

CITIZENS ADVICE SCOTLAND

WRITTEN SUBMISSION

Introduction

Citizens Advice Scotland (CAS) and its member bureaux form Scotland's largest independent advice network. CAB advice services are delivered using service points throughout Scotland, from the islands to city centres. Citizens advice bureaux in Scotland helped clients with over 500,000 new issues in 2012/13 – more than 1,400 new issues for every day of the year. Nearly 200,000 clients brought new issues to a bureau over the year.

CAS welcomes the opportunity to submit evidence to the Committee on the Housing (Scotland) Bill. Citizens advice bureaux in Scotland advised on 35,228 new housing issues in 2012/13 – around 140 per working day.

Citizens Advice Scotland broadly supports the Bill as introduced, but has some recommendations for areas where it could be strengthened or clarified.

Key Points

- Citizens Advice Scotland agrees that the provisions will increase the flexibility that social landlords have in their allocations policies, which has the potential to benefit tenants. However we recommend proposals to allow an applicant's age to be taken into account should be removed from the Bill.
- CAS supports the proposals to make it easier for social landlords to change an SST to a short SST if a tenant's anti-social behaviour causes a negative impact on their neighbours. However we recommend that social landlords conduct an assessment of a tenant's support needs when a tenancy is changed.
- CAS recommends that a simplified eviction process where a tenant has been convicted of a relevant crime by another court should only be used if the offence is serious, and has been proven to have a directly negative effect on their neighbours or local community.
- Citizens Advice Scotland (CAS) welcomes the movement of private rented sector (PRS) housing cases from the civil court to the new first-tier tribunal
- CAS believes that social rented housing cases should also be dealt with by the first-tier tribunal
- It is crucial to ensure readiness of the PRHP to absorb the business – in terms of recruitment and training of new tribunal members and also ensuring the availability of mediators

- There should be a clear policy outlined for providing support to users in the form of advice and, where needed, representation
- CAS strongly supports Local Authorities being given the power to report to the PRHP regarding repairs
- CAS would like to see the addition of mandatory electrical safety checks in private rented housing
- CAS unconditionally supports the introduction of a letting agent register with a mandatory code of practice to be developed.
- CAS is extremely supportive of the move to license permanent mobile homes sites in Scotland.

Part 1: Right to Buy

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

Demand for social housing in Scotland far outstrips the supply of available stock. As the Policy Memorandum to the Bill points out, in March 2013, the waiting list for social housing in Scotland stood at almost 185,000 households. The social housing sector plays a crucial role in providing a suitable and affordable home for people who need one, particularly vulnerable tenants who require additional support. For instance, people with a disability or a long-term illness are more than twice as likely to choose social rented accommodation compared with the rest of the population¹ and almost half of specially adapted housing is in the social rented sector². Social housing also has a pivotal role in ensuring that temporary accommodation can be provided for people who become homeless through no fault of their own, in line with Scotland's homelessness legislation.

Social housing should remain a viable option for those who need or want it, and there is a need to increase the supply of available stock to ensure it remains so. In that light, Citizens Advice Scotland supports the proposal to abolish the right to buy for social housing tenants in order to safeguard remaining supply.

The abolition of right to buy will not solve the shortage of social housing by itself however, so it is vital that it is complemented by a clear strategy to ensure the building of new social sector stock. It is also important that routes into home ownership previously offered by right to buy are not lost and as such we recommend that funding is made available to continue LIFT (the Low-cost Initiative for First Time Buyers) and the Help to Buy scheme.

¹ <http://www.scotland.gov.uk/Topics/People/Equality/Equalities/DataGrid/Disability>

² <http://www.scotland.gov.uk/Topics/Statistics/SHCS/LARreport2011>

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?*

Citizens Advice Scotland agrees in principle that the provisions in the Bill will increase the flexibility that social landlords have in their allocations policies which have the potential to benefit tenants.

In particular, CAS welcomes the addition of tenants who are deemed to be under-occupying their housing to the list of groups who should be given reasonable preference in allocating social housing. Since the introduction of the reduction in housing benefit entitlement for people deemed to be under-occupying their home – dubbed the ‘Bedroom Tax’ – citizens advice bureaux have advised a number of clients who are willing to move to smaller accommodation to avoid deductions to their housing benefit, but have been thwarted by the lack of smaller properties available.

CASE STUDY: Under-occupation

- *An East of Scotland CAB reports of a client who has fallen behind with council tax payments (about £32) and is having his current payments and arrears being deducted directly from his benefit. Additionally, he has been unable to make payments towards his TV licence and owes about £40-50. His income after council tax deductions is just £45.90 per week, yet he has also recently been presented with a ‘bedroom tax’ of £7.70 per week, which he can’t afford to pay. He went to the council to ask about a one bedroomed property, but was told that it would probably never happen as they are so in demand due to the recent changes to Housing Benefit rules.*

Giving reasonable preference to under-occupying tenants will not in itself create vacant properties for the almost 76,000 households who have been affected by the ‘Bedroom Tax’ in Scotland, according to the latest official figures³. There are also a number of types of households, such as people living in significantly adapted housing, for whom moving to alternative accommodation to avoid under-occupancy charges is unrealistic. Nonetheless, requiring social landlords to give reasonable preference to households who require to move to a smaller property, should result in an increase in the number of those who are able to do so.

CAS agrees with the rationale behind effectively merging the existing categories of ‘currently in houses which do not meet the tolerable standard’, ‘occupying overcrowded houses’ and ‘large families’ into a single reasonable preference category of ‘households living under unsatisfactory housing conditions’. Overcrowded houses and those in a poor state of repair could reasonably be described as unsatisfactory, and the simplifying of the

³ ‘Number of Housing Benefit claimants and average weekly spare room subsidy amount withdrawal’ Department of Work and Pensions, November 2013

categories will give landlords more discretion to assist tenants whose housing conditions have become unsatisfactory.

We would however recommend that clear guidance to social landlords is published, giving examples of the types of situations where they might consider that a household is 'living under unsatisfactory conditions' to ensure the flexibility is used appropriately. Houses below the tolerable standard and overcrowding should feature in these examples.

CAS welcomes changes to allow landlords to take possession of adapted accommodation where no-one in the household requires it. This should ensure that the supply of adapted housing to those who require it is increased, whilst at the same time ending the policy of removing adaptations from properties, which are likely to have cost a considerable amount to install. It is important however that the sitting tenants are not disadvantaged and are moved to accommodation that is suitable for their needs.

CASE STUDY: Adapted Housing

- *An East of Scotland CAB reports of a client who suffers from osteoarthritis and pernicious anaemia. He has undergone 52 knee operations and walks with an aid. Until recently he has been living with his mother as her carer in a two bedroom Council property. His mother has now been admitted to a care home and he is being charged for the extra bedroom under the 'under-occupancy' rules. Currently the property contains a stair lift which was originally installed for his mother's care needs. As the client struggles to use the stairs he has asked to keep the lift but his request has been declined and the stair lift is due to be removed.*

Citizens Advice Scotland is concerned about proposals in the Bill to allow an applicant's age to be taken into account by a social landlord when making decisions on allocations. Whilst discrimination based on age is unlawful under the Equality Act, allowing landlords to take age into account could result in particular age groups being placed together in undesirable areas, or those on the waiting list finding themselves overlooked when properties become available. With suggestions that a future government may seek to restrict or remove housing benefit from those aged 16 – 24⁴, there is a clear possibility of this group being disadvantaged by this change to the allocation policy. CAS recommends these proposals are removed from the Bill.

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?*

⁴ 'Housing Benefit: withdrawing entitlement from the under 25s' House of Commons Library, December 2013

Antisocial behaviour by tenants can cause considerable difficulty for their neighbours and communities. Having 'neighbours from hell' can cause misery and distress to tenants who are affected and efforts to reduce antisocial behaviour are to be welcomed.

CASE STUDY: Impact of anti-social behaviour on neighbours

- *An East of Scotland CAB reports of a client in local authority housing who was concerned about her living conditions. She lives in a third floor flat, with her husband and grandchild and while her home is well maintained and furnished, she feels that the stairs and other public areas are not safe, with a high level of drug dealing and misuse in evidence. She was concerned that the local authority did not appear to view her request for rehousing as a priority.*

However, care must be taken to ensure that those who have engaged in antisocial behaviour, or been accused of doing so in the past do not find themselves in a situation where they are left homeless, or are restricted from finding housing. Tenants who behave in an anti-social manner are often in vulnerable circumstances, and may require support rather than punishment.

CASE STUDY: Difficulty finding accommodation

- *A North of Scotland CAB reports of a client who was homeless. His mother put him out after he was beaten by his father at the weekend and will not take him back. The council will not house him, temporarily or otherwise. A phone call to his probation officer revealed that he had been evicted more than once, failed to keep up housing payments and had been aggressive towards other tenants. The client was looking for help to get somewhere to sleep tonight.*

On balance, CAS supports the proposals in the Bill designed to make it easier for social landlords to change a Scottish Secure Tenancy (SST) to a short SST if a tenant's anti-social behaviour causes a negative impact on their neighbours. It is important however that the support needs of the tenants are considered and catered for, and we recommend that social landlords conduct an assessment of this when a tenancy is changed to a short SST. It should also be considered to what extent the anti-social conduct is being carried out by visitors to the property, rather than the tenants themselves when a change to a short SST is considered.

CAS has concerns about the potential scope of the proposed power to introduce a simplified eviction process when a tenant has already been convicted of a relevant crime by another court. The Bill as introduced proposes that the current requirement to prove anti social behaviour has occurred would be removed for convictions for using the house for immoral or illegal purposes or of an offence punishable by imprisonment, committed in, or in the locality of, the house. This opens up the possibility that social landlords could seek to evict for a crime which has no impact on their neighbours or direct community, but was simply committed there. In order to prevent

homelessness and minimise additional housing issues for offenders, CAS recommends that this power should only be used if the offence is serious, and has been proven to have a directly negative effect on their neighbours or local community.

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?*

CAS has some concerns about the list of circumstances in which tenants can be made ineligible for an offer of housing by a social landlord for an unspecified period of time. As outlined in the above response to Q5, we would caution use of the power by social landlords in relation to anti-social behaviour and criminal convictions. Decisions to make applicants ineligible for social housing should be made proportionately and should not result in people being 'locked out' of housing for extended periods to prevent homelessness.

As the list appears to override the 'reasonable preference' categories, the presence of rent arrears on the list of circumstances could have the effect of exacerbating a situation that citizens advice bureaux have reported since the advent of the 'Bedroom Tax' – under-occupying tenants being unable to downsize to a smaller property due to rent arrears caused by the under-occupancy charge.

CASE STUDY: Downsizing and rent arrears

- *A South of Scotland CAB reports of a client who has a £9.41 under-occupancy charge and £10.80 housing benefit overpayment. She has outstanding rent arrears with the local housing partnership. She has informed the housing partnership that she would be happy to downsize, but has been told she cannot downsize when she has rent arrears.*

This has the potential to undermine the welcome addition of under-occupying tenants to the 'reasonable preference' allocation category, and runs the risk of encouraging the counter-productive practice above. If outstanding rent arrears is to be included on the list of circumstances in which applicants can be barred from offers of social housing, CAS recommends it is accompanied by guidance to ensure under-occupying tenants who wish to move to a smaller property are not prevented from doing so by arrears caused by the Bedroom Tax.

In line with our recommendation in Q7, we would support the tenant's right of appeal being considered by the new first-tier Tribunal rather than in court.

CAS agrees with the proposal in the Bill to extend the period where tenants who have a history of anti-social behaviour can be placed on a short SST from 6 months to 12 months, with the potential for a further 6 month extension. We agree that this has the potential to give communities greater protection from anti-social behaviour, whilst giving tenants more time to

receive support to change their behaviour. As in our response to Q5, it is important however that social landlords conduct an assessment of this when a tenancy is changed to a short SST to ensure that the support provided is as effective as it can be.

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?

Citizens Advice Scotland (CAS) welcomes the movement of private rented sector (PRS) cases from the civil court to the new first-tier tribunal which will be formed from the Private Rented Housing Panel (PRHP). Business before civil courts can present many barriers to users:

- the length of time taken for a case to reach court
- frequent delays
- low priority of housing cases within the court system
- difficulty understanding/following process and procedure made worse by lack of representation
- inconsistent and unpredictable decisions⁵

This is compounded by the variety of proceedings under which cases may be brought. Summary Cause, Small Claims and Summary Application processes are all applicable in different situations. Each presents a different set of procedures to be followed, requires different forms to be completed and different fees to be paid (some require no fee and some can require a significant fee⁶).

Together these elements can present marked difficulty in accessibility for users which the move to tribunal-administered proceedings seeks to redress. The explicit aim put forward by the Scottish Government is “to provide more efficient, accessible and specialist access to justice for both landlords and tenants in that sector” [the PRS].

Characterised by their specialist, interventionist and less formal nature, tribunals create a level of accessibility which courts do not offer users. CAS believe that the new specialist tribunal jurisdiction for housing is a positive development for users: by offering a single gateway for claims, the complexity and confusion of multiple processes is lessened; hallmarked by expeditors

⁵ Paragraph 123 of the Policy Memorandum which accompanies the Bill

⁶ In cases where a landlord has not paid a deposit into the Tenancy Deposit Scheme and a tenant seeks to recover their deposit, the case is brought under Summary Application procedure. Lodging the initial writ to commence a summary application with the court costs £85.00. The writ must then be served on the landlord by way of a solicitor or a sheriff officer. A sheriff officer will charge £25.35 for this service, plus the recorded delivery cost. A solicitor is likely to charge even more. If the landlord disputes the action and a proof hearing is required, then there is a further cost of £48.00 to fix a date for the hearing, and the hearing itself will cost £201.00 for each day or part of a day needed to run it. This means that a tenant could have to pay up to £359.35 just to have their case heard by a sheriff.

and user-focused procedures, delays are lessened and proceedings themselves are more accessible; and by encouraging a specialist and interventionist approach parties are less likely to require representation as tribunal members (judges) know the questions to ask to get to the root of issues using plain English.

While CAS welcome the creation of a new tribunal jurisdiction in PRS cases, we are disappointed that social rented business is not to be migrated as well. Tenants within the social rented sector (SRS) face the same barriers as those within the PRS. Accessibility is no less of a problem and so the decision to keep SRS cases within the court system creates a disparity which disadvantages those with a social landlord.

Changes to the civil court system which may help to improve the situation of SRS tenants – specifically the introduction of Summary Sheriffs – are planned as part of a wide programme of court reform but there is no guarantee that this reform will improve accessibility to the same level as offered by a tribunal. There is also no published timeframe for these changes. Some discussion has suggested that the induction programme for Summary Sheriffs (recruitment and training) will be staged and will take 10 years to roll out across all courts. This means that there will be a period of time where the type of justice forum will depend on where you live.

The vast majority of the current housing caseload is social rented business meaning that the majority of users will not benefit from the new jurisdiction and will continue to face barriers to accessibility. By moving SRS cases to the new specialist jurisdiction, access to justice would be improved more quickly and would afford all consistency.

Absorbing Business into the PRHP

The new first-tier tribunal will be formed from the current Private Rented Housing Panel (PRHP). Citizens Advice Scotland believes it is crucial to ensure the readiness of this body to absorb the PRS business.

The caseload of the PRHP is currently around 300 cases per year and has a clear jurisdiction for cases relating to the repairing standard and rent. Overall, the number of cases which transfer from the civil court will not be large – on current predictions the numbers should not exceed 1000. In absolute terms the number may seem low, however this is over triple the caseload volume of the current PRHP and the cases will introduce new and complex jurisdictions such as actions for possession.

It is therefore key that there is a planned recruitment and training programme which precedes the movement of business to the tribunal. This recruitment and training programme should also extend to ensure the availability of mediators. Currently the PRHP encourages mediation as an alternative dispute resolution mechanism and this positive work in the field of ADR should be supported as part of any planned recruitment and training programme.

Ensuring users receive effective support

Although tribunal processes are designed to be more accessible and user-friendly, it is still hugely important that users have access to advice and representation to support them through their case. There is much evidence to support the benefit which access to representation (both legal and lay) offers⁷ but there is also recent research to suggest that pre-hearing advice is crucial to self-represented applicants⁸. Those who have not had the benefit of advice or representation have lower success rates than those who have access to such resources.

CAS strongly recommends that there should be a clear strategy for the funded provision of advice and representation. 'Advice' should be understood as a spectrum of resources from accessible online resources and toolkits to the provision of telephone or face-to-face advice. Representation should also be available in complement to this when necessary.

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?*

CAS is strongly in favour of the proposals regarding Local Authorities being given the power to report to the PRHP. We believe this will be a key move in ensuring that properties meet the repairing standard and help in cases where tenants fail to report due to fear of eviction. Tenants often report to CAB that they feel unable to take action against poor standard of repair as they fear, rightly or wrongly, eviction in retaliation for taking action to secure their rights. The new system of reporting by local authorities must be sensitive to this and keep tenants secure in their property while a case is being decided by the PRHP. We would therefore support no eviction action being taken against a tenant while a case is being considered to ensure that tenant security is protected while directly, or indirectly, making an application to the PRHP.

On consultation with advisers in CAB there was suggestion that this could be opened up further with a neighbour being able to report to the PRHP as some tenants may not be willing to even speak to their local authority. CAB advisers also reported their frustration at the length of time the PRHP currently takes to consider cases and there was a suggestion that localised panels at council level may prove more effective.

CASE STUDY: Reporting faults

⁷ See for example: H. Genn and Y. Genn, *The Effectiveness of Representation at Tribunals* (London: Lord Chancellor's Department, 1989), L. Dickens, *Dismissed: a study of unfair dismissal and the industrial tribunal system* (Oxford: Blackwell, 1985), J. Baldwin, N. Wikely and T. Young, *Judging Social Security* (Oxford: Clarendon press, 1992), R. Sainsbury, *Survey and Report into the Working of Medical Appeal Tribunals* (London: The Stationery Office, 1992)

⁸ M, Adler, 'Tribunals Ain't What they Used to Be', available at: <http://ajtc.justice.gov.uk/adjust/articles/AdlerTribunalsUsedToBe.pdf>

- *A West of Scotland CAB reports of a client who lives in a flat which is currently suffering from a rodent infestation. The rodents are able to enter the property due to the fact that the floor has sunk in level, which has left gaps and entry ways for the rodents. This has created unsanitary conditions. Furthermore the controlled entry of the property has broken allowing anyone to enter the stairway and this has led to antisocial behaviour. The landlord has refused to rectify any of these defects but the tenant doesn't want to put the tenancy at risk by making a report.*

CAS would support the addition of mandatory electrical safety checks in all private rented property in a similar way that gas safety checks are currently required. Good practice in the sector already sees landlords instructing safety checks by registered electricians and we would envisage such a check could be carried out on a mandatory basis. We are also aware that other respondents have suggested that in addition to smoke alarms, carbon monoxide alarms should be included as part of a minimum standard. CAS would support this for properties that are main gas supplied. However we are not aware of a need for properties that are electric powered only to be supplied with one.

CASE STUDY: Electrical safety

- *A West of Scotland CAB reports of a client who has problems with his landlord in respect of repairs and standard of accommodation. He advised that he has already written and spoken to his landlord who is ignoring his requests for repairs. The bathroom is in bad disrepair and his kitchen is in a similar condition. This includes an electric shower which is sparking when switched on. He is worried that he will be victimised if he makes too much fuss with the landlord. He advises that other tenants of the same landlord are having similar problems but are afraid to say anything.*

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?*

Advisers from the CAB network consulted were concerned that this would lead to an inconsistent approach to enforcing repairs and were not clear as to how such an area would be defined. They supported the powers but there was a lack of understanding as to why these had to be linked to specific geographical areas. CAS looks forward to more detail on this proposal in the future.

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?*

CAS fully supports the introduction of a mandatory register of letting agents in Scotland. This is being supported by the industry itself who are keen to cut out any rogue agents and promote good practice across the sector. We are made aware by CAB advisers across the country of problems between both tenants and landlords and their letting agents.

While the Scottish Government has gone a long way to make unequivocally clear that they are illegal, charges and fees still exist in the sector for tenants. In Quarter 2 of 2013/2014 (July to September 2013) CAB were approached by 102 clients regarding additional letting agent fees, representing a 76% increase on the previous quarter. In addition cases involving problems with letting agents has increased from 161 in Q1 to 293 in Q2, an 82% increase. We continue to support tenants reclaiming these fees where they seek advice from us and many clients report using Shelter's 'Reclaim Your Fees' support pack.

CASE STUDY: Letting fees

- *An East of Scotland CAB reports of a client that rents a house as one person in a HMO with four other people. When a new letting agency took over they imposed new terms when one person moves out and another moves in. They are charging £125+vat charge to the new person taking up the tenancy. The letting agent have said in correspondence they need to make this charge for things like "dealing with the initial request for changeover", "contacting the landlord to gain their approval for the process", etc.*

As part of this consultation we surveyed CAB advisers on the proposals and of those who responded there was unconditional support for a code of practice. Advisers were keen to see a scheme where those who breached the code would be removed from the register and therefore unable to continue trading as a letting agent.

We would be extremely interested in helping inform the writing of a code of practice, which we understand will be introduced through secondary legislation, by providing evidence that tenants and landlords have given to use in case evidence with regard to the common issues faced when dealing with agents.

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

We agree that there needs to be a better form of dispute resolution between letting agents and their customers that does not rely immediately on the court system. We therefore support the referral to first-tier tribunal for such cases. We would however stress that costs for accessing such a method must be kept low, especially in relation to cases that deal with illegal fees from letting agents. If the cost of accessing the tribunal is more than these fees many landlords and tenants will not take action as the additional cost will be a major barrier to redress. We would support free access to the tribunal for those on low incomes.

CASE STUDY: Letting agent

- *A West of Scotland CAB reports of a client who is a student and found a flat through a letting agent. The client paid £100 'key money' and was given a receipt with few details. He was emailed a blank tenancy agreement and was sent in a filled-in copy by post. The client checked and discovered that the property was not registered. The client and his father asked 3 times which deposit scheme they were using but the agent did not give this information. A meeting was scheduled for 29th June to sign the tenancy. The client emailed the agent to say he would not be attending as he did not have all the relevant information. The agent replied on June 28th to say he would be charged with the cancelled viewings and all the new marketing costs.*

CAS would also propose that where a case is being considered, or is due to be considered by a tribunal that no letting agent may take additional fees or charges from landlords nor commence eviction proceedings against tenants.

Part 5: Mobile Home Sites with Permanent Residents

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?*

Citizens Advice Scotland have, following the UK Government's consumer reforms, followed on from work carried out by our partner organisation, Consumer Focus Scotland, on this subject. We are pleased to note that many of the recommendations that were identified by Consumer Focus in their 2012 Scottish park homes report⁹ have been taken up by the Scottish Government either in the Mobile Homes SSI (2013/219) or in this Bill.

Citizens Advice Scotland are extremely supportive of the introduction of a new licensing system for permanent mobile home sites in Scotland. We believe that the terms of the new scheme are appropriate to tackle issues that have persisted in this area of housing. We believe the new system will act to drive

⁹ 'Stories to be told – A snapshot of the lives of park home residents in Scotland', Consumer Focus Scotland, May 2012

out rogue site owners who have a detrimental impact on the lives of the residents who live there while providing a suitable environment for the responsible owners to operate in.

We support the introduction of statutory minimum application criteria for licences. During the Consumer Focus investigation they found examples of where licences had been issued in the name of one business but the management of the site had been carried out by another business in practice. The minimum application criteria should provide local authorities with the information that they require to know who to contact regarding a site if necessary. We are also supportive of section 57 which makes a duty on licence holders to inform a local authority if changes have been made to the information they previously provided. Not only will this seek to ensure records are accurate but it will also bring to light any reason to reconsider a licence holder under the Fit and Proper Person test (FPPT) if necessary (i.e. a new conviction).

We agree with the proposal to introduce a FPPT as is used in other regulatory regimes. We especially support part (d) of the proposed FPPT (Anti-social behaviour) as Consumer Focus research found that 18% of the permanent mobile home residents surveyed reported problems regarding intimidation, abusive behaviour, vandalism, violence or damage to property by site owners and/or managers. In addition to the material considered as part of the FPPT that is presently in the Bill we would support a proposal that the profit making on resale of utilities is added. Currently the maximum price that can be charged by a site owner for electricity or gas (but not LPG) under the Ofgem resale price provisions is the same as they have themselves paid for it. A similar rule (with the addition of a small capped administration charge) is in place regarding charges for water under Scottish Water's reselling guidance. Despite this Consumer Focus found extensive suspicion on the parts of residents that site owners were profiteering from the resale of utilities and we believe that if profiteering is proven this should be considered as part of a FPPT.

CASE STUDY: Mobile Home Energy Costs

- *An East of Scotland CAB reports of a client who came in for help regarding an outstanding debt on his energy bill. His bill is to the park manager of the mobile home site in which he lives. The adviser helped devise a repayment plan on the debt but was worried as the energy bills seemed high; the client reports he spends a lot more on energy than he did in his old home despite thinking moving to a caravan would help him cut down on monthly bills.*

CAS is supportive of the licence length (3 years) as detailed in the Bill alongside the re-application procedures that are set out. We also support the charging mechanism as we are aware of the additional administrative costs that will fall to local authorities to administer the scheme. We believe however that there should be a statutory requirement on local authorities to carry out an inspection at the time of an application and renewals of licences; we do not

think that inspections should be optional. This would ensure that an inspection is carried out on each site at least every three years, although not stopping further inspections if required. Further inspections should be a risk-based approach with those sites considered high-risk visited more frequently. We would support inspectors taking the time to speak to residents during their inspections so as to take consideration of any issues that they may bring to light. We would broadly support local authorities to be given the powers to carry out unannounced inspections if they deemed them required.

CASE STUDY: Problems with site owner

- *The Citizens Advice Consumer Service reports of a client who had been a victim of intimidation by the site manager after he had made a complaint about site maintenance. The client is now selling the caravan and has paid £150 to have the caravan advertised for sale on the park's website. The site owner stopped communication and has not put the caravan for sale online. The client has left messages with the manager but never got any answer. Maintenance has not been done on the site as agreed and the client is desperate to move somewhere else.*

We are fully supportive of the proposed enforcement powers for local authorities. However we believe that the increase on fine levels should be raised to an unlimited fine rather than a cap at £50,000 for running a site without a licence and £10,000 for a breach of licence.

We believe that the new licensing system will benefit permanent residents who live in mobile home sites. Research by Consumer Focus Scotland found that 40% of permanent mobile home residents had issues with maintenance, safety and security issues on site and 29% were dissatisfied with their living arrangements overall in the site, a substantial number. We believe the FPPT that is being introduced will help protect residents from anti-social behaviour from site owners and managers which was highlighted as a serious concern by those living in such sites.

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?*

CAS supports the objective of the policy where it will help homeowners to get common repairs completed in areas shared with neighbours such as roofs and stairs in a tenement property. We note that local authorities will be able to fund the 'missing shares' of costs and then recover this cost from owners. This will form powers rather than duties and we are therefore expecting a difference in the quality of help between local authorities. We note that this is something that has been requested by local authorities who believe it will

assist them in schemes they already run and as such we support anything that will help owners get shared repairs completed.

CASE STUDY: Shared Costs

- *A West of Scotland CAB reports of a client who lives in a flat in a block of six with shared entry. The ground floor flat has been vacant for 12 years after the death of the previous owner. However problems have been occurring due to dampness from this property and the factor has refused to take any action to rectify it. This is due to the fact that two of the owners owe money to the property factor for work that was previously carried out. Due to the fact that the dampness issue was never resolved the owners have been served with a housing repair order from Glasgow City Council, the cost of which comes to £5000 for each owner. The client asked for advice on what course of action he should take to sort out this matter.*

In some areas, especially in urban communities, this may have substantial workload and cost for local authorities. We would highlight the recent problems surrounding Edinburgh City Council's statutory repairs up to 2012. While this scheme was under a specific power only applicable to Edinburgh there are similarities between what it set to achieve and any similar scheme. A report to Edinburgh City Council found many failings in the system, including overburdening workload that allowed for poor quality work to be carried out and in some cases fraudulent claims by contractors. CAS would suggest any system introduced by a local authority to help pay for missing shares is aware of the problems that Edinburgh City Council faced in running their system to ensure that homeowners are not left in poor conditions or significantly out of pocket.

CASE STUDY: Edinburgh Statutory Repairs

- *An East of Scotland CAB reports of a client who was served with a statutory repair notice in 2005. There are 16 flats in the tenement block. The original estimate was £34,500 but rose to £63,000. Originally the work was only for repairing pointing but then the contractors advised that when they got to the top the chimney was askew. When all the work was done the gutters and down pipes were blocked so these had to be cleaned at additional cost. The client wishes to know if there is any way of finding out whether she was a victim of a scam in light of recent media coverage.*

Other Issues

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

CAS agrees with Shelter Scotland's suggestion that the 'right of repair' should be extended to people in households with children and pregnant women placed in temporary accommodation¹⁰ and recommends provision for this measure is included in the Bill. Consideration should also be given to whether the duty on social landlords to carry out repairs should be extended to all local authority-owned temporary accommodation.

Citizens Advice Scotland
04 March 2014

¹⁰ Written submission from Shelter Scotland