



Glasgow and West of Scotland Forum of Housing Associations Response to Draft Scottish Government Guidance on the Modernised Right to Buy

1. Introduction and Summary

1.1 **Glasgow and West of Scotland Forum of Housing Associations** (GWSF) is a representative and campaigning body for community-controlled housing associations and co-operatives (CCHAs). We currently have 55 member housing associations and co-operatives whose primary objectives are to provide decent, affordable housing for those in need, while also improving the environmental, social and economic well being of their communities.

1.2 A recent GWSF member survey (June 2011) on the modernised right to buy indicates that:

- 15 of our 55 members have no tenants with a modernised right to buy. These are primarily housing co-operatives and housing associations that achieved charitable status before July 2001;
- Our remaining 40 members have around **20,000 tenancies** with a modernised right to buy (March 2010 figures). The modernised right to buy affects 60% or more properties for three-quarters of our members, and 80% or more properties for a quarter of our members.
- The vast majority of our members (more than 90% of those completing our questionnaire) want to see **modernised RTB entitlements further restricted** in the interests of protecting rented housing.
- Similarly, the vast majority want to be able to **act directly to restrict stock losses through the right to buy**, without having to rely on local authorities making pressured area designations.

1.3 In that context, GWSF has **two fundamental concerns** about the Government's draft guidance on applications to extend the present 10-year suspension period for the modernised right to buy:

- The guidance will have a limited impact in enabling housing associations to safeguard rented housing for which there are high levels of need. To address this, further legislation is needed to significantly restrict modernised RTB entitlements and/or to allow housing associations to seek approval to suspend the modernised RTB for ALL of their stock.
- The application and approval process for further extending the present suspension period is far too complex and would be inefficient for both housing associations and the Scottish Government. The Government's stated policy aim is to restrict the right to buy in order to meet housing need and safeguard housing stock. The processes needed to meet that simple objective could be made much more streamlined for all parties.

2. Limitations of the guidance as a way of protecting social rented housing

- 2.1 Paragraph 11 of the draft guidance states that a further suspension of the modernised RTB would be in respect of **the whole of** an RSL's proposed stock. However, a closer reading of the guidance confirms that the effect of an extended suspension period would be far more limited.
- 2.2 The key part of the guidance in this respect is paragraph 4. RTB legislation is highly complicated, but the overall position is that a substantial number of RSL tenants with a modernised RTB (essentially, those living in properties built or acquired between 2002 and June 2008) would still be able to exercise that right **even if** their landlord were to obtain a further extension of the 10-year suspension period. Moreover, properties built or acquired since June 2008 may still have a modernised right to buy if the properties were let before March 2011, with the "new supply" restrictions on the modernised RTB only applying to new tenancies created as a result of relets after March 2011.
- 2.3 It is illogical that the Government should permit extended safeguards for some but not all modernised RTB stock. The only protection automatically in place for RSL properties built/acquired and let between 2002 and March 2011 is the cost floor rule, but this ceases to apply after 10 years.
- 2.4 While the guidance reflects existing legislation, the bottom line is that housing associations will have no direct means of protecting much of their rented housing which is currently subject to the modernised RTB. Instead, they would have to rely on the willingness of local authorities to make pressured area designations. We are concerned that councils' willingness to do this may be tempered by the perceived political consequences of making potentially unpopular decisions. With local government elections due to take

place in May 2012, it is essential that housing associations should be able to act directly and independently.

- 2.5 During the passage of the Housing (Scotland) Act 2010, Ministers suggested they were willing to consider the possibility of “going further” in restricting RTB entitlements, but were constrained by the need to balance safeguarding rented housing alongside the protection of existing right to buy entitlements.
- 2.6 This balance is increasingly difficult to justify. Demand for rented housing continues to outstrip supply significantly. This pattern will only intensify in future, as we see reduced spending on new social rented housing and as the 2012 homelessness targets take effect.
- 2.7 With a strong political mandate and probable widespread support for further restricting the RTB, GWSF believes that the Government should now legislate to **abolish the modernised right to buy altogether**. Alternatively, it could legislate to:
- Remove any discount entitlements for all properties built or acquired since 2002, to better protect newer, more attractive stock, or
 - Extend the scope to seek further suspensions so that this covers ALL properties with a modernised RTB.

3. The need to simplify the procedures for obtaining an extension of the current 10-year suspension for affected housing

- 3.1 The general intention to be non-prescriptive about information requirements and to pilot the guidance is welcome.
- 3.2 However, the suggested methods for making a case to the Scottish Government are unnecessarily onerous. They are not attuned to the underlying policy objective which is to restrict the take-up of the right to buy, in order to meet housing need and safeguard housing stock.
- 3.3 If the simple aim of government policy is to safeguard as much rented stock as possible, many of the suggested evidence requirements are either superfluous or unnecessarily complicated. For example:
- RSLs to demonstrate that their stock is “pressured” by comparing their waiting list:lets ratios against national averages (para 16)
 - RSLs to demonstrate that there is “pressure on stock that would be made worse if a further suspension was not granted” (para 16)

- RSLs to compare current waiting list numbers with 10 years ago (para 21)
- RSLs to marshal evidence from HNDA reports, local housing strategies, local authority homelessness capacity plans (paras 23 and 25)
- RSLs to describe how the right to buy impacts on each of an RSL's strategic aims (paras 25-28)
- RSLs to assess the financial implications for their organisation if the application to extend the 10-year suspension for affected properties were to be unsuccessful
- RSLs to consider a wide range of additional supporting evidence as described in para 32 (including historical analysis of supply, turnover rates, letting times, impact of land values of new supply, past and future development programmes, take-up of right to buy).

3.4 Many of the suggested requirements will be difficult to meet on a practical level. Our members have expressed reservations about the practical difficulties involved in addressing many of the suggested evidence requirements. For example:

- Tracking back information over 10 years is likely to be impossible or extremely time-consuming
- Any in-depth analysis of historic waiting list information will raise similar difficulties, beyond simple housing stock:waiting list ratios as reported in recent APSRs (information the Scottish Government can already access, through the Scottish Housing Regulator)
- The suggestion that ratio calculations should exclude transfer applicants and external applicants with no housing need is incompatible with the waiting list information readily available from APSR returns. These types of data would be impossible to compile on a historic basis, unless individual RSLs' APSR working papers have recorded this information.
- The suggested comparison with national averages is problematic for several reasons. Firstly, the data sources referred to record waiting list information for local authorities only, not all social landlords. Secondly, the local authority data sources are not fully accurate in "stripping out" transfer applicant numbers. Thirdly, it is unclear whether the local authority data sources strip out applicants with no recorded housing need – the notes to the data tables do not suggest this is the case.
- In any event, the focus of the vast majority of housing associations is on meeting local need, very often within geographically defined neighbourhoods or communities. Comparing local needs against broad national averages has little relevance.

3.5 Aside from the question of information requirements, we have a number of other concerns about the proposals set out in the draft guidance:

- The draft guidance provides no clear statement or sense of the criteria the Government would use in approving or rejecting applications. If the Government is not persuaded of the need to radically simplify the application and approval process, the guidance needs to address this gap.
- The draft guidance suggests that RSLs should allow up to six months between the date of application and a final decision. This is far too long and could be substantially shortened if a much simpler application and approval process was adopted.
- The draft guidance suggests that it would be “good practice” to consult tenants about plans to seek an extension of the 10-year suspension period and that RSLs “may also wish” to consult local authorities.
- It is not clear what the purpose of tenant consultation would be, how an RSL might be expected to use the results, and what bearing this might have on the Government’s decision making. A simple requirement to provide tenants with information about the intention to seek an extended suspension would be more meaningful.
- Similarly, the specific purpose of seeking local authority views is unclear. Is the intention that RSLs should seek views and/or broad support from their local authority, rather than its approval? Would the absence of explicit support from a local authority lead to the rejection of an application?
- We do not see the relevance of suggesting that RSLs should consider consulting with local estate agents.
- It is not clear how proportionality would be ensured, in either the application process or decision-making.

4. Our suggested alternative approach

4.1 The very detailed evidence requirements the guidance suggests might be justified if the Government’s intention was to ration approvals significantly. Such rationing would make little sense in strategic or policy terms: a straightforward “yes” really should be the assumed default decision in the overwhelming majority of cases.

4.2 We suggest that a much simpler and more efficient process could be established. This would involve:

- Restricting information requirements to the bulleted list at paragraph 14 in the draft guidance
- The Government setting a simple metrics test for approving applications (eg current housing list numbers exceed total number of re-lets in last 3 years). This information is already available to the Government through APSR data.
- Dispensing altogether with the “Key Evidence” requirements on pages 3 to 7 of the draft (or restricting these requirements to exceptional cases, where a simple metrics test is not met).

4.3 A simplified approach would be far more efficient for all concerned:

- RSLs would not need to waste resources by compiling detailed submissions which merely confirm the obvious – ie demand for rented housing greatly exceeds supply.
- The Scottish Government would not need to expend significant amounts of its own resources on a decision making process which many will think should be a formality, given the straightforward policy objectives involved. Quite simply, we do not see that detailed assessment of multiple applications by Government officials is a good use of public resources.

Glasgow and West of Scotland Forum of Housing Associations
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