

ABERDEEN CITY COUNCIL

WRITTEN SUBMISSION

Part 1: Right to Buy

This part of the Bill places abolishes the right to buy by making certain repeals. The commencement of the main section on repeals is prohibited for at least 3 years. The Bill will also make some amendments which it is intended will apply before the repeals are commenced.

Q. What are your views on the provisions which abolish the right to buy for social housing tenants?

A. This is a welcome provision to tidy up a complex policy and will help protect the stock of affordable rented housing in Scotland. However the loss of capita receipts will be an issue for councils and RSLs which will need to be factored in to the budget setting process

Q. Do you have any views on the proposed 3 year timetable before these provisions come into force?

A. This is too long a grace period, it should be reduced to 12 months this should give potential applicants plenty of time to exercise their option.

Part 2: Social Housing

This part makes provisions which relate to social housing. The rules and procedures around the allocation of social housing will be adjusted as will the operation of short Scottish secure tenancies and Scottish secure tenancies.

Q. In your view, will the provisions which are proposed to increase the flexibility that landlords have when allocating housing, allow them to make best use of social housing?

A. Landlords currently have a reasonable amount of flexibility, however the provisions clarify and update to some degree Reasonable Preference categories, and we look forward to guidance on what “Unmet Housing Need” means. With regard to age, this flexibility is welcome as it removes a barrier to social housing landlords wishing to allocate to particular age groups in specific situations and locations. This will assist in the better management of housing stock.

The inclusion of ownership as an allocation criteria is also welcome however the practicalities and possible cost involved in landlords being able to verify an applicant’s home ownership status and therefore fully implement this criteria are unclear at present.

Q. Will the proposals which will adjust the operation of short Scottish secure tenancies and Scottish secure tenancies provide landlords with tools that will assist them in tackling antisocial behaviour in an appropriate and proportionate manner?

A. With regard to SSST's, whilst the bill wishes to protect tenants on this type of lease for ASB, in reality an initial period of 12 months makes it a lengthier and more costly process to evict them should this prove necessary given that landlords will have to lodge court action and also take up court time and may lead to extra costs of providing support due to the longer period involved?

Q6. Will this part of the Bill meet the Scottish Government's objective of providing further protection for tenants, particularly tenants with short SSTs, by strengthening their rights?

Part 3: Private Rented Housing

This part provides for the transfer of the sheriff's existing jurisdiction to deal with matters relating to private rented housing to the First-tier Tribunal (which is to be created under the Tribunals Bill, currently before the Parliament). In particular it transfers all non-criminal actions relating to regulated tenancies and some actions relating to the repairing standard, the right to adapt houses and landlord registration. Ministers are given a power to transfer certain actions relating to houses in multiple occupation. Part 3 also contains some further adjustments to private rented housing legislation, making changes to the landlord registration system and creating some third party rights in relation to enforcing the repairing standard.

Q7. Do you have any comments on the proposals for transferring certain private rented sector cases from the sheriff courts to the new First-tier Tribunal?

Q8. Do you have any views on the adjustments to private rented housing legislation, which are intended to enhance local authorities' discretionary powers to tackle poor conditions in the private rented sector?

Q9. Do you have any comments on the Scottish Government's intention to bring forward provisions at Stage 2 to provide additional discretionary powers for local authorities to target enforcement action at an area characterised by poor conditions in the private rented sector?

Part 4: Letting Agents

This part establishes a registration system for letting agents. As well as setting up a register, it sets out various offences, provides for the publication of a code of conduct and gives the First-tier Tribunal the power to issue letting agent enforcement orders in relation to breaches of that code. It also confers on Ministers a power to transfer the existing jurisdiction of the sheriff in relation to disputes between letting agents and landlords or tenants.

Q10. Do you have any comments on the proposal to create a mandatory register of letting agents in Scotland, and the introduction of statutory provisions regarding letting agents' practice?

A. Aberdeen City Council welcomes this provision.

Q11. Do you have any views on the proposed mechanism for resolving disputes between letting agents and their customers (landlords and tenants)?

Part 5: Mobile Home Sites with Permanent Residents

This part creates a new licensing regime for mobile home sites with permanent residents. It inserts a new Part 1A into the Caravan Sites and Control of Development Act 1960.

Q12. Do you have any views on the proposed new licensing scheme?

Q13. What implications might this new scheme have for both mobile home site operators and permanent residents of sites?

Part 6: Private Housing Conditions

This part includes a number of adjustments to the law as it relates to private housing including conferring on local authorities a power to pay a share of costs arising from the tenement management scheme under the Tenements (Scotland) Act 2004 and modifying provisions relating to work notices, maintenance notices and maintenance orders under the Housing (Scotland) Act 2006.

Q14. Do you have any comments on the various provisions which relate to local authority enforcement powers for tackling poor maintenance, safety and security work, particularly in tenemental properties?

Part 7: Miscellaneous

This part contains some miscellaneous housing provisions, including a power to exempt certain securities from the right to redeem after 20 years contained in section 11 of the Land Tenure Reform (Scotland) Act 1974, the conferral of a power to delegate on the president of the private rented housing panel and homeowner housing panel, a modification of the Scottish Housing Regulator's powers and a repeal of certain enactments relating to defective designation.

Q16. Do you have any comments relation to the range of miscellaneous housing provisions set out in this part of the Bill?

Other Issues

Q17. Are there any other comments you would like to make on the Bill's policy objectives or specific provisions?

S19 Right to adapt rented houses

This section is welcomed by Aberdeen City Council as we believe that the growth in the private rented sector will only be effective if this right is enshrined in law. However, the Council believes that the proposed changes to

the legislation is in itself not sufficient; in that while the PRHP may find in favour of the tenant, the tenant may not benefit from grant assistance under the Housing (Scotland) Act 2006, s73.

In order for the Council to award grant we are required to seek the owner's approval (*2006 Act s75 Determination of applications (4)(a)*), and to serve conditions of grant on the Title Deeds which remain in effect for a period of 10 years (*s83 & s84*). In the event that a landlord fails to sign the grant application form, the Council will be unable to award grant.

In order for the change in legislation to be truly effective, it would be necessary for the appeal process to make direction that the conditions of grant can be appended to the Title Deeds whether the landlord has consented or not.

On a separate issue not covered by the Housing Bill,

Disability Adaptations – Mandatory assistance.

When approving grant applications for disability adaptation there is no ability included within the Housing Scotland Act 2006 to permit local authorities to take into consideration any awards of compensation in relation to a disability. This means that as the legislation stands, an applicant who may have received a considerable level of compensation for their disability and which may specifically have taken into consideration their long term housing needs, can apply for and be bound to receive, a minimum 80% grant from the local authority. Therefore, the applicant can receive double funding for the same assessed needs.

It was standard practice under the 1987 Act and the 2001 Act, and indeed the Scottish Government's own prescribed grant application forms, for all types of grant earning works to ask the applicants' if they had received funding from other sources and in the case of disability applications, asked; "have you or your partner received or applied to receive any compensation or insurance payment as a result of this disability, during the last 3 years?"

Aberdeen City Council are of the opinion that this requirement to declare compensation should be re-instated for current disability grants, but with the limit of "in the past 3 years" dropped so that it simply means any award ever given for this purpose. The thinking behind this is that an award could be made for a child and then some years later an application could be made where that child is now an adult, but the original award may well have made lifelong assessment. It would then be up to the local authority to consider whether or not the original award is still satisfactory or if exceptional circumstances could allow them to disregard the original award.

It is regretted that the Bill does not extend the opportunity for more flexible tenancy arrangements for Local authorities. This would be of particular use in allowing LA's to provide mid-market rent houses on assured tenancies. The extra income derived would fund enhanced standards and would be of

particular use in supporting mobility of labour for families moving into an area to take up employment. It is particularly disappointing that no consideration appears to have been given to the role that social landlords, including local authorities housing stock can facilitate mobility of labour.

Q18. Are there any other issues that the Scottish Government consulted on that you think should be in the Bill?

It is regrettable that the issue of Initial or Probationary Tenancies was not part of this Bill, so that discussion and debate could have take place around this well supported proposal during this consultation period.

Also taking income into account in the allocation of housing, with the pressure on social housing so acute and the requirement to house those in greatest need, this is an issue that many landlords would have liked an opportunity to advocate for in the passage of this Bill.

**Aberdeen City Council
28 February 2014**