

# CITY OF EDINBURGH COUNCIL

## WRITTEN SUBMISSION

### **Part 1: Right to Buy**

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

The City of Edinburgh Council (the Council) supports the decision to abolish Right to Buy (RtB). Tenants who currently have preserved or modernised RtB will be brought into line with new tenants and tenants in new build housing where there is no provision for RtB.

While the Council agrees that RtB should be abolished, voluntary sales must still be permitted in line with landlords' asset management strategies. This would allow for landlords to sell or purchase homes to reduce the challenges associated with managing mixed tenure blocks. Homes which are expensive or difficult to maintain could also be sold with receipts being used to fund better quality, more energy efficient homes.

While RtB did initially provide significant discounts to tenants and left little provision for local authorities to replace the homes that were sold, the scheme did provide the means for many households to enter home ownership. The Council welcomes the introduction of schemes such as MI New Home which should help to support a new generation of home owners following the abolition of RtB. Such schemes should be monitored to ensure that they are achieving the aim of helping people to access homeownership.

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

The proposed three year timescale will allow sufficient time for a planned approach to manage the impact on the HRA budget and also avoid a major rush in sales. This will also allow tenants, who have the resources, time to consider purchase of their home.

### **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 the best use of housing?***

The City of Edinburgh Council agrees that the current reasonable preference categories are outdated and supports the proposed provisions outlined in the

Bill. Detailed guidance must be developed by Scottish Government to support organisations in the development of allocation policies and to ensure that social housing applicants are given fair and equal access to housing as outlined in the regulatory framework. However, for the measures outlined in the Bill to be effective, guidance on priority need groups and any wider guidance on social housing allocations must allow enough flexibility for organisations to develop policies to address local needs.

The Council supports the proposal to allow landlords to take age into account when allocating social housing. This gives landlords flexibility to ensure balanced communities and good outcomes for tenants. This approach is not incompatible with the requirement to ensure people have fair and open access to 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?***

The Council welcomes the extension of powers to grant Scottish Short Secure Tenancies (SSSTs) in cases involving antisocial behaviour. The Council agrees that support should be provided to households with SSSTs in order to encourage positive behaviour changes with a view to sustaining the tenancy. However, it is unclear who assesses whether housing support is appropriate for the household and what would happen if support is refused or if there are no support tasks to work on. It is recommended that refusal to engage with support services should be considered a breach of tenancy conditions which may result in eviction proceedings.

Streamlining the eviction process through the ability to end a SSST in Court without the need to prove further antisocial behaviour where a tenant has been previously evicted from a property, will significantly reduce the amount of time the Council would be required to devote to a lengthy investigative and evidence gathering process.

The Council notes that guidance from the Scottish Government will be produced to clarify issues in relation to levels of seriousness of antisocial behaviour and thresholds at which implementation of the extended powers may be considered. It is essential that this guidance is detailed enough to ensure a degree of consistency in the application of powers in dealing with anti social behaviour and must also be clearly communicated in order to manage public expectations around what actions can be taken and under what circumstances.

**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?**

The proposal helps to protect those tenants who are affected by the antisocial behaviour of neighbours, whilst ensuring adequate protection and support for perpetrators of antisocial behaviour.

The Council notes that a tenant may challenge the Council's decision to evict by ending their SSST where that SSST was granted on previous antisocial behaviour grounds or eviction grounds. The requirement that the Council must be clear to the tenant about their reasons for seeking evictions also ensures that tenants are treated fairly and a balanced approach is applied.

**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?**

The Council supports this proposal and it is anticipated that this will allow the court more time to deal with criminal cases. This will also provide greater access to the justice system by removing the costs associated with pursuing appeals through the court system.

There is a need for clarification as to whether issues relating to landlords delaying necessary common repairs will also be dealt with through this route.

**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?**

The Council welcomes the opportunity to be able to make third party referrals to the Private Rented Housing Panel (PRHP), however considers that the Bill should make provision for other organisations such as local authority commissioned services or other support/advice agencies to make referrals on behalf of private tenants. This would empower tenants and improve access to the PRHP.

Poor conditions in the private rented sector not only impact on the tenant, but can also impact on neighbours. In addition to allowing third party referrals to the PRHP from other organisations, where a neighbour is affected by a

property not meeting the Repairing Standard, they should also be able to make referrals to the PRHP.

Further, where a landlord is not contributing to meeting the costs of common repairs, this should be viewed as a breach of the Repairing Standard and neighbours/adjoining owners should be able to refer the landlord to the PRHP.

In addition, it is important to ensure that the PRHP referral processes and decision making is as streamlined as possible to encourage speedy resolution.

***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?***

The provision of additional enforcement powers is welcome and these powers could be effective where they are used. Enforcement should be used alongside an approach that encourages compliance through working with landlords in order to maximise the supply and therefore affordability of homes in the private rented sector.

**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 Council agrees with the principal of mandatory registration for all letting agents operating in Scotland as a means of ensuring better standards of service for private tenants. However, it is not clear how a national registration scheme will have any advantage over current arrangements whereby the majority of letting agents register locally in order to establish themselves as 'fit and proper' for the purposes of landlord registration.

The introduction of a national scheme means that letting agents are unlikely to continue to register locally on a voluntary basis. Currently, landlords are required to provide details of any letting agent that they use on the landlord registration application. They do this by including the letting agent's registration number. Without clarification from the Scottish Government on how a national scheme would operate and how the registration information will be shared with local authorities, it is difficult to assess how this will impact on the current landlord registration service.

It is acknowledged that some larger letting agents may operate across several local authority areas and that a mandatory local registration scheme may

result in them having to register in several different local authority areas. However, it is not felt that the basic registration fee of £55 per local authority every three years will place an undue burden on a business of this size.

Clear guidance will need to be developed to define who will be required to register as a letting agent, whether this will just be professional companies employed by landlords to manage their homes or whether someone such as a friend or relative looking after a home on an informal basis would also have to be registered.

The Council supports the proposal to develop a Code of Practice for letting agents. The development of a private rented sector forum of stakeholders would provide a useful forum for future consultation and discussion.

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

The proposals may present an increased workload if officers are called to give evidence in cases brought to the Homeowner Panel.

Benchmarking the new proposals against the recent dispute resolution process for Tenancy Deposit Schemes would be worthwhile.

**Part 5: Mobile Home Sites With Permanent Residents**

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

The Council supports the proposals to introduce a new licensing scheme for mobile home sites with permanent residents. The requirement for site managers to register with the local authority and provide evidence of their fitness and propriety will bring this sector more closely in line with the private rented sector.

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

The proposals will have positive impacts on the permanent residents of mobile home sites as increasing regulations regarding who can operate such a site will offer greater protection for residents.

## **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 Housing (Scotland) Act 2006 was intended to address problems of conditions and quality on private sector housing. To date, the success of this legislation has been limited. The Scottish House Condition Survey (SHCS) shows that the percentage of private homes in Scotland with some form of disrepair has actually increased from 76% in 2003/06 to 80% in 2010/12. During this time, the percentage of private homes in urgent disrepair has also increased slightly from 37% to 38%.

Lack of maintenance can affect the value of a property and its surrounding area as well as leading to potential health and safety issues and dangerous buildings. The issues of repairs and maintenance in the private sector are particularly significant in Edinburgh where 49% of homes were built before 1945 and 67% are flats. Older, flatted properties can be more difficult and expensive to maintain and issues surrounding mixed ownership mean that it is often difficult to carry out common repairs.

It is clear that more needs to be done to maintain and improve the fabric of our buildings to ensure that our residents are all living in safe, well maintained homes. The Council welcomes the additional powers contained in the draft Housing Bill in relation to covering missing shares, work notices and maintenance plans but feels that the amendments outlined below, along with some revisions to the Home Report, would help to strengthen the message that owners are responsible for the repair and maintenance of their properties.

#### **Proposed Amendments to Part 6 of the Housing bill**

##### **Powers for Local Authorities to Pay for a Missing Share**

While amendments to support home owners to carry out shared repairs are welcome, there is some concern that local authorities will be unable to make use of these powers because of a lack of resources to cover upfront costs and difficulty in recovering costs.

Case studies from Dundee City Council and Glasgow City Council which have both made use of powers to pay for missing shares in mixed ownership buildings suggest that recovering missing shares once work has been carried out is time consuming and labour intensive. There is also a risk that the money may not be recovered.

The 30 year payment period for recovery of funds through repayment charges as outlined in the Bill is excessive and the Council has limited resources to loan funds over such a long period. The Council would not be able to borrow

for this expenditure (as it would technically be revenue not capital), without express permission of Scottish Ministers. While the 30 year payment plan is better than not getting paid at all or an uncertain inhibition on the property, owners should be encouraged to pay as soon as possible and the existence of the 30 year option would discourage this.

The period of 30 years for an owner to pay back their share through repayment charges is not suitable for all individuals and circumstances. It is recommended that local authorities should be given the flexibility to determine the time period over which the share must be paid back based on individual circumstances.

It would also be more valuable and applicable if there was minimal risk of non-recovery of the funds, and therefore it is recommended that the charging order should be secured by prior ranking.

It is also recommended that the Scottish Government should establish a national fund that local authorities could access to facilitate shared repairs. Money would be paid back once recovered from the owner/s.

#### Requirement to Prepare a Plan for Managing Common Maintenance

In order for owners to maintain their homes, they must be aware of the condition that their property is in and any work that may need to be carried out. Proper maintenance of the roof of a building is crucial and regular roof inspections can be a core part of a preventative and planned approach to property maintenance.

It is suggested that the Bill is amended to require that homeowners have a plan in place to ensure the maintenance of common parts of their property. This plan should include:

- An annual roof inspection;
- A payment plan or other arrangements to fund maintenance and repairs; and
- Appointment of a responsible person or agent to manage the plan.

Local authorities would have to establish local enforcement policies which could include a requirement for homeowners to register details of property inspections and payment plans with the local authority or the use of powers in the Housing (Scotland) Act 2006 to require homeowners to establish a maintenance plan.

If a local authority has to intervene to carry out an emergency repair and it is discovered that there is no maintenance plan in place, the owners should be advised that they must establish a plan within an agreed time period. Local authorities may offer information and advice to support homeowners to develop their maintenance plan. If the owners still fail to implement a

maintenance plan, they should be subject to a fine. At this point a mandatory maintenance plan should be established to reduce the likelihood of future emergency repairs.

The process of implementing maintenance plans should be streamlined. It is recommended that when issuing a maintenance plan, local authorities should only have to inform the owner (or owners) of the building. The owner (or owners) would then have a duty to inform any other interested parties.

These amendments would be particularly effective if accompanied by changes to the home report.

#### Requirement for information to be shared with co-owners

The Bill should be amended to place a duty on any owner who carries out a survey of a communal area of a building to share that report with any other owners. This would prevent the duplication of surveys on the same building, encourage owners to work together and ensure better awareness of property condition.

#### Strengthen role of solicitors in informing potential purchasers

It is evident that home owners often do not consider the potential cost of repairs or how they might pay for these when deciding to purchase a property. Some may not be aware that they have a responsibility to maintain common areas of a building. The Council suggests that a duty should be placed on solicitors to advise potential purchasers of their responsibilities towards maintenance of the property and ensure that they have a plan to cover costs should any maintenance or repair work need to be carried out.

Solicitors should make clients aware of different options available to them to cover the cost of repairs such as savings accounts, remortgaging or taking out a loan. Purchasers could also be signposted to agencies offering advice on carrying out shared repairs and information on grants available for improvements e.g. for improving energy efficiency. The buyer would have to sign a contract confirming that they understand their responsibilities and will be able to fund necessary works.

It is also suggested that solicitors are required to encourage vendors to include a 'service history' in their Home Report as detailed below.

#### Recommended Revision to Home Reports

Home Reports are a useful tool in informing potential buyers about the property they are considering. However, the Council feels that there is potential to widen the scope of the home report and strengthen the role that it plays in reinforcing home owner responsibilities and improving conditions in the private sector.

The Home Report template should be amended to include basic information on homeowner responsibilities not only for the maintenance of their own property but for any common areas in a building. This should outline what constitutes a common area and reinforce the message that all owners in a block are responsible for monitoring the condition of these areas and arranging repairs where necessary.

The Home Report should contain more detailed information on the current condition of the property in order to encourage current owners to maintain properties to a high standard and to help potential buyers to make an informed decision. This should include the latest roof inspection report (no more than 12 months old) as detailed above.

The Home Report template should also be amended to include an optional “service history” of the property. This would detail maintenance and repairs that have been carried out on the property during their ownership and the associated costs. This will help to build up a picture of the property’s condition and the potential cost of repairs and maintenance.

It should be an offence for an owner to provide false information in a home report or to withhold information.

### **Part 7: Miscellaneous**

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

The Council does not anticipate any policy implications arising from the miscellaneous provisions.

### **Other Issues**

**Q.17 Are there any other comments you would like to make on the Bill’s policy objectives or specific provisions?**

No.

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

No.

**City of Edinburgh Council  
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