

ANGUS COUNCIL

NEIGHBOURHOOD SERVICES COMMITTEE – 28 MAY 2009

DRAFT HOUSING (SCOTLAND) BILL: A CONSULTATION

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

**ABSTRACT:** This report informs Members of the recent publication of the Draft Housing (Scotland) Bill: A Consultation and outlines the main headlines of the Consultation and the next steps Angus Council will take to develop a response.

**1. RECOMMENDATION**

1.1 Members are recommended to:

- (i) Note the publication and headlines of the Consultation
- (ii) Agree the actions set out in the report

**2. BACKGROUND**

2.1 The Scottish Government have recently (27 April 2009) published their proposals for a draft Housing (Scotland) Bill and are seeking view on the draft through a consultation exercise. This report sets out the main headlines of the Bill and a course of action to enable Angus Council to submit an informed response to the Government within the consultation deadline of 14 August 2009. A copy of the Consultation paper has been placed in the Member's lounge and can be accessed through the following hyperlink:  
<http://www.scotland.gov.uk/Publications/2009/04/27095102/0>

**3. PROPOSALS \***

3.1 The proposals aim is to help reinvigorate social housing by safeguarding it for future generations and improving the value that tenants and taxpayers get from it. Part 1 of the paper describes how we propose to achieve the former aim by reforming the Right to Buy social housing. Part 2 describes how we would achieve the latter aim by modernising the way social housing is regulated. Subject to the outcome of separate consultations on other aspects of housing policy, the Bill that we introduce in the Scottish Parliament might be expanded to include other matters.

**3.2 Part 1**

In this part of the paper, we outline a package of reforms to the Right to Buy (RTB). If implemented in full, we estimate that between 2012 and 2022 the reforms would retain in the social housing sector between 10,000 and 18,000 houses that otherwise would be lost through RTB.

3.3 At the heart of the reforms is our proposal to end RTB on new supply social housing. This featured in Firm Foundations, our discussion document on the future of housing in Scotland. In view of the near-universal support for this reform, we promised to propose legislation for it. Part 10 of the draft Bill shows how we propose to do so through an amendment to the existing law on RTB, so that housing which section 109 defines as 'new supply social housing' would not qualify for RTB.

3.4 Many respondents to Firm Foundations also argued for farther-reaching reforms. So we have discussed with stakeholders the scope to introduce such further reforms and have identified several, some of which would not require legislation. We will decide whether to proceed with

each of them, introducing legislation as necessary, in light of your responses to this consultation. The other reforms would be as follows:

- **Ending RTB for new tenants.** While not affecting the entitlements of existing tenants, this would mean that in general those becoming tenants for the first time, and those returning to social housing from other tenures, would no longer be entitled to RTB on any social housing. Were we to proceed with this, we would do so through provisions in the Housing Bill.
- **Reforming pressured-area designations.** This would extend the scope of the pressured-area designation process by increasing the maximum period of a designation from five to ten years and by allowing particular types of housing, as well as areas, to be designated. It would also have the effect of making local councils responsible for designating pressured areas. We would proceed with these reforms by amending existing legislation on pressured areas.
- **Developing guidance for RSLs seeking extensions to the ten- year suspension on RTB.** RSLs are able to apply to Ministers to extend beyond 2012 the current suspension of RTB on their properties. We propose to develop new guidance for RSLs to use if they wish to make such applications. This guidance would be underpinned by criteria that reflect the importance of meeting housing need and safeguarding stock and take account of the effect of RTB on a landlord's ability to pay for other policy priorities. This would not need more legislation.
- **Revising guidance on landlords' continuous occupation discretionary powers.** This would encourage landlords to use their discretionary powers more widely to disregard short breaks between tenancies when the breaks are outwith the tenant's control. This should enable ex-service personnel to count the time they spent in armed forces tenancies towards their RTB qualifying period and their discount entitlement once they enter the social rented sector. This would not need more legislation.

### 3.5 **Part 2**

In this part of the paper we outline proposals for modernising the regulation of social housing to focus the efforts of social landlords on:

- **meeting tenants' priorities;**
- **continually improving performance and value; and**
- **commanding the confidence of public and private investors in social housing.**

3.6 The modernised regime would be based on our principles for improving and streamlining scrutiny in general. It would provide clarity of purpose for social landlords and would continue to provide independent assurance that landlords were giving their tenants good service. It would also continue the move away from inspection-based regulation towards greater use of other regulatory tools such as the Best Value regime and self evaluation. The changes would require a new legislative framework to replace the one for regulating local authority landlords and RSLs in the Housing (Scotland) Act 2001. However, some of that Act's provisions, either in their current form or amended, would be part of the new legislative framework.

3.7 The draft Bill shows how the new legislative framework could include provisions for a modernised Scottish Housing Regulator (SHR) to be responsible for regulating the performance of local authority landlords and RSLs on the basis of a risk-based and proportionate approach. We invite views on whether there is scope to take this approach further. We note also that the term 'social housing', though widely recognised, has negative connotations for many and we wish to invite suggestions for a new term.

3.8 Under the draft Bill, these would be the key features of the new legislative framework:

3.9 **The Scottish Social Housing Charter.** Sections 29-31 would enable the Scottish Parliament to approve a Scottish Social Housing Charter. We propose that the Charter would state the value - in terms of the outcomes and standards - that social landlords and homelessness services should be delivering for their tenants and other service users. Some of these outcomes and standards could be national requirements on all social landlords, but the Charter could also require individual landlords to set local outcomes or standards after consulting their tenants and in light of local circumstances and priorities (and, in the case of council landlords, in line with their Single Outcome Agreements). We would develop the Charter's requirements in

consultation with tenants, landlords, lenders and other stakeholders. We would then submit the Charter to the Scottish Parliament for its approval. If approved, the Charter would have legal effect.

3.10 **A modernised Scottish Housing Regulator.** Taken together, parts 1, 3, 4 and 5 of the draft Bill would modernise the SHR by giving it (a) statutory operational independence under its own Board; and (b) the objective of safeguarding and promoting the interests of tenants and future tenants of council landlords and RSLs, and of people using homelessness and other housing services. The modernised SHR would have a range of functions which would enable it to achieve its objective proportionately, accountably and transparently. Its main functions would be to:

- assess and report on landlords' performance against the Scottish Social Housing Charter and if necessary enforce compliance with the Charter;
- undertake a range of inquiries, including planned inquiries (for example into individual landlords, councils' homelessness services, groups of landlords, or particular themes) and unannounced inquiries;
- require improvements in the performance and value that landlords give their tenants and that councils give homeless applicants;
- intervene where individual landlords perform poorly;
- monitor and safeguard the financial health and good governance of RSLs.

3.11 **Safeguards for RSLs and their tenants.** Part 1 of the draft Bill includes the functions of monitoring and safeguarding the financial health and good governance of RSLs. Parts 2 and 5-9 of the draft Bill would give the SHR a range of additional specific functions in relation to RSLs only. Part 2 would require the SHR to continue registering RSLs against criteria that it would set. It would also give Ministers a new power to specify which types of body the SHR could register, so that if they thought it would help to improve the supply of social housing, they could permit bodies not currently eligible for registration to become eligible. We recognise that many of the rules relating specifically to RSLs are complex and technical. We want to make sure they will serve their purpose of safeguarding the viability and good governance of RSLs. So we propose to convene a working group, whose members will include representatives of RSLs and their lenders, to consider how to improve these parts of the Bill before it is introduced in the Scottish Parliament.

*\* Text reproduced from the Executive Summary of the Consultation Paper.*

#### **4. FINANCIAL IMPLICATIONS**

4.1 There are no direct financial implications arising from this report but the draft response will look into any financial implications arising from the Bill in more detail.

#### **5. HUMAN RIGHTS IMPLICATIONS**

5.1 It is considered that in following the actions recommended in this report, the council would not be acting in any way which is incompatible with Human Rights.

#### **6. CONSULTATION**

6.1 The Chief Executive, the Director of Corporate Services, the Director of Infrastructure Services, Head of Finance, Head of Property, and Head of Law and Administration have been consulted in the preparation of this report.

#### **7. EQUALITIES IMPLICATIONS**

7.1 The issues dealt within this report have been the subject of consideration from the equalities perspective (as required by the legislation). An equalities impact assessment is not required.

#### **8. CONCLUSION**

8.1 Two Park Homes should be loaned to this organisation on a temporary basis, to support local sporting facilities. The Council will not be liable for any maintenance costs.

**RON ASHTON**  
**DIRECTOR OF NEIGHBOURHOOD SERVICES**

**NOTE:** The following background papers, as defined by Section 50d of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information), were relied on to a material extent in preparing this report.

**Draft Housing (Scotland) Bill A Consultation -**  
<http://www.scotland.gov.uk/Publications/2009/04/27095102/0>

**Hsg/NS/RA/AMcK**

## EQUALITY SCREENING

### Policy Control Document

**Name of Policy, Procedure or Report** Draft Housing (Scotland) Bill A Consultation

**Lead Department/Service** Neighbourhood Services - Housing

What is the aim of the policy, procedure or report?

To update Members on the current of a draft Bill issued for consultation

Is this a new or a review of an existing policy, procedure or report?

No

### Screening Process

Has the policy, procedure or report already been assessed for its impact on people from different racial backgrounds, people of different genders and people with disabilities.

Yes  No

**If Yes**, unless there have been significant changes, no further action is required. Please sign and date immediately below and retain for reference.

**If No**, does the policy, procedure or report involve or have consequences for the people the council serves or employs?

Yes  No

**If yes, proceed to Step 1 of the Full Impact Assessment on page 2.**

If no, please state why not

**If no, The policy, procedure or report is not relevant and no further action is required.**

Please sign and date immediately and keep for reference

**Name:** Alan McKeown

**Signature:** \_\_\_\_\_

**Date:** 15/5/09