



Call for Views on the Housing (Scotland) Bill

**Submission to the Local Government and Communities
Committee of the Scottish Parliament**

**Glasgow and West of Scotland Forum of Housing Associations
March 2010**

1. About this Paper

1.1 GWSF represents community-based housing associations (CBHAs), with members in Glasgow, Renfrewshire, East Renfrewshire, Inverclyde and West Dunbartonshire.

1.2 This paper is our response to the Committee's call for views on the Housing (Scotland) Bill. Our partners EVH (the leading support body for housing association employers) and SHARE (the sector's leading provider of learning and development) have also endorsed this response on behalf of their respective memberships.

1.3 CBHAs have been transforming housing and the physical environment in many of Scotland's most disadvantaged communities for the last 30 years:

- We are community-owned organisations, led by local people;
- We aim to provide good housing in strong communities;
- Our services are responsive to local needs and our housing investment has proved to be sustainable.

2. The Housing (Scotland) Bill: GWSF's Top 5 Issues

2.1 This submission addresses five aspects of the Bill, focusing mainly on the proposals relating to housing regulation. The Bill's significance is far wider than ensuring a good deal for tenants, which everyone would support. Wider policy agendas will determine how the new Scottish Housing Regulator applies the powers it would have under the Bill, which could have major implications for CBHAs and our local communities.

2.2 There is a view in some quarters that Scotland has "too many housing associations" and that mergers and restructuring of CBHAs would produce greater efficiency. Stretching scarce resources in the current climate is clearly vital. But we do not accept that CBHAs are less efficient than large landlords, and we are concerned that the Bill could be used to fundamentally re-structure the Scottish housing association sector. This is on the agenda of some policy-makers, but is not a priority for tenants or local communities.

3. Issue 1: The Scottish Social Housing Charter

3.1 GWSF will contribute actively to future consultation about the Charter. Based on present information, we have the following comments:

a) Section 32 of the Bill gives examples of the outcomes the Charter might describe. These relate to "bricks and mortar" and traditional housing services issues.

Many CBHAs are increasingly involved in wider regeneration activities. The Charter should be much more explicit about the role that housing providers can play in making neighbourhoods safe, popular and sustainable places. And in providing support to help vulnerable people live within their local communities. The new system of regulation should be explicit in reporting the social and economic value of these wider activities.

b) The Bill proposes that landlords should deliver both national and local outcomes for tenants.

National outcomes could help promote higher standards for tenants. But they also need to be consistent with our strong Scottish traditions of localism. We want to be clear

whether the Charter will represent the full extent of Government's expectations of CBHAs – or whether there will be additional requirements on other policy subjects.

Local housing associations do not want to be simply delivery agents for government policy. The Bill is an ideal opportunity for the Government to review its relationships with us, as it has already done with local authorities and the third sector.

c) Rather than simplifying regulation, the Bill will create more complexity.

Current regulatory standards are set out in one document (“Performance Standards”). But the Bill and Policy Memorandum describe multiple layers of standards and guidance. This will not deliver the simplification recommended by the Crerar Review.¹ The added complexity is a key issue for both tenants and smaller landlords - less than half of Scotland's housing associations employ 20 or more office-based staff. Overall, the Charter and the new system of regulation need to reflect the housing associations we have, not those that some national policy-makers would like to create.

d) Parliament would set standards for housing through the Charter, with the Scottish Housing Regulator assessing landlords' performance. Whereas for housing association governance and finances, the SHR would set standards and assess performance.

This dual approach is not logical. CBHAs also have strong concerns about views expressed by the present SHR on housing association governance and mergers.² Ministers should lead in making policy in these areas, with accountability to Parliament.

4. Issue 2: The Role and Functions of the New Scottish Housing Regulator

4.1 The new SHR would have the objective of safeguarding and promoting the interests of current and future tenants and of homeless people.

We fully support this objective. Protecting individuals' interests is important if landlords are not getting basic housing services right. But many tenants get a good housing service from their landlord, and are more concerned about wider problems in their neighbourhoods.

Tenants often look to their local housing association to address these concerns. This will increase in future, if local authorities have to curtail neighbourhood services. So it is vital to sustain recent growth in wider community services provided by housing associations.

The Bill can help, by recognising that **social housing is about neighbourhoods and communities, as well as individuals**. The housing regulator in England has a statutory duty to encourage housing providers to address the environmental, social and economic well being of their areas. We would like the new SHR to have a similar duty, and for the new system of regulation to reflect the work many CBHAs do in addressing these wider needs.

We would also like the new SHR to have a duty to **promote and assist community-owned housing associations**. This would be a practical demonstration of the Government's existing policy on community empowerment. It would also give regulation an additional, more positive purpose, by requiring the new SHR to **work in partnership** with tenants and

¹ The Crerar Review: Report of the Independent Review of Regulation etc in Scotland (September 2007)

² “Shaping up for Improvement” (Scottish Housing Regulator, July 2009)

community landlords to raise standards. Such a duty would not diminish the SHR's ability to address cases where individual landlords are failing to meet standards.

4.2 The new SHR would have a duty to act proportionately, transparently and accountably. These are good principles, but their application is the critical test.

More thinking and further checks and balances are essential, if the SHR's duty to act proportionately, transparently and accountably is to be more than just a broad aspiration.

It is not clear how the new SHR would be accountable to Parliament, even though it would have very wide-ranging powers and would be independent from Ministers. There need to be clear boundaries for the new SHR's role in policy-making for the housing association sector, to limit the kind of policy kite-flying seen in the SHR's "Shaping Up for Improvement" report (for example, on mergers, restructuring and competition).

Section 5 of the Bill will "filter" the SHR's role in scrutinising local authority landlords. Is it right that housing associations should experience more intensive regulation?

The SHR has a legitimate role in regulating housing associations' governance and finances. But we would like to see the proposals for RSLs compared with the scrutiny and intervention powers for these areas that apply in other sectors, (e.g. local authorities; the charitable and third sectors; and PPP projects). Are housing associations a "special case"? Or should there be some consistency across different sectors, as Crerar recommended?

The Bill is a broad framework, not a blueprint of future processes. The SHR would have substantial freedom to decide regulatory processes as well as interventions in particular cases. While it would have a duty to consult on guidance, there will always be varied opinions among stakeholders, meaning that the SHR's views are likely to be decisive in practice. Instead of this, we would like to see a more balanced approach, with tenants and social landlords as well as the Regulator being equal partners.

5. Issue 3: Conditions attached to being a Registered Social Landlord (RSL)

5.1 The Bill would repeal existing provisions about the permitted activities of RSLs and how they are constituted. Instead, these matters would be described in orders laid before Parliament by Ministers. These are fundamental issues, but no information has been given about what kind of changes the Government may have in mind or its underlying policy aims.

The Policy Memorandum says that registration as a social landlord in Scotland would be opened up to providers from other EU member states. The likeliest outcome is that very large UK-wide RSLs will seek registration in Scotland, particularly if they see opportunities to mop up local housing associations through mergers and restructuring. This would replicate developments in England, where RSL group structures owning tens of thousands of houses across unrelated areas are now commonplace. It would be completely at odds with Scotland's very different tradition of smaller, community-owned landlords. Do Scottish tenants really want landlords controlled by large organisations with head offices hundreds of miles away? And are these the best partners for Scottish local authorities?

5.2 The Committee may wish to make comparisons with the position in Wales. Recent legislation restricts registration as a social landlord in Wales to Welsh bodies with their registered office in Wales and which are "principally concerned with Welsh housing". We would like to know why similar provisions could not apply in Scotland.

6. Issue 4: Amendments to the Housing (Scotland) Act 2006

6.1 This aspect of the Bill affects a number of CBHAs working in neighbourhoods with significant levels of poor quality private housing and/or private landlords who do not meet their legal obligations. In Glasgow, for example, these issues are particularly prevalent in a number of communities in the south side of the city.

6.2 We support the case made by Glasgow City Council in 2009 to strengthen the existing legislation. But key aspects of the City Council's submissions are not reflected in the Bill.¹ Financial pressures also mean that the City Council does not have the staffing levels needed to manage private landlord enforcement or disrepair issues as it would wish.

6.3 The 2006 Act has been ineffective in areas where there are concentrations of poor housing owned by private landlords. For example, Govanhill Housing Association's current petition to the Parliament's Public Petitions Committee describes truly appalling slum conditions that are intensified by poor private landlord practice and acute social problems.

6.4 The solutions to these problems lie in adequate resources for implementing the housing renewal area powers in the 2006 Act (which have been largely unused), and in strengthening the statutory framework for applying the powers. For example, by allowing sub-standard properties in these areas to be purchased by housing associations for future improvement, at **market value less future improvement costs**. This would enable the comprehensive physical and social regeneration that is so urgently needed.

7. Issue 5: Right to Buy (RTB) Reforms

7.1 Most GWSF members indicated last year that they supported the proposed RTB reforms, including the new proposal to restrict the RTB for all new tenancies. Equally, the RTB has given local people in some areas more choice and greater access to home ownership. So we would like to see other measures brought forward specifically to help promote more mixed communities in areas where there is limited choice. These measures could be promoted through the Affordable Housing Investment Programme (AHIP) and are not dependent on new legislation.

8. Conclusions

8.1 GWSF hopes that all of the political parties will help us defend and promote the unique role that CBHAs play in providing good housing within strong, empowered communities throughout Scotland. We have restricted this submission to the broad matters covered by the Bill, rather than the detail. We would be pleased to provide the Committee with further evidence or information, as its scrutiny of the Bill proceeds.

**Glasgow and West of Scotland Forum of Housing Associations
2 March 2010**

¹ For example, in relation to the "fit and proper person" test for private landlords; the acceptability of evidence provided by Council officers rather than residents; enhancing the Private Rented Housing Panel's capacity to enforce the Repairing Standard; and the need for improved compulsory purchase procedures in certain areas.