
SHEILA GILMORE MP, EDINBURGH EAST

WRITTEN SUBMISSION

Housing Bill Comments for Committee

My comments are made as a Constituency MP for Edinburgh East, based on issues raised by my constituents and my observations of the area, and also drawing on my experience as Executive Member for Housing on the City of Edinburgh Council between 1999 and 2007.

I made a submission to the Scottish Government consultation, but on this occasion I want to focus on two main areas:

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- 1) Taking Age into Account when Allocating Social Housing

 - 2) Private Landlord contributions to maintaining buildings and their immediate environment.

Taking Age into Account when Allocating Social Housing

I was pleased to see the inclusion of Clause xx of the Bill. In my submission to the Scottish Government's consultation I raised this issue, and argued for the 2001 Housing Act to be amended.

I noted that Shelter argues in its written evidence to the Committee that 'current allocations framework allows sufficient flexibility for landlords to allocate their homes appropriately and successfully.'

I would argue, however, that is not the case. On several occasions the Housing Regulator has instructed landlords to cease using local lettings policies which set an age limit on the ground that this contravened the Housing Act 2001. This was so even where the landlord could demonstrate that the policy was successful in attracting tenants, had 'turned around' previously problematic blocks, had reduced turnover, and was popular with tenants. Government and regulator have repeatedly stressed the importance of tenant participation but in these cases considered that the terms of the 2001 Act gave them no choice but to override the views of tenants. In Edinburgh an 'over 35 and no children' local letting policy was used following extensive renovation of two high rise blocks in Leith and 3 in Wester Hailes. After 15 years the investment was

'wearing well' and the lettings policy had helped to protect this expensive capital investment.

For those concerned that such policies would discriminate against homeless applicants, this matter was looked at in depth when the City of Edinburgh's homelessness services were inspected in 2006 (check date) and no evidence was found that this led to lower proportions of people presenting as homelessness receiving allocation in these blocks. However in the subsequent Inspection of Housing Services led to the instructions to desist from such policies, not because they were not working but purely on the legal point that they breached the 2001 Act. Hence the need for an amendment to the 2001 Act.

The age profile of applicants for council and housing association housing demonstrates that there are no lack of applicants in the relatively older age groups so that such policies, properly targeted, will not give rise to lack of demand. In Edinburgh the council and all RSLs operate a common Housing Register called Edindex. In March 2012 the age breakdown of applicants was as follows:

16-17 – 1%

18-24 – 15%

25-25 – 27%

36-59 – 41% (The number here was 10,554 to demonstrate we are dealing with a large number of people)

60+ - 16%

The age breakdown of lets in the year 2011-12 was:

16-17 – 3%

18-24 – 16%

24-35 – 25%

36-59 – 37%

60+ - 19%

This illustrates that the high number of applicants in the two older age bands is broadly matched by lets ie those on the application list were not simply there 'just in case' and not actively seeking a property.

(NB these figures appear on the Edindex website and 2011/12 was the latest year given. Previous years were similar so it seems likely that the age profile remains much as shown here)

High rise blocks are not the only example. Properties built as 'pensioner housing' in the past but which are not designated as sheltered housing are not allowed to be allocated with an age restriction. This can give rise to difficult management issues where lifestyles clash, and can lead to other residents moving away. In a local area it is widely perceived as unfair and illogical to let such properties to people whose housing 'need' is not a need for this type of property. Many landlords are keen to offer older tenants the opportunity to downsize if they wish to do so, so freeing up larger family homes which may be in short supply. Older tenants are, rightly, cautious about moving and as well as being keen to remain in an area where they have social links, also wish to feel reasonably safe and secure. Knowing neighbouring properties will be occupied by people of a broadly similar age may make the offered property more acceptable.

One landlord in my constituency is causing tenants, surrounding residents (not tenants.) and itself (in terms of increased housing management demands, higher repair costs and higher turnover) problems by being unable to set a minimum age for lettings. The relatively small group of homes, largely 4 flats in a stair over two levels, started life as homes for older (but not 'old') people who do not require sheltered housing (for which these properties are unsuitable anyway). Changes to letting policy driven, it would appear by the 2001 Act, has led to this being a less stable community. Requests to reinstate a minimum age for allocations has been met with the argument that this is not legally possible.

Every area is different and it is very much for a local council and its housing association partners to develop lettings policies which work for them. Removing the current ban on taking age into account could help facilitate the development of such policies.

It had been suggested to me by one housing association in my constituency that the proposed wording in the draft Bill is vague and that they would not feel confident applying a minimum age on the strength of the provision as drafted. I suggested in my submission previously that any

amendment to the 2001 Act should be accompanied by clear criteria. My suggestions was a requirement to demonstrate that:

- 1) there is no overall discrimination against younger applicants in the authority generally as a result of such a policy – ie the authority would have to demonstrate from robust lettings data that young applicants were overall housed proportionately to their numbers among applicants. And that they were not disproportionately being housed in low demand properties. (Ironically these policies have often been introduced to boost demand and apply in what otherwise might be ‘low demand’ properties.)**
- 2) That there is a sound housing management and sustainability argument for applying such policies.** This could be in terms of previous problems, high repair/housing management costs prior to application of policy and demonstrable reduction, reduced voids/turnover and increased popularity of the properties involved.
- 3) That a need is being fulfilled eg a need for suitable homes for older people**
- 4) That the policy has tenant support and that there had been adequate consultation before such policies were introduced.**
- 5) That homelessness obligations are not being affected by the existence of such policies.**

Such rules, either on the face of the Bill or in regulation or guidance, would I think also answer the concerns of those who worry that such a change be discriminatory against more vulnerable groups.

Private Landlord contributions to maintaining buildings and their immediate environment.

In many parts of Scotland the Private Rented Sector has become an increasingly important part of the housing landscape. In Edinburgh the 2011 Census Figures revealed that 22% of households in the city (some 55,000) were living in the sector, more than the council and housing association sector combined. The Private Rented Sector is no longer a ‘niche’ form of housing for students and young people, but is increasingly housing people across all age ranges and incomes. It has also broken out of the more traditional areas (in Edinburgh those were city centre and Leith) into suburban housing areas.

This Housing Bill feels like a missed opportunity to make landlord registration more effective. Landlord Registration was introduced in the Anti Social Behaviour Act. The measure was supported by many MSPs who were seeing the impact of the growth of private letting in terms of poor landlord management standards and lack of action on anti social behaviour

by tenants. In some cases even tracing the landlord had proved difficult, an issue substantially dealt with by registration. However registration has become largely a bureaucratic exercise, and has not dealt with many of the issues. One such issue raised by many of my constituents is the failure of many landlords to play their part in communal repairs and maintenance, and lack of care for garden areas.

Example: one constituent is now the sole owner occupier in a block of flats (12 in number) built in the 1980s. Being the owner occupier she sees the work that needs to be done but finds it extremely difficult to get agreement and/ or a payment from landlords when work needs done. Major repairs have previously been dealt with under Statutory Notice but with that service currently suspended except for emergencies, the situation has become even more difficult. Frustratingly even small issues (which really should not become the subject of a statutory notice) are difficult to deal with. For instance at the time of my visit the external front door had a growing 'hole' clearly caused by the wood rotting due to water ingress. This can only get worse but landlords do not see this and are disinterested. when approached. As my constituent said 'it's not as if the landlords can't afford it, the one next door for instance has 17 flats in the city. '

This response is echoed widely . Residents see landlords charging relatively high rents, sometimes paid for through the public purse if the tenant receives housing benefit , yet seemingly often unwilling to share the costs of looking after their property, to the detriment of other residents. In several parts of my constituency I can identify the private lets by the overgrown state of the gardens, both communal and private. Overgrown private gardens impinge on others, especially in tenement buildings.

Residents feel that the council should be able to intervene to recover payments from landlords, that a majority of owners should be able to ask for such a payment order to be made . They also consider that failure to co-operate with reasonable requests for such payment/ co -operation with communal repairs should be taken into account when landlords apply for registration. It is unlikely that such an issue would be taken into account when applying the 'fit and proper person' test for registration, and therefore further legislation would be required.

I would hope that the Committee might discuss and consider proposing amendments to the Housing Bill to cover these issues.

If there needs to be a legal change what safeguards would be required?
Probably a requirement to demonstrate that:

- 6) **there is no overall discrimination against younger applicants in the authority generally as a result of such a policy** – ie the authority would have to demonstrate from robust lettings data that young applicants were overall housed proportionately to their numbers among applicants. And that they were not disproportionately being housed in low demand properties. (Ironically these policies have often been introduced to boost demand and apply in what otherwise might be ‘low demand’ properties.)
- 7) **That there is a sound housing management and sustainability argument for applying such policies.** This could be in terms of previous problems, high repair/housing management costs prior to application of policy and demonstrable reduction, reduced voids/turnover and increased popularity of the properties involved.
- 8) **That a need is being fulfilled eg a need for suitable homes for older people**
- 9) **That the policy has tenant support and that there had been adequate consultation before such policies were introduced.**
- 10) **That homelessness obligations are not being affected by the existence of such policies.**

**Sheila Gilmore MP, Edinburgh East
19 February 2014**