

GWSF Response to Housing (Scotland) Bill

Summary (25 August 2009)

Introduction

1. This paper provides a summary of the response GWSF has made to the draft Housing (Scotland) Bill. It takes account of feedback provided at GWSF's open meeting on 6 August 2009. The final GWSF response was submitted to the Scottish Government, before the closing date of 14 August.
2. The GWSF response argues that the scope of the Bill (on reforms to the Right to Buy and housing regulation) is too narrow. So GWSF's response is made up of a set of four separate papers, all of which are available on the Forum's website:
 - **Paper 1** is the standard Scottish Government response questionnaire, dealing with the Right to Buy and the regulation of social housing
 - **Papers 2, 3 and 4** set out proposals by GWSF on broader housing and regeneration policy issues that GWSF would like the Housing Bill to address:
 - **Paper 2:** A statutory community right to ownership in respect of GHA houses, to provide a clear route to local community ownership in Glasgow for both CBHAs and 'management only' RSLs
 - **Paper 3:** Enhancing the role of community-based housing associations in regeneration and neighbourhood management
 - **Paper 4:** Promoting and assisting registered housing associations in Scotland.
3. Also attached, for information, is a news release the Forum made to accompany the submission of its response. This received coverage in the Scottish Housing News service and the SFHA's housing news service on 14 August.

Glasgow and West of Scotland Forum of Housing Associations
25 August 2009

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Summary of Paper 1

Reforms to the Right to Buy and Regulation of Social Housing

a) Right to Buy (RTB)

Scottish Government Consultation Issue	Key Points in GWSF response
<p>What will the financial impact of the proposed RTB reforms?</p>	<ul style="list-style-type: none"> • The main impact of excluding “new supply” houses from the RTB will be to provide incentives for new house building by councils • GWSF does not foresee negative financial impacts for housing associations • But the Government should assist LSVT housing associations that purchased houses from Scottish Homes, by allowing them to keep and use surplus RTB receipts to invest in their housing stock
<p>Views on the safeguards proposed for existing tenants who have the RTB</p>	<ul style="list-style-type: none"> • GWSF members have different views on the proposed safeguards, which would allow tenants who already have the Right to Buy to keep this if they are obliged by their landlord to move (for example, because their house is to be demolished). • The majority view among GWSF members is in favour of protecting <u>all</u> new houses from being lost in future through the Right to Buy. • Some GWSF members would like the Right to Buy reforms to go further, by making changes to the Right to Buy entitlements of existing as well as new tenants, or by removing discounts altogether from any future Right to Buy sales. • Clarification is needed about how the safeguards will apply to the Glasgow re-provisioning programme (where GHA tenants whose houses are being demolished will be re-housed in a newly built house provided by another housing association). • GWSF’s view is that GHA tenants should lose any Right to Buy entitlement if they change landlord (ie when they are re-housed in a new supply property built by another housing association). • Otherwise, whole developments of new housing in Glasgow will be vulnerable to the Right to Buy (unless the new landlord is a pre-2001 charitable housing association, exempt from the Right to Buy).
<p>Views on removing the RTB for all new social housing tenants in future</p>	<ul style="list-style-type: none"> • On balance, GWSF supports this proposal. • But the Government should recognise that RTB has not always had a negative impact in every type of area (e.g. in promoting home ownership in regeneration areas with very limited tenure choice). • The Government should consider what alternative measures could be used in these types of areas, to help achieve more mixed

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	communities. For example, through HAG-funded low cost home ownership; re-introducing the previous Tenants Incentive Scheme; or examining the introduction of new flexible tenure schemes.
Views on proposed reform of “Pressured Area” designations	<ul style="list-style-type: none"> • GWSF supports this part of the draft Bill, which could provide further safeguards against the loss of rented housing in higher demand areas or for higher demand house types.
Views on further suspending the modernised RTB for housing associations after 2012	<ul style="list-style-type: none"> • GWSF agrees there should be scope for housing associations to seek a further extension after 2012, on a case by case basis, to take account of sales levels after the modernised RTB becomes effective for housing association tenants after 2012.

b) Reform of Social Housing Regulation

Scottish Government Consultation Issue	Key Points in GWSF response
Purpose of a modernised system of regulation	<ul style="list-style-type: none"> • “Meeting tenants’ priorities” and “improving value and performance” are fine as general principles, but the way the Consultation Paper describes them is too narrow • The new regulation system should have two further aims: <ul style="list-style-type: none"> ○ Promoting safe, popular and sustainable communities (not on the present SHR’s radar), and ○ Promoting and assisting housing associations. The new Regulator should work in partnership with inspected bodies, the present Regulator’s views on mergers, restructuring and competition are an obstacle to this.
Views on whether regulation should be “risk based and proportionate”	<ul style="list-style-type: none"> • Yes, but fresh thinking is needed about how to achieve this • Proposals suggest a risk that housing associations will end up being far more intensively scrutinised than local authorities • Recent statements by the present Scottish Housing Regulator about mergers etc will result in a much heavier burden of scrutiny and intervention for housing associations than is assumed in the Consultation Paper.
Do you have suggestions for further streamlining regulation?	<p>Yes:</p> <ul style="list-style-type: none"> • More flexible approaches by the Regulator, to reflect landlord size, purpose etc • Keeping self evaluation requirements reasonable and proportionate, not creating a new bureaucratic burden • Root and branch review of information collection by the new

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	<p>Regulator, especially for smaller organisations</p> <ul style="list-style-type: none"> • More use of tenant satisfaction information by the new Regulator, to reduce what else it does to gain assurance about performance
Should the term “social landlords” be changed?	<ul style="list-style-type: none"> • GWSF has no strong views on this question.
Should outcomes for social housing be set using a new Scottish Social Housing Charter?	<ul style="list-style-type: none"> • It’s not clear at this stage how different the proposed Charter would be to the current “Performance Standards” • The suggestion that there could be different outcomes for different types of landlords could help achieve more flexible regulation • The Government is proposing the Charter would be approved by Parliament. Parliament, not the Regulator, should also set policy and standards for housing association governance and financial management. The present Regulator’s views on these issues are unacceptable and it has no accountability for policy-making.
Do you have suggestions about the Charter?	<ul style="list-style-type: none"> • Charter outcomes should be broader than is proposed. They should also reflect wider community regeneration and neighbourhood management issues. • We are unsure about the proposal that landlords should set “local outcomes” – how will this work? • Government proposals repeatedly talk about “improving value”. This isn’t properly defined. GWSF has concerns that the methods proposed are too crude and will be more about cost-cutting than genuine efficiency and effectiveness. • “Value” needs to cover wider issues. For example, neighbourhood quality, how sustainable investment is, the wider social and economic benefits of what housing associations do.
Should the new Scottish Housing Regulator be independent from Ministers?	<ul style="list-style-type: none"> • Yes, but accountability of the Regulator is just as important as its independence. • The new Regulator should be accountable to Parliament. Its focus should be on assessing performance, not the policy-making role the present Regulator seems keen to assume regarding the future structure of the housing association sector.
Should the new Scottish Housing Regulator have the statutory objective of promoting the interests of tenants and future tenants	<ul style="list-style-type: none"> • Yes, but its statutory duties should also include promoting and supporting the work of housing associations; exercising its functions in accordance with Government policy; and encouraging housing associations to contribute to the overall well-being of the communities they work in.

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Views on the proposed powers of the new Regulator to improve value by assessing and reporting on performance	<ul style="list-style-type: none"> • The way the Regulator assesses value must be meaningful. • The Consultation Paper suggests a narrow “league table” approach to assessing and reporting on performance.
Intervention powers of the new Regulator	<ul style="list-style-type: none"> • GWSF is concerned about new powers proposed allowing the Regulator to set performance targets for individual landlords. This should only be considered in cases of poor performance which a landlord has failed to address itself. • Intervention powers need to be used more consistently.
Should the current inspection powers be replaced?	<ul style="list-style-type: none"> • Yes (but they already have been replaced for housing associations).
Views on new powers relating to inquiries and information	<ul style="list-style-type: none"> • The Government’s proposals simply formalise changes already made for housing associations. • The proposed powers to charge landlords for regulation should be deleted.
Views on intervention powers to address governance or financial problems	<ul style="list-style-type: none"> • The Regulator should have strong powers to intervene where there are serious problems that are not being addressed • But GWSF is concerned about how intervention powers would be used (the present Regulator is trying to set a broader agenda on efficiency, mergers, competition etc.)
Views on abolition of Schedule 7 and a new governance/financial code for housing associations	<ul style="list-style-type: none"> • The majority of GWSF members are in favour of reforming Schedule 7, but not abolishing it altogether. • Schedule 7 and the guidance on “Special Exceptions” should be kept for housing allocations. These allow committee members and their relatives to be re-housed where they are in housing need, while also protecting committee members within their local communities from any allegations of preferential treatment. • There is a stronger case for replacing Schedule 7 with a code of conduct on other matters, relating to employment and commercial contracts. • On these matters, Schedule 7 has become unduly complex. But if a code of conduct is developed to replace Schedule 7, it needs to have statutory force. We need to learn the lessons from MPs’ expenses and avoid situations where standards are based entirely on self-regulation or information being withheld from the public.

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	<ul style="list-style-type: none"> • Any new Code should be approved by Parliament, not the Regulator • GWSF is opposed to board and committee members being paid (a possible consequence of abolishing Schedule 7).
Registration as a social landlord	<ul style="list-style-type: none"> • Legal conditions should be in legislation approved by Parliament
Registration of profit making bodies	<ul style="list-style-type: none"> • GWSF is absolutely opposed to this proposal • It will create strong concerns among tenants. The Government has not explained why it has proposed this, or what kind of activities it sees profit making bodies carrying out
Registration of non Scottish bodies	<ul style="list-style-type: none"> • GWSF is strongly opposed to this proposal, which is suggested in the Consultation Paper to be a legal necessity under EU law • Legislation for Wales passed in 2008 restricts registration as a social landlord to “Welsh bodies” with their registered office in Wales and which are “principally concerned with Welsh housing” • The Government should make similar provisions for Scotland.
Registration status of existing Scottish RSLs	<ul style="list-style-type: none"> • GWSF is strongly opposed to the provision in the Bill that existing RSLs would need to be re-registered, under new registration criteria. • This is inefficient, and will generate strong concerns in light of the present Regulator’s recent statements about mergers and restructuring of the housing association sector in Scotland.

Summary of Paper 2

Proposals for a Community Right to Ownership

- This part of the GWSF response proposes that the present Housing (Scotland) Bill should be broadened, to provide for **a statutory community right to ownership of social housing**.
- The purpose of the proposal is to give local communities a statutory right to purchase housing owned by the Glasgow Housing Association (GHA).
- Communities would exercise this right through the registered social landlords that presently manage their housing. The right would apply to CBHAs that already own other houses and assets, and to the “management only” RSLs set up in 2002/03 with a view to becoming future landlords in their own right.
- A statutory community right to ownership framework would be straightforward to introduce. It would incorporate existing legislative provisions governing the transfer of tenanted houses from one registered social landlord to another.
- The additional matters that would need to be addressed in the present Housing (Scotland) Bill would primarily relate to:
 - Providing a statutory definition of the community right to ownership
 - Specifying the registered social landlords that are subject to the right
 - Specifying the registered social landlords that are entitled to exercise the right on behalf of their local communities
 - Specifying the statutory conditions that would apply to transfers covered by the community right to ownership. For example, in relation to the determination of the purchase price to be paid, taking account of the interests of both seller and purchaser, and the timescales to be met by both parties at each stage of the transfer process.
- Valuations have been a particular obstacle to progress in the past. So the GWSF paper proposes that under a statutory framework, the final purchase price would be determined independently, either by the Scottish Housing Regulator or by Scottish Ministers. In determining the purchase price, the SHR or Ministers would be required to appoint and be advised by an independent adjudicator, if the seller and purchaser could not agree the purchase price.

Summary of Paper 3

Enhancing the Role of Community Based Housing Associations in Regeneration and Neighbourhood Management

- In the Housing Bill Consultation Paper, the Scottish Government has stated its wish to lead a national debate about “the role and purpose of social housing, what it should be delivering for current and future tenants, and how it can contribute to wider policy objectives”.
- This part of the GWSF response sets out an initial contribution to the debate.
- The GWSF paper suggests that the Housing Bill could be revised, to be much more explicit in recognising the role that social housing providers such as CBHAs can play in developing safe, popular and sustainable neighbourhoods.
- It also says that GWSF would like to discuss, with national and local decision-makers, how local communities can play a bigger part within their neighbourhoods, acting through locally owned and resident controlled bodies such as CBHAs and development trusts.
- The paper sets out a range of ways in which local communities could become more actively involved in the management of their neighbourhoods, by working in partnership with local authorities and others, or through an enhanced role in helping to manage the way services are delivered to local people.
- The paper suggests that there are many ways in which community organisations could play an enhanced role, for example through:
 - Capacity building activities for communities or individuals
 - Meeting gaps in local facilities or services
 - Direct delivery and management of public services, at a local level
 - Facilitating community control over budgets for local public services.
- The paper does not suggest that all CBHAs will want to take on these kinds of roles. Instead it invites the Government to consider whether in the right circumstances, community organisations could play a greater role in the management of local neighbourhoods.

Summary of Paper 4

Promoting and Assisting Registered Housing Associations in Scotland

- This paper sets out the case for the new Scottish Housing Regulator having a statutory duty to promote and assist the development of housing associations.
- This is particularly relevant in present circumstances:
 - The draft Housing Bill proposes that registration as a social landlord should in future be open to profit making bodies and to non-Scottish bodies
 - The present Scottish Housing Regulator's recently-published report on social landlords in Scotland paints a very negative picture of the sector. It wants to see "proactive mergers", "rationalisation" and "a more strategic view of how to organise housing management in particular local areas" among housing associations in the future.
- The GWSF paper rebuts some of the assertions in the Regulator's report about CBHAs and the role of tenants in the governance of housing associations. It argues that in future, the new Scottish Housing Regulator must establish more positive relationships with regulated bodies.
- The paper suggests that there are a number of ways in which the new Regulator could achieve this. For example:

- Thematic studies on issues such as good practice in neighbourhood management and community regeneration
- Joint working to promote the raising of standards
- Developing practical tools that help smaller organisations meet regulatory expectations in areas such as self evaluation and performance management
- More face to face engagement between the Regulator and smaller housing associations, rather than reliance on standard information returns in every case
- Adapting the Regulator's processes/information requirements for smaller organisations
- Working jointly to examine how value and impact can be assessed more meaningfully
- The provision of financial assistance to support performance improvement.