



Scottish Government
Housing and Regeneration Directorate
(FAO Ian Maclean)
Victoria Quay
Edinburgh EH6 6QQ

c/o Govanhill Housing Association
Samaritan House
79 Coplaw Street
Glasgow
G42 7JG
Tel: 0141 636 3626
Fax: 0141 636 3685

19 April 2010

Dear Mr Maclean

Scottish Government Consultation Paper on a Proposed Housing Bill (Private Rented Sector etc)

GWSF represents nearly 50 community-controlled housing associations in Glasgow and the west of Scotland.

Private rented housing exists in all of the communities our members work in, most commonly in traditional inner city and town centre locations but also in areas where the Right to Buy has created smaller-scale pockets of private rented housing.

Many GWSF members therefore have a close interest in standards of management in the private sector. Tenants are members of our communities, and poor private landlord practice can have serious adverse consequences for our neighbourhoods.

We recognise that many private landlords comply with their legal obligations and do their best to provide good accommodation. But we have seen many instances where this is not the case. So we support the Government's main proposals for strengthening the legal provisions for enforcing the law on landlord registration, HMO licensing and overcrowding.

In some areas, we think the proposed legislation needs to go further, to protect the interests of tenants and communities. The petition submitted to the Scottish Parliament by one of our members, Govanhill Housing Association, has shown the devastating effects that rogue landlords can have on whole communities as well as individuals.

While circumstances in Govanhill are unique, they do show that local authorities must have stronger powers in communities that are being blighted by the combined effects of landlords who disregard the law and poor quality private rented housing.

In this regard, GWSF supports the proposals put forward by Glasgow City Council, to strengthen the current proposals in areas where this is needed.

We are pleased to note that the Consultation Paper includes many of the proposals the City Council put forward in 2009. However, some key elements of the Council's proposals have been omitted. We believe that the Scottish Government should adopt the following additional measures proposed by the Council:

- **Providing local authorities with a legal right to access premises for the purposes of applying the 'fit and proper person' test.**

Whereas local authorities have a right of access for other purposes (and have a right of access for the purposes of HMO licensing), these rights do not extend to access for the purposes of determining a registration application.

We do not think it is necessary that local authorities should carry out property inspections as part of registration applications as a matter of routine. But the power to do so selectively would strengthen the law on registration, in areas or cases where local authorities know there are significant problems with landlord practice and/or the quality of accommodation.

- **Enabling the Private Rented Housing Panel to accept and rely on evidence from local authority officers, as well as tenants.**

As Glasgow City Council has argued persuasively, the current position with regard to complaints is a serious obstacle to enforcing the Repairing Standard. This is particularly important in areas where vulnerable tenants and those such as migrant workers with no alternative housing choices are being housed in poor quality accommodation. Quite simply, many tenants in these situations lack the knowledge or the confidence to present a case to the PRHP.

- **Protecting tenants who have submitted successful cases to the Private Rented Housing Panel from the risk of legal costs, if their landlord appeals to the PRHP.**

The PRHP has powers to issue a Repairing Standard Enforcement Order, but its present legal status means it cannot defend the notice in court if the landlord appeals. This means that the onus is then on the tenant to defend the complaint in court. This anomaly cannot be allowed to continue.

These measures are all essential to ensure that the local authority can identify poor quality private landlords and act on the results, and to protect the interests of tenants at risk of exploitation and harassment. Should the Government consider that these extended powers are not required as a general principle, we have made proposals in our submission (Annex A) about how they could be applied in certain types of areas where the risks are greater (eg Housing Renewal Areas).

While we welcome many of the proposals contained in the Consultation Document, we believe that issues of regulation and enforcement can only be part of the solution in areas where there are concentrations of poor quality private rented housing.

In this regard, we also call upon the Scottish Government to consider alternative approaches to ensure that the necessary investment is made in the poorest quality stock. This could be achieved by:

- Providing for the possibility of 75% - 90% grants being made available to owners affected by works within a Housing Renewal Area (although in view of the costs this would involve, we recognise that the availability of grants on this basis would have to be targeted carefully), and
- Revising the statutory procedures for compulsory purchase orders, so that valuations take account of the level of repair and improvement works required.

This would be a powerful disincentive to private landlords buying poor quality housing for the purposes of making profits at the expense of vulnerable individuals and communities. And it would make the purchase of the poorest quality housing by housing associations for future improvement a much more realistic possibility than is presently the case.

We look forward to hearing of the outcome of the consultation process in due course, and we would be pleased to provide any further information in support of this response. Any queries should be directed to GWSF's Interim Director, Jim Harvey, at Jim.Harvey@gwsf.org.uk

Yours sincerely



Evelyn Ewing
Chairperson
Glasgow And West of Scotland Forum of Housing Associations

Proposed Housing Bill: A Consultation – Questionnaire Response by Glasgow and West of Scotland Forum of Housing Associations

Part 1 - Landlord Registration

Question 1.1

Do you consider that the list of offences that an applicant for landlord registration is specifically required to declare should be expanded to include firearms offences and sexual offences?

Yes.

Question 1.2

If sexual offences were included, should the notification requirements of the Sexual Offences Act also operate?

Yes. The private rented sector houses a growing number of vulnerable people who should be protected from the risks of abuse and exploitation.

Question 1.3

Please list any other types of offences that you think an applicant should be specifically required to declare and state your reasons for their inclusion.

Applicants should be required to disclose civil orders such as Anti-social behaviour orders and non-harassment orders since these may also be relevant to them being able to show they are a fit and proper person to let property.

It would also be appropriate for applicants to be under an obligation whether they have been the subject of enforcement action in related areas of activity, for example, formal enforcement action taken by bodies such as the Scottish Commission for the Regulation of Care.

Question 1.4

Should a local authority be able to require an applicant for landlord registration to provide a criminal record certificate in order to verify information?

Yes. The risks of relying entirely on the applicant's statement outweigh the additional burden this will place on applicants, particularly as local authorities would not apply the requirement to provide a disclosure in every case.

Question 1.5

Should refusal by an applicant to do this be grounds for refusing registration on the grounds that the applicant is not a fit and proper person?

Yes. The power to require a disclosure would be based on a local authority having “reasonable grounds” for needing to verify information. Therefore, it is logical and fair that registration should be conditional on the applicant providing the required information.

As described in the covering letter provided with our response, we think it is essential that the local authority should have the right of access to premises in making decisions about the fit and proper person test, if it considers that it is necessary to do this (either on a random basis, or because it has specific concerns).

Question 1.6 (a)

Do you consider that the Private Rented Housing Panel should be required to request a landlord registration number from the landlord on receiving an application in relation to the Repairing Standard?

Yes. This should be checked as a matter of routine.

Question 1.6 (b)

Alternatively, do you consider that the Private Rented Housing Panel should be required to request a landlord registration number from the landlord only in cases that have been accepted?

No. In requesting a registration number, the Panel can make it clear the circumstances in which a registration number may not be applicable.

Question 1.6 (c)

Do you consider that the Private Rented Housing Panel should be required to check that the number is valid?

Yes.

Question 1.6 (d)

Do you consider that the Private Rented Housing Panel should be required to notify the relevant local authority if no number, or an invalid number, is provided?

Yes. This would provide an additional tool for enforcing the law on registration.

Question 1.7(a)

Do you consider that there should be a requirement for a landlord who falls within the scope of landlord registration to include his or her landlord registration number in any advertisement of a property to let?

Yes.

Question 1.7(b)

Do you agree that there should be an exemption for To Let boards?

Yes, in respect of the specific registration number. But could letting agents not be under an obligation to state on boards that the landlord is registered – they should not be advertising properties for landlords who are not registered or who have not submitted an application to register.

Question 1.7(c)

Do you consider that failure to include his or her landlord registration number in any advertisement of a property to let should be made an offence?

Yes, if we are serious about tackling the issue of private landlords who fail to register.

Question 1.8

What should the maximum penalty for any such offence be?

A fine up to Level 2, which would be consistent with the Government's proposals on penalties for failing to provide information in relation to the registration functions of a local authority.

Question 1.9

Should a local authority have a power to require an agent to provide a list of all properties they manage along with the owners' contact details?

Yes. We are concerned about the practice of "rogue" agents as well as poor landlords in some parts of Glasgow at the present time. It is essential that local authorities are able to establish the activities of agents who are known to be operating on behalf of slum landlords.

Question 1.10

Failure to comply would be an offence. What should the maximum penalty for any such offence be?

A fine up to Level 2.

End of Part 1

Proposed Housing Bill: A Consultation – Questionnaire

Part 2 - Licensing of Houses in Multiple Occupation

Question 2.1(a)

Do you consider that, where a landlord has knowingly operated a licensable HMO without obtaining a licence, tenants should be able to claim back rent money paid over the previous 12 months?

Yes. Licensing requirements should be well known to any landlord wishing to operate an HMO.

The licensing system exists to protect the interests of tenants, who frequently belong to some of the most disadvantaged or vulnerable groups in our society.

There must be strong sanctions against HMO landlords who knowingly disregard the registration regime in their own interests (particularly as some HMO landlords may seek to penalise tenants when their failure to comply with the registration requirements comes to light, for example by requiring them to leave their accommodation).

Question 2.1(b)

Do you consider that, where a landlord has knowingly operated a licensable HMO without obtaining a licence, the local authority should be able to reclaim housing benefit paid as rent over the previous 12 months?

Yes, for the same reasons described in response to the previous question.

Question 2.2(a)

Should a rent repayment order requiring such repayments be issued on conviction of the landlord or manager when all options for appeal had been exhausted?

While there must clearly be a right of appeal for landlords, it is important that the processes involved result in rent repayment orders being issued as promptly as possible.

For this reason, we think that rent repayment orders should be regarded as a matter of civil law, and that there should be no requirement for a conviction to have been obtained.

Question 2.2(b)

Should a rent repayment order requiring such repayments be issued on the local authority being satisfied that an offence has been committed, even though the landlord or manager has not been prosecuted, when all options for appeal had been exhausted?

Yes.

Question 2.2(c)

Have you any other comments on how a rent repayment order would operate?

The simplest and most effective approach may be to use Sherriff Court summary application procedures. However, while the fact that court action is required may discourage or dissuade tenants from seeking rent repayment orders in certain circumstances. For example, depending on the attitude and conduct of the landlord, and depending on the availability of support and free legal advice in their area.

Question 2.3

Who should be responsible for making a rent repayment order (for example, the sheriff, the local authority, etc)?

Probably the sherriff – but as suggested above, this may prevent this remedy being fully accessible to tenants themselves.

Question 2.4(a)

If the owner of land or premises refuses to provide information sought by a local authority under section 186 of the Housing (Scotland) Act 2006 to help it to establish whether there is a licensable HMO on the land or premises, should this lead to the presumption that there is a licensable HMO?

Yes.

Question 2.4(b)

Should any such presumption follow conviction or should the owner be given another opportunity to comply?

No, in relation to a conviction being required. Yes, in relation to the applicant being required to provide the information required.

Question 2.5

Should this also apply if an agent refuses to provide such information?

Yes.

Question 2.6

If this is the case, should the new term “managing agent” be used in this context or should the existing reference to a person who “receives rent, directly or indirectly, in respect” of the land or premises apply?

Yes, if this increases the ability of local authorities to obtain information from persons acting on behalf of HMO landlords.

Question 2.7

What are your views on how “managing agent” should be defined in this context?

We think this is a question for legal experts and local authority practitioners to decide.

End of Part 2

Proposed Housing Bill: A Consultation – Questionnaire

Part 3 - Overcrowding

Question 3.1

The application by a local authority of section 144 of the Housing (Scotland) Act 1987 to private landlords within a specified locality would mean that each of them would be required to give a tenant a written statement of the permitted number of people allowed to live in the house (this number to be provided by the local authority in line with the statutory occupancy level); obtain a written acknowledgement from the tenant; and produce the acknowledgement to the local authority when required, with failure to do so being an offence subject to a fine not exceeding level 1. Do you consider that local authorities should be given the power to apply section 144 to private landlords within a specified locality?

Yes, this would be very valuable in helping to address circumstances in particular areas (Govanhill being a good example), where serious overcrowding has resulted from the practice of bad landlords in overcrowding properties.

However, we think the issue of overcrowding must also be examined from the position of tenants. The reason that some tenants (rather than landlords) from migrant communities overcrowd property is because they may have limited alternatives about where they can live or what they can afford.

Question 3.2

Have you any comments on how the proposed process would operate?

We support the suggestions made by Glasgow City Council in its response to the consultation. Current conditions in areas such as Govanhill represent a serious, continuing risk to public health. It is essential that the local authority has the right of access to inspect overcrowded properties, and that it has the powers it needs to enforce immediate and effective action on overcrowded properties.

Question 3.3

Should a local authority have a power to serve an Overcrowding Abatement Order in cases where overcrowding was causing serious nuisance or seriously affecting the welfare of occupants, compelling the landlord to reduce occupancy of a dwelling to the statutory level within a time period to be specified by the local authority?

Yes, with firm sanctions against landlords failing to comply.

Question 3.4

Please describe the evidence that you think ought to be taken into account in deciding whether to serve an Overcrowding Abatement Order?

We think local authority officers will be capable of making reasonable judgements about the people living in a property, and that the evidence requirements should reflect this.

For example, local authority officers would typically have regard to “common sense” evidence such as the number of beds or mattresses they find in a property, and reports from neighbours about noise levels and anti-social behaviour.

Question 3.5(a)

Should failure to comply with an Overcrowding Abatement Order be an offence?

Yes. Landlords who permit serious overcrowding exploit vulnerable tenants and their actions have a detrimental impact on some of our hardest-pressed communities, in terms of the impact on public health and the overall quality of life. It is essential that legislation sends a strong message to landlords that conduct that exploits individuals and harms communities will not be tolerated.

Question 3.5(b)

If so, what should the penalty be?

It is important that penalties are strong enough to ensure that individual landlords are penalised appropriately, and that others are discouraged from pursuing similar practices.

At a minimum, we would like to see landlords who permit serious overcrowding being removed from the register so that they can no longer operate. Strong financial penalties should also be considered.

End of Part 3

Proposed Housing Bill: A Consultation – Questionnaire

Part 4 - Tenancy Regime

Question 4.1

Should a landlord have the right to apply to the Private Rented Housing Panel when in dispute with a tenant about gaining access to the property in relation to the Repairing Standard, with the Panel being given powers to enforce access?

In principle, yes, if this would genuinely allow essential repairs to be carried out more quickly. In practice, we think it is important to assess whether switching powers from the courts to the PRHP would actually produce this result, particularly if there would still be a requirement to obtain a court order in cases where a tenant were to refuse entry following the intervention of the PRHP.

Please also see the additional comments provided in the covering letter accompanying this response. We support the case made by Glasgow City Council for enabling the PRHP to accept and rely on evidence from local authority officers; and for the PRHP to be enabled to defend in court its decision to issue a Repairing Standard Enforcement Order, if the landlord appeals against the Order.

Question 4.2

If a tenant still refused to allow access, how should the right of access be enforced (e.g., by court order or by giving the PRHP the right to enforce the entry by means of a warrant)?

By court order.

Question 4.3

If a landlord was successful in such an application, should the tenant be able to request that a member of the Private Rented Housing Panel accompanies the landlord or a person authorised by the landlord when entering the property?

Yes, if the powers are switched from the courts to the PRHP.

Question 4.4

How should this additional work for the PRHP be funded?

If exercising these powers on behalf of a landlord, it would seem reasonable that the PRHP should develop a set of charges payable by the landlord.

Question 4.5

Should a private landlord be able to present appropriate evidence of abandonment to an authorising body in order to obtain permission to inspect a possibly abandoned property and then to serve a notice to regain possession of it?

Yes, but repossession procedures should provide appropriate safeguards for tenants to reflect the risks of landlord error in recovering tenants' homes, or abuse of abandonment provisions by unscrupulous landlords.

To address this, we would support extending the system of two notices that applies to Scottish secure tenants, with some additional safeguards:

- There should be a prescribed form for notices, and these should be served by sherriff officers on behalf of the landlord
- Upon expiry of the second notice, landlords should be required to obtain a court order to recover possession.

Question 4.6

What would be the appropriate evidence for a landlord to collect and present in order to show that a property has been abandoned?

The same kind of evidence that social landlords are encouraged to assemble in various good practice publications. Landlords should be obliged to keep records of the steps they have taken to establish that a property has been abandoned, and should be obliged to present this when seeking a court order for repossession.

Question 4.7

Do you agree that the possession notice should give 28 days notice?

Yes, provided that the landlord is then required to obtain a court order following the expiry of the notice. While social landlords do not need to go to court after abandonment notices have expired, their tenants have redress against the landlord if a property has been recovered incorrectly.

Tenants of private landlords would not have similar rights of redress, therefore the requirement to obtain a court order is more relevant to protect tenants' interests.

Question 4.8

Which body should provide authorisation in such cases (e.g., the local authority, the Private Rented Housing Panel, the sheriff, etc)?

The Sherriff Court.

Question 4.9

If the Private Rented Housing Panel were to be the authorising body, how should this work be funded?

Through a charge to the landlord, reflecting the costs to the PRHP.

Question 4.10

Do you agree that, where the landlord had gained possession but it transpired that tenant had not actually abandoned the property and returned within six months, the local authority should have a duty to re-house the tenant?

No, the obligation should rest on the landlord (albeit we recognise that this may not always be feasible since many private landlords have single properties or small portfolios – in these circumstances, tenants could be given an entitlement to compensation by the landlord).

Question 4.11

Please describe any specific safeguards that you think should be in place.

It is essential that the risks of properties being recovered inappropriately or in error are reflected in the legislation.

As we have suggested, the best safeguard for tenants is to ensure that the landlord has to demonstrate to the court that it has reasonable grounds for believing that a property has been abandoned, and that the court grants an order to permit repossession.

It is also essential that abandonment procedures should be described in tenancy agreements, and that tenants should receive clear, plain English summary information about the terms of the tenancy agreement. The proposed information pack for tenants would provide a means of doing this.

Question 4.12

Have you any other comments on the proposed process?

No.

Question 4.13

Do you consider that landlords and letting agents should be required to issue a standard information pack to the tenant at the start of the tenancy, with Ministers having the power to specify the information that must be included in it?

Yes, this would be a useful way of raising standards among landlords and could enhance tenants' understanding of their rights and responsibilities if information packs are produced to a good standard.

While Ministers could specify the contents, there is a risk that a standard national pack will not reflect all of the information that tenants need to know – some of this will be specific to the property/landlord concerned, or the quality of specific information inserted by landlords may be variable.

Question 4.14

What documents do you think should be included in such a pack?

We think these are the key pieces of information tenants need to know:

- Landlord registration details
- Tenancy agreement
- Summary information about the key responsibilities of landlord and tenant
- Information about tenants' rights (eg in relation to the role of the PRHP and the Repairing Standard)
- How to have repairs carried out
- Advice on arrangements for dealing with emergencies
- Property-specific information on permitted occupancy and overcrowding
- Anti-social behaviour and nuisance
- The landlord's complaints procedure
- The landlord's service standards
- The landlord's policy on deposits and inspections
- Arrangements for paying rent
- Procedures for abandonments and recovery of the property
- Sources of independent information and advice for tenants

We think this should be the starting point for further developing the information pack proposal, and that an assessment should then be made of what can be covered through standard content and what should be developed on a tailored or customised basis by the landlord.

Question 4.15

What role should the Scottish Government, local authorities and other relevant public bodies have in developing the standard information pack and making it available to landlords (e.g., online)?

The Government, local authorities and landlord representative bodies all have a key part to play in developing the information pack. However, it is important to consider how to promote good practice among landlords and agents, particularly those which have a poor track record in relation to compliance with registration requirements and the quality of service they provide.

Question 4.16(a)

Should failure to comply with the requirement to issue a standard information pack be an offence?

Yes – if the key purpose of the pack is to improve practice, it needs to be recognised that not all private landlords are committed to doing this and that sanctions will be needed for non-compliance.

Question 4.16(b)

If so, what should the penalty be?

The penalty should reflect the Government's judgement of the importance of information packs.

Question 4.17

Do you consider that there is scope for merging documents that need to be issued at the start of a Short Assured Tenancy into one form?

No response

Question 4.18

If so, please state which documents you consider could be merged.

No response

Question 4.19

Do you agree that all pre-tenancy charges should be made illegal, apart from exemptions for reasonable charges, which would be set out in secondary legislation following further consultation?

Yes

Question 4.20

Which pre-tenancy charges, if any, do you think should be exempted and therefore be legal to charge?

Reasonable pre-tenancy deposits only. All other forms of charges (credit checks, administration fees etc) are costs that the landlord should bear as part of their business. These other costs should be assumed to be recovered through future rental income and (in the case of agents) from the management fees they receive from landlords.

Unjustified (and sometimes exploitative) administration fees are a significant area of poor practice in our experience. The proposed legislation is an opportunity to address this.

Question 4.21

How should the making of illegal pre-tenancy charges be dealt with?

By legislation narrowing the scope of what can lawfully be charged, and by making it an offence to make charges that are not allowed for in the exemptions described in the legislation/statutory instruments.

Question 4.22

Do you agree that it should be made clear in legislation that a Notice of Proceedings is required to be issued to a tenant in a short assured tenancy?

Yes, this would help address the present lack of clarity for tenants.

Question 4.23

Do you consider that the three notices currently required to be issued to tenants when the landlord seeks possession should be replaced by one, clearly-worded notice?

Yes.

End of Part 4

Proposed Housing Bill: A Consultation – Questionnaire

Part 5 - Licensing of Mobile Home Sites

We have no response to make on this part of the consultation document.

Question 5.1(a)

Do you agree that the licensing system should be modernised with the aim of giving local authorities increased powers to improve practice by site owners and standards of service experienced by residents?

Question 5.1(b)

If so, which alterations do you consider key to meeting this dual objective?

Question 5.2(a)

Do you agree a revised licensing system should enable local authorities to revoke or suspend a licence, on specific grounds, without the requirement to approach the courts?

Question 5.2(b)

If so, what should these grounds be?

Question 5.3

Do you agree there is a requirement to strengthen the legislation requiring individuals to demonstrate they are suitable to hold a site licence?

Question 5.4

Do you agree that local authorities should have increased powers to progress enforcement action, when there are breaches of licence provision, without having to approach the courts?

Question 5.5

Do you think that sites not requiring a Caravan Site Licence should still be expected to comply with model standards?

Question 5.6

Do you agree that licensing authorities should be given powers to charge fees in connection with licence applications and enforcement?

Question 5.7

Do you agree the interpretation as to what may be classed as a caravan should be clarified?

End of part 5

Proposed Housing Bill: A Consultation – Questionnaire

Part 6 - Facilitating Private Investment in Housing – the Twenty Year Rules

Question 6.1

Are you aware of any projects or borrowing for affordable housing which have been prevented, or made more difficult or costly, as a result of the 20 year lease rule? If so, please provide details.

No, but we are aware that Glasgow City Council has investigated the feasibility of providing mid market rented properties in regeneration areas within the city and has concluded that the 20 year rule is an obstacle to building this type of accommodation without public subsidy.

Question 6.2(a)

Do you consider that there should be an amendment to the 20 year lease rule?

Yes, where there is a strong case in housing strategy terms for developing mid-market rented housing (for example as part of a regeneration strategy to promote mixed communities or in areas of pressure on supply).

More generally, we note that the Consultation Paper refers to the 20-year rule as a possible obstacle to attracting new types of funding for affordable rented housing. For example, the Paper refers to institutional investment and/or bond finance as possible future alternatives to conventional grant-funding and private borrowing arrangements; and to financing/part-financing of affordable housing by private investors which might be leased back to RSLs.

The policy and financial implications of these measures are much wider than the 20-year rule. We would therefore expect the Scottish Government to use its forthcoming Green Paper rather than the present consultation document as the way of engaging with the housing sector and others on any policy proposals it intends to bring forward.

Our qualified support for relaxation of the 20-year rule should be read in that context, ie it relates specifically to promoting mid-market rented housing in areas where there is strategic case for such provision.

It is also crucial that a long-term view is taken of the role that mid-market rented housing will play within different housing systems.

The attractiveness of this type of accommodation is greater at the present time, because of the slowdown in the market for owner-occupation. In the longer term, as the owner occupation market recovers, it is possible that mid-market rented housing will be seen once again as a “niche” product in particular areas, with more builders and potential tenants/buyers reverting to a preference for housing for sale.

There are also wider questions about the role that Housing Benefit may play in supporting new mid-market rented housing. We do not have any difficulty with the

principle of mid-market rented housing if it meets an identified need and is targeted at households who are not reliant on Housing Benefit.

We would, however, have real concerns if this form of tenure was to be promoted as an alternative to affordable housing provided by housing associations, or if it was to be let to households who require public subsidy in meeting their housing costs.

This may not be the Government's intention or reflect its assessment of how mid-market rented housing might operate. However, the experience of previous schemes (such as GRO Grants for Rent) suggests that broad policy intentions about targeting are in fact extremely difficult to police or enforce in the longer term.

Question 6.2(b)

If so, do you consider that this should be limited to exemptions for the provision of certain types of housing projects or housing finance, or do you consider that an extension to the maximum lease period should be provided for all residential leases?

For the reasons described in our previous answer, we think a system of exemptions is more appropriate than a general relaxation. And we think it is premature to consider relaxations to promote new types of investment in affordable rented housing, until the Government has published and consulted on its forthcoming Green Paper proposals.

Question 6.2(c)

Please provide details of what types of providers and/or projects should benefit from any exemptions.

It is difficult to provide generalised answers, because any system of exemptions (eg relating to promoting the provision of mid-market rented housing) should operate on the basis of local market circumstances, which vary widely across different parts of the country.

For this reason, we think the Scottish Government should define broad criteria about the types of circumstances in which consent for exemptions will be considered, and that local authorities should set local priorities within their local housing strategies, based on the nature of local housing systems.

In Glasgow and the west of Scotland, we would be particularly keen to see exemptions linked to regeneration areas where there is a clear strategic rationale for promoting mid-market rented housing. This will not be the case in every type of area, or in every type of regeneration area where the priority may be to ensure there is good quality affordable social housing to meet the needs of existing residents, alongside the provision of housing for owner-occupation.

Question 6.3

What sort of controls, if any, should be placed over the length of any exemptions, extensions to the lease rule, or requirements for consent?

The length of exemptions/extensions should be tailored to the period that is needed to make the type of investment proposed financially viable, without the need for public subsidy.

Question 6.4

Are you aware of any projects, or borrowing for affordable housing, which have been prevented, or made more difficult or costly, as a result of the 20 year standard security rule? If so, please provide details.

No – housing associations have successfully raised billions of pounds of private finance towards the provision of affordable housing since 1989, without the 20-year rules presenting any difficulties.

Question 6.5

How should section 11 of the Act be amended to help encourage longer term lending for housing, whilst protecting the interests of borrowers, lenders and tenants?

No comment at this stage.

End of Part 6

Proposed Housing Bill: A Consultation – Questionnaire

Annex A - Draft Equality Impact Assessment

Question A.1

We are interested in any further information regarding the diversity of private tenants that you think is relevant to the proposed changes outlined above in paragraph 2.1.

From your knowledge of the diverse needs and experiences of private tenants, can you provide any further information that you think we should know of for the purposes of our consultation? In addition, is there any other information that you think we should obtain? How or where should we find this information?

The petition submitted by one of GWSF's members (Govanhill Housing Association) to Parliament's Public Petitions Committee contains extensive information about the diverse profile of tenants in that part of Glasgow.

While the circumstances of Govanhill are unique, the Association's petition demonstrates very clearly the impact that bad landlord practice can have on vulnerable groups and on the wider community.

We think the issues raised by the Association provide a benchmark for testing how the provisions to be included in the Bill would operate in practice, particularly in circumstances where there is flagrant disregard for the law by unscrupulous landlords.

Question A.2

We are interested in any further information regarding the diversity of private landlords and agents that you think is relevant to the proposed changes outlined above in paragraph 2.1.

From your knowledge of the diverse needs and experiences of private landlords and agents, can you provide any further information that you think we should know of for the purposes of our consultation? In addition, is there any other information that you think we should obtain? How or where should we find this information?

See our response to question A.1

Question A.3

Do you think the proposed changes to the landlord registration system will have a disproportionately negative impact on particular groups of people in our target audience?

No – but we would like to see some elements of the registration proposals go further, specifically to provide greater powers of enforcement where landlords are

unco-operative or disregard the law. This raises important equality issues, as these types of landlords may target particular communities or types of tenants in deciding where to purchase property.

Question A.4

If you think these proposals will have a negative impact on a particular group, why is this?

Question A.5

What positive impacts do you think the changes will have on particular groups of people?

A stronger statutory and enforcement framework will help protect vulnerable individuals and groups. In Glasgow, this is a particular issue for migrant workers and other tenants who have few other housing options outside the private rented sector.

Question A.6

What changes to these proposals would you suggest to reduce any negative impact or enhance any positive impact you have identified?

The positive impact for disadvantaged individuals and communities could be strengthened considerably. We would like to see local authorities granted powers to carry out inspections of property to determine

- a) if a property is being let out;
- b) whether it meets the repairing standard;
- c) whether it is overcrowded; and
- d) whether the conditions should mean the refusal to register on the grounds of the landlord not being a fit and proper person.

We recognise that the Government may consider such powers to be too wide-ranging to apply in every case. But there is an overwhelming case for the local authority to have such powers in areas such as Govanhill. Otherwise the local authority will be trying to enforce the law with one hand tied behind its back.

In these circumstances, we suggest two alternatives for consideration:

- That the additional powers we have described should apply in all Housing Renewal Areas, or
- That local authorities should be able to exercise the additional powers we have described, with the consent of Ministers. This would allow the Scottish Government to take account of special circumstances where a local authority knows there are serious problems which the standard enforcement provisions are not enabling it to tackle in the manner required.

Question A.7

Do you think the proposed changes to HMO licensing will have a disproportionately negative impact on any group, or groups, of people?

No

Question A.8

If you think there will be a negative impact on a particular group, why is this?

Question A.9

What positive impacts do you think the changes will have on particular groups of people?

See response to question A.5

Question A.10

What changes to these proposals would you suggest to reduce any negative impact or enhance any positive impact you have identified?

We support the case made by Glasgow City Council for strengthening the local authority's powers, in particular:

- Local authority access to premises for the purposes of the 'fit and proper person' test; and
- The acceptability of evidence from local authority officers as well as tenants.

Question A.11

Do you think the proposed changes to overcrowding legislation will have a disproportionately negative impact on any group, or groups, of people?

The changes to legislation will have a positive impact overall. However, it must also be recognised that some groups such as migrant workers who are not entitled to assistance under the homelessness legislation or social rented housing could be disadvantaged. If they need to leave accommodation because it is overcrowded, such people will have few choices other than to seek other private rented accommodation.

Question A.12

If you think there will be a negative impact on a particular group, why is this?

Question A.13

What positive impacts do you think the changes will have on particular groups of people?

Overcrowding has a serious impact on wider communities as well as individuals, particularly in areas where it is present on a significant scale.

As described earlier in our response, this can have wider-reaching impacts in relation to issues such as public health, high levels of demand for public services by vulnerable individuals and groups, and the overall quality of life within neighbourhoods as a whole.

Question A.14

What changes to these proposals would you suggest to reduce any negative impact or enhance any positive impact you have identified?

Question A.15

Do you think the proposed changes which are intended to improve the private rented sector will have a disproportionately negative impact on any group, or groups, of people?

No, but the proposals as a whole need to be strengthened in key respects, to ensure that the impact for vulnerable individuals and groups is maximised. See responses to A.3, A.6 and A.10.

Question A.16

If you think there will be a negative impact on a particular group, why is this?

Question A.17

What positive impacts do you think the changes will have on particular groups of people?

Question A.18

What changes to these proposals would you suggest to reduce any negative impact or enhance any positive impact you have identified?

Question A.19

When we complete our impact assessment of the proposed changes to (a) the landlord registration system, (b) licensing of HMOs, (c) overcrowding; (d) mobile homes and (d) the tenancy regime, are there any other significant issues we need to consider in relation to:

- Age
- Disability
- Gender
- Lesbian, Gay, Bisexual and Transgender
- Race
- Religion and Belief?

Question B.1

We are interested in any further information regarding the diversity of mobile homes site owners and residents that you think is relevant to the proposed changes outlined above in paragraph 2.1.

From your knowledge of the diverse needs and experiences of mobile homes site owners and residents, can you provide any further information that you think we should know of for the purposes of our consultation? In addition, is there any other information that you think we should obtain? How or where should we find this information?

Question B.2

Do you think the proposed changes which are intended to improve the mobile homes sector will have a disproportionately negative impact on any group, or groups, of people?

Question B.3

If you think there will be a negative impact on a particular group, why is this?

Question B.4

What positive impacts do you think the changes will have on particular groups of people?

Question B.5

What changes to these proposals would you suggest to reduce any negative impact or enhance any positive impact you have identified?

Question B.6

When we complete our impact assessment of the proposed changes to the licensing of mobile homes, are there any other significant issues we need to consider in relation to:

- Age
- Disability
- Gender
- Lesbian, Gay, Bisexual and Transgender
- Race
- Religion and Belief?

Question C.1

We are interested in any further information regarding the potential impact of any changes to the 20 year rules on any equalities groups who might be looking for affordable housing to rent or buy or for a home in the private rented sector. Is there any other information that you think we should obtain?

Question C.2

Do you think any changes to improve the potential for long-term financing of housing projects would or might have a disproportionately negative or positive impact on any group, or groups, of people?

Question C.3

If you think there would be a negative impact on a particular group, why is this?

Question C.4

Do you suggest any proposals to help reduce any negative impact or enhance any positive impact that you have identified?

Question C.5

When we complete our impact assessment of the proposed changes to the 20 year rules, are there any other significant issues we need to consider in relation to:

- **Age**
- **Disability**
- **Gender**
- **Lesbian, Gay, Bisexual and Transgender**
- **Race**
- **Religion and Belief?**

--