As a result, Thistle carried a significant amount of owners' debt from both the previous and current major works programmes, which it had made little effort to recover. It also covered the significant cost of works to reinstate owners' gardens damaged during the works programme. Again, this was not clearly reported to the governing body.



RS4: the governing body bases its decisions on good quality information and advice and identifies and mitigates risks to the organisation's purpose.

Thistle's governing body was neither provided with nor sought robust information appropriate to its role from the leadership team or external advisers. This included information about the attainment of essential governance, regulatory and legislative requirements as well as delivery of the major works programme and performance of the contractor.



Thistle had not commissioned any external validation or assurance exercises on any of its policies, plans or information, apart from one on its business plan.



Deficiencies in Thistle's governance and leadership approach meant Thistle's governing body and leadership were unable to evidence all of their decisions about the major works contract.



Thistle did not hold its governing body meetings on a regular basis in 2016, at a time when it was attempting to deal with significant issues with the major works programme.



Thistle did not actively or consistently consider its operating context, its activities and the range of risks it faced. As a result, there were serious deficiencies in



Thistle's approach to risk management which have been set out above.

Thistle's governing body and leadership failed to adequately consider the range of skills, resources and organisational structures it required to effectively manage those risks and deliver its plans. As a consequence, Thistle was unable to manage the challenges it faced, particularly around delivery of the major works programme and its role as a property factor, and it was ultimately unable to function effectively as an RSL.



Thistle's approach to strategic planning, asset management and information management was poor. Thistle's SCS had not been integrated into its business and financial plans and as a result its plans did not reflect the investment requirements of its stock.



The independent investigations on the governance (May 2020) and management (October 2019) of the major works programme found significant weaknesses in Thistle's approach to information management, the evidencing of decisions and a lack of scrutiny around delivery of the contract and performance of the contractor.

Thistle's governing body failed to challenge the leadership team to ensure it was making informed decisions.



Thistle failed to hold senior officers to account for their performance in achieving its objectives. Thistle did not link its staff appraisal process to its objectives and did not carry out senior staff appraisals in 2017.

RS5: the RSL conducts its affairs with honesty and integrity

Thistle's staff code of conduct was significantly overdue for review, being adopted in 2010. As a result, it did not meet the requirements of the Scottish Federation of Housing Association's ('SFHA') model code of conduct.



Thistle failed to maintain an up to date register of declarations of interest by governing body members or staff. No declarations had been recorded in the register or the minutes of governing body meetings.



Thistle's equalities policy was overdue for review. Whilst Thistle had collected equalities data, it last made this information publicly available in its annual report in 2014-15.



RS6: the governing body and senior officers have the skills and knowledge they need to be effective.

Thistle failed to plan effectively to ensure it achieved an appropriate and effective composition of governing body members: ▲

- Thistle did not have any formal succession planning for governing body members or office bearers. No new members had joined and stayed on the governing body since 2014;
- eight of Thistle's nine governing body members had been there for over nine years but Thistle did not have a policy to consider the continuing effectiveness of governing body members with more than nine years' service;
- Thistle did not have a governing body member appraisal policy and last carried out governing body appraisals in 2015; and
- it did not complete the governing body training plan it put in place following the appraisals.

An independent assessment of the governing body (June 2019) found that, in the absence of the statutory appointees, the governing body would lack the skills and knowledge that it needed to be effective. ▲

Thistle's governing body failed to understand its responsibilities as an employer and to seek expert employment advice when it needed to. ▲

Appendix 2 - Engagement and intervention timeline

Engagement and intervention timeline

Date	Engagement
November 2016	SHR begins engaging with Thistle about a notifiable event.
April 2017	SHR meets with the governing body to discuss our concerns.
May 2017	Thistle acknowledges our concerns and confirms it will commission an independent Governance Review.
June 2017	SHR meets with the governing body to discuss its plans to commission a Governance Review.
August 2017	Thistle co-opts two people to its governing body.
October 2017	Thistle commissions the independent Governance Review.
November 2017	SHR meets with the Chair and Senior Officer to seek assurance about Thistle's strategy to resolve all of its issues.

March 2018	Thistle provides SHR with the Governance Review which identifies non-compliance across all Regulatory Standards.
April-June 2018	SHR engages with Thistle about the findings of the Governance Review and Thistle's proposed Governance Improvement Programme.
June 2018	SHR meets with the Chair and the two co-optees to discuss Thistle's response to the Governance Review.
June 2018	SHR assesses that Thistle is non-compliant across the Regulatory Standards and outcome two of the SSHC.
July 2018	SHR meets with Thistle's governing body to discuss our assessment and concerns around the pace of improvement required and Thistle's capacity to deliver.
August 2018	SHR decides to appoint a statutory manager and five members to Thistle's governing body under sections 58 and 65 of the 2010 Act, for six months (to February 2019). Thistle intimates that it will appeal our decision to intervene.
November 2018	Thistle (without the support of the statutory appointees) appeals our decision to intervene. The appeal panel decides unanimously to uphold SHR's original decision to intervene.
January 2019	SHR meets the Chair and statutory manager to discuss our serious concerns about Thistle's lack of progress in addressing the issues that led to intervention, in particular the leadership and capacity issues.
February 2019	Thistle submits its updated Governance Improvement Plan.

February 2019	SHR extends the statutory intervention to April 2019.
April 2019	SHR concludes that Thistle has made insufficient progress, including failing to complete a review of the Governance Improvement Programme and governing body appraisals within the timescales Thistle itself set. SHR requires Thistle to demonstrate sufficient change and progress by October 2019 and extends the statutory intervention to October 2019.
August 2019	Thistle's governing body membership falls to seven. SHR increases the number of statutory appointees to the governing body to nine.
October 2019	Following a strategic options appraisal, Thistle decides it is in the best interests of its tenants and residents to seek a transfer partner.
November 2019	SHR concludes that Thistle's governing body is now dependent on the statutory appointees to ensure effective governance and deal with further serious compliance failures. SHR extends the statutory intervention to October 2020.
February 2020	Thistle selects Sanctuary Scotland as its preferred transfer partner.
October 2020	SHR concludes that Thistle's governing body is now entirely dependent on the statutory appointees to ensure effective governance and deliver the transfer. SHR extends the statutory intervention to April 2021.
November 2020	Thistle's tenants vote in favour of the transfer to Sanctuary Scotland.

November 2020 Thistle requests that SHR directs a transfer of all of its assets to Sanctuary Scotland under section 67 of the 2010 Act.

January 2021 SHR's Board considers that the conditions set out in section 67 are met. SHR directs Thistle to transfer all of its assets to Sanctuary Scotland by 1 March 2021.

March 2021 Thistle transfers all of its assets to Sanctuary Scotland in accordance with the terms of SHR's direction.

April 2021 SHR removes Thistle from the Register of Social Landlords and our statutory intervention ends.



Scottish Housing
Regulator