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<b>Report To:</b>	<b>Policy &amp; Resources Executive Sub-Committee</b>	<b>Date:</b>	<b>1 November 2017</b>
<b>Report By:</b>	<b>Corporate Director Education, Communities &amp; Organisational Development</b>	<b>Report No:</b>	<b>PR/27/17/DH</b>
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<b>Subject:</b>	<b>Housing (Amendment) (Scotland) Bill</b>		

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## 1.0 PURPOSE

- 1.1 To outline to the Sub-Committee the implications of the Housing (Amendment) (Scotland) Bill and to seek approval of the terms of the Council's response to the call for evidence.

## 2.0 SUMMARY

- 2.1 The Office for National Statistics (ONS) advised the Scottish Government that due to power conferred on the Scottish Housing Regulator (SHR) over Registered Social Landlords (RSLs) the ONS it would need to re-designate their classification as public bodies.
- 2.2 If left unchanged, RSLs as public bodies would place a significant burden on the Scottish Government's (SG) finances as the net borrowing from RSLs would count against the SG's borrowing limits.
- 2.3 Therefore the object of the Bill is to ensure that the influence the SHR and local authorities can exercise over RSLs is compatible with the ONS continuing to classify RSLs as private bodies.
- 2.4 The Bill is mainly concerned with the SHR's role in relation to RSLs, however it makes provision for Scottish Ministers to make Regulations to limit the ability of local authorities to exercise influence over RSLs. However based on the SG's knowledge of current constitutional arrangements between local authorities and RSLs only a few local authorities are likely to be affected by these regulations.

## 3.0 RECOMMENDATIONS

- 3.1 That the Sub-Committee:
- a) considers the terms of this report; and
  - b) approves the response to the call for evidence response as detailed in section 7.1.

## **4.0 BACKGROUND**

- 4.1 The Office for National Statistics (ONS) advised the Scottish Government in September 2016 that due to power conferred on the Scottish Housing Regulator (SHR) over Registered Social Landlords (RSLs) the ONS it would need to re-designate their classification as public bodies.
- 4.2 If left unchanged, RSLs as public bodies would place a significant burden on the Scottish Government's (SG) finances as the net borrowing from RSLs would count against the SG's borrowing limits. At present this amounts £450m in any one year and £3Billion in total.
- 4.3 The change in RSL classification would result on a significant permanent burden on the Scottish Government's finances.

## **5.0 BILL PROPOSALS**

- 5.1 The Scottish Government has established through discussions with the ONS this classification for RSLs would be removed if some of powers of the SHR were sufficiently narrowed and circumscribed.
- 5.2 The Bill's objective is to return RSLs to their original classification i.e. private bodies in relation to national accounts. The Bill will achieve this by reducing the functions of the SHR through amendments to Parts 5, 8, 9 and 10 of the Housing (Scotland) Act 2010 and by providing for Ministers to make Regulations to limit the influence that Local Authorities can exercise over RSLs.
- 5.3 The amendments to the 2010 Act fall into two categories:
  - those in respect of Part 5 of the 2010 Act, which narrow the powers of the Regulator to appoint a manager to an RSL, and to remove, suspend and appoint officers of an RSL; and
  - those in respect of Parts 8, 9 and 10 of the Act, which remove completely the powers of the Regulator to exercise consents over the disposal of land and housing assets by an RSL, any changes to the constitution of an RSL, and the voluntary winding-up, dissolution and restructuring of an RSL.
- 5.4 Scottish Ministers intend to specify in regulations that local authorities may only nominate up to a maximum of 24% of the board members of an RSL, and may not exercise control over RSLs, for example through a power to veto changes in an RSL's constitution.

Current percentage of Council Members in boards of local RSLs:-

1. River Clyde Homes (RCH) - 33%
2. Larkfield HA - 11%
3. Oaktree HA - 0%
4. Cloch HA - 0%

Scottish Ministers may use the power subsequently if other forms of local authority control that amount to public sector control over RSLs come to light, or if the criteria the ONS applies to determine public sector control in this context changes, and such changes require the powers of local authorities to be amended further to ensure that RSLs can continue to be classified to the private sector.

5.5 This will have minimal effect on the Council as there are no RSL Boards which Council Members have the numbers to exercise any overall control should they wish. It may result in fewer Council Members on some RSL boards and as a result reduce the level of influence by Council Members individually or collectively on boards. The Stock Transfer Agreement does not permit any significant control by the Council on the operation of RCH.

## 6.0 IMPLICATIONS

6.1 The only RSL board currently that will be affected by these proposals is RCH where the 12 person board has 4 Council members this would mean that the number of Council members would need to be reduced by 2 if the proposed regulations become law. Although this will not affect the overall level of control it will reduce the level of individual and collective Council member influence at the board.

6.2 The proposed reduction of the SHR powers will significantly reduce the level of national control and regulation of the RSL sector. However when this is weighed against the burden on public borrowing in Scotland it is much less significant.

6.3 Clearly these changes in control are not generally welcomed; however the alternative is significantly less welcome.

### Finance

#### 6.4 One off Costs

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments
N/A					

#### Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (If Applicable)	Other Comments
N/A					

### Legal

6.5 Detailed consideration of the Stock Transfer arrangements may be required in the light of any new Regulations.

### Human Resources

6.6 None

### Equalities

6.7 None

### Repopulation

6.8 None

## 7.0 RESPONSE TO CALL FOR EVIDENCE

7.1 The Local Government and Communities Committee of the Scottish Parliament have set 4 consultation questions. These are set out below along with suggested responses:-

- **Do you agree that measures should be taken to influence the ONS to reclassify RSLs as private sector bodies; and if not, please explain why?** Response -The Council does not welcome the prescriptive nature of the proposals affecting any local authority's representation on RSLs but recognises the need for the measures overall to prevent a significant burden on public borrowing.
- **Do you have any views on the appropriateness of the measures proposed in this Bill to bring about this reclassification?** Response - The proposed reduction of Council members on RSL boards to a maximum of 24% is an unduly prescriptive numerical provision which does not allow for the exercise of local discretion for local circumstances. The Council does not welcome this. There is no RSL in Inverclyde where more than 33% of its board members are Councillors and as a result the Council through its individual members cannot exert any overall control. It is understood that this proposal is to prevent Local Authorities blocking any constitutional change in an RSL where a 75% majority of board members is required. The Council considers this likelihood too remote and it outweighs the reduction in influence (which is not control) that individually or collectively Council members provide to help improve their local communities.
- **Do you have views on whether the aims of the Bill could be achieved by other means?** Response - The Council should be permitted to negotiate local representation in local circumstances and to ensure compliance with the overall necessity of reclassification that there be always minority representation on RSL boards.
- **Any other issues relating to the Bill which you wish to bring to the attention of the Committee?** Response - None.

## 8.0 CONSULTATIONS

8.1 None.

## 8.0 BACKGROUND PAPERS

9.1 None.