

REPORT TO: HOUSING COMMITTEE – 18 SEPTEMBER 2000

REPORT ON: “BETTER HOMES FOR SCOTLAND’S COMMUNITIES”  
THE SCOTTISH EXECUTIVE’S PROPOSALS FOR THE  
HOUSING BILL

REPORT BY: DIRECTOR OF HOUSING

REPORT NO: 605-2000

**1. PURPOSE OF REPORT**

- 1.1 To advise Committee on the above Paper, and to submit a draft response from Dundee City Council to the proposals contained therein

**2. RECOMMENDATIONS**

- 2.1 It is recommended that the Housing Committee accepts the attached Paper (Appendix 1), and agrees to its submission as Dundee City Council’s response to the proposals.

**3. FINANCIAL IMPLICATIONS**

- 3.1 There are no direct financial implications from this Report.

**4. LOCAL AGENDA IMPLICATIONS**

- 4.1 There are no direct Local Agenda 21 implications from this Report.

**5. EQUAL OPPORTUNITIES IMPLICATIONS**

- 5.1 There are no direct equal opportunities implications from this Report.

**6. BACKGROUND**

- 6.1 In 1999 the Government issued a Green Paper “Investing in Modernisation – An Agenda for Scotland’s Housing”.
- 6.2 Dundee City Council responded to the Paper; the response being based on existing policies, recent initiatives, and on a wide range of responses and comments received as a result of wide consultation.
- 6.3 The Scottish Executive has considered the responses and issued proposals for a Housing Bill, “Better Homes for Scotland’s Communities”. The attached Paper (Appendix 1) has been prepared and is submitted for approval as Dundee City Council’s response.

**6.4** As with the Green Paper, this response is based on existing policies, recent initiatives, and wide-spread consultation.

**6.5** In addition it refers to Dundee City's detailed response to the Green Paper.

**7. CONSULTATION**

**7.1** All council departments have been consulted in the preparation of this response.

**8. BACKGROUND PAPERS**

Dundee City Council Housing Plan 1998-2000

Dundee City Council Community Care Plan 1997-2000 (1999 Review)

Investing In Modernisation – “An Agenda for Scotland's Housing “ Dundee City Council Response (1999)

“Better Homes for Scotland's Communities: The Executive's Proposals for the Housing Bill (2000)

**ELAINE ZWIRLEIN**  
**DIRECTOR OF HOUSING**

**SIGNATURE** \_\_\_\_\_

**DATE** \_\_\_\_\_

## **DUNDEE CITY COUNCIL RESPONSE TO “BETTER HOMES FOR SCOTLAND’S COMMUNITIES”**

### **1) GENERAL COMMENTS**

Having participated fully in the consultation on the Green Paper , Dundee City Council welcomes the publication of the Executive’s proposals for a Housing Bill. We also welcome the opportunity to comment on the proposals and their implications

The proposals cover a wide range of issues affecting housing provision and the role of housing in the wider social inclusion, empowerment and regeneration agenda. It is not the intention of this response to comment on each and every one of these areas.

There are some areas, however, which have been missed or which could benefit from greater emphasis, and we will comment on these as appropriate. We will also refer to Dundee City Council’s response to the Green Paper, and consider how the current proposals respond to the issues and priorities which we identified then.

### **2) NEW SINGLE TENANCY**

The proposals on the new Single Tenancy are welcome insofar as they build on the existing secure tenancy. However, there are several areas which give rise to some concern and, in reality, represent a weakening of existing rights. A careful analysis of the “gains” and “losses” is needed.

While the reasoning behind the additional eviction ground of “persistent” arrears is understandable, there are several points of clarification required. For example, the paper talks about “persistent” arrears and “without good reason”. These terms will require rigid definition in guidelines.

Similarly, the “compulsory transfer” power seems to rest totally on the perception of the landlord. Again, some tight definitions are required and consideration is needed on safeguards against abuse of the power e.g. rights of appeal. This power may assist in cases where insufficient evidence is available to support legal action. Guidelines are similarly required on the uses and applications of the short tenancy.

If probationary tenancies are restricted to those evicted for anti social behaviour (ASB) in the last 3 years then this will have a minimal effect on the issue of ASB, given the small numbers involved. Dundee City Council’s policy on this is contained in our response to the Anti Social Behaviour paper “The Way Forward”.

**“Dundee City Council supports the introduction of probationary tenancies for new tenants as detailed in the paper and would define ‘subject to eviction proceedings’ as where a Notice of Proceedings for Recovery of Possession or equivalent was served at any time in the last 3 years.”**

Councils should be allowed the discretion to use probationary tenancies where it believes there may be initial problems with prospective tenants understanding what is required of them under the Missive of Let.

In our view, much more consideration should be given to developing appropriate support packages to accompany and enhance probationary tenancies.

The proposed extension of Rights of Succession are a welcome step and will benefit many tenants, families and carers. While the 12 month residence qualification is not unreasonable, it may impact disproportionately in some instances. This problem might be dealt with by allowing Local Authorities some local discretion in its operation.

Requirements placed on landlords with regard to repairs are still based on Below Tolerable Standard. This was the weaker of 2 options when it was originally introduced, and is no longer appropriate as a benchmark standard for the 21st Century. (See later comments)

Associated with tenancy conditions is the issue of fair rents, particularly in the private sector. This Council suggests that a system similar to the previous fair rents system be introduced to ensure that on taking up a tenancy tenants are fully aware of their responsibility and have some recourse to appeal if rents are subsequently seen as unfair.

### **3) CONSULTATION AND PARTICIPATION**

The proposals recognise the absolute need for, and right to, consultation and participation. The National Strategy for Tenant Participation “Partners in Participation” and the recently published guidelines are welcome and help to clarify the Executive’s thinking in this important area. Promised guidelines and Codes of Practice for other participation issues will enhance this understanding.

### **4) RIGHT TO BUY**

The moves on the current qualification and discount levels go some way to addressing our response to the Green Paper. It still does not address the problem of lost resources through RTB of fully adapted houses which are not part of a group. We would be interested in seeing detailed definitions to ensure all relevant properties are included however.

The extension of RTB to other RSLs on the other hand is entirely against the responses to the Green Paper. It is difficult to see how it fits in with the Executive’s own wish to see landlord diversification. Even the extension in qualifying time will do little to assure or encourage lenders.

If RTB is to be extended to be consistent it should also be extended to regulated tenancies in the Private Rented Sector on the same basis as now being proposed for tenants of Housing Associations.

The ‘get out’ clause on “pressurised areas” sounds fine, but how is it to be defined, and by whom? What will be the procedure for appealing such a decision? There is clearly lots of scope for confusion and opposition from tenants. Yet again, rigid guidelines will be necessary. It is our view that the proposals on RTB may well lead to many new problems and need to be revisited.

Urban Councils should be extended the same opportunity as Rural Authorities as regards RTB, to be able within the Single Housing Plan to identify types of provision under pressure and which should in future be exempt on an area basis from the RTB.

## 5) HOMELESSNESS

The commitment to implement the Homelessness Task Force Report in full is welcome. However, it still leaves some serious questions unanswered.

Homeless people in priority need will be entitled to “permanent accommodation”, while those not in priority need will get enhanced assistance in the form of temporary accommodation and advice.

The Executive’s action in response to the Awua judgement was clearly needed, and is welcome. There is no doubt that the proposals will respond positively to a very real need. The difficulty comes with the assertion that “it may not be possible or desirable to place an applicant into permanent accommodation straight away ----- short term, temporary accommodation [may] be more suitable”. While the Paper recognises that this interim action will not “constitute the discharge of the local authorities duty” and “any act or omission” while in temporary accommodation “ will not lead to an “intentionally homeless” recategorisation this till leads to more confusion. Nor does the paper refer to RSI, EHI, and Resettlement proposals and the involvement of other agencies, e.g. Cyrenians, in these initiatives.

The definition of “enhanced” duty will be crucial. How long will people be expected to remain in temporary accommodation within the “enhanced” duty? When will the RSL know they have discharged the “enhanced” duty? No mention is made of the increased resource demand which will accompany this “enhanced” duty or how the gap will be filled.

One of the most critical elements in Stock Transfers is the discharge of a local authority’s statutory duties for special needs including homelessness.

The extent of an authority’s success in responding to this need, post transfer will be determined by the nature of the contract between the authority and RSLs. The terms of the contract will require to be very tightly drawn, to enable the Council ensure that existing and new rights of homeless people are recognised.

A right to reasonable preference should be written in, and the grounds for refusal to house must be severely circumscribed. Similarly, the right to register should be placed on a statutory footing and apply to all registered social landlords. The provisions applying to suspension from housing registers should include a right of appeal against suspension. It is crucial that a proper balance is struck between the right to register and other rights enjoyed by other tenants. The paper refers elsewhere to the problem of Anti Social Behaviour and it is important that these proposals are not diluted by those dealing with the right to register.

In our response to the Green Paper, Dundee City Council voiced concerns over the introduction of Common Housing Registers. We do not believe that our concerns have been addressed in the latest proposals. Many of the proposals will have significant resource implications and common registers is one such area. The question of funding their introduction has not be addressed. We also expressed concern that many agencies would be reluctant to participate in common registers alongside those they saw as rivals.

The question we posed regarding responsibility for performance standards also remains unanswered. Further consideration should also be given to the contradiction between the proposals on Register Access and those concerning Compulsory Transfer.

## 6) PRIVATE SECTOR REPAIRS, GRANTS AND FACTORING

Again, in our submission to the Green Paper we highlighted the problem created by the removal of “ring-fencing” of grant funding. The proposals do little, if anything, to address this issue. This leads to a particular problem in areas of multiple ownership, comprising numbers of owner occupiers; many of whom may have very limited resources. In circumstances where such people are involved in regeneration projects, local authorities should be allowed to award 100% discretionary grants.

Another problem associated with multiple ownership is that of ongoing repairs. Considerable numbers of tenemental properties improved at considerable public expense, mainly during the Housing Action Area programme, are again falling into serious disrepair in the absence of factoring services.

The problems extends beyond the state of repair of the dwellings and includes neglect of the immediate environment and common staircases, leading to problems of public health and safety.

We recognise that there are significant problems associated with the introduction of Compulsory Factoring. On the other hand, we believe that the potential benefits justify full investigation of this issue.

We commented earlier on the shortcomings in the BTS and its inappropriateness for the 21st Century. Again, while recognising the problems associated with the introduction of a new standard, we firmly believe that such a move is essential. The Scottish Executive should be investigating alternative options for a new housing standard.

## 7) REGULATION AND MONITORING

In our response to the Green Paper we recognised Scottish Homes’ history, both in monitoring the role of housing associations and in the registration of housing associations and registered social landlords. We also recognised an increase in the need for monitoring under New Housing Partnerships. In doing so, however, we suggested that this would only be effective if Local Authorities were given a central role at local level. In reality, the proposals remove the Local Authorities’ existing regulatory role – an unwelcome and counter-productive dilution of their existing powers. In our view Local Authorities already undergo considerable monitoring and we do not believe that further monitoring would be helpful.

The proposals seem to give no indication of how the private sector will be monitored. Given the problems associated with this tenure identified earlier, this is, in our view, a serious omission.

## 8) SINGLE HOUSING PLAN/STRATEGIC ROLE

We welcomed this suggestion in our response to the Green Paper, with qualifications. We do not believe these have been addressed. While a major role for Local Authorities is recognised, the limits in practice remain, in particular the problems associated with a number of specific budget or individual priority initiatives within the Local Authority sector and the need for a focussed response to community care needs. The Local Authority’s role in the strategic planning function must not be tied to stock transfer policies.

We firmly believed that there is no reason why Local Authorities cannot effectively perform both the provider and the strategic role. As a consequence we believe that the City Council as well as being responsible for producing the Single Housing Plan should also be responsible for the Strategic Housing Budget.

## 9) **COMMUNITY OWNERSHIP**

The move away from promoting owner occupation to the exclusion of, and at the expense of, other tenures remains a welcome development. Dundee, along with other Local Authorities has been promoting partnership and community regeneration for a number of years, within the content of community control and tenant consultation. We firmly believe, however, that within this balanced approach there should be the ability to promote and maintain properly a Council provision whenever and wherever that is appropriate.

We believe that this Section should be widened to allow Scottish Local Authorities the opportunity to investigate the range of Housing Organisation Structures being afforded to English Authorities in the English Green Paper such as 100% Council owned arms length Housing Companies and public corporations.

## 10) **SUPPORTING PEOPLE**

Dundee City Council has already responded to circulars on guidelines for supporting people. These responses were comprehensive and addressed several important areas. It is our hope that the current debate on "Better Homes for Scotland's Communities" and the Bill when it appears will incorporate previous consultation on this important area of provision.

## 11) **DIRECTOR LABOUR ORGANISATIONS**

The role of DLOs should also be widened, and the Local Authorities (Goods and Services) Act 1970 be amended to:

- a) Allow DLOs to provide repairs and maintenance services to a wider range of landlords and organisations. Further a permissive approach in defining maintenance as promoted in "Best Value". New steps should be adopted. An over prescription may well result in the prevention of effective partnerships being formed and an inability within Councils to react to and provide for potential emergency situations.
- b) Enable DLOs to become more actively involved in New Housing Partnerships and the provision of new build opportunities on behalf of Councils in future Private/Public Sector Partnerships.

In the case of stock transfer consideration should be given to allowing a minimum period of contract for DLOs following transfer. This would be consistent with current stock transfer proposals and guidance.