

EAST LOTHIAN TENANTS AND RESIDENTS PANEL

WRITTEN SUBMISSION

The Infrastructure and Capital Investment Committee is seeking views on the general principles of the Housing(Scotland) Bill. A copy of the Bill and the accompanying documents can be found at—

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.

Q1. What are your views on the provisions which abolish the right to buy for social housing tenants?

ELTRP in full agreement that right to buy should be abolished to protect social housing for future generations and recognises that a majority of tenants groups and landlords support this proposal.

Q2. Do you have any views on the proposed 3 year timetable before these provisions come into force?

ELTRP discussed this with some favouring 3 years as suitable timescale and others feel that one year is a suitable timescale.

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.

Q4. 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?

ELTRP agrees with the adding of under occupation as a category for reasonable preference to assist landlords to mitigate the effects of the 'bedroom tax'. However ELTRP would like more information on how this would apply in allocations practice. For example, how would this change be applied to existing tenants who are classed as under occupying their properties. Would they be asked to transfer to a smaller property regardless of whether they were in receipt of housing benefit or paying full rent through their own means? If two tenants were on the transfer list and both were classed as under occupying and one was

in receipt of housing benefit and the other paying full rent who would be given priority? Or would other reasonable preference criteria be used as well?

ELTRP agrees with provision that landlords must involve and consult tenants about any changes to priority groups in allocations policies. This is a vital principle to effective and successful tenant participation practice and links to practice being developed through tenant scrutiny and tenant involvement in monitoring landlords performance to Scottish Social Housing Charter.

ELTRP discussed the introduction of probationary tenancies for all new tenants although the proposal has been dropped by the Scottish Government. ELTRP generally agrees that these types of tenancies should not be introduced although some members felt it would be a useful tool for landlords to manage housing. ELTRP is unsure what the impact of this would have on housing management and how it would apply if a tenant of say 10 years obtained a tenancy from another landlord.

ELTRP supports the introduction of taking age into consideration when allocating properties although care must be taken to ensure that applicants are not discriminated against on age grounds under the Equality Act 2010. This can be useful for designating certain types of general needs housing for people over 50 or for people with families and children.

ELTRP supports the introduction of property ownership being taken into account when allocating social housing.

Q5. *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?*

ELTRP is in agreement with move to 12 months qualifying period for succession, assignation and sub letting but guidance must be issued to landlords to use discretion on a case by case basis as 6 months can be a suitable timescale in individual cases involving care and death in families. ELTRP agrees with principles that this should be guided by those in housing need but landlords must use care and attention to consider individual family circumstances. ELTRP recognises that landlords will have to inform existing tenants of these new requirements and will work to assist with communication.

ELTRP agrees with general principles for landlords to have the power to make secure tenancies short tenancies only in cases where there is clear evidence of anti social behaviour. This is a positive step with landlords being frustrated by drawn out legal processes to act to address anti social behaviour. Although ELTRP recognises that cases of ASB are split about 50-50 between the private

and social sector and perhaps more powers are also needed to deal with ASB in the private sector.

ELTRP supports this proposal to extend short tenancies to 12 and 18 months with appropriate protection and appeal for tenants.

ELTRP supports the proposal for new mandatory eviction when a tenant has been found guilty of using a house for illegal purposes outlined in tenancy agreement. ELTRP is more hesitant to support a mandatory eviction for 12 months imprisonment but recognises the aim but this should only be approved on a case by case basis where it is supported by other evidence.

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?*

ELTRP supports the proposals to protect tenants on short tenancies as often and for different circumstances these people are vulnerable in society.

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?*

ELTRP sees this as a good idea in principle but management and organisation will fall to local authorities and in tough financial climate is this feasible? This needs a clear commitment from local authorities. ELTRP recognises the work of the Tenants Information Service to develop owners associations and this is an area that needs some development work in bringing together owners, tenants and local authorities to develop potential in this area. ELTRP also recognises the need for owners to adequately insure buildings. What will the cost to council be to manage and implement these proposals? ELTRP would suggest that certain enforcement orders need to be classified as different types of works. There are many examples of mixed tenure areas and privately rented areas that would benefit from this approach.

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?*

ELTRP supports this idea in principles and sees the regulation of the private rented sector as an area for further development and a lot can be learned from the many years of work between social housing tenants and tenant participation structures across Scotland.

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 characterized by poor conditions in the private rented sector?*

ELTRP in general agreement but again who pays and it will help areas with high levels of poor housing and slums. Scottish Government financial assistance? Who pays? What is enforcement action? Links to regeneration?

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?*

ELTRP support. Yes in line with housing industry.

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

Yes. ELTRP fully supports this idea.

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?*

Yes. ELTRP supports this idea and brings into line with housing sector.

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

Training, information, enforcement and possible development of resident's mobile homes residents associations for Scotland.

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?*

ELTRP supports this principle..

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?*

ELTRP is concerned about giving SHR powers to dispose of HRA assets without consulting with tenants as this goes against the principles of tenant participation and community engagement. However, ELTRP recognises that the SHR should always be protecting the interests of tenants. In exceptional financial circumstances when there is a clear threat to the interests of tenants from insolvency and loss of assets then ELTRP would support with a strict criteria that was agreed with tenants before this power is conferred on the SHR. In other words if this is included in the Housing Bill there must be a provision to agree the criteria and process with tenants after the bill becomes law.

ELTRP does not support the removal of the duty to obtain valuations on HRA assets as this must be done in agreement with tenants as a key stakeholder in any asset transfers.

Other Issues

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

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

**East Lothian Tenants and Residents Panel
27 February 2014**