

REPORT TO: HOUSING COMMITTEE – 19 MARCH, 2001

REPORT ON: HOUSING (SCOTLAND) BILL

REPORT BY: DIRECTOR OF HOUSING

REPORT NO: 150-2001

1. PURPOSE OF REPORT

- 1.1** To advise members of the contents of the Draft Housing (Scotland) Bill and to indicate how the Bill relates to comments submitted by Dundee City Council during the consultation process.

2. RECOMMENDATIONS

- 2.1** It is recommended that the Committee notes the contents of the Report and the Dundee City Council position outlined in Appendix 1.

3. FINANCIAL IMPLICATIONS

- 3.1** There are no financial implications as a result of this report.

4. LOCAL AGENDA IMPLICATIONS

- 4.1** There are no local Agenda 21 implication resulting directly from this report.

5. EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1** There are no equal opportunities implications resulting from this report.

6. BACKGROUND

- 6.1** Prior to the creation of the Scottish Parliament the Scottish Office issued a Green Paper "Investing In Modernisation – An Agenda for Scotlands Housing, followed last year by "Better Homes for Scotlands Communities", the Executive's proposals for the Housing Bill. Dundee City Council responded to both these documents.
- 6.2** The Scottish Executive has now produced a draft Housing (Scotland) Bill which is currently being considered by Committees of the Scottish Parliament.
- 6.3** Dundee City Council has accepted an invitation to submit written evidence to the Local Government Committee. This evidence, based on previous submissions, approved by members is attached as Appendix 1.
- 6.4** Throughout the consultation process Dundee City has highlighted several key concerns around particular aspects of the proposals. These and the Executive's response as indicated in the draft Bill are as follows:

a Homelessness

Dundee expressed concern that some of the terms were vague and needed clarification.

These include

- What is “temporary” accommodation and when is its use appropriate?
- What is the extent of the new “enhanced duty” to rehouse and when is it discharged?
- What mechanism will there be to enable local authorities to discharge their statutory duties post stock transfer?
- Rights of homeless people to reasonable preference in accepting offers and right of appeal.

In the draft housing Bill:

- People are homeless if they are in accommodation not defined as permanent.
- The local authority duty to rehouse continues until “reasonably considered” permanent accommodation is secured, even if this is not local authority property.
- Interim duty is to anyone local authority believes is homeless, irrespective of priority need,
- Local authority can request Registered Social Landlord (RSL) to provide Scottish Secure Tenancy to unintentionally homeless in priority need. RSL must have good reason (defined by ministers) for not complying.

b Scottish Secure Tenancy – “the single tenancy”

Dundee had concerns over the balance between the rights of tenants and landlords and identified:

- A weakening of existing tenants rights and a need for a careful analysis of gains and losses in tenants rights.
- A difficulty with definitions such as “persistent arrears” and “without good reason”.
- A compulsory transfer power perhaps weighted too much towards the landlord.
- A need for local flexibility on the 12 months qualification for extended Right of Succession.
- The need for an equivalent system to the fair rent system.

In the draft housing Bill:

- Grounds for repossession do not include persistent rent arrears, lenders right to vacant possession or strengthened ground to transfer because of anti social behaviour.
- Where a “short” tenancy is granted because of previous anti social behaviour this will automatically convert to full secure tenancy after 12 months. Tenant can appeal to courts if they think should have been given full secure tenancy.
- No residential qualification for Right of Succession is required.
- There must be full consultation on rent increases.

c Right to Buy (RTB)

Dundee welcomed the moves on qualification and discounts but noted:

- The need to address the problem of lost resources through RTB of fully adapted houses.
- The extension of RTB was against principles of tenure diversification.
- An extended RTB should also apply to regulated tenancies in the Private Sector.

- Rigid definition of “pressurised areas” which are exempt from RTB is required.
- “Pressurised areas” should be available to urban as well as rural authorities.

In the draft housing Bill:

- Fully adapted houses within groups have increased protection from RTB but individual dwellings still seem to be unprotected.
- RTB is not extended to the Private Sector.
- Pressurised areas are defined as where demand exceeds or is expected to exceed substantially, supply in the area.
- The limitation on RTB applies for up to 5 years but can apply for fresh exception.
- Limitation available to all local authorities.
- Ministers will issue guidance on procedures.

d Tenant Participation

Dundee welcomed the recognition of absolute need for, and right to, consultation and noted the benefits of recently published guidelines while awaiting further guidance.

The draft housing bill places a duty on local authorities and Registered Social Landlords to:

- Prepare a strategy for Tenant Participation including resource assessment.
- Notify tenants and registered tenants’ organisations of proposals on housing management and services and to have regard to such representation.

It further requires landlords to maintain a register of tenants groups.

e Regulation and Monitoring

Dundee’s response recognised:

- Scottish Homes previous track record in setting up and monitoring housing associations.
- The need for increased monitoring in the context of New Housing Partnerships and Stock Transfer.
- That regulation and monitoring would be effective only if local authorities had a central role and that their existing role was actually being reduced.
- That local authorities are already subject to considerable monitoring and any increase is unnecessary.

In the draft housing Bill Scottish Homes are required to exercise the powers of Ministers including:

- A duty to maintain a register of Registered Social Landlords.
- Powers to carry out inspections of Registered Social Landlords and local authorities.
- Powers to appoint special manager to ensure the standard of a Registered Social Landlord.
- Powers to require a local authority to produce a remedial plan and to appoint a special manager if this plan is not implemented successfully.
- The preparation, in partnership with other agencies and local authorities, of Regional Context Statements (RCS), which will examine current and future housing needs and demands within a region.
- The establishment of Regional Information Partnerships (RHIP’s) to promote the sharing of the wide range of qualitative and quantitative data necessary to produce

local Housing Strategies and Regional Context Statements.

f Strategic Housing Functions of Local Authorities.

In our response to this important issue Dundee:

- Welcomed the Single Housing Plan in principle but with qualifications.
- Urged that local authorities should be responsible for Strategic Housing Budget while recognising the limits placed on them by specific budgets and priority initiatives.
- Disagreed with tying local authorities' strategic role to stock transfer and rejected the view that local authorities could not be providers and enablers (see (h) below).
- Recognised the need for a focussed response to community care needs.

In the draft housing Bill local authorities are given a duty to:

- Carry out assessment of housing needs and provision in their area and prepare a local housing strategy (LHS).
- Take on the development funding function of Scottish Homes.
- Fund housing support services to vulnerable people.
- Provide grants to Registered Social Landlords and individuals for housing purposes.

Levels of grants available will be determined by ministers.

g Private Sector Repairs Grants and Factoring

Dundee's response on this issue was informed by problems being encountered by elected members particularly in multiple owner situations. We recognised:

- Problems associated with removal of "ring facing" of grant funding.
- The need to address difficulties of owners with limited resources in multiple ownership situations.
- The difficulty of protecting previous public investment in the absence of factors and the need to investigate Compulsory Factoring.
- The shortcomings of Below Tolerable Standard and the need to investigate alternative minimum housing standards.

The draft housing Bill:

- Extends the range of works eligible for grant aid.
- Requires details of income and financial circumstances prior to grant assessment.
- Limits maximum grant to £20,000.

It does not:

- Agree to investigate Compulsory Factoring
- Agree to investigate alternatives to Below Tolerable Standard.

h Alternative Methods of Funding:

Dundee's original response to the Green Paper argued for:

- Greater flexibility in methods of securing private funding.
- A move towards European definitions of funding public expenditure (GGFD), which sees this type of social provision as investment rather than expenditure.

Since then the English Green Paper has been published. This allows the consideration of alternative models to stock transfer, e.g., arms length companies.

The draft housing Bill:

- Maintains the emphasis on stock transfer.
- Allows for no alternative models.
- Sees no significant future role for local authorities as providers.

i Future Role of DLO's

In our responses, particularly with regard to the future of local authority staff, we argued that the future ability of DLO's to compete on a level playing field had to be addressed. In particular we highlighted:

- Problems associated with minimum rate of return.
- The provisions in the Goods and Services Act, which relate to DLO's and DSO's undertaking non-Council work.

The draft housing Bill whilst allowing DLO's to continue with existing contracts and competing for future work, does nothing to address the issues identified.

7. CONSULTATION

The Chief Executive and all Directors have been consulted on the terms of this report.

8. BACKGROUND PAPERS

"Investing in Modernisation – An Agenda for Scotlands Housing"

"Better Homes for Scotlands Communities".

ELAINE ZWIRLEIN
DIRECTOR OF HOUSING

SIGNATURE _____

DATE _____

APPENDIX 1**HOUSING (SCOTLAND) BILL****WRITTEN EVIDENCE FROM DUNDEE CITY COUNCIL TO
LOCAL GOVERNMENT COMMITTEE OF SCOTTISH PARLIAMENT****1. INTRODUCTION**

- 1.1. Dundee City Council responded in detail to both the Green Paper and to the Scottish Executive's subsequent proposals. We welcome the opportunity to submit written evidence to the Local Government Committee and hope it will help inform their deliberations.
- 1.2. We note the Committee's intention to emphasise particular issues and will concentrate on these. There are other areas, however, which we would wish to draw to the attention of the Committee.

2. STRATEGIC ROLE OF LOCAL GOVERNMENT (INCLUDING IMPACT OF RIGHT TO BUY)

- 2.1. Dundee welcomed the Single Housing Plan in principle, and the need for a focussed response to community care needs.
- 2.2. At the same time, we recognised the limits placed on local authorities in practice through specific budgets and individual priority needs.
- 2.3. We reject the view that the local authority cannot be both a provider and an enabler, or that the local authority's strategic role should be tied to stock transfer proposals.
- 2.4. **We welcome, therefore, the proposed duty of local authorities to carry out assessment of housing needs and provision in their area and to prepare a local housing strategy. We still believe, however, that this would be enhanced if local authorities were also responsible for the Strategic Housing Budget.**
- 2.5. Dundee City remains committed to consulting and engaging with our tenants and to giving them maximum choice in how social housing is provided.
- 2.6. **We do not believe that this is best delivered through an exclusive concentration and emphasis on stock transfer. It is regrettable, therefore, that the option of "arms length" housing companies has been ruled out in Scotland, unlike the situation in England. We would urge very strongly that this issue is revisited. We also argue strongly for a provider role for local authorities where appropriate.**
- 2.7. In welcoming the moves on qualification and discount we pointed out that extension of Right to Buy was against the principles of tenure diversification. We also stressed the need to address the loss of resource to local authorities through Right to Buy of fully adapted houses.
- 2.8. **While fully adapted housing within groups has been given increased protection, individual dwellings still appear to be unprotected. If this is so then this is an anomaly which should be addressed.**
- 2.9. The definition of pressurised area has been clarified substantially. Section 39(3), however, appears to say that this will apply only to new tenants. **If this is the case, then much of the aim of this policy will be nullified. This point needs further clarification.**

3. HOMELESSNESS

- 3.1. Many of the concerns which we raised regarding the homelessness proposals in the consultation document have been addressed in the draft bill. Definitions of permanent accommodation, enhanced duty, right to reasonable preference and right of appeal against suspension have been provided, as has the statutory responsibility of the local authority.
- 3.2. Dundee was concerned, however, that the current role of the voluntary sector in this particular area had not been recognised, and that no mention of the future role of the voluntary sector was made.

- 3.3. **This issue has not been addressed and it would be unfortunate if the vast expertise built up over the years was lost.**
- 3.4. **While the issues have been addressed much of the provision in practice will be determined through ministerial guidelines. It is crucial that these guidelines are clear and precise in defining the roles, duties and responsibilities of various agencies.**

4. **IMPROVEMENT AND REPAIRS GRANTS**

- 4.1. In our submission on the Green Paper and again on the consultation document we highlighted the problem created by the removal of “ring fencing” of grant funding. We emphasised in particular the problem in areas of multiple ownership where some owner occupiers had very limited resources. We went on to suggest it might be appropriate to allow local discretion to award 100% discretionary grants in some of these circumstances.
- 4.2. **While the draft bill seems to leave it open to award 100% grants, depending on the financial circumstances this seems dependent on ministerial regulations and remains unclear in the bill. Considerable clarification is required.**
- 4.3. We further highlighted the problem of ongoing repairs in multi ownership situations and the reappearance of serious repair in tenemental property previously improved at considerable expense, mainly through the Housing Action Area programme. In many situations this went beyond property issues and was actually creating public health problems.
- 4.4. **While recognising that there are significant problems associated with the concept we firmly believe that Compulsory Factoring should be investigated. This suggestion does not appear to have been addressed in the draft bill.**
- 4.5. Finally we expressed concern that the minimum standard for habitable housing continued to be Below Tolerable Standard. We pointed out that even at its introduction BTS has been the lesser of two proposed standards. Over the years it has become less and less acceptable as a reasonable definition of habitable housing.
- 4.6. **Again, while recognising problems associated with the introduction of a new standard we asked the Scottish Executive to investigate alternative option for a new housing standard. No mention is made of this in the bill and we would continue to urge that this matter is investigated at an early date.**

5. **REGULATION AND MONITORING**

- 5.1. We commented in previous responses on Scottish Homes history in regulation and monitoring of housing associations and the increased need for monitoring given the growth of the Registered Social Landlord sector.
- 5.2. **We also suggested, however, that this would be effective only if local authorities were given a central role at local level. There is no indication in the draft bill that this will happen and we would urge reconsideration of this issue.**
- 5.3. **The problems associated with the private sector (see (4) above) could and should be addressed through the introduction of a monitoring regime for this sector. This need has been ignored in the bill and is an omission that should be addressed.**

*** **