

PARAGON HOUSING ASSOCIATION

WRITTEN SUBMISSION

Part 1: Right to Buy

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

In 2012 our Association submitted our response to the Government consultation on the Future of Right to Buy. At that time we indicated that we support the proposal to end the RTB altogether and that view remains the same. However we are aware that some tenants with the RTB consider that although they do not want to use it, they do not want to lose it and others may have aspirations to purchase in the future.

Whilst being sympathetic to this view, it is the position of the Association that our response must focus on the strategic position relating to the supply of social rented housing and the business needs of the Association.

Our Association has lost 270 properties through the Preserved Right to Buy (PRTB) since we were established through an initial stock transfer in 1998. This stock has mainly been cottage type accommodation in sought after locations. We feel that this drain on social rented housing should come to an end to prevent the loss of any more housing through the right to buy when increasingly the demand for housing outstrips supply.

It is our view that a number of developments indicate that the RTB as a policy for diversifying tenure to create more mixed communities has now run its course and should now be scrapped. We would offer the following argument to support this case.

There is an increase in home owners making applications under the Mortgage to Rent Scheme run by the Scottish Government to have their home bought by the council or a housing association. We have acquired a significant number of properties through this route and a number of these have been former RTB properties. We have also been approached by owners who have purchased their homes through the Right to Buy and now can no longer afford to retain these or wish to move on and find it difficult to sell the property. This is leading to an increase in empty owner occupied properties in estates where there is a demand for social rent.

Some owners are being left behind in terms of investment in the fabric of the properties as social landlords bring their properties up to the Scottish Housing Quality Standard. As owners are not required to reach these same standards

this is leading to some poor quality housing among owners struggling in the current economic climate.

Our Association faces many problems in flatted tenements where there is owner occupation trying to get owners to agree to participate in work to common areas especially if they do not live in the building and rent out the property. If sales continue, we feel this problem will only increase in buildings in blocks/estates where there is multiple ownership making it harder to reach targets set by the Scottish Government to improve social housing.

In addition the ending of the Right to Buy would bring more certainty in forward business planning.

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

In our response to the Government consultation we indicated that instead of the proposed 3 year timetable before these provisions come into force we support giving tenants a maximum of two years notice. This would allow tenants who wish to exercise their right to buy the opportunity to do so. Extending the period beyond 2 years will only create continuing uncertainty around planning assumptions and there would be ongoing administrative burdens around areas such as the maintenance of right to buy registers, staff training in the various right to buy schemes etc.

We would also urge that the notice period should be clear in its intent – is it a period of years to complete the purchase or intimate the intention to exercise the right to buy? Uncertainty around this will cause confusion.

Part 2: Social Housing

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?

Replacement of Reasonable Preference Categories

The replacement of the previous reasonable preference categories with broader definitions will continue to give us flexibility when allocating housing especially the inclusion of existing tenants who are under-occupying. These tenants require reasonable preference to downsize by doing this it frees up properties suitable for larger families who require them.

Taking Property Ownership into Account

We welcome the proposal to allow us to take property ownership into account

especially if the owner has suitable property available for them to use. However, it may be difficult to establish if an applicant does own other accommodation. We also have concerns that existing tenants in the social rented sector who are adequately housed are not barred from applying for alternative house therefore, homeowners could claim it is discriminatory for them to be barred.

Taking Age into account

We appreciate being given flexibility on allocations by age range as it would be helpful in trying to establish balanced communities. However there will need to be clarity how this will operate in terms of the equalities legislation.

Assignations, successions and joint tenancies

We support the proposed amendment for assignations to replace the current six-month qualifying period and extend it to 12-months before a tenant can apply for a joint tenancy or to assign the tenancy to another person. With the increased pressure on the demand for the scarce resource of social housing it is appropriate to impose a longer timescale.

However, for succession and joint tenancies we feel that there should be some discretion built into the 12-month rule. We feel that this would be the case for successions where a person has given up their only principal home to become a carer and then find that on the death of the tenant they could find they fall short of the 12-month period by a matter of a few weeks.

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?

We would like to see greater clarity on the process to be undertaken for the statutory right of review required before court action is taken for tenants whose SSST is not going to convert to a full SST.

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

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?

We welcome the transfer of certain private rented sector cases to the new First-tier Tribunal as it is felt this will free up valuable court time to handle other cases.

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?*

We can see the merit for enhancing the local authority powers and agree with the proposals.

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?*

We support any proposal to allow local authorities to target specific areas for enforcement action where deemed necessary.

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?*

We agree with the proposal to create regulation of letting agents. This legislation will prevent inappropriate people setting themselves up as a lettings agent.

The creation of a mandatory register with associated "fit and proper person test" and statutory code of practice is consistent with the model already set up for Factors in Scotland.

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

We feel that by giving the First Tier Tribunal a range of enforcement orders available to use for a dispute resolution system it will allow the Tribunal to work in the same way as the Homeowner Housing Panel for Factoring.

Part 5: Mobile Home Sites with Permanent Residents

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

This is not an area in which our Association is involved and no comments have been made.

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

As above

Part 6: Private Housing Conditions

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?*

The right to buy has changed the ownership of tenemental properties in social rented housing schemes from single to multiple-ownership. We have experience of owners where we have difficulty tracing them or they are unable, unwilling to participate in repair or maintenance work for which they are legally obliged to pay a share of the cost. We therefore welcome this power which will help to tackle the issue of poor maintenance in tenemental properties. By allowing local authorities to pay a missing share when the majority of owners in a tenement have agreed to carry out work it relieves the other owners from the burden of being liable for the costs of the another owner.

We also agree with the proposal that the local authority should be allowed to recover costs of the missing share and any associated administrative expenses from the owner on whose behalf it was paid.

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?*

The Bill's provisions to amend Section 67 of the Housing (Scotland) Act 2010 would allow the SHR in certain circumstances in a potential insolvency situation to transfer the assets of an RSL without consulting tenants or secured creditors. Whilst we appreciate that consulting with tenants can be time consuming when there is a need to move quickly in a potential insolvency situation we do not agree that it should be removed entirely. This goes against all the principles of the Scottish Social Housing Charter. It is our opinion that consultation should take place, where viable, taking into account the need for urgent action.

We cannot understand why the obligation to consult with the lender(s) as secured creditors is being removed. It is our view that in any rescue situations it needs all parties to work together – the SHR, the landlord in trouble, the new landlord and the lenders of both landlords.

The receiving landlord will need to consult with its lender if it is borrowing to ensure that they are happy for that RSL to take on additional obligations and that their loan covenants are not being breached.

We cannot see how a partial transfer could be structured in the absence of an indication of the value applying to the stock to be transferred. This would mean the SHR could transfer stock at a nominal value and could be subject to allegations of fraud.

We feel that giving this power in its current form could make lenders nervous of financing registered social landlords in Scotland.

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?

Paragon Housing Association
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