

# SCOTTISH PROPERTY FEDERATION

## WRITTEN SUBMISSION

### Introduction to SPF

1. The Scottish Property Federation (SPF) is a voice for the property industry in Scotland. We include among our members; property investors including major institutional investors, developers, landlords of commercial and residential property, and professional property consultants and advisers.

### General Comments

2. Greater scales of investment and landlords can act as drivers for improvements in both condition of the private rented sector (PRS), choice for tenants and improvement of the image of the sector as a whole in Scotland. This mixture of positive benefits for the sector will encourage greater confidence for householders deciding to rent rather than own for the time being, or while they build sufficient finance backing for a deposit.
3. Attracting larger scale investment should also be about new build development for rental purposes. This would introduce a scale of quality and choice that would support wider objectives such as additional supply and more energy efficiency housing. Larger scale landlords will also have costs to consider but generally may be in a better position to effect energy efficiency improvements and invest in property condition, than those who operate on a smaller scale.

### Part 1: Right to Buy

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

Abolition of the right to buy is likely to provide greater cohesion in the provision of Council housing stock. There have been recent examples of Local Authorities buying individual properties in the housing market (including previous Right to Buy Units) at market value to increase inadequate housing stock levels. Such funding should be directed at modern, new build housing. Local Authorities will have greater certainty in the evaluation of existing social stock levels and also potentially in the implementation of refurbishment programmes (including energy, sustainability & fabric improvement programmes) as there will be less "fragmentation" of housing tenure in priority areas.

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

3 to 5 years would be a reasonable period.

## **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?*

Our members support these provisions which should allow delivery to be focused on the neediest and prevent those who can afford open market rental or ownership taking much needed low cost housing. However, there is a risk of inconsistency in approach and therefore national guidance will be required particularly in relation to the highest categories of homelessness and legal standards. There is also a risk of landlords receiving inaccurate or fraudulent information from potential tenants, which will require provisions for legal recourse.

**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?*

Our members welcome the provisions in the Bill to convert to Short SSTs to tackle antisocial behaviour and the streamlining of the eviction process in order to deal with antisocial behaviour. The current process is lengthy and costly for landlords as well as stressful for other tenants. It should also shift greater priority to the most eligible applicants.

**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?*

Our members welcome the extension of the qualifying period for succession to 12 months. We have also argued in the past for a system of consent/registration for succession purposes to be introduced, so the introduction of the provision at section 14 is also welcome. Tenants should notify the landlord of new occupiers, but they regularly fail to do so, causing issues around proving occupancy for succession purposes. We agree that succession should not be permitted unless the new occupier has been notified to the landlord and the current tenant consents to them being registered as being in qualifying occupation for the purposes of succeeding to the tenancy. This provides protection for both tenant and the landlord.

## **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?*

While our members acknowledge that this proposal could result in consistency in decision making, they are concerned that the new process could be time consuming

and expensive and therefore there is a risk that it would not be an improvement on the current sheriff court process. They wish to ensure that any new procedure would streamline the current sheriff court process and support a reliable and speedy decision making process offering a fair outcome for all groups. Access to redress is not merely an issue for the consumer; it is also one for landlords for whom a monthly deposit may be little compensation for loss of rent of two or more months or significant damage to a property. Our members have also questioned the implications for legal aid as a result of the transfer to the Tribunal process?

**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?*

Our members are concerned that such a fragmented sector, with many single property owning landlords who will have mortgages to cover, amongst other costs, then even a month or two's possible shortfall in rent while upgrades take place will be a cost too far. Larger scale landlords will also have costs to consider but generally may be in a better position to effect energy efficiency improvements and invest in property condition, than those who operate on a smaller scale. Our members are of the view that local authorities' powers should be restricted to safety and security as the definition of poor conditions could vary widely among tenants, landlords and their agents. There have also been problems in relation to internal controls in the past e.g. Edinburgh Council. It is our members clear view that the Condition Report which forms part of the Home Report should not be used as an indicator of condition due to the speculative nature and lack of consistency in the preparation of these reports.

**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?*

Clearly there is an enormous challenge to improve property condition and energy efficiency across the PRS in general. The nature of the sector will not make it easy to address this problem. It is the strong view of our members that the sector should be market driven. A recent discussion with a landlord seeking to make energy efficiency improvements in a rural setting suggested that there could be considerable upwards pressure on rents. This is not likely to be an unusual scenario. It is important therefore that the government makes a balanced impact assessment before proceeding with any form of compulsory measure. It is worth considering too that the expensive use of energy in homes may well be related to the ability of occupants to make choices about paying for energy consumption.

#### **Part 4: Letting Agents**

**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?*

The SPF supports the licensing of letting and managing agents in an appropriate form in order to level the playing field between agents who adopt good practice and those who do not. Larger scale, professionally managed, schemes would enhance the quality of PRS accommodation and empower tenants by providing choice. Landlords will lose out if high standards are not maintained and flexibility not offered. We feel it is important therefore that Letting Agents and Managing Agents who provide such key services to both tenants and landlords are performing equally to good practice standards. It remains the view of SPF that much well intentioned regulation has suffered through patchy enforcement, Landlord Registration being the clear example. Enforcement of existing provisions by local authorities and the government should be effective in routing out rogue landlords and tenants who behave badly. If a proper register of licensed letting agents is not put in place and the register of landlords is not properly enforced, there is a risk that rogue landlords will decide to operate on their own distancing themselves further from due process. Similar consideration could also be given to the inclusion of estate agents.

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

It is in the interest of the Landlord and their Agent to have a good relationship with a satisfied tenant. The ability to remove anti-social tenants must be enhanced for the benefit of landlords and their tenants if high standards are to be maintained as well as a speedy route to resolving disputes and rent arrear issues is necessary and the enforcement of existing provisions.

#### **Part 5: Mobile Home Sites with Permanent Residents**

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

No comment?

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

No comment?

#### **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?*

Members are of the view that this could be useful, along with a power to take over the voting rights, make payment and recover from non-paying parties, so long as decisions have been reached in accordance with the title deeds and tenement management schemes. However, this should be limited to repairs and maintenance it should not extend to require that owners improve their properties. Members suggest that local authorities could act as arbitrator to enforce decisions taken by owners under the title deeds, tenement management scheme or by unanimity.

Improvement of properties in the private sector should be market led to allow informed choice for investors.

## **Part 7: Miscellaneous**

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

The Bill allows Scottish Ministers to designate schemes, such as Shared Equity or Equity Release schemes, which may be exempted from current provisions, and which allow borrowers to redeem loans at original value after 20 years. It is unclear if such exemption could be offered to providers of SE and Equity Release schemes in the Private Sector. Allowing the same rights of exemption to the private sector should extend the range of choice to home buyers and occupiers. There also appears to be implications in the potential for attracting Sharia compliant housing investment in Scotland on a "level playing field" to that available in England.

## **Other Issues**

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

The single greatest problem in today's housing market is lack of supply. The Private Rented Sector (PRS) can make a significant difference to the number of new homes provided in Scotland. It is vital that reforms to the tenancy regime do not undermine potential investment in the sector. The multiplier effect of new investment would bring enormous economic benefits and should, be actively encouraged and incentivised. As the growing PRS sector matures and investors are attracted to a stable and sustainable sector there may be benefit in considering PRS as a distinct planning use as part of planning policy. In the short-term however, in order to attract investment and confidence in the sector, some flexibility will be necessary.

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

No Comment?

4. The SPF would be pleased to explain its comments in further detail at the Committee's request.

**Scottish Property Federation**  
**28 February 2014**