

EAST AYRSHIRE COUNCIL

HOUSING COMMITTEE - 13 SEPTEMBER 2000

BETTER HOMES FOR SCOTLAND'S COMMUNITIES THE SCOTTISH EXECUTIVE'S PROPOSALS FOR THE HOUSING BILL

Report By Director of Homes and Technical Services

1. PURPOSE OF REPORT

- 1.1. To submit for members consideration comments on the Scottish Executive's consultation paper, " Better Homes for Scotland's Communities "

2. BACKGROUND

- 2.1 The consultation paper was published on 5 July 2000, with a deadline for responses by 29 September 2000. The consultation paper has been issued by the Executive following responses to the earlier green paper, " Investing in Modernisation – An Agenda for Scotland's Housing ", which was submitted to the Housing Committee on 25 August, 1999. While the current consultation paper addresses a number of the points raised previously by the Council, there still remain areas of concern.
- 2.2 The revised consultation paper has been circulated to appropriate departments of the Council and their comments have been incorporated in this report.

3. BETTER HOMES FOR SCOTLAND'S COMMUNITIES

- 3.1 The consultation paper sets out the detail of a number of legislative proposals including:
1. *The introduction of a new single tenancy and the reform of the right to buy.*
 2. *The conversion of Scottish Homes from an NDPB into an Executive Agency of the Scottish Executive directly responsible to Ministers.*
 3. *The establishment of a single regulatory framework for all social landlords.*
 4. *The enhancement of the strategic role of local authorities.*
 5. *The introduction of a range of measures to help tackle homelessness.*
 6. *The reform of the repair and improvement grants scheme.*
 7. *The introduction of new funding arrangements for vulnerable people needing support.*

Comments on each of these initiatives are detailed below.

4. THE INTRODUCTION OF A NEW SINGLE TENANCY AND THE REFORM THE RIGHT TO BUY.

- 4.1 The new single tenancy is to be based on the existing local authority secure tenancy and is intended to strengthen the current tenancy arrangements across all social landlords. It will also include a modernised right to buy, which allows for a longer eligibility period and a lower rate of discount. In addition the number of exempt from purchase categories have been extended and there is provision for the right to buy to be suspended in certain identified situations. The proposed changes to the right to buy address a number of the concerns raised by the Council and are welcomed to that extent. However it seems that whilst the new tenancy will be available to existing tenants, those same tenants will retain their existing right to buy entitlement. In order to adequately protect the provision of good quality affordable homes for rent in many of East Ayrshire's communities, it is essential that the suspension of the right to buy provision should also apply to current tenancies in certain situations and the Executive should be asked to consider and clarify their current proposals. It is also considered that the extension of the right to buy system to all public sector landlords (with a few minor exceptions) will have an impact on the long-term provision of public sector housing in Scotland. From the Council's experience, it is likely that right to buy will continue to impact heavily on the more sought after properties and this will no doubt be mirrored in the Housing Association Sector. This Policy is causing residualisation in the socially rented sector which is shown in the increasing numbers of difficult to let properties problem throughout East Ayrshire Council and Scotland as a whole.
- 4.2 Within the new right to buy proposals two circumstances are indicated which would suspend the tenant's ability to proceed with a purchase i.e. where there are arrears and where the landlord has served a Notice of Proceedings on the grounds of anti-social behaviour. However, the council consider that in **all** circumstances where the landlord has served a Notice of Proceedings, the right to buy should be suspended and it should be left to the court to decide on whether or not the tenant is using the right to buy procedure to circumvent the legitimate concerns of the landlord in how the tenancy is being conducted.
- 4.3 The proposals further allow for the creation of a new short single tenancy excluding core rights in certain identified situations, such as where a tenant has previously been evicted for anti-social behaviour. The proposed new short single tenancy will in the first instance be for a period of six months with the local authority being required to give two months notice of termination. It appears anomalous that the period of notice in a short single tenancy should be greater than the period of notice for either the current secure tenancy or the new single tenancy. In addition it is seriously concerning that even if a tenant refuses to leave after due notice has been given, the Court will not grant a repossession order if it considers it unreasonable to do so. Consequently the tenant would be able to challenge the Council's decision in Court forcing the Council to lead evidence as to the circumstances which led to that decision including, if

necessary, evidence of anti-social behaviour. The effect of these two proposals could result in the short single tenancy being more secure than either the existing secure tenancy or the new single tenancy. Accordingly it is unlikely that the proposed short single tenancy will serve as a satisfactory probationary tenancy, and the Executive should re-consider its current proposal.

5. CONVERSION OF SCOTTISH HOMES FROM AN NDPB INTO AN EXECUTIVE AGENCY OF THE SCOTTISH EXECUTIVE DIRECTLY RESPONSIBLE TO MINISTERS.

5.1 The necessity of working in co-operation with Local Authorities is recognised in the proposals for the establishment of Scottish Homes as an Executive Agency, particularly in relation to the formation and development of new social landlords. While this proposal will create the democratic link between the Agency and the Executive, the same reasoning appears lacking in the detail of a number of specific proposals whereby Scottish Homes will assume a new role in relation to regulation, planning and resources.

5.2 The consultation paper envisages the absorption of Scottish Homes staff into the new Agency, but it is unclear what will happen to the research function and budget and this should be clarified by the Executive.

6. THE ESTABLISHMENT OF A SINGLE REGULATORY FRAMEWORK FOR ALL SOCIAL LANDLORDS.

6.1 The differences between Scottish Home's regulatory role in relation to Local Authorities and RSL's is recognised to a limited extent. The Council has no difficulty with a single regulator but rather with the concept of a single regulatory framework for local authorities and other RSL's. Recognition has to be given to the differences between the democratically elected local authority and a registered landlord. The wide range of activities carried out by local authorities is, in part, recognised in that non landlord functions such as planning and funding, which form part of the Local Authority's strategic responsibilities, are excluded from the regulatory framework. However, the Executive remain silent on the important item of rent setting. Currently this would be a matter of direct concern to Scottish Homes in their funding relationship with housing associations, whereas the rent setting within a local authority is a matter for the local authority and its electors. Again, it is essential to establish the independence of local authorities in setting rents to meet locally identified housing needs.

- 6.2 With regard to the organisation of the regulatory body, it is strongly recommended that the new system should have consumers recognised as an integral part of the regulatory body and its processes.
- 6.3 Again, it is surprising that in discussing regulation there is no mention of Best Value within the proposal. Clarification is required on the status of Best Value both in its application within local authorities and whether or not it has to be applied to other registered social landlords. The Council would expect all housing organisations which are to be subject to a common regulatory system, to be subject to the same Best Value regime.
- 6.4 The proposals for the Agency to take a lead role in advising local authorities on the structure and content of their housing plans and the proposed Single Housing Plan, and in assessing and monitoring performance in implementing the same plans does not sit well with the Executive Agency retaining the role of overseeing development programmes for housing associations. There should be a clear separation of these contradictory and conflicting roles to ensure transparency and fairness in the process.

7. STRATEGIC ROLE OF LOCAL AUTHORITIES

- 7.1 The assumption contained with the previous green paper, namely that the provider role and the strategic role of local authorities are mutually exclusive is still contained within the consultation document. The proposals for the establishment of strategic local housing budgets and the extension of the local authority's role as enabling authority are based on the assumption that it is only by transferring its own stock that an authority will be able to exercise, as a matter of right, direct control over development funding. The Council continues to vigorously reject that assertion and sees no reason why local authorities cannot effectively perform both roles within its communities. The local authority is the strategic body in terms of Housing Plans, Local Plans and forthcoming Community Plans. Equally, within the consultation paper, the responsibility for the new Single Housing Plan rest with the local authority. The Council supports the introduction of the Single Housing Plan and again contends that as the landlord role is not seen as an impediment to the production of this strategic document , the same role cannot be seen as any impediment to exercising control over a strategic local housing budget.
- 7.2 The Council is not, per se, against stock transfer but would contend that developing local solutions to local problems subject to scrutiny through the local democratic process is the correct way to proceed.

8. INTRODUCTION OF A RANGE OF MEASURES TO HELP TACKLE HOMELESSNESS.

- 8.1 The proposals transfer the regulation of the homelessness function to Scottish Homes in its new role as Executive Agency. It is proposed that RSL's will have a statutory obligation to provide accommodation for homeless people provided that a Local Authority has been unable to satisfy the need from its own accommodation. The assumption that the Local Authority will have a limited provider role is reflected in the proposals. While this is a sensible proposal where the local authority has divested itself of its stock, the earlier concerns regarding the perceived diminution of the role of the Council as a landlord apply.
- 8.2 It is the Council's view that the introduction of the duty to provide an increased level of advice and assistance and the requirement to offer temporary accommodation to non-priority applicants will have significant resource implications for authorities. In the recent past, challenge bid funding has been used as a method of increasing or improving provision for the homeless i.e Rough Sleepers Initiative. While the Council welcomes additional resources to deal with this problem and actively co-operates with external agencies working in this field, it is nevertheless not convinced in the efficiency of a bidding process allied to short term money. To fulfill its new duty to provide a homeless strategy this has to be supported by sufficient long term resources to translate such a strategy into action. This is not acknowledged in the consultation document and the Council calls upon the Executive to consider the impact of these additional burdens within the context of current local authority finances.

9. REFORM OF THE REPAIR AND IMPROVEMENT GRANTS SCHEME.

- 9.1 The proposed changes in the administration of the current improvement and repairs grant system extends the areas of work for which improvement and repairs grants will be available. The removal of means testing in certain identified circumstances will allow Local Authorities to provide wider assistance. However, setting the minimum grant at 40% may be a disadvantage to some applicants when compared to how they are treated under current regulations. The proposals are therefore welcomed to the extent that the categories are extended and the upper limit increased.
- 9.2 Resources are at the heart of any attempt to ensure that the housing stock is maintained at an acceptable standard. There is however, no suggestion, in the paper, that additional resources will be made available to Local Authorities. If the Executive is determined to deal with the matter of disrepair, especially within the private sector they have to acknowledge this fact. Local authority experience shows that former tenants, who are now owner occupiers, find it difficult to fund any major repairs or maintenance. The same problems affect the elderly who frequently have access to limited funds. The Council would contest that appropriate rates of grant beyond the suggested 40% should be the norm with 100% being available in certain defined circumstances e.g. community regeneration.

10. INTRODUCTION OF NEW FUNDING ARRANGEMENTS FOR VULNERABLE PEOPLE NEEDING SUPPORT.

10.1 The introduction of a single unified budget managed by local authorities is welcomed. The consultation paper "Supporting People" issued in December 1998 proposed simplifying the funding of housing support services, making the funding more transparent and linking the funding to the individual as opposed to the bricks and mortar. These proposals indicate the introduction of such a single budget, managed by the local authority, in April 2003. Further directions and guidance on this complex proposal would be welcomed.

11. FINANCIAL AND LEGAL IMPLICATIONS

11.1 None

12. RECOMMENDATIONS

12.1 That the members consider the above comments

12.2 That these comments, with any amendments, be sent to the Scottish Executive

James Lavery
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August 2000

BACKGROUND PAPERS

- i) Housing Green Paper – Investing in Modernisation – An Agenda for Scotland's Housing
- ii) Chartered Institute of Housing – Detailed Commentary
- iii) Departmental responses

(Members wishing further information on any of the above or a copy of the consultation paper should contact Joseph Cassidy, Policy Manager, on 01563 576617)

AGENDA