

REPORT TO: HOUSING, DUNDEE CONTRACTS SERVICES AND ENVIRONMENT SERVICES COMMITTEE - 24 AUGUST 2009

REPORT ON: RESPONSE TO CONSULTATION DOCUMENT, DRAFT HOUSING (SCOTLAND) BILL: "A CONSULTATION"

REPORT BY: DIRECTOR OF HOUSING

REPORT NO: 387-2009

1. PURPOSE OF REPORT

- 1.1. To seek approval of the proposed response to the consultation document issued by the Scottish Government titles - Draft Housing (Scotland) Bill: a consultation.

2. RECOMMENDATION

- 2.1. It is recommended that the Committee approves the proposed response to Draft Housing (Scotland) Bill: a consultation - which is outlined at Appendix 1 of this report.

3. FINANCIAL IMPLICATIONS

- 3.1. None.

4. MAIN TEXT

- 4.1. The Scottish Government released **Draft Housing (Scotland) Bill: "a consultation"**, a discussion paper on the proposed Housing Bill on 27 April 2009. The Scottish Government plans to introduce the Bill in the Scottish Parliament in 2010.

The discussion document set a number of questions and this report, prepared by Director of Housing outlines the proposed response of Dundee City Council.

The main aims of the Bill are to safeguard social housing for future generations, and to improve the value for tenants and tax payers. The two main proposals set out to achieve these:

- Reforming the Right to Buy.
- A new legislative framework for a modernised Scottish Housing Regulator with new reformed powers.

5. POLICY IMPLICATIONS

- 5.1. This report has been screened for any policy implications in respect of sustainability, Strategic Environmental Assessment, Equality Impact Assessment and Risk Assessment. There are no major issues.

6. **CONSULTATION**

- 6.1. The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance), Head of Finance, Assistant Chief Executive and all other Chief Officers have been consulted on this report. No concerns have been expressed.
- 6.2. Two consultation sessions were held for Registered Tenant Organisations and views are reflected in the response.

7. **BACKGROUND PAPERS**

- 7.1. Draft Housing (Scotland) Bill: "a consultation" - a consultation document from the Scottish Government.

Elaine Zwirlein
DIRECTOR OF HOUSING

July 2009

In General

We welcome the opportunity to give a response to the proposed Housing (Scotland) Bill - "a consultation".

The specific questions asked in the document are set out below and Dundee City Council's response to the questions answered below.

Q1. What financial impact would our proposed reforms to Right to Buy (RTB) have on social landlords, particularly over the longer term? And what steps could landlords take to mitigate this.

A. Removal of RTB for new build properties is welcomed. This will encourage local authorities to develop and protect scarce new build social housing. It would be helpful if all local authority new build from the suggested 25 June 2008 date could be exempt. Ending RTB for new tenants entering the social rented sector is welcomed to preserve social rented stock for those in housing need.

Q1.2 Do you agree with the definition of new supply social housing provided at Section 109 of the draft Bill?

A. This suggest that new supply social housing should be housing let under an Scottish Secure Tenancy (SST) for the first time after the date section 109 comes into force and all new build housing from 25 June 2008. This would protect recent new build housing since Councils have recommended Council house building programmes. This should cover any properties purchased by Councils from the open market.

Q1.3 If not, what definition do you propose?

A. No answer required see 1.2 above.

Q1.4 Do you agree the safeguards we are proposing for existing tenants?

A. The proposals seem overly complex. Since the objective is to preserve social rented housing it is suggested that new build housing from 25 June 2008 and all social rented housing from the date the section comes into force is exempt from RTB. Preserved entitlement over time are complex and difficult to administer. Under these proposals these will already be preserved/modernised RTB. To introduce further preserved/intermittent rights would be unnecessarily complex.

Q1.5 If not, which safeguards do you propose?

A. No response required see above.

Q1.6 Do you agree that new tenants entering the social rented sector after the date on which the section comes into force should no longer have the RTB?

A. Agreed.

Q1.7 Do you agree that tenants of other relevant landlords should continue to be given modernised RTB entitlement if they transfer directly to the social rented sector?

A. This seems contrary to the aims of preserving social rented stock. Such individuals should be treated as any other entrants to the social rented sector.

Q1.8 Is the scope of proposed reforms to pressured - area designations appropriate?

A. These seem appropriate and beneficial to local authorities in dealing with housing pressures in specific areas.

Q1.9 Do you agree that the maximum designation period should be increased from five to ten years?

A. Agreed.

Q1.10 Do you agree with our proposal to allow particular housing types to be designated as pressured?

A. Agreed.

Q1.11 Should Ministers devolve pressured area decision - making to councils?

A. Agreed.

Q1.12 If so what would be the best way to implement devolved decision - making in practice to deliver a transparent, balanced and soundly evidenced process?

A. The process should be based on robust analysis within strategic planning mechanisms embedded at the local level, e.g. LHS etc.

Q1.13 Do you agree with the criteria/ approach set out above?

A. Agreed.

Q1.14 If not, what alternative criteria/approaches would you suggest?

A. See above.

Q1.15 Do you agree that landlords should be encouraged to use their discretionary powers on the continuous occupation rule for ex-service personnel transferring to social housing?

A. Agreed. Dundee City Council has always exercised such discretionary powers. There should be consistency across local authorities.

Q1.16 Do you think this should apply in other circumstances or to other groups of tenants?

A. See above.

General

From the consultation sessions held with RTOs there was agreement with the proposed reforms to the Right to Buy.

PART 2 - MODERNISING REGULATION

Q2.1 Do you agree that the purpose of the modernised regime of regulation should be to focus social landlord's efforts on:

- **Meeting tenants' priorities;**
- **Continually improving performance and value; and**
- **Commanding the confidence of public and private investors in social housing?**

A. Agreed.

Q2.2 If not, what should be the purpose and why?

A. See above.

Q2.3/2.4 Do you agree in principle with the risk-based and proportionate approach to regulating social landlords that we outline above?

Do you have any proposals that would streamline further the regulation of social landlords?

A. Agree that the system of regulation should be risk based and proportionate. This is in line with the Crerar Review and has been the situation in England for some time.

As outlined local authorities are particularly challenged by the numbers of inspections they face by different agencies. Whilst the inspections provide useful scrutiny and lead necessary improvements there is much overlap and repetition. It is particularly time consuming to service such inspections and value for money ought to be a guiding principle. Therefore there would be merit in the SHR withdrawing from a role in local authorities. However, where potential risks within housing and/or homelessness services are identified by Audit Scotland referral could be made to the SHR for specialist scrutiny. RTOs expressed the view that if there is a continuing role for the SHR that it should be from the perspective of more positive engagement in bringing about improvement.

Q2.5 Should we continue to use the term "social landlord" to describe local authority landlords and RSL'S?

A. Renting/owner occupation are equally valid forms of choice of housing tenure and terminology which reinforces any stigmatisation should not be condoned. Suggestions for other terminology are "public rented housing", "public sector housing" or "public service housing".

Q2.6 If not, what term should we use?

A. See above.

Q2.7 Do you agree in principle with proposal to set outcomes for social housing in a Scottish Social Housing Charter?

A. In principle we agree. However this should be incorporated within the SOA and the relationship with the SHQS would have to be examined.

- Q2.8 If you agree, do you wish to suggest changes to any aspect of the proposal? If you disagree, how would you identify the outcomes and value that social landlords should be achieving for their tenants?**
- A. See above.
- Q2.9 Do you agree that the modernised SHR should be established as a non-Ministerial Department under its own Boards?**
- A. Agreed.
- Q2.10 If not, how would you ensure that the SHR was independent enough?**
- A. See above.
- Q2.11 Should the modernised SHR have the statutory objective of promoting the interests of tenants and future tenants?**
- A. Agreed. Alongside ensuring the continuing provision of good quality social housing, in terms of decent homes, good services, value for money, and financial viability as well as maintaining the confidence of funders.
- Q2.12 If not, what objective do you think the SHR should be given?**
- A. See above.
- Q2.13 Should the modernised SHR assume responsibility for regulating services in respect of homelessness, Gypsies/Travellers, and factored owners?**
- A. As at 2.4 SHR should withdraw from regulation in local authorities.
- Q2.14 Should SHR work to improve value for tenants and taxpayers through powers to assess, report on and, if necessary, enforce performance improvement?**
- A. SHR should encourage and facilitate performance improvement but not enforce performance improvement. This could have contrary effects as in external target setting in the NHS.
- Q2.15 If so, would the powers and duties that the draft Bill gives the SHR enable it to do that work?**
- A. See above.
- Q2.16 If not, what role should the SHR have in improving performance and what powers would it need to carry out that role?**
- A. See 2.14.
- Q2.17 Do you agree that the current inspection powers should be replaced?**
- A. Agreed.
- Q2.18 If so, would the new provisions that we are proposing in respect of inquiries and information provide a satisfactory replacement?**
- A. See above.

Q2.19 If not what approach would you suggest?

A. See Q2.17.

Q2.20 Do you think that the powers in the draft Bill provide the right balance and would allow the SHR to take prompt and effective action to tackle problems in financial viability and governance?

A. The existing powers for intervention seem to have proved adequate to date. Streamlining any of the processes is to be welcomed.

Q2.21 If not, what powers would you suggest?

A. See above.

Q2.22 Do you agree with the proposal to abolish the requirements in Part 1 of Schedule 7 on payments and benefits, and replace them with a code of conduct setting out standards of financial management and governance?

A. The current processes are probably over-cumbersome and ought to be streamlined. A code of conduct seems a reasonable way forward.

Q2.23 If not, what would you suggest?

A. See above.

Q2.24 Do you agree that Ministers should set the criteria for eligibility to seek registration as an RSL and that the SHR should set the criteria against which it tests applications?

A. Agreed. Ministers should set eligibility criteria.

Q2.25 If not, what approach would you suggest?

A. See above.

Q2.26 Do you agree that this power should extend to allowing profit-distributing bodies to become eligible for registration?

A. This would be a fundamental change in the nature and philosophy of the voluntary nature of RSLs. RSLs already have a variety of subsidiaries set up to enable them to undertake work not permitted by RSLs. Both RSLs and Councils work extensively in conjunction firms to deliver projects. It is unclear what permitting profit distributing bodies to become registered would achieve.

Q2.27 If so, do you think it is right to have specific enforcement powers for profit-distributing RSLs?

A. See above.

Q2.28 Are the enforcement powers that we have set out for profit-distributing registered landlords the right ones?

A. As outlined at 2.26/2.27 it is not agreed that profit making bodies should be eligible for registration.

Q2.29 If not, what enforcement powers do you think would be right?

A. See above.

Q2.30 Do you agree that RSLs should only have to seek consent for these three areas of rule changes?

A. Agreed. The proposals seem reasonable.

Q2.31 If not, what approach would you suggest?

A. See above.