

Report To: Safe, Sustainable Communities Committee **Date:** 1 September 2009

Report By: Corporate Director, Environment and Community Protection **Report No:** ECP/Plann/AB09/023

Contact Officer: Ronny Lee **Contact No:** 01475 712069

Subject: Draft Housing (Scotland) Bill: A Consultation

1.0 PURPOSE

- 1.1 To inform the Committee of the Right to Buy and Scottish Housing Regulator proposals contained within the *Draft Housing (Scotland) Bill: a consultation*, published by the Scottish Government in April 2009, and of the response given by Inverclyde Council.

2.0 SUMMARY

- 2.1 *Draft Housing (Scotland) Bill: a consultation* was published so that the Scottish Government could seek views on its proposals for a Housing (Scotland) Bill that it plans to introduce to the Scottish Parliament in 2010. The document explains how the Government proposes to safeguard social housing for future generations by reforming the Right to Buy and how it intends to improve the value that social housing provides by modernising the way it is regulated.
- 2.2 The central proposal for safeguarding social housing for the future is a legislative amendment which would deny tenants of 'new supply' social housing the Right to Buy. Other reforms include ending the Right to Buy for new social tenants and changing the way that pressured-area status is designated. If all the Government's reforms are implemented it is expected that from 2012 to 2022, between 10,000 and 18,000 houses nationally will be retained in the social housing sector which would otherwise have been lost through the Right to Buy.
- 2.3 The consultation document contains plans to change the regulation regime so that social landlords focus on meeting tenants' and future tenants' priorities; continually improving performance and value; and commanding the confidence of public and private investors. The Scottish Housing Regulator will operate independently of direct ministerial control and inspect landlords and homelessness services through a risk-based approach. A Scottish Social Housing Charter, to be approved by Parliament, will state the value that these services should be delivering. There could also be changes that allow profit-making organisations to become RSLs.

3.0 RECOMMENDATIONS

- 3.1 That Committee:
- (a) note the publication of the *Draft Housing (Scotland) Bill: a consultation*; and
 - (b) approve the officer response sent on behalf of Inverclyde Council (Appendix to this report).

Fraser K Williamson
Head of Planning and Housing

4.0 BACKGROUND

30 Years of the Right to Buy

- 4.1 The right of social housing tenants to buy their property from their landlord at a discounted price (the 'Right to Buy' or RTB) was legislated for almost 30 years ago. The Housing (Scotland) Act 2001 preserved the Right to Buy entitlements of existing social tenants but introduced modernised RTB entitlements for new tenancies that started after 30 September 2002. Tenants with preserved entitlements, after residing for the required number of years, can buy their homes with a discount of up to 70% of the market value in certain types of properties. Tenants with modernised entitlements have more restrictive initial qualifying periods and the maximum discount they can receive is 35% of the market value or £15,000, whichever is lower.
- 4.2 Since RTB was introduced around 500,000 social rented properties have been sold to their tenants in Scotland. This reduction in the number of properties available for social rent has contributed to longer waiting times for prospective tenants, many of whom are homeless. If RTB remains unchanged it is anticipated that in the 10 years from 2012 between 46,000 and 84,000 houses will be purchased by social tenants. If the Scottish Government's reforms are fully implemented between 10,000 and 18,000 of these will be retained.
- 4.3 Current rules state that a council may ask Ministers to designate any part of its area as a 'pressured area' for a period of up to five years. Pressured Area Status (PAS) means that all modernised RTB entitlements in that area are suspended for the period of the designation. Preserved RTB entitlements are unaffected. This status is only granted if a great deal more social rented housing is, or is likely to be, needed than is available and if RTB would worsen the situation. For more information on the introduction of PAS, refer to item x on today's committee agenda.
- 4.4 Some individual RSLs were granted a ten-year suspension of (mostly modernised) RTB entitlements in 2002 to allow them to adjust to the new arrangements brought in that year. These suspensions were granted where the modernised RTB would have affected the financial viability of the landlord. Another aspect of the RTB rules states that, in the current system, landlords have certain discretionary powers over the granting of the Right to Buy. If there is a break of more than one day between an entitled tenant ending one tenancy and taking another one up the clock is reset on their RTB qualifying period and discount entitlement. However, landlords may choose to disregard a short interruption if they consider that it resulted from circumstances outwith the tenant's control.

The Scottish Government's Proposed Reforms to the Right to Buy

- 4.5 In April 2009 the Scottish Government published its proposed reforms to the Right to Buy in *Draft Housing (Scotland) Bill: a consultation*. The document contains a draft Bill to be introduced to the Scottish Parliament in 2010 and it also contains non-legislative proposals for reform.
- 4.6 The Bill will end RTB on housing let under a Scottish secure tenancy for the first time after the date that the relevant section of the Bill comes into force. This will include newly built housing as well as newly acquired housing being let for the first time in this way. It would also be the case that any new tenants coming into the social rented sector for the first time, or after a period of absence, would not be granted the Right to Buy, regardless of the property. It is the intention of both these measures to restrict sales in future but to also maintain the preserved or modernised rights of existing tenants. If a tenant had to transfer homes because of the management requirements of a landlord or if the landlord did not advise them that their property was to be exempt then the tenants would retain their Right to Buy.

- 4.7 The Scottish Government has proposed that the time frame for pressured-area designations is extended to a maximum of 10 years. This is to prevent more sales in areas where social housing is scarce but also to make it more worthwhile for councils to apply for pressured area status. It is also suggested that the status can be designated to specific house types as opposed to all house types in a geographical area and that decision making on pressured areas is devolved to local authorities. These changes would allow providers in council areas to better meet demand for certain types of housing and they would also promote the accountability of councils in achieving national and local policy outcomes.
- 4.8 The Government is proposing to develop guidance to extend the current ten-year suspensions that some RSLs have for up to another ten years with the intention of further safeguarding social housing stock for those communities and landlords. It also plans to develop guidance that will encourage landlords to use their discretion and disregard short breaks in occupancy that arise from circumstances outwith tenants' control, bringing evident benefits for those particular tenants.

The Regulation of Social Housing

- 4.9 The Housing (Scotland) Act 2001 created a single regulatory system for RSLs, council housing and homelessness services to help ensure that service providers meet their obligations to their service users. Scottish Ministers exercise their regulatory powers – registering RSLs, inspecting services, regulating governance and financial viability and intervening to improve services - through the Scottish Housing Regulator (SHR). The SHR operates independently of Ministers but is accountable to them for its performance and use of public funds.
- 4.10 Ministers have issued statutory guidance in the form of Performance Standards which have been agreed by the SHR, Scottish Federation of Housing Associations and COSLA. These are a common set of standards for social landlords and homelessness services that let service users know what to expect from the social housing sector and provide the SHR with a framework to assess service performance.
- 4.11 The SHR had originally aimed to carry out inspections of each service once every five years. However, it was believed that regular inspections placed too much of a burden on service providers who were performing well and diverted attention from landlords that were more at risk of failing their tenants. Recently the SHR has been placing less emphasis on inspections, and making more use of self-assessments, business plan reviews and focussed investigations.

Modernising Social Housing Regulation

- 4.12 The Scottish Government wants to move the regulatory regime further in line with its wider vision for scrutiny: that scrutiny should provide independent assurance that services are well managed, safe and fit for purpose and that public money is being used properly. The consultation document proposes that the purpose of a modernised regulatory system should be to focus social landlords' and homelessness services' efforts on meeting tenants' and future tenants' priorities; continually improving performance and value; and commanding the confidence of public and private investors.
- 4.13 The Government believes that current legislation restricts the SHR and does not allow for it to use lighter-touch methods of regulating where this would be more appropriate. It wants to build on the recent changes made by the SHR and bring self-evaluation, as opposed to inspection, to the heart of the system. The SHR would retain a focus on poorly performing organisations and adopt lighter-touch methods for better performing ones.
- 4.14 The Draft Bill proposes that Ministers should have the duty to prepare and consult on a Scottish Social Housing Charter, for approval by Parliament. The Charter will define the outcomes that landlords and homelessness services should be aiming to achieve and the value they should provide. Outcomes may be more or less detailed depending on

their nature and they may vary for different types of service. The Charter will replace Performance Standards and it will have the same effect as a legal direction. The SHR would be established as a non-Ministerial department with its own board, reporting its performance directly to Parliament and using the Charter as the framework for regulating the sector. Current Ministerial powers would be transferred to the SHR directly, with the intention of allowing the agency to operate free from the risk of political interference.

- 4.15 The Government wants to allow a wider range of bodies to become eligible for registration as a social landlord. Currently only companies limited by guarantee and industrial and provident societies can do so but if the Bill is ratified then Ministers will be able to specify that other bodies, such as profit-distributing companies, can apply for registration. The consultation document also asks whether there is a need to replace the term 'social housing' to describe local authority and RSL housing. It states that some stakeholders believe the term is stigmatising.

5.0 PROPOSALS

- 5.1 The Scottish Government's proposals in the *Draft Housing (Scotland) Bill: a consultation*, summarised in Section 4 of this report, are the subject of the attached Appendix, together with the officer response submitted on behalf of Inverclyde Council.

- 5.2 The officer response was returned to the Scottish Government by the deadline of 14 August 2009, and it is proposed that Committee endorse this response. Among the key responses made in the submission are:

(a) RSLs' loss of income from RTB sales receipts will likely be mitigated by higher revenue and increased opportunities for accessing private finance.

(b) RTB entitlements should be restricted further to safeguard more social housing for future use.

(c) Pressured-area status should be extended to 10 years where this would be beneficial, it should be allocated by house type where needed and Ministers should devolve decision-making to councils.

(d) The SHR should continue to regularly inspect social housing services otherwise there may be a reduction in service quality. Self evaluations may not be a reliable source for monitoring service provision.

(e) There is no need to change the term 'social housing' because there is little evidence that it is used outwith professional and governing body circles.

(f) The Council supports the development of a Scottish Social Housing Charter but disagrees with establishing the SHR outside of direct democratic control.

(g) Profit-distributing bodies should not be permitted to register as social landlords. The necessity to keep rents below market level to best serve those in housing need conflicts with these bodies' pursuit of profit maximisation.

6.0 IMPLICATIONS

- 6.1 **Legal:** If pressured area decision-making is devolved to councils this could make local authorities more open to legal challenge from tenants who have had their Right to Buy suspended.

- 6.2 **Finance:** There may be extra administrative costs incurred by the Council if it takes on devolved pressured-area status decision-making responsibilities. Also, current Support for Owner arrangements allow the Council to claim back RTB receipts from the Scottish Government from properties which the Council owned before stock transfer. The funds are used to assist owners affected by River Clyde Homes' renewal programmes. If RTB sales are restricted, for example, by denying new social tenants the Right to Buy, then future Support for Owner funds may be affected.

- 6.3 **Personnel:** None

6.4 **Equalities:** When delivering services to our customers, full cognisance is taken of equality and diversity processes and procedures, and in the case of this report, there would be no impact on the Council's Equalities Policy.

7.0 CONSULTATION

7.1 The Inverclyde Council response was written by the Planning and Housing Service in consultation with the Homelessness Service.

8.0 CONCLUSIONS

8.1 The preservation of social housing stock will be an important factor in solving future housing scarcity problems. The proposals put forward by the Scottish Government to curb RTB sales may not go as far as they could have but the Government's caution is explained by their desire to preserve existing entitlements. The higher profile proposals for the regulation regime may be more about changes in form as opposed to substance – the Charter has its precursor in Performance Standards and SHR has already begun its shift away from regular inspections – but they are still important for the Council to note if it is to continue to perform its homelessness and strategic housing functions effectively.

9.0 BACKGROUND PAPER

9.1 *Draft Housing (Scotland) Bill: a consultation*, Scottish Government, April 2009.

ATTACHMENT

Appendix: Draft Housing (Scotland) Bill: a consultation – questionnaire, Inverclyde Council, August 2009.

Head of Planning and Housing
Cathcart House
6 Cathcart Square
Greenock

7th August 2009

SSC Cmtee 2009 Ho (Scot) Bill – IC Resp (Sept 09)

Appendix - Draft Housing (Scotland) Bill: a consultation – questionnaire, Inverclyde Council, August 2009

We invite responses to the consultation paper by **14 August 2009**.

You can use this questionnaire for your response. It covers all the questions included in the consultation paper. Please reply by email to: housingbill2009@scotland.gsi.gov.uk

or post your response to:

The Tenant Priorities Team
Scottish Government
Area 1-H South
Victoria Quay
Edinburgh EH6 6QQ

Please send your completed **respondent information form** with your reply (see 'handling your response' below)

If you have any queries about how to reply, please contact a member of the team on 0131 244 5568 or email us at housingbill2009@scotland.gsi.gov.uk.

Questions

There are three sets of questions, on:

1. Part 1 of the consultation paper – reforming Right to Buy;
2. Part 2 of the paper – modernising regulation; and
3. Annex A – the draft equalities impact assessment.

You don't need to answer all the questions if you don't want to. Different questions may be more or less important to different groups of people or organisations. We want your comments on the areas that matter most to you, so please feel free to focus on as many or as few as you wish. However, we would particularly welcome comments on the draft equalities impact assessment.

Handling your response

We need to know how you wish us to handle your response and, in particular, whether you are happy for us to make your response public. Please complete and return the **respondent information form** which comes with this questionnaire. This will help us to treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it as such.

The Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002. This means we have to consider any request made to us under the Act for information relating to responses made to this consultation exercise.

Part 1 - reforming Right to Buy

Question 1.1

What financial impact would our proposed reforms to RTB have on social landlords, particularly over the longer term? And what steps could landlords take to mitigate this?

Loss of income from RTB sales receipts should be mitigated by higher revenue and therefore increased opportunities for prudential
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borrowing/accessing private finance.

Question 1.2

Do you agree with the definition of new supply social housing provided at section 109 of the draft Bill?

Inverclyde Council agrees with the definition proposed but believes that there should be an addition to this.

Question 1.3

If not, what definition do you propose?

Where social landlords let properties using assured tenancies, occupancy agreements or short SSTs there may be circumstances where they will convert these to regular SSTs. In addition to the properties described in the Bill, Inverclyde Council believes that properties that are converted to SSTs should be defined as new supply and therefore should be excluded from the right to buy.

Question 1.4

Do you agree with the safeguards we are proposing for existing tenants?

The Council believes that where tenants who have the right to buy move to a new supply home - and therefore lose their right to buy during their time in that property - they should not be able to count their period in occupation of the new housing towards the minimum qualifying period and for discount entitlement purposes. If the current rules state that the right is removed and the clock is re-set when a tenant with the right to buy moves into a non-RTB property, such as a private let, then the same rules should apply where the tenant moves into new supply social housing, because these will also be non-RTB properties. This would be simple enough justification to provide the tenant and it would help restrict RTB sales even further.

Inverclyde Council agrees that landlords must inform tenants that they do not have the right to buy, where this applies, before tenancies are signed. It could be a requirement that this should be in writing from the landlord to the prospective tenant, to assist with settling any individual

subsequent disputes over the matter.

Question 1.5

If not, which safeguards do you propose?

Question 1.6

Do you agree that new tenants entering the social rented sector after the date on which the section comes into force should no longer have the RTB?

Inverclyde Council agrees with this proposal, though it has concerns over its practical application. It might be difficult to prove - especially several years and several tenancies down the line - that an individual first became a social tenant before or after the date on which the section comes into force. In the current system most landlords will depend on tenancy references to do this. However, pressure to minimise void times on the part of the new landlord and delays on the part of the old landlord can mean that references are not collected on time. This will often lead to the new landlord having to depend on the information provided by the prospective tenant which can sometimes have significant gaps in it, or can sometimes be either intentionally or unintentionally misleading. Tenants may end up with the 'right' to buy when they should not be entitled to it, while other tenants may mistakenly believe they do not have it when they do.

To help avoid these problems, the Scottish Housing Regulator or a Scottish Government division could hold a register of people who do not have the right to buy under this section of the Bill as proposed in Part 1.5 of the consultation document. Whenever a landlord signs up a new tenant entering the social rented sector, they could forward the details of this tenant to the SHR or Scottish Government. The central agency would then make this information available to landlords as they are making lettings decisions, possibly through a password-accessible web-based database. This would also be a useful method for the central agency to monitor the impact of this part of the RTB reforms.

Question 1.7

Do you agree that tenants of other relevant landlords should continue to be given modernised RTB entitlements if they transfer directly to the social rented sector?

No. This is a further opportunity to restrict the RTB. Employment-related tied housing does not have the RTB attached and is not classed as social housing, therefore, tenants moving from this type of tenancy to social housing should be classed as a new social housing tenant. Under the proposals of Part 1.5 of the consultation document, these tenants should not be allowed the right to buy.

Question 1.8

Is the scope of proposed reforms to pressured-area designations appropriate?

Yes.

Question 1.9

Do you agree that the maximum designation period should be increased from five to ten years?

Yes. Where evidence shows that pressured area status for this length of time would be beneficial, Inverclyde welcomes the option.

Question 1.10

Do you agree with our proposal to allow particular housing types to be designated as pressured?

Yes. This proposal acknowledges that different house types experience varying levels of demand and therefore can experience different degrees of pressure and scarcity.

Question 1.11

Should Ministers devolve pressured area decision-making to councils?

Yes, providing that other landlords are in agreement that it would be beneficial over a particular area or areas.

Question 1.12

If so, what would be the best way to implement devolved decision-making in practice to deliver a transparent, balanced and soundly-evidenced process?

In a devolved system the local authority should base its decisions on current HNDA outcomes, an analysis of need and demand, evidence of scarcity (stock/turnover) and an identified need for housing in particular areas (from waiting lists and information from occupational therapists and representative groups etc).

Question 1.13

Do you agree with the criteria/approach (to developing guidance for applications from RSLs to extend the ten-year suspension) set out in section 1.7 of the consultation paper?

Yes. There is a need to review any 'blanket ban' but appropriate checks and balances have been proposed.

Question 1.14

If not, what alternative criteria/approach would you suggest?

Question 1.15

Do you agree that landlords should be encouraged to use their discretionary powers on the continuous occupation rule for ex-service personnel transferring to social housing?

No. See the Council's response to Question 1.7 for explanation.

Question 1.16

Do you think this should apply in other circumstances or to other groups of tenants?

No. Again, see the response to Question 1.7.

End of part 1

Part 2 – modernising regulation

Question 2.1

Do you agree that the purpose of the modernised regime of regulation should be to focus social landlords' efforts on:

- meeting tenants' priorities;
- continually improving performance and value; and
- commanding the confidence of public and private investors in social housing?

This is an acceptable purpose. Inverclyde Council would like to clarify, however, that the first point should refer to the priorities of tenants *and future tenants*. The wording of the draft Bill is clear on this but the wording of Question 2.1 itself is not.

Question 2.2

If not, what should be the purpose and why?

Question 2.3

Do you agree in principle with the risk-based and proportionate approach to regulating social landlords that we have outlined in section 2.4 of the consultation paper?

No. Inspections should not become risk-based and they should not be prompted by landlord self-evaluation. Regular inspection of all social landlords (and homelessness services) by the SHR is an important method of achieving the best services for tenants. It is a widely accepted fact that performance improves when it is known that work will be monitored. Professionals across the social rented sector will confirm that upcoming inspection – whether programmed or merely expected at some point in the future – is arguably the most cited motivator within the workplace for improved performance in social landlord service provision. This is clearly not the ideal situation, but it is unfortunately an important driver behind service provision and cannot be overlooked. To lose regular inspections may mean a reduction in service quality. Also, there is a risk that some landlords – possibly unintentionally and through lack of objectivity - will provide self-evaluations which do not reflect reality and may exaggerate their successes. Similar problems have occurred when other service providers in the public sector adopted self-evaluation. This could make it difficult for the SHR to target

their interventions effectively.

Inspection in itself is an important process of self-understanding and improvement for landlords, not something that gets in the way of these processes. Where landlords are performing well inspection also provides a note of reassurance to their service users and funders and where landlords are not performing well, the improvements that inspections prompt are an obvious benefit. The 'burden' of inspection would also be minimised if landlords incorporate inspection-related information gathering/analysis into their own internal monitoring/management processes.

A more selective inspection service can increase the risk of important problems not being highlighted and dealt with, at the tenants' and other service users' expense.

Question 2.4

Do you have any proposals that would streamline further the regulation of social landlords?

Question 2.5

Should we continue to use the term 'social landlord' to describe local authority landlords and RSLs?

For the reasons stated in the consultation document it is necessary to have a single term that describes local authority landlords and RSLs. The term 'social housing' should continue to be used. Inverclyde Council disagrees with the consultation document where it states that the term 'tends to stigmatise council and RSL housing and those living in it.' The general public and, in particular, social tenants and homeless people, do not tend to use this term. Instead, terms like 'council housing', 'the housing', 'the corporation', or even just the actual name of the landlord, are more commonly used, whether neutrally or in making value statements. The term 'social housing' is mostly used and understood by professionals and only a minority of tenants, such as those that sit on governing bodies and are therefore more exposed to professional terminology. For all these reasons, it does not seem necessary to change the term.

Question 2.6

If not, what term should we use?

Question 2.7

Do you agree in principle with the proposal to set outcomes for social housing in a Scottish Social Housing Charter?

Yes, Inverclyde Council agrees with the proposal of enshrining the standards and values that service users should expect from social landlords in a charter approved by Parliament. It is a sensible idea to have this charter to direct the work of the SHR if it becomes independent of ministers.

Question 2.8

If you agree, do you wish to suggest changes to any aspect of the proposal?
If you disagree, how would you identify the outcomes and value that social landlords should be achieving for their tenants?

Because council homelessness services are regulated by the SHR, the charter should include standards for these services as well as social landlords. If this is the intention of the Scottish Government, Sections 29 and 31(2) of the draft Bill should be amended to mention homelessness services as well.

Question 2.9

Do you agree that the modernised SHR should be established as a non-Ministerial department under its own Board?

No. By establishing the SHR outside of the Scottish legislative/executive

sphere of control there will be a reduction in democratic accountability with regard to the activities of the agency.

Question 2.10

If not, how would you ensure that the SHR was independent enough?

Question 2.11

Should the modernised SHR have the statutory objective of promoting the interests of tenants and future tenants?

Yes. Inverclyde Council fully endorses this objective and welcomes the inclusion of future tenants, whose interests are not always adequately catered for.

Question 2.12

If not, what objective do you think the SHR should be given?

Question 2.13

Should the modernised SHR assume responsibility for regulating services in respect of homelessness, Gypsies/Travellers and factored owners?

Yes. With the experience it has gained in doing this so far it is logical for the SHR to carry on with this responsibility. This role is an important part of current relationships and needs to be included for the sake of completeness.

Question 2.14

Should SHR work to improve value for tenants and taxpayers through powers to assess, report on and, if necessary, enforce performance improvement?

Yes. It is important that the SHR has ‘teeth’ and that tenants, future tenants and taxpayers can see enforcement in action in their interests.

Question 2.15

If so, would the powers and duties that the draft Bill gives the SHR enable it to do that work?

Yes.

Question 2.16

If not, what role should the SHR have in improving performance and what powers would it need to carry out that role?

Question 2.17

Do you agree that the current inspection powers should be replaced?

No.

Question 2.18

If so, would the new provisions that we are proposing in respect of inquiries and information provide a satisfactory replacement?

Question 2.19

If not, what approach would you suggest?

For reasons mentioned earlier in this response, Inverclyde Council suggests regular inspections should continue.

Question 2.20

Do you think that the powers in the draft Bill provide the right balance and would allow the SHR to take prompt and effective action to tackle problems in financial viability and governance?

Where powers are increased Inverclyde Council supports this in principle, so long as the interests of tenants and future tenants remain a priority. As an aside to this, however, it is unfortunate that the increase in powers will come at a time when the democratic accountability of the agency is decreased.

Inverclyde Council agrees with the proposal that the SHR should release guidance on how it will carry out its activities. This is particularly important now that the SHR may be able to use intervention powers without a prior inspection.

Question 2.21

If not, what powers would you suggest?

Question 2.22

Do you agree with the proposal to abolish the requirements in Part 1 of Schedule 7 on payments and benefits, and replace them with a code of conduct setting out standards of financial management and governance?

Yes.

Question 2.23

If not, what would you suggest?

Question 2.24

Do you agree that Ministers should set the criteria for eligibility to seek registration as an RSL and that the SHR should set the criteria against which it tests applications?

Yes, it is important that ministers set eligibility criteria but it is essential that this is approved by Parliament. Because approving applications is the practical element of this process it is reasonable to allow the SHR to set the criteria here.

Question 2.25

If not, what approach would you suggest?

Question 2.26

Do you agree that this power should extend to allowing profit-distributing bodies to become eligible for registration?

No. The central objective of profit-distributing agencies will always be to maximise their profits. This is the only way to retain current shareholders/investors and secure more in the future. Without contented shareholders receiving a maximum return on their investments, market forces will eventually see to it that the profit-distributing body ceases its activities. In the housing sector, as private landlords have shown, profit maximisation is only achieved through setting rents as high as an adequate tenant group will tolerate. In that system a number of tenants are able to afford relatively high rents, yet many are not, and will never be able to. It is at this point – where market controlled housing stops providing viable housing solutions – that social housing starts. There can be no logical overlap; the idea of a profit-distributing social landlord is oxymoronic.

To meet the needs of traditional social tenants, such a landlord would need to reduce rents. However, this would reduce profits and alienate their shareholders. Alternatively then, they could appeal to their shareholders by keeping rents high and maximising profits but this would exclude potential social tenants who would not find their housing affordable. The only solutions to this problem that Inverclyde Council can envisage are both undesirable and likely to be very unpopular.

The first solution would be that the UK Government could significantly increase the threshold of eligibility for housing benefit. This would mean that social tenants on higher incomes would be entitled to this benefit and would therefore be able to afford the higher rents. Shareholders' returns would be indirectly inflated by this subsidy and the landlord would be able to satisfy both its client groups. However, it is unlikely that the UK Government would be willing to reform housing benefit in this way, considering the demand it would make on the public purse and, also, the public may take issue with reforms like this because they grant very obvious benefits to shareholders. The other solution would be for the landlord to lower rents and meet the profit expectations of its shareholders with directly received government subsidy. The likelihood of this occurring is so low that there is little point in considering it any further.

The potential for excluding tenants, alienating shareholders, offending the public and creating even more demands on the Government's funding programmes means that it would not be reasonable to allow profit-distributing bodies to become eligible for registration as social landlords.

Question 2.27

If so, do you think it is right to have specific enforcement powers for profit-distributing RSLs?

Question 2.28

Are the enforcement powers that we have set out for profit-distributing registered landlords the right ones?

No. Profit distribution would already be diverting funds away from service provision and rent minimisation when business is running smoothly. To fine problematic landlords on top of this would make these particular problems worse.

Question 2.29

If not, what enforcement powers do you think would be right?

Question 2.30

Do you agree that RSLs should only have to seek consent for the three areas of rule changes set out in section 2.15 of the consultation paper?

Yes.

Question 2.31

If not, what approach would you suggest?



End of part 2

Annex A – draft equalities impact assessment

Question A.1

What else do we need to know about tenants, prospective tenants and RTB purchasers to help us understand their diverse needs and experiences of social housing, and where can we get this information?

Useful information will be taken from the needs ‘profiles’ pulled together from the HNDA as well as consultation with representative groups and organisations on HNDA outcomes and future LHSs. Future feedback and monitoring in relation to the HNDA and LHS will also be a valuable source of information.

Question A.2

Do you think ending the RTB for new social housing will have a disproportionately negative impact on particular groups of people in our target audience?

The policy may have a negative effect on higher income social tenants and also on homeless people.

Question A.3

If you think the RTB proposals will have a negative impact on a particular group, why is this?

By not having the right to buy their property, higher income social tenants will have less housing options open to them than they would have had under the current system. However, this problem may be eased by the fact that it may be possible for them to buy housing through low cost homeownership initiatives. Also, higher income social tenants may suffer from having too high an income to collect housing benefit, but too low an income to afford rents as set by profit-distributing social landlords, if these were to be created.

Legislation and policy developments – including the original RTB – have, in the last few decades, shifted the focus of social housing towards homeless people and other vulnerable people in society. By ending RTB in new housing and therefore retaining more non-vulnerable social tenants – who are traditionally more vocal and organised - the focus of service provision may shift back slightly, to the detriment of homeless people.

Question A.4

What positive impacts do you think ending the RTB for new social housing will have on particular groups of people?

All lower income or vulnerable groups who require social housing will have slightly better options in terms of housing. More better quality housing might be retained in the sector which would have been lost under older RTB rules.

Question A.5

What changes to the RTB proposals would you suggest to reduce any negative impact or enhance any positive impact you have identified?

To reduce negative impacts do not allow profit-distributing agencies to become social landlords.

To enhance positive impacts, phase RTB out sooner and more completely than the current proposals would allow for.

Question A.6

Do you think the changes to regulation will have a disproportionately negative impact on any group, or groups, of people?

No.

Question A.7

If you think there will be a negative impact on a particular group, why is this?

Question A.8

What positive impacts do you think modernising regulation will have on particular groups of people?

There will be more opportunities for tenants to make their views known

and to see action being taken by the SHR and their landlord in response to these.

Question A.9

What changes to the proposals for regulation would you suggest to reduce any negative impact or enhance any positive impact you have identified?

To reduce negative impacts, continue the inspection regime as before. Where self-evaluation is used, emphasise the need for this to be a serious process supported by feedback from tenants and service users.

To enhance positive impacts, publicise the changes and confirm the responsiveness of the regulator and landlords to the outcomes of regulation.

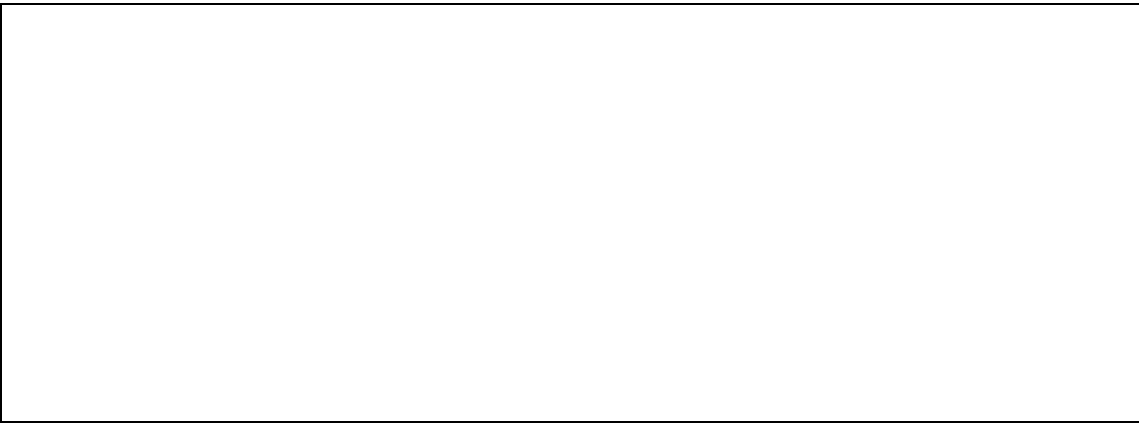
Question A.10

When we complete our impact assessment of the changes to regulation and RTB, are there any other significant issues we need to consider in relation to:

- Age
- Disability
- Gender
- Sexual orientation (Lesbian, Gay, Bisexual and Transgender (LGBT))
- Race
- Religion and belief?

There are several issues which need to be considered. One primary concern is that of the demographic 'time bomb' affecting age and disability in particular. Housing needs are changing over time and services are required to change with them. There is an increasing need for a co-ordinated response by landlords and care/support services alongside physical works such as the SHQS, new build, re-modelling etc.

In terms of BME groups, they are underrepresented in general and consideration needs to be given to cultural differences. For example, different family sizes and different approaches to illness, disability and age need to be taken into account.



Please continue on a separate sheet if necessary

End

Thank you for taking the time to respond.

Please remember to complete your respondent information form and return it to us with this questionnaire.