

HOUSING (SCOTLAND) BILL - MINISTERIAL SOUNDING BOARD

Minute of the fourth meeting of the Ministerial Sounding Board held on Monday 14 June 2010 at Victoria Quay, Edinburgh

Present

Alex	Neil, MSP	Minister for Housing and Communities
Douglas	Edwardson	Association of Local Authority Chief Housing Officers
Alan	Ferguson	Chartered Institute of Housing Scotland
Jennifer	Wallace	Consumer Focus Scotland
Jon	Harris	Convention of Scottish Local Authorities
Kennedy	Foster	Council of Mortgage Lenders
Martin	Hayward	Equality and Human Rights Commission
Jim	Harvey	Glasgow and West of Scotland Forum
Danny	Mullen	Regional Network of Registered Tenant Organisations
Hanna	McCulloch	Scottish Disability Equality Forum
Andrew	Field	Scottish Federation of Housing Associations
Iain	MacInnes	Scottish Tenants Organisation
Rosemary	Brotchie	Shelter Scotland
Sandy	Murray	Tenants First Housing Co-operative
Ilene	Campbell	Tenants Information Service
Lesley	Baird	Tenant Participation Advisory Service
Rena	Smith	Tenants Regulation Advisory Group
Ian	Ballantyne	Veterans Scotland
William	Fleming	Scottish Government
Linda	Leslie	Scottish Government
Ian	Spence	Scottish Government – minutes

Apologies

John	Blackwood	Scottish Association of Landlords
Lorna	Paterson	Scottish Federation of Housing Associations
Cllr Harry	McGuigan	COSLA

In attendance

Michael	Cameron	Scottish Housing Regulator
Sue	Gray	Scottish Information Commissioner

Tessa Brown, Laura Gilbert, Yvonne Rollins, Marion Gibbs, Stephen Sandham and Luke MacAuley from the Scottish Government.

1 Welcome and opening remarks

Mr Neil welcomed members to the fourth meeting of the sounding board for the Housing (Scotland) Bill. He particularly welcomed Jon Harris of COSLA, substituting for Councillor McGuigan; Andrew Field of SFHA, substituting for Lorna Paterson; and also Sue Gray, from the Scottish Information Commissioner, and Michael Cameron from the Scottish Housing Regulator.

2 Minutes of meeting on 25 May and matters arising

Mr Neil said that the minutes of the previous meeting had been circulated in draft form and amended in the light of members' comments. The final version had been circulated to members in advance of the meeting.

Mr Neil updated the meeting on the progress of the Bill. The Local Government and Communities Committee had published its report, welcoming the Bill in principle. The Committee raised some issues and made some recommendations, particularly in regard to moving certain provisions from the Housing Bill to the bill on private rented housing that the Government planned to introduce in the autumn.

Mr Neil said that his separate meetings with COSLA and SAL had seen progress on the issue of landlord registration. He reiterated that the intention was to focus on rooting out the relatively small number of rogue landlords who gave the private rented sector as a whole a bad name.

3 Topic 1 – The Scottish Social Housing Charter

Mr Neil referred to the paper that had been circulated in advance of the meeting. He reminded members that the exercise to develop the Charter and identify the outcomes it should set would begin with a blank sheet of paper, and would be a bottom-up rather than top-down process.

Mr Fleming said that the Government was proposing, as a starting point for discussion with stakeholders, that the outcomes to be set by the Charter should all meet three key requirements by being:

- What tenants, homeless people and other service users wanted;
- What landlords could achieve; and
- What the Scottish Housing Regulator could assess.

In discussion, the following points were raised:

- Before submitting the draft Charter to the Parliament for its consideration, the Scottish Government should subject the draft to a regulatory impact assessment and in doing so should apply the 'small firms impact test' to RSLs with fewer than 50 staff.
- While it was important to avoid imposing unreasonable regulatory burdens on landlords, the Charter had to provide a common framework that enabled the SHR to assess landlords against their primary responsibility to deliver services that provided good value for tenants' rents.
- Members representing housing providers confirmed that they would be happy to use the information they hold to try to ensure that all tenants are aware of the existence of the Charter process.
- Tenant members and organisations again welcomed assurances that the Charter process would begin with a blank sheet of paper.
- Members expressed interest in being involved in a Charter Sounding Board.

Summing up this part of the discussion, Mr Neil said he wanted the Charter, and the SHR's assessment of performance against it, to drive improved services for tenants and other service users. He believed that this could be achieved in a manner consistent with the Government's wish to see streamlined scrutiny of services. It would be important to maximise participation of tenants, other service users and hard to reach groups in developing the Charter and to think creatively about ways of engaging them. The RTO network had an important part to play in taking forward the consultation, but landlords also should be using their own resources and contacts with individual tenants to stimulate debate and participation. He asked that landlord representatives on the board should brief their members on the role they should be playing. He noted with thanks that ALACHO, Consumer Focus, COSLA, SDEF, Shelter and Veterans Scotland had stated they would be happy to help, either in organising publicity and events, or giving officials the benefit of their expertise. The Scottish Government would establish a stakeholder board for those involved in the exercise and he invited members to indicate to officials whether the bodies they represented wished to be part of the board.

4 Topic 2 – Part 14: Protection of Tenants and Local Connection

Protection of Tenants

Mr Neil said that the Repossessions Group would report shortly on the subject of unauthorised tenants. The question was whether legislation was necessary to reinforce existing protection, which was found in case law. The Bill had been drafted to allow amendments to be made at Stage 2 that would give effect as necessary to any recommendations by the Group.

Mr Sandham spoke about the recent consultation on the subject of unauthorised tenants that followed from the Home Owner and Debtor Protection Act. The consultation had sought views on three options to strengthen protection for unauthorised tenants, but found no consensus.

Mr Sandham pointed out that there is more protection in Scotland, albeit in the form of case law, than will be conferred by the proposed legislation in England, and the reconvened Repossessions Group would be recommending that the protection should be consolidated through legislation rather than continuing to rest on case law.

Mr Foster explained the other more technical recommendations, such as improved notification to tenants, that the group had unanimously agreed and which were not thought contentious. Some of these may also require minor legislative changes.

Local Connection

Mr Neil said that the proposed amendment on local connection would enable service personnel to establish a connection in the areas in which they had been billeted, and would serve to put veterans on the same footing as other homeless applicants for social housing. The proposals were not about ex-service personnel jumping the queue, but rather about enabling them to join the queue.

Mr Ballantyne from Veterans Scotland outlined a possible scenario – a soldier could be based in Edinburgh, and living in a military house in Edinburgh. However, if the soldier had been born to a military family in Germany, their local connection would be in Germany, potentially denying them the chance of a house in Edinburgh. The amendment sought to end the anomaly that ex-service personnel did not necessarily have the same rights under the homelessness legislation as other groups.

Mr Neil noted the board's endorsement of the proposed amendment.

5 Shelter's proposed amendment on homelessness

Mr Neil referred to the paper that had been circulated in advance of the meeting, and invited Rosemary Brotchie to introduce it.

Ms Brotchie said that Shelter was proposing three amendments –

- Access to support, where all homeless applicants should have their support needs assessed.
- Referrals, where all statutory homeless referrals should be done under the provisions at Section 5 of the Housing (Scotland) Act 2001.
- Pre-Action Requirement on Evictions, where tenants in social housing should have protection analogous to that provided for owner occupiers by the Home Owner and Debtor Protection Act.

In discussion, the following points were raised:

- It was not clear that a prescriptive approach to support was desirable given, the widely varying levels of support required by homeless people, or that it would represent the best use of scarce resources, which might be better spent on action to avoid homelessness arising in the first place.

- Use of section 5 should be an option and not a requirement, as there were many examples of good services being provided without it being used.

On a point of clarification, Mr Cameron said the SHR did not believe that use of section 5 referrals was the only route to achieving good outcomes for homeless applicants: what mattered was what worked best. He said the SHR had seen good use of non-statutory homeless referrals as well as cases where section 5 was used to good effect.

Summing up the discussion, Mr Neil said that members had identified a number of concerns over Shelter's proposals. In view of that, and of the estimate that implementing the proposals might give rise to costs of up to £40 million a year, the Government would need to be satisfied that the proposed provisions were necessary and the only way of achieving their intended objects. It would also need to be confident that it could demonstrate to the Local Government and Communities Committee that there was proven merit in any amendments that it brought forward. He invited Shelter to reflect on the points raised by board members and to consider, in light of them, whether it would be possible to persuade the Committee at Stage 2 that the amendments would make a material difference to the position on the ground.

6 Right to Buy – Amendment proposed by SFHA

Mr Neil referred to the paper on Right to Buy (RTB) that had been circulated in advance of the meeting. The paper proposed that tenants with the preserved RTB who were forced to move because of neighbours' anti-social behaviour should retain that entitlement rather than be moved to the modernised RTB.

In discussion, the following points were made:

- Existing legislation allows landlords discretion to sell properties to tenants who find themselves in the situation envisaged in the paper on terms similar to preserved RTB. It was not clear, therefore, that the matter required legislation.
- Moving the victims of anti-social behaviour was not the correct response to the problem and landlords should focus on dealing with the perpetrator.
- Failure to deal with the perpetrator meant the landlord risked having an empty house that would be difficult to let, compounding the original problem by encouraging flight from the neighbourhood.

Summing up this discussion, Mr Neil said that legislation was not necessary to address the problem outlined in the paper. He noted that there was considerable anecdotal evidence to suggest that the problem of anti-social behaviour generally was getting worse. He was concerned that desirable neighbourhoods could quickly become undesirable if the problem was not tackled. Though not a matter for the Bill itself, he saw merit in the board's next meeting including a discussion of the problem and the possible options for dealing with it.

Action Point - the question of what more can be done to deal with anti-social behaviour will be discussed in more detail at the next meeting.

7 Housing Policy Discussion – Fresh Thinking, New Ideas

Mr MacAuley joined the meeting and gave a presentation on *Fresh Thinking, New Ideas*, the Housing Policy Discussion that the Scottish Government had launched in May. A programme of events was planned over the summer so that as wide an audience as possible could engage in the discussion; an 11-page summary of the document was in preparation; and the Scottish Government was happy to work with organisations wanting to organise their own events.

Following the presentation, Mr Neil said that the difficult financial climate and the severe pressure on public expenditure meant it was important to seek new sources of funding for affordable housing; to find ways to make existing money go further; and to manage existing stock more effectively. In response to a question about landlords for whom financial constraints might put them at risk of failing to meet the Scottish Housing Quality Standard by 2015, Mr Neil said that any landlord who found themselves in that position should raise the matter now with his officials, rather than waiting until the deadline was looming, so that the matter could be discussed in good time.

Concluding the discussion, Mr Neil stressed that the Scottish Government was genuinely seeking fresh ideas. He invited the members to contribute to the debate and to encourage others to do so.

8 Any other business

There was no other business.

9 Agenda and Date of Next Meeting

Mr Neil advised members that the Stage 1 debate and vote on the Bill would take place on 23 June. Assuming the Bill passed Stage 1, the Government would consider proposed Stage 2 amendments over the summer recess taking into account the Stage 1 report on the Bill and the comments and views of members.

Mr Neil said that the next meeting, on Wednesday 8 September 2010, 10.30 a.m., at Victoria Quay, Edinburgh, would focus on:

- a) Likely amendments to the Housing (Scotland) Bill
- b) An update on the Private Rented Housing Bill
- c) Discussion on anti-social behaviour

Mr Neil thanked the members for attending and closed the meeting.