

Standing for Office: Time-Off Entitlements and Encouraging Civil Engagement: A Scottish Government Consultation

Response by Glasgow and West of Scotland Forum of Housing Associations (GWSF)

Introduction

This response to the Scottish Government's Consultation Document has been submitted on behalf of the Glasgow and West of Scotland Forum of Housing Associations (GWSF).

GWSF represents community-based housing associations, and draws its members from the city of Glasgow and for other parts of west central Scotland.

We have set out below our response to the Government's consultation proposals. The proposals state an intention to provide a right to time off from employment for people who are members of the governing body of a registered social landlord, although it would remain at the discretion of employers whether any leave required would be paid or unpaid.

Consultation Question 1:

Do you agree with the analysis of the benefits of undertaking civic roles?

Are there any others?

Yes, we agree that the analysis is relevant, but more could be said about the benefits for communities and for individuals who serve in positions of civic responsibility.

GWSF represents community-based housing associations, whose governing bodies typically include much higher levels of tenant and service user membership than other types of RSLs.

Voluntary committee members are the driving force of our movement. Over the last 30-plus years, their contribution has ensured that investment and services have been delivered in a way that is closer to, and more accountable to, local communities. The value of this type of active citizenship has been recognised internationally and is a vital ingredient in realising the empowered, sustainable communities the Scottish Government wishes to promote.

For individuals, committee membership often brings considerable benefits in enabling people to develop their skills and confidence. There are many individual stories of people who have joined housing association committees and who have been able to exercise their talents in other spheres, for example in influencing national policy-makers or in undertaking other civic roles.

We are delighted that the value of civic roles in housing is recognised in the Consultation Document. However, this is tempered by other policy developments which threaten to undermine the part that community-based housing associations have played so successfully since the 1970s. The Scottish Government's policy proposals on Affordable Housing Investment are very unhelpful in this regard. And we continue to make Ministers aware of GWSF's strong concerns about the failure by

GHA to deliver community ownership in Glasgow.

Consultation Question 2:

Do you agree with the estimation of costs and the assumptions made in calculating the overall costs to employers from the consultation impact assessment?

Yes, the general presentation of benefits is helpful. We welcome the fact that the UK consultation document looks specifically at evidence and costs and would like to see this replicated in all types of consultation material. For example, the Scottish Government's current consultation on Investing in Affordable Housing singularly fails to address either of these questions.

The value of the method used to estimate the costs of extending the time-off requirement is limited to some degree because it is based on average earnings at a UK level. As a national survey of Scottish RSL committee members for Communities Scotland in 2005 showed, committee members in tenant-led or community-based RSLs may often be below-average earners if they are in employment.

We note that employers are not obliged to pay employees for any time off they receive under the proposed entitlement, and the reasons why the UK Government does not intend to alter employment law to require this.

In these circumstances, we suggest that the Scottish Housing Regulator's guidance on the application of Schedule 7 of the Housing (Scotland) Act 2001 should be reviewed if the time-off entitlement is extended to RSL governing body members. Alternatively, the forthcoming housing bill could be used to make sure that Section 7 requirements are aligned with the time-off entitlement.

The Regulator's current guidance on Schedule 7 permits an RSL to make a payment for loss of earnings to RSL governing body members who lose income as a result of attending meetings of the RSL. However, the guidance is out of step with the time-off entitlement proposals, since it stresses that attendance at such meetings and any resulting payments should be very much the exception.

A more permissive approach would be helpful. The reality is that committee members on low pay are very unlikely to sacrifice wages to attend RSL meetings, even if they have an entitlement to time off from their employer. We think that people on low wages are much more likely to participate in daytime meetings or events if the RSL is able to cover any loss of earnings, without such payments being seen as exceptional.

Similarly, the Regulator's current guidance prohibits any payments at all for loss of earnings to people who are self-employed. This is unnecessarily restrictive, and is at odds with the Scottish Government's intention to promote participation in civic leadership roles.

It is important to ensure that where payments for loss of earnings are made by an RSL, the recipients are not then placed in the position of having to complete personal tax returns for small payments. We would be interested to learn what consideration has been given to this question, since it is a potential disincentive for people in receipt of low pay and/or entitled to tax credits. Common sense suggests that there should be

a òde minimis amount, below which payments for loss of earnings should not need to be declared.

The Consultation Document quotes briefly from the 2005 Communities Scotland study, noting the high proportion of RSL governing body members who are above retirement age. It is also important to recognise that the profile of committee members within individual housing associations can vary widely. One of the main challenges facing the housing association sector is how to achieve the renewal of management committees as existing members step down, and to achieve a more diverse membership in terms of skills, employment status, ethnicity etc. as well as age.

Extending the time-off entitlement to cover RSLs is a relatively modest measure, but it is a welcome one. It would give RSLs a useful and practical tool to help attract the committee members of the future, as well as providing volunteer committee members with public recognition of the value of their role.

Section 3.13 of the Scottish Consultation Document contains one factual inaccuracy, in suggesting that Scottish RSLs have the option to pay their governing body members. This is the case in England, but not in Scotland.

GWSF would not support any future moves to introduce such payments, since we believe that the voluntarism is an essential characteristic of the sector in Scotland and ensures that committee members act for the benefit of their communities, rather than for personal gain.

Consultation Question 3:

Are there local Criminal Justice, Local Government or other local civic roles which should be considered?

Yes ó see our comments in response to Consultation Question 5 on why it is inappropriate to restrict the extension of time-off entitlements only to the main governing body of RSLs, and to exclude members of an RSL's sub-committees and/or subsidiaries.

EXTENDING TIME-OFF ENTITLEMENTS - THE CONSIDERATION OF HOUSING ROLES

Consultation Question 4:

Do you agree with our proposal that these roles (any member of a TMC Board, an RSL Board or an RTO Committee) should be added to the list of roles under Section 50 of the Employment Rights Act 1996 entitled to time off work? Are there specific issues that should be considered?

Yes, we agree with the proposed addition of RSL governing body members to the list of roles.

As an organisation representing registered social landlords, we are particularly supportive of the proposal to extend time-off entitlements to people who carry out governance roles within housing associations.

We are not convinced that the Consultation Document recognises the very different

governance responsibilities involved between the three different types of organisations (RSLs, Tenant Management Co-operatives and Registered Tenants Organisations).

It is a matter of fact that the responsibilities associated with being an RSL governing body member are very different from the other two types of organisations. For example in relation to legal and fiduciary responsibilities, regulatory requirements, responsibility for large sums of public and private funding, and the more stringent accountability requirements RSLs are subject to.

We recognise the potentially useful role that RTOs can play in promoting active citizenship and civic responsibility. The role of an RTO is to represent tenants, but its governing body does not have governance responsibilities for the delivery of services to the public in the same way as an RSL or a TMC.

In relation to the terminology used, the use of the term 'RSL Board Member' should be revised. The majority of RSLs continue to have management committees rather than boards as their governing bodies. We suggest that any future information or guidance should refer either to a) RSL management committee or board members, or b) RSL governing body members. The latter term is used by the Scottish Housing Regulator.

Consultation Question 5:

Do you agree that this proposed entitlement should cover the main TMC Boards, RSL Boards, and RTO Committees only rather than members of other governance committees below TMC Board, RSL Board or RTO Committee level?

No. This aspect of the proposals would be unhelpful from the perspective of our members.

For example, where a community based housing association has a Local Housing Organisation (LHO) committee managing GHA houses, the LHO committee is formally a sub-committee of the main management committee. Under the proposal, LHO Committee members would not be covered by the time-off entitlement. We can see no good reason why members of that committee should not have the same time-off entitlement as other committee members.

Similarly, a number of housing associations have established subsidiary organisations to carry out community regeneration and other activities. Some members of subsidiary boards or committees will be drawn from the main RSL governing body, but this will not always be the case. The committees and boards of these organisations are made up of unpaid volunteers, and often carry high levels of responsibility.

In relation to this question, we think the qualitative difference in the level of governance responsibilities within RSLs compared with TMCs and RTOs needs to be recognised, and that the time-off entitlement should apply to anyone carrying out a governance role within an RSL or related organisation or committee.

**Glasgow and west of Scotland Forum of Housing Associations
25 February 2009**