

PERTH AND KINROSS COUNCIL

Housing and Health Committee

29 January 2014

Housing Scotland Bill – Perth and Kinross Council's response

Executive Director (Housing and Community Care)

PURPOSE OF REPORT

On 21 November 2013, the Scottish Government published the Housing (Scotland) Bill which draws on a number of recent Scottish Government consultations. The Bill is currently progressing through Parliament and the Scottish Parliament's Finance Committee is seeking the views of stakeholders on a number of questions relating to the Housing (Scotland) Bill's Financial Memorandum. This report provides an overview on the implications of the Bill and the proposed response to be submitted by Perth and Kinross Council.

1. BACKGROUND / MAIN ISSUES

- 1.1 The Scottish Government published the Housing (Scotland) Bill on 21 November 2013. There was no formal draft Bill for consultation. Instead, the Bill draws on a number of recent Scottish Government consultations and is likely to have a fairly swift passage through Parliament. The Bill may, however, undergo changes in this process.
- 1.2 The main aims of the Bill are to safeguard the interests of consumers, support improved quality and deliver better outcomes for communities. There are seven main proposals set out to achieve these for which the Government has also identified costs and savings:
 - Abolishing the Right to Buy
 - Amendments to provisions in relation to management of social housing
 - Private rented housing Dispute Resolution
 - Regulation of Letting Agents
 - Licensing of permanent mobile home sites
 - Amendments to powers to enforce repairs and maintenance in private homes
 - Miscellaneous amendments

2. PROPOSALS

- 2.1 The proposals in the Bill are set out in a table in Appendix 1 which details the current provision, the proposed changes and the likely impact. Appendix 2 is Perth and Kinross Council's response to the Scottish Government's Financial Memorandum. This section gives an overview of the Scottish Governments intentions and original proposals which have not been included in the Bill.

2.2 Abolishing the Right to Buy

The Scottish Government recognises the need to protect and enhance social housing for future generations and to safeguard the investment made in social housing over many years. The proposal to remove the right to buy altogether has received wide ranging support as a way of reducing the loss of social housing. When an existing right is removed it is appropriate to have a reasonable lead in period. The Scottish Government has, however, proposed a three year lead in period. At the time of the consultation Perth and Kinross Council recommended a 12 month period as this would allow an adequate amount of time to pursue the sale if people wished to exercise their right.

2.3 Management of Social Housing

The proposals within the Bill relate to social housing allocations, the extension of the term of the Short Scottish Secure Tenancy, the right to assign or sublet a tenancy, to establish a joint tenancy and to succeed to a secure tenancy. The proposals are intended to provide better outcomes for communities by:

- Increasing the flexibility that landlords have when allocating housing
- Allowing landlords to make best use of stock
- Giving landlords more tools to tackle anti social behaviour
- Providing further protection for tenants with Short Scottish Secure Tenancies by strengthening their rights
- Clarifying existing legislation on how Short Scottish Secure Tenancies operate

2.4 These changes are welcome, however, measures which were consulted on originally, have not been included in the Bill:

- Introductory Tenancies which would have enabled landlords to provide a Short Scottish Secure Tenancy to all new tenants for a fixed period of 12 months. As part of our response to the original consultation we indicated that there were both positive and negative aspects to the proposal. While this would allow for identification and early provision of support and would assist in the management of anti social behaviour it was felt that this approach may stigmatise council tenants. It would also reduce security of tenure and may lead to increased evictions and homelessness.
- The power for landlords to take income into account when allocating a tenancy. In our response to the original consultation we felt that income should be taken into account as this is consistent with our Housing Options approach. This information directs an applicant to alternative forms of tenure that may be affordable. This type of information may also be useful in helping to determine future rent levels and whether other forms of housing (mid market, shared equity) should be developed and in what localities.

It may also have been prudent to change the right to assign from being a tenant's right to a landlord's power to allow assignation where it fitted with making best use of stock. However, the inclusion of stronger grounds for refusals based on lack of housing need, are welcomed.

2.5 Private Rented Housing

The changes introduced ensure that local authorities will have a range of effective tools to tackle poor standards in the Private Rented Sector. The changes include the transfer of jurisdiction for civil cases relating to the private rented sector from the sheriff court to the First Tier tribunal, provisions which deem a landlord as being registered on the landlord register where an application has not been determined by a local authority within 12 months and provides for third party reporting rights to the Private Rented Housing Panel for enforcement of the landlords repairing standard.

It is disappointing that the social housing sector will not be afforded the same opportunity to refer cases to a tribunal system. This was recommended by Perth and Kinross Council at the time of consultation. Moving social housing sector cases to a tribunal system would have a much greater impact on reducing the current pressures on the courts.

2.6 Regulation of Letting Agents

The Scottish Government has introduced new provisions to promote high standards and levels of professionalism within the letting industry which are welcomed. The Bill defines letting agency work, makes provisions for the regulation of letting agents, sets out the tribunal process for handling disputes between letting agents and landlords or tenants and allows Ministers to set out a statutory code of practice for letting agents.

There will be a centralised register and a requirement to comply with certain conditions through a code of practice. The content of the code of practice is still to be agreed and will be subject to further consultation. This is expected to consider the existing voluntary codes such as those that the members of the Royal Institute of Chartered Surveyors or the Association of Residential Letting Agents adhere to.

2.7 Mobile Home Sites with Permanent Residents

The Scottish Government wishes to strengthen the site licencing system, reflect modern practice and focus on the licence applicant, standards and the appeal process in order to improve the rights and protections of mobile home residents. There are 92 such sites in Scotland, covering 22 local authority areas and housing 3,300 people, many of whom are older people. Perth and Kinross Council has 3 such sites, two in Crieff and one in Glendevon.

The provisions include a fit and proper person test, enforcement actions, including powers of entry and recovery of expenses.

The Environment Service currently carries out functions in relation to mobile home sites but now that the proposals strengthen the licensing system and are more complex in relation to the fit and proper person test, the responsibility for this function may need to be reviewed.

2.8 Private Housing Conditions

The provisions in the Bill which relate to powers to enforce repairs and maintenance in private homes supplement existing powers to tackle poor conditions. As these powers are discretionary they should not increase pressures on local authority resources.

2.9 Miscellaneous Amendments

Defective property designation

In the 1980s 12 types of precast reinforced concrete houses were classified as defective in order that those who had purchased them through the right to buy qualified for grant assistance with repairs or to sell them back to the council. This assistance is no longer available and the designations are outdated. The Bill, therefore, brings them to an end.

3. CONCLUSION AND RECOMMENDATIONS

3.1 The provisions within the Housing Bill and the opportunity to respond to the Financial Memorandum are welcomed. Committee is asked to approve the attached paper in Appendix 2 as the Council's response for submission to the Scottish Parliament's Finance Committee.

3.2 A further report(s) will be submitted when the final terms of the enacted Bill are published informing on the significant effects of the new legislation as the new duties are proposed to be introduced over a three year time scale.

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Approved

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

The undernoted table should be completed for all reports. Where the answer is 'yes', the relevant section(s) should also be completed. Where the answer is 'no', the relevant section(s) should be marked 'not available (n/a)'.

Strategic Implications	Yes / None
Community Plan / Single Outcome Agreement	Yes
Corporate Plan	Yes
Resource Implications	
Financial	Yes
Workforce	None
Asset Management (land, property, IST)	None
Assessments	
Equality Impact Assessment	None
Strategic Environmental Assessment	None
Sustainability (community, economic, environmental)	None
Legal and Governance	Yes
Risk	Yes
Consultation	
Internal	Yes
External	Yes
Communication	
Communications Plan	No

1. Strategic Implications

Community Plan / Single Outcome Agreement

1.1 The Community Plan and Single Outcome objectives are all relevant to this report:

- Giving every child the best start in life
- Developing educated, responsible and informed citizens
- Promoting a prosperous, inclusive and sustainable economy
- Supporting people to lead independent, healthy and active lives
- Creating a safe and sustainable place for future generations

Corporate Plan

1.2 As above. The five Corporate Plan objectives are all relevant to this report.

2. Resource Implications

Financial

- 2.1 The Scottish Governments Financial Memorandum to the Bill states that that there is no anticipated substantial costs to the Scottish Administration, local authorities, other bodies or individuals. The largest cost to local authorities will be in relation to the provisions for short secure tenancies where there has been a history of anti social behaviour (as described in section 2.4 of the main report). The additional estimated cost for housing support for Scotland is £760,000 per annum. Extrapolating a share for Perth and Kinross based on existing data would result in a cost of £11,000.
- 2.2 There are no other significant costs anticipated. The cessation of the Right to Buy, as highlighted in section 2.2 of the main report, is estimated to be cost neutral at worst to local authorities as additional future rental streams offsets the lost capital receipts of house sales. It should be noted that Perth & Kinross Councils HRA Business Plan does not include capital receipts from Right to Buy sales and therefore the Bill does not create any risk.
- 2.3 The cost of improving standards of mobile home sites for permanent residents as highlighted in section 2.7 of the main report will also be cost neutral as local authorities will recover costs by charging a licence fees and enforcement actions.

Workforce

- 2.4 None arising from this report.

Asset Management (land, property, IT)

- 2.5 None arising from this report.

3. Assessments

Equality Impact Assessment

- 3.1 As a social landlord we have a duty to perform all aspects of our housing services so that: every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.
- 3.2 Perth and Kinross Council is committed to equality of opportunity and will ensure that policies and procedures drafted as a result of new legislation will not unfairly discriminate against people on grounds of sex or marital status, racial grounds, disability, age sexual orientation, language or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions.
- 3.3 The housing service has facilities to provide for:
 - Translation and interpretation for people whose first language is not English
 - Sign language facilities for people who are profoundly deaf
 - Large text or audio tapes for people who are visually impaired

- 3.4 There are many other reasons why people may have difficulties accessing our services. These may include dyslexia, illiteracy and mental illness. It is the duty of all staff to ensure these issues are taken into account and to make sure information is appropriately communicated in ways that individuals can understand.

Strategic Environmental Assessment

Not Applicable

Legal and Governance

The Housing Bill's intentions are to provide the legislative basis for implementing Scottish Government policy priorities and achieving strategic housing objectives. Perth and Kinross Council will adhere to the legislation as introduced and ensure new procedures are based on any guidelines issued and are followed by housing staff.

Risk

The proposals detailed in this report are considered to be of minimal risk. Any risks identified will be captured on the service's risk profile and monitored through existing quality assurance and performance management mechanisms.

4. Consultation

Internal

- 4.1 The Head of Legal Services, Head of Environment and Consumer Services and the Head of Finance have been consulted about this report.

External

- 4.2 The Tenant Committee Report Panel has been consulted on this report. They consider that there are good ideas to be implemented if the Bill is passed, particularly in relation to the housing conditions that affect private tenants.

5. Communication

- 5.1 The Housing Bill and this document will be shared with relevant staff.

2. BACKGROUND PAPERS

- 2.1 The Housing (Scotland) Bill - Briefing paper from Chartered Institute of Housing Scotland

3. APPENDICES

- 3.1 Appendix 1: Housing Bill Proposed Changes
3.2 Appendix 2: Response to the Scottish Parliament's Finance Committee

HOUSING (SCOTLAND) BILL PROPOSED CHANGES

	Current Position	Proposed Changes	Potential Impact
1	<u>Right to Buy</u> Pressured area status across Perth and Kinross means that only tenants who took up their tenancy before 30 September 2002 have the right to buy.	Abolition of the Right to Buy means that social housing tenants will no longer have any right to buy their home from 2017.	This is likely to have minimal impact. There will be a loss of income from capital receipts, but as the council no longer take receipts into account within the HRA Business model there will be little impact. There will be continued income from the stock which has not been sold which in turn will allow the Council to plan more accurately. It will also mean that the retained stock will continue to meet housing need through turnover.
2	<u>Management of Social Housing</u> Reasonable preference in allocations - Section 20 of the 1987 Act When social landlords allocate tenancies they must give reasonable preference to the persons who – • Are occupying houses which do not meet the tolerable standard • Are occupying overcrowded houses or • Have large families or • Are living under unsatisfactory housing conditions and • Homeless persons	Section 20 of 1987 Act replaced with A social landlord must in relation to all houses held by it for housing purposes, secure that in the selection of its tenants a reasonable preference is given to persons who – • Are homeless or threatened with homelessness and have unmet housing need • Are living under unsatisfactory housing conditions and have unmet housing need • Are tenants of houses held by a social landlord which the social landlord considers to be under occupied.	The Council will prioritise other groups to reflect local needs and circumstances as long as reasonable preference is given to the three statutory groups. This is a broader definition; however, than the 1987 Act and the significant change here is that this now also includes tenants of social landlords who are under occupying. This will help to mitigate against the risks of Welfare Reform in relation the under occupancy charge. In practice there is little change to the flexibility that landlords will have other than the inclusion of tenants who are under occupying. Perth and Kinross Council's Common Allocation Policy already recognises under occupation as housing need (Those under occupied by 2 or more bedrooms are awarded a band A and those under occupying by 1

	Current Position	Proposed Changes	Potential Impact
		Unsatisfactory housing conditions – though not specified in law – can be expected to continue to include a wide variety of circumstances including both physical housing conditions and other situations such as health issues, domestic abuse etc.	bedroom a band B)
2.2	<u>Management of Social Housing</u> Consultation on allocation policies The Housing (Scotland) 2001 places a duty on landlords to consult with tenants on policy in relation to housing management, repairs or maintenance where a proposal is likely to affect the tenant significantly.	The proposals mean that landlords will now also be required to carry out consultation before making or altering its rules governing the priority of allocation of houses and publish a report. The people that the Council must consult are • Applicants on the housing list • Tenants of the landlord • Registered Tenants Organisations • Other persons as the landlord sees fit The landlord must also have regard to the Local Housing Strategy for the area and also any guidance issues by Scottish Ministers.	The current Allocations Policy which was approved by Committee in August 2009 was subject to extensive consultation with a wide variety of groups including 20% of housing list applicants, Registered Tenants Organisations, Interested Parties, other Council Services, local RSLs, other partner agencies and voluntary agencies and therefore this is not a new approach for Perth and Kinross Council. The Scottish Government will, however, provide guidance on how this will be undertaken in the future. As Perth and Kinross Council will have to take into account the changes introduced in the Bill which affect the Common Allocation Policy, the new duty to consult will apply as soon as the new provisions come into force.
2.3	<u>Management of Social Housing</u> Taking age into consideration in allocations Social landlords can only take age into consideration when allocating to particular types of houses that have been designed or substantially adapted for people of a particular age group or who are in receipt of housing support service for a particular age group such as sheltered housing.	The Bill removes the prohibition on taking age into account. Landlords, must, however, ensure that applicants are not the subject of unlawful discrimination on age grounds under the Equality Act 2010.	This is welcomed and is a pragmatic way of addressing some issues that social landlords face such as clash of lifestyles when younger families are allocated housing which was originally built for older people. This new provision will mean that with the right kind of evidence, the Council could designate a particular block or other small grouping of properties for adults over 50 or for those with older children.

	Current Position	Proposed Changes	Potential Impact
2.4	<u>Management of Social Housing</u> Ownership of Property The Housing (Scotland) Act 1987 states that in considering whether an applicant for local authority housing is entitled to be admitted to a housing list the local authority shall not take account of whether, or to what value, the applicant or any of his family owns or has owned heritable or moveable property.	The new Bill means that landlords will now have the power to take into account whether an applicant owns (or jointly owns) a property. Ownership must be disregarded where for example occupying the property could lead to abuse or otherwise damage health. In these instances a Short Scottish Secure Tenancy can be offered to home owners as a temporary solution whilst the applicant makes their own arrangements to bring their property back into use.	This change means that we will be able to make best use of stock for those in acute housing need. Where the Council is required to assist home owners, this can be done without having to offer a permanent tenancy.
2.5	<u>Management of Social Housing</u> Suspensions - determination of minimum period before applicant is eligible for housing Up to now landlords have been relying on what is not said in the Housing (Scotland) Act to enable them to suspend applicants for an offer of accommodation in certain circumstances for example where there is previous anti social behaviour. Perth and Kinross Council currently suspends applications where there is evidence of anti social behaviour and the Safer Communities Team are investigating/monitoring behaviour short of legal action being taken. This is reviewed after a six month period. Where an applicant has seriously breached tenancy conditions and has received a legal notice or court order the application will also be suspended which will last for the duration of the notice/order.	The Bill provides clarity that suspending an applicant temporarily from receiving an offer is a legitimate response in certain prescribed instances such as anti social behaviour, harassment, using a house for illegal or immoral purposes or offences punishable by imprisonment that were committed in the vicinity of the house. This includes anti social conduct affecting other residents and staff. The maximum period for which such a suspension can remain in place and the previous time period which can be taken into account when considering an applicant's behaviour will be decided by Scottish Ministers through regulations.	This provision is intended to make anti social tenants and applicants aware of the consequences of their behaviour. It is also intended to help protect communities by anticipating future anti social behaviour problems and taking steps to prevent this prior to the start of a new tenancy. The new right of appeal means that all landlords will need to be very clear about why and for how long they intend to prevent an applicant from receiving an offer.

	Current Position	Proposed Changes	Potential Impact
2.6	<u>Management of Social Housing</u> Short Scottish Secure Tenancies for Anti Social Behaviour The Housing (Scotland) Act 2001 grants power to provide an applicant with or demote an existing tenant to a Short Scottish Secure tenancy (SSST) for those who have behaved in an anti social manner. This is only applied where the applicant or tenant have been evicted for anti social behaviour in the last three years or they or a member of their household has been the subject of an ASBO in the last three years. In order to facilitate the conversion from a SSST to a full Scottish Secure Tenancy (SST) landlords must ensure that that appropriate housing support is available to achieve successful outcomes.	The Bill introduces a new right for tenants to appeal a landlord's decision to suspend their application. The Bill now provides for landlords to have the power to grant SSSTs where applicants or tenants or persons associated with the tenant has acted in an anti social manner in or near their home within the last three years. The duty to ensure appropriate housing support is available during the period of the SSST remains.	This enables landlords to more closely manage tenancies of tenants who have a history of anti social behaviour to enable conversion to a full SST. This proposal does, however, raise questions about what constitutes anti social behaviour and how evidence is gathered. It will also mean an increase in demand for housing support. This provision will allow serious anti social behaviour cases to be dealt with more quickly and support to be put in place at an earlier stage without the need to obtain an ASBO first. This provides greater reassurance for communities.
2.7	<u>Management of Social Housing</u> Extension to the SSST minimum period Currently the minimum period for a SSST is six months.	For SSSTs which have been granted on the grounds of anti social behaviour the Bill proposes that this be extended to a minimum period of 12 months. For all other types of SSSTs the minimum period remains at 6 months.	This enables landlords to have a longer period of engagement before a decision is made on whether the SSST will convert to full Scottish Secure tenancy or brought to an end. This also provides more of an opportunity for a successful outcome.

	Current Position	Proposed Changes	Potential Impact
2.8	<u>Management of Social Housing</u> Extension of term for Short Scottish Secure Tenancies At present the Housing (Scotland) Act 2001 provides for the automatic conversion of a Short Scottish Secure tenancy on the grounds of anti social behaviour to a full SST after a period of 12 months unless the landlord has served a notice to quit on the tenant.	SSSTs granted because of anti social behaviour can be extended for a one off period of 6 months to enable further work to be taken with the tenant and their family if they have not yet reached the required standard to enable their tenancy to be converted to a full SST. The duty to provide or arrange the provision of housing support also applies during this extended 6 month period.	This further extension allows landlords a longer period to secure support and work with tenants and their family. It is not intended to be used on a regular basis and will act as an alternative to eviction where there has been insufficient progress to change behaviour during the initial 12 month period.
2.9	<u>Management of Social Housing</u> Recovering a Short Scottish Secure Tenancy The Housing Scotland (2001) Act does not require landlords to give tenants reasons why they are seeking recovery of possession of a Short Scottish Secure Tenancy. The notice must only state that the landlord requires possession, specify a date on or after which the landlord can raise proceedings.	Recovery of possession for SSSTs granted for anti social behaviour may not be raised unless tenancy obligations have been broken and the tenant has been advised of the reason. The Bill also clarifies the 2001 Act by allowing landlords to seek repossession at any time during the SSST if the tenant breaches their tenancy agreement for example by acting in an anti social way. A statutory right of review before court action is taken has also been introduced.	This is a reasonable proposal and indeed Perth and Kinross Council would not raise proceedings if the tenancy obligations had not been broken. The right of appeal may add layers of bureaucracy which could clog up the process. Therefore the introduction of this provision will need to be carefully managed.

2.10	<u>Management of Social Housing</u> Changes to assignment, subletting and joint tenancies Currently someone can benefit from an assignment if they have lived in a property as their main home for six months. Grounds for refusing an assignment or sublet if a • Notice has been served on the tenant • An order for recovery of possession has been made • It appears to the landlord that a payment other than reasonable rent or deposit has been or is to be received by the tenant • Overcrowding would occur • Work is to be carried out to the property which would affect the accommodation likely to be used by the subtenant or other person There is no current residence requirement for applications for joint tenancies and subletting	The Bill introduces a qualifying period of 12 months before a tenant can apply to assign or sublet their home. Also any prospective beneficiary of an assignment, sublet or application to join the tenancy will need to have lived in the property for 12 months. In all cases the prospective beneficiary must have notified the landlord at the point the property became their main home. Any period before that notification does not count towards the 12 month period. The Bill provides two additional reasons to refuse as assignment: • Where the assignee would not be given reasonable preference under the landlord's allocation policy or • The assignment would lead to under occupation	The current legislation has presented difficulties for landlords as there have been instances when applicants have manipulated circumstances to their advantage. These measures will assist in tackling tenancy fraud but will also mean changes to the current tenancy agreement to ensure tenants and people moving in with them are clear about their obligations. These are minimum rights for tenants, landlords will of course still have discretion to be flexible and pragmatic according to individual circumstances.
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2.11	<u>Management of Social Housing</u> Changes to succession The Housing (Scotland) Act 2001 makes provision for succession to a SST by a qualified person on the death of a tenant and lists them as follows in order of priority. • First priority goes to tenant's surviving spouse or cohabitee or same sex partner (providing the house has been their sole or principal home for the six month's previous to the tenant's death) or a joint tenant • Second priority , if no one in the above category qualifies or chooses to succeed, goes to a member of the tenant's family aged 16 or over provided that the home was their only or principal home at the time of the tenant's death or • Third priority if no one in the above categories qualifies or chooses to succeed, goes to a carer who is providing, or who has provided, care for the tenant or a member of the tenant's family. The carer must be 16 or over, and have given up their previous only or principal home, to be qualified to succeed	The Bill changes the qualifying period for cohabitees to 12 months and also introduces a 12 month qualifying period for family members and carers. In all cases the person claiming succession must have previously notified the landlord at the point the point the home became their main home. Any period before that does not count towards the 12 month period.	The Bill again describes minimum rights of tenants and landlords have discretion to be more generous if they decide that the circumstances of a particular case warrant it. There have in the past been some situations where a family member has moved into a tenancy immediately prior to a tenant's death with the sole purpose of succeeding to the tenancy giving up other suitable accommodation in the process. This means that landlords can refuse succession in these circumstances if they so wish, whilst still enabling them to act sensitively and with compassion.
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2.12	<u>Management of Social Housing</u> Grounds for eviction after a criminal conviction There are existing grounds for recovery of possession of a SST on the basis of a conviction as follows; The tenant, a person residing or lodging in the house with, or a subtenant of, the tenant, or a person visiting the house has been convicted of - (a) using the house or allowing it to be used for immoral or illegal purposes or (b) an offence punishable by imprisonment committed in, or in the locality, of the house	The Bill introduces a requirement that a court grants an order for recovery of possession made within 12 months of a tenant's conviction for using the property for illegal purposes or for an offence in or near the property that is punishable by imprisonment.	Where harm or distress has been caused to other tenants and residents this change should reduce the distress of victims by reducing delays and costs. Landlords will only have to demonstrate that the criteria for recovery of possession have been met rather than prove that anti social behaviour has occurred. Perth and Kinross has successfully used existing legislation for tenants who have been convicted for the supply or control of drugs but was required to prove that anti social behaviour had occurred. Landlords must consider each case on its merit, however, as not all convictions will have had an affect on neighbours.
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	Current Position	Proposed Changes	Potential Impact
2.13	<u>Management of Social Housing</u> Recovery of possession for adapted properties Currently landlords are able to let an adapted property to a household who does not require the adaptations. If a landlord wishes to recover the property to enable it to be offered to a household who does require the adaptations. This can only be done if the resident household 'no longer' requires the adaptations.	The Bill amends the current provision to apply equally to households who have never required the adaptations. The duty to provide alternative accommodation still exists.	This is a minor change which applies to a specific set of circumstances. It allows landlords, however, to make best use of stock, minimise the incidence of under utilised adaptations and keeps void periods down e.g. the Council may let an adapted property to a mainstream household that does not require the adaptation. If at a later date an identified need arises on the waiting list, the Council may recover the property to meet the identified need. We would have a duty to provide alternative accommodation for the displaced household. The impact of this change will be minimal.
3	<u>Private Rented Housing</u> Third Party reporting to the Private Rented Housing Panel (PRHP) The PRHP is the judicial body that deals with breaches of the Repairing Standard in the private rented sector. At present it is only a tenant who can bring a case to the panel.	The Bill proposes that a third party (most obviously a local authority) rather than only a tenant will have power to make a direct application to the private rented housing panel where there is evidence that a landlord is not meeting the repairing standards.	It is hoped that this will reduce the burden on tenants and provide them with reassurance that they do not have to be seen to be in dispute with their landlord and will not require to be directly involved. It will also enable local authorities to act more strategically when tackling disrepair in the private rented sector. It will help in situations where a tenant has moved on but the local authority still wants to take the case to the PRHP.

	Current Position	Proposed Changes	Potential Impact
3.2	A housing tribunal for the private rented sector Currently private rented housing cases are heard in different forums. For example repairs issues are heard by the Private Rented Housing Panel and repossession cases are heard in the sheriff court.	All civil private rented sector cases will be heard by a First Tier Tribunal for resolution. Decisions will be made by three members with specialist knowledge as opposed to one sheriff. All decisions will be published leading to better learning.	The development of a suitably resourced tribunal is not expected to happen quickly and transferring cases from the sheriff court to the tribunal will also take some time. This will reduce demands, however, on the sheriff court system and provides greater access to justice for this housing sector.
4	<u>Letting Agents</u> Regulation of Letting agents At present there is no statutory regulation of letting agents so anyone can call themselves a letting agent and charge landlords for their services.	The Bill defines letting agency work and introduces a mandatory register of lettings agents in Scotland, with an associated 'fit and proper' test. Scottish Ministers may remove the letting agent at any time if they no longer feel they are a fit and proper person to carry out letting agency work. Where registration has been refused or revoked, Scottish Ministers must publicise this in the register for a period of 12 months unless they are re-entered within this time. It will be an offence to carry out letting agency work unless registered. The Bill also introduces a provision for the establishment of a letting agent code of practice. This will be subject to further consultation. Where the code is breached the case redress will be determined by the First Tier Tribunal who can issue an enforcement order. If the letting agent fails to comply with this then the Scottish Ministers must be notified.	These provisions promote high standards and levels of professionalism within the letting industry.

5	<u>Regulation of mobile and park home sites</u> The current licensing regime does not include an assessment of the person who will be managing the site. There is also no expiry date on a site license and no power to charge fees for granting a site license.	The Bill allows for Scottish Ministers to set out regulations detailing the minimum information that must be provided when someone applies for a site license. Those applying for or renewing a site licence would have to satisfy a test that they are a 'fit and proper person' to hold a site licence. The Bill provides that site licences will now be valid for three years. Current site licence holders will have two years after the provisions are implemented to apply for a new licence and meet the new conditions. Provisions in the Bill would allow local authorities to charge fees for granting site licences and to set the level of those fees. Scottish Ministers will have the power, however, to set a maximum fee level and specify matters which local authorities must take into account when setting a fee. Provisions in the Bill also allow local authorities specific enforcement powers Other types of caravan site licences remain unchanged by this new proposal i.e. holiday sites and residential sites that do not have permanent residents.	These provisions strengthen the site licensing system. They reflect modern practice and focus on the license applicant, standards and the appeal process in order to improve the rights and protections of mobile home residents.
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	Current Position	Proposed Changes	Potential Impact
6	<u>Private housing conditions - local authority powers</u> There is an existing discretionary power for local authorities to pay missing owners' shares for repair works carried out in terms of the Tenement Management Scheme (introduced as part of the Tenements (Scotland) Act 2004), if the owner is unable or unwilling to do so or cannot be identified or found.	The Bill clarifies that local authorities may pay a missing share or shares where these costs are attributable to a decision to carry out repairs made in terms of the procedures set out in the Tenement Management Scheme but not where the decision made by owners under the Scheme is simply to arrange a common policy of insurance for the tenement. Provisions will also be introduced to enable the authority to recover sums paid on behalf of owners. There is a new power to allow local authorities to issue maintenance orders where they have issued a work notice or a previous maintenance order. There is an additional ground on which a work notice can be issued - where work is needed to improve the safety or security of any house, regardless of whether or not it is situated in a housing renewal area.	These are relatively minor adjustments to existing legislation but will help local authorities to take a more practical approach to supporting owners carry out repair works to common areas.

Response to the Scottish Parliament's Finance Committee

Housing (Scotland) Bill's Financial Memorandum

Consultation

Q1 Did you take part in either of the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes, Perth and Kinross Council made comments on the consultation exercises which support the development of the Bill.

Although a response to the consultation on "Affordable Rented Housing: Creating flexibility and better outcomes for communities" was submitted it was not possible to comment on costs until further information was available.

However, we did respond positively to the consultation in 2012 on the Scottish Governments proposals for the Future of the Right to Buy (RTB), providing confirmation that Perth and Kinross Council had no financial impact following the reduction in RTB house sales.

Q2 Do you believe your comments on the financial assumptions have been accurately reflected in the FM?

Yes

Q3 Did you have sufficient time to contribute to the consultation exercise?

Yes

Costs

Q4 If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the FM? If not, please provide details?

The main financial impact of the Bill will be the provision of additional housing support costs which will be required for households who have acted in an "anti-social" manner to enable them to successfully convert from a SSST to a full Scottish Secure Tenancy. Based on existing information Perth and Kinross Councils share of the Scottish estimate is £11,000 (1.5% of the Scottish total cost - £764,000).

However, the estimate in the financial memorandum of £764,000 is based on the assumption of housing providing 25% of the support with the other 75% being met by social work and the NHS as they are also providing services to these households. In addition, the assumption used for the average cost of housing support per person per year is based on 2004 average cost of support to homeless people then uprated for inflation. We consider the new expanded group of people who will have a history of anti-social offending, are likely to need higher housing support. (This is based on existing housing support costs for people with this background who have a cost of £3,500 per year, an additional 20% above the average used in the financial memorandum.)

The combination of these comments will not result in significant material changes in the level of costs for Perth and Kinross. However, when developing estimates for Scotland these factors require to be reconsidered and used to refine assumptions where appropriate.

Q5 Do you consider that the estimated costs and savings set out in the FM and projected over 15 years for each service are reasonable and accurate?

The financial memorandum estimates that abolishing Right to Buy will be cost neutral. This is consistent with the modelling undertaken by Perth and Kinross Council. The Councils HRA Business Plan and budgets were adjusted in 2012 to exclude capital receipts from RTB with additional net income offsetting the impact on rents.

However, the financial model developed in the financial memorandum may need to be reconsidered as the assumption of rents rising by inflation plus 1.5% each year for the next 30-50 years would result in unaffordable rents for other local authorities.

As highlighted in question 5 the assumptions for the estimated cost of housing support for SSST households should be reconsidered for the following two factors:

- Average cost of housing support per person per year. £2,970 average may need to be increased to reflect the support needs for people with antisocial behaviour. Perth and Kinross have identified existing costs of £3,500 per person per year for a comparable group of people.
- The proportion of the support provided by housing landlords being 25%. Social Work support is also a Council service and these costs should be included in the estimate.

Q.6 If relevant, are you content that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

It would be appropriate for the Government to approve additional funding to local authorities to deliver the policy objectives.

Q7 Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

The Financial Memorandum highlights the high level of uncertainty and assumptions used in the development of estimates. The two best examples which are relevant are:

- Right To Buy – a range of 9 scenarios have been modelled due to the uncertainty of costs and rents in the future.
- Housing Support Costs – The estimate provides a range between a best (£764,000) and very high (£3.055million). The information in the financial memorandum for this main cost details the range of assumptions and the sources used.

Wider Issues

Q8 Do you believe that the FM reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

Yes, the main cost elements of the Bill have been identified, although the rate of change in the economy and public sector may result in unforeseeable costs at the moment becoming a reality in the future. Changes in public services, the economy, welfare reform, interest rates and demographics all will have a bearing on the future cost implications of the Bill.

Q9 Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

It is not possible to anticipate future subordinate legislation and or other associated implications of the Bill, and therefore no costs can be estimated.

