

SCOTLAND'S COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE (SCCYP)

I welcome the opportunity to comment on the Housing (Scotland) Bill. As Scotland's Commissioner for Children and Young People, my role is to promote and safeguard the rights of children and young people in Scotland. In so doing I have a duty to keep under review law, policy and practice relating to the rights of children and young people.¹

I have limited my comments to the sections of the Bill which I believe are of most relevance to children and young people. When mentioning the impact of a proposal on children and young people, I am referring to both the dependents of tenants and young people who are tenants in their own right.

I would urge the Committee to carry out a Children's Rights Impact Assessment² on the Bill in order to fully assess the potential impact of this legislation on children, young people and families.

Section 3 - Reasonable preference in allocation of social housing

I note the Bill's intention to alter the reasonable preference provisions in section 20 (1) of the Housing (Scotland) Act 1987. Whilst this will offer increased flexibility for social landlords in how they allocate their housing stock, I am concerned that an unintended consequence of this may be that some families, in particular those living in poor quality and/or overcrowded homes, could find it more difficult to access better housing. As a result, children living in conditions that are impacting negatively on their health and well-being may continue to do so for much longer than would currently be the case.

Whilst the order-making power proposed in Section 4(2) has the potential to mitigate this, there is a danger that social landlords will still be free to set their priorities in a way that ensures that, whilst not completely excluded, these vulnerable groups will be given a lower priority when housing is being allocated.

Section 5 – Factors which may be considered in allocation: age

Section 5 of the draft Bill proposes to amend the 1987 Act and allow social landlords to take the age of a prospective tenant into account when considering how to allocate their housing stock.

¹ Section 4(2)(b), Commissioner for Children and Young People (Scotland) Act 2003

² SCCYP Children's Rights Impact Assessment model - <http://www.sccyp.org.uk/resources/impact-assessments>

Whilst the intention is to increase flexibility for landlords, there are significant risks in operating such a policy. It is very likely that in prioritising one age group, then another group of tenants will be disadvantaged. If, for example, a social landlord were to designate the majority of ground-floor flats in their housing stock as primarily suitable for older people, then young disabled people and the families of disabled children would find it more difficult to access suitable housing. Where such housing is already scarce, it is important that this should continue to be allocated on the basis of need.

The requirement that social landlords must act in the spirit of the Equality Act 2010 when allocating housing to tenants under the age of 18 is well-intentioned. However, it remains unclear how an individual young person could seek to challenge any perceived unfairness on the part of the social landlord.

I would also seek reassurance that this policy would not inadvertently lead to some younger tenants, including young care leavers, being placed in less desirable areas at the expense of other age groups, a concern that has previously been expressed by young people and those advocating for them³.

Sections 8, 10, 11 and 12 – Short Scottish Secure Tenancy/Anti-Social Behaviour

Proposals in Sections 8, 10, 11 and 12 of the Bill seek to relax the circumstances in which social landlords can impose a short SST or seek to convert an existing SST to a short SST.

Where previously there was a requirement for the tenant to have been subject to court action related to their anti-social behaviour, the Bill proposes that an existing tenancy could be converted to a short SST where the social landlord believes that the tenant or someone living with the tenant has behaved anti-socially in the past 3 years⁴.

As drafted, the decision to convert an existing SST to a short SST appears to rely almost entirely on the social landlord's perception of what constitutes anti-social behaviour.⁵ Whilst the tenant would have the right to appeal this decision to the court, I am concerned that repeated complaints from neighbours could be taken as evidence of anti-social behaviour, without these being objectively examined until a very late stage in proceedings.

³ Quarriers Condemned Campaign, 2009, see <http://www.youtube.com/watch?v=hnE5yi8-2Bc>

⁴ Financial Memorandum, para 67

⁵ Scottish Government 2013e, Shelter (Scotland) response

This proposal also has the potential to target some children and young people unfairly, e.g. families where there are children/young people with certain types of disability (whose behaviour might be perceived to be anti-social, when in fact it is related to their disability), families where there is a history of domestic abuse and young care leavers attempting to sustain their first tenancy.

I would also be concerned if families that had sustained a tenancy successfully for a number of years found themselves at increased risk of becoming homeless, as a result of a social landlord's decision to convert them to a short SST.

The Committee may also wish to consider how the present proposals would 'fit' with the wider approach to tackling anti-social behaviour, which in recent years has rightly become more focused on holistically considering the needs and challenges presented by those considered to be behaving anti-socially.

Scotland's Commissioner for Children & Young People
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