

Report

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Report to:	Housing and Technical Resources Committee
Date of Meeting:	16 September 2009
Report by:	Executive Director (Housing and Technical Resources)

Subject:	South Lanarkshire Council's Response to the Draft Housing (Scotland) Bill: A Consultation
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ request approval of the Council's response to the draft Housing (Scotland) Bill

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that the Council's response to the draft Housing (Scotland) Bill as detailed in appendix 1 be approved.
- (2) that a further report be presented to a future meeting of this Committee for consideration on the outcome of the Bill and any subsequent legislative changes.

3. Background

- 3.1. In April 2009, the Scottish Government issued a draft Housing (Scotland) Bill. The draft Bill emerged from a more extensive consultation paper "Firm Foundations" on the future direction of national housing policy which was concluded in January 2008. The closing date for comments was Friday 14 August 2009 and the response was submitted to the Scottish Government subject to approval of this Committee.
- 3.2. The draft Housing Bill is much more limited in its scope than Firm Foundations and covers two key areas of reform:-
 - ◆ proposals to reform the right to buy
 - ◆ the future role and remit of the Scottish Housing Regulator
- 3.3. The Government has indicated that it may bring forward some of the other areas for reform including the private sector, housing association development and homelessness at a later stage.

4. Key Proposals

- 4.1. Part 1 of the Housing Bill focuses on reforms to the Right to Buy legislation. The context is that if implemented in full, the Scottish Government estimate that from 2012 to 2022 between 10,000 and 18,000 houses would be retained in the social housing sector that otherwise would be lost through Right to Buy.

- 4.2. At the heart of the reforms is a proposal to end Right to Buy on new supply social housing. This featured in “Firm Foundations”, the discussion document on the future of housing in Scotland. In view of the near-universal support for this reform, the Scottish Government promised to propose legislation in relation to it. Part 10 of the draft Bill proposes to do so through an amendment to the existing law on Right to Buy, so that housing, which section 109 defines as 'new supply social housing' would not qualify for Right to Buy.
- 4.3. Many respondents to “Firm Foundations” also argued for further reaching reforms. A number of those identified would not require legislation. The Government will decide whether or not to proceed on each of them, introducing legislation as necessary, in light of responses to this consultation. The other reforms would be as follows:-
- **Ending Right to Buy for new tenants.** While not affecting the entitlements of existing tenants, this would mean that in general those becoming tenants for the first time, and those returning to social housing from other tenures, would no longer be entitled to Right to Buy on any social housing. If this proceeds it will do so through the provisions in the Housing Bill.
 - **Reforming pressured-area designations.** This would extend the scope of the pressured-area designation process by increasing the maximum period of a designation from 5 to 10 years and by allowing particular types of housing, as well as areas, to be designated. It would also have the effect of making local councils responsible for designating pressured areas. These reforms would proceed by amending existing legislation on pressured areas.
 - **Developing guidance for RSLs seeking extensions to the ten- year suspension on Right to Buy.** Registered Social Landlords (RSLs) are able to apply to Ministers to extend beyond 2012 the current suspension of Right to Buy on their properties. We propose to develop new guidance for RSLs to use if they wish to make such applications. This guidance would be underpinned by criteria that reflects the importance of meeting housing need and safeguarding stock and take account of the effect of Right to Buy on a landlord's ability to pay for other policy priorities. This would not need more legislation.
 - **Revising guidance on landlords' continuous occupation discretionary powers.** This would encourage landlords to use their discretionary powers more widely to disregard short breaks between tenancies when the breaks are outwith the tenant's control. This should enable ex-service personnel to count the time they spend in armed forces tenancies towards their Right to Buy qualifying period and their discount entitlement once they enter the social rented sector. This would not need more legislation.
- 4.4. In Part 2 of the paper the proposals are for modernising the regulation of social housing to focus the efforts of social landlords on:-
- **meeting tenants' priorities;**
 - **continually improving performance and value; and**
 - **commanding the confidence of public and private investors in social housing.**

- 4.5. The modernised regime would be based on our principles for improving and streamlining scrutiny in general. It would provide clarity of purpose for social landlords and would continue to provide independent assurance that landlords were giving their tenants good service. It would also continue the move away from inspection-based regulation towards greater use of other regulatory tools such as the Best Value regime and self evaluation. The changes would require a new legislative framework to replace the one for regulating local authority landlords and RSLs in the Housing (Scotland) Act 2001. However, some of that Act's provisions, either in their current form or amended, would be part of the new legislative framework.
- 4.6. The draft Bill shows how the new legislative framework could include provisions for a modernised Scottish Housing Regulator (SHR) to be responsible for regulating the performance of local authority landlords and RSLs on the basis of a risk-based and proportionate approach. We invite views on whether there is scope to take this approach further. We note also that the term 'social housing', though widely recognised, has negative connotations for many and we wish to invite suggestions for a new term.
- 4.7. Under the draft Bill, these would be the key features of the new legislative framework:-
- **The Scottish Social Housing Charter.** Sections 29-31 would enable the Scottish Parliament to approve a Scottish Social Housing Charter. The proposals are that the Charter would state the value - in terms of the outcomes and standards - that social landlords and homelessness services should be delivering for their tenants and other service users. Some of these outcomes and standards could be national requirements on all social landlords, but the Charter could also require individual landlords to set local outcomes or standards after consulting with their tenants and in light of local circumstances and priorities (and, in the case of council landlords, in line with their Single Outcome Agreements). We would develop the Charter's requirements in consultation with tenants, landlords, lenders and other stakeholders. The Charter would then be submitted to the Scottish Parliament for its approval. If approved, the Charter would have legal effect.
 - **A modernised Scottish Housing Regulator.** Taken together, parts 1, 3, 4 and 5 of the draft Bill would modernise the SHR by giving it (a) statutory operational independence under its own Board; and (b) the objective of safeguarding and promoting the interests of tenants and future tenants of council landlords and RSLs and of people using homeless and other housing services. The modernised SHR would have a range of functions which would enable it to achieve its objective proportionately, accountably and transparently. Its main functions would be to:-
 - assess and report on landlords' performance against the Scottish Social Housing Charter and if necessary enforce compliance with the Charter;
 - undertake a range of inquiries, including planned inquiries (for example into individual landlords, councils' homelessness services, groups of landlords, or particular themes) and unannounced inquiries;
 - require improvements in the performance and value that landlords give their tenants and that councils give homeless applicants;
 - intervene where individual landlords perform poorly;
 - monitor and safeguard the financial health and good governance of RSLs.

- **Safeguards for RSLs and their tenants.** Part 1 of the draft Bill includes the functions of monitoring and safeguarding the financial health and good governance of RSLs. Parts 2 and 5-9 of the draft Bill would give the SHR a range of additional specific functions in relation to RSLs only. Part 2 would require the SHR to continue registering RSLs against criteria that it would set. It would also give Ministers a new power to specify which types of body the SHR could register, so that if they thought it would help to improve the supply of social housing, they could permit bodies not currently eligible for registration to become eligible. The Bill proposes to convene a working group, whose members will include representatives of RSLs and their lenders, to consider how to improve these parts of the Bill before it is introduced in the Scottish Parliament.

5. The Council's Response

5.1. The Council's detailed response (Appendix 1) welcomed the consultation and was broadly supportive of the proposals in the paper in relation to reforms of Right to Buy and the Scottish Housing Regulator.

5.2. A summary of the key elements of the response are set out below:-

- **Proposals for Right to Buy**

In relation to the Right to Buy reforms, we broadly welcomed these, recognising the tension between the need to preserve social housing to meet increasing needs, and the rights of existing tenants. In some regards we feel that the Bill could provide greater flexibility, both in relation to the specified timeframes for pressured area status, and by allowing authorities to designate some housing stock for sale, where this meets key strategic regeneration objectives, for example. We also restate our view that proposals for Pressured Area status should in any event essentially be governed by local strategic housing needs assessment, as evidenced by local housing strategies.

- **Proposals for modernising Regulation**

The proposals for the future of regulation seem to us to have the potential to achieve the necessary balance between protecting the interests of tenants and other service users while, at the same time, establishing a joined up approach to scrutiny.

In our response we expressed the view that that the new joint scrutiny framework should and must continue to benefit from the specialist knowledge and expertise which the SHR has brought to the sector since its inception. While we are wholly supportive of the move towards reducing the burden of inspection through a streamlined approach to regulation, we also believe that the specialist nature of the Scottish Housing Regulator has played a positive role in promoting good practice and continuous improvement in the social housing sector.

Indeed a report published by the SHR in July 2009, summarised the outcomes of the inspections carried out over the last 5 years and in particular noted that with 112 inspection reports published, just over 50% of all the areas graded were excellent or good with 47% fair or poor.

We also believe that some aspects of the proposals need to be discussed further and, therefore, welcome in particular the intention to engage in a national discussion with stakeholders on the nature and content of the proposed Scottish Social Housing Charter. We look forward to participating in this debate. With this in mind we have suggested that, in the context of a draft Housing Bill, it may be unwise to be too prescriptive about the SHR's role when there is still an ongoing discussion about the post Crerar regulation arrangements, and in particular the scope and content of the new joint shared scrutiny arrangements which are to apply to local authorities.

5.3. In addition, within our response we noted that the scope of the Bill in its present form was somewhat narrow in its focus and did not address a number of key issues such as the:-

- need to revise legislation relating to the allocation of housing
- viability of the 2012 target for homeless households
- use of the private rented sector to meet the needs of homeless households

5.4. In our view these and a number of other issues merit consideration for inclusion in the Bill. Our views in this regard are detailed in the attached appendix.

6. Next Steps

6.1. The Scottish Government is considering responses to the draft Bill, following which any detailed legislative proposals will be brought before Parliament.

6.2. A further report on the outcome of the Bill and any reforms to legislation will be brought to Committee for consideration.

7. Employee Implications

7.1. None.

8. Financial Implications

8.1. None.

9. Other Implications

9.1. None.

10. Equalities Impact Assessment and Consultation Arrangements

10.1. There is no requirement to carry out an impact assessment in terms of the proposals within this report.

10.2. Consultation has taken place with Council tenants and residents on the Central Liaison Group.

Jim Hayton

Executive Director (Housing and Technical Resources)

18 August 2009

Link(s) to Council Objectives and Values

- ◆ Improve the quality, access and availability of housing
- ◆ Accountable, effective and efficient
- ◆ Tackling disadvantage and deprivation
- ◆ Sustainable development

Previous References

- ◆ Firm Foundations: The future of Housing in Scotland; Report to Housing and Technical Resources Committee 9 April 2008.

List of Background Papers

- ◆ Copy of the draft Housing (Scotland) Bill available from the Scottish Government's website.

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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South Lanarkshire Council
Response to draft Housing (Scotland) Bill: A Consultation

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?

Over the past 18 months we have experienced a sharp decline in the level of houses sold to tenants through Right to Buy. Our financial projections for 2009/10 indicate that we are likely to generate around £3m through council house sales. This figure reflects a £17m reduction from the position in 2007/08 when £19.9m was received from sales. While we have been able to put in place measures to maintain our investment commitment, we recognise that the scope for doing this over the longer term, while maintaining reasonable rent increases, will be limited.

In light of the scale of the issue which we face in terms of reduced revenue from right to buy sales due to current economic factors, the financial impact of the changes proposed in the draft Bill are considered not to be significant.

There may however be significant issues for some councils' and RSLs seeking to meet the SHQS who are dependent on income from house sales but lack the wherewithal to mitigate shortfalls using prudential borrowing or some other means to augment their programme.

Question 1.2

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

Yes, we specifically welcome the objective of “backdating” the effective date to 25 June 2009.

Question 1.3

If not, what definition do you propose?

N/A

Question 1.4

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

Yes, the safeguards achieve an appropriate balance between the pressure to maintain new supply of social housing while taking account of the rights of existing tenants.

The primary aim should be to ensure that tenants are fully aware of the implications of moving within the sector. In terms of advice and information, social landlords clearly will need to engage with prospective tenants to ensure they are aware of the implications of moving e.g. to a new build property. This will allow tenants to make informed choices and would also be consistent with the general policy shift implicit in the proposals i.e. away from blanket mandatory rights towards tenants making decisions on the basis of the options available to them.

Question 1.5

If not, which safeguards do you propose?

N/A

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?

We agree with the proposal to end the right to buy for new entrants to the social rented sector. The bill should also ensure that anyone whose home was acquired through Mortgage to Rent should not have a future RTB entitlement in that property. This might be more difficult to achieve if it is a shared equity situation.

At the same time, however, we are of the view that the local authorities should be given the discretion to designate specific areas where the right to buy would be available. This could be used by the authority in pursuance of strategic objectives in meeting the needs of specific areas, for example, to promote tenure choice in regeneration areas or to encourage low cost home ownership.

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?

Yes.

Question 1.8

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

Yes, we welcome these proposals.

Question 1.9

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

While supportive of the proposal to remove the five year maximum designation period, we would suggest it is inappropriate to set an arbitrary upper time limit on the designation.

It would seem more reasonable that at the point of approval of a designated area, the basis and timescales for reviewing the designation are agreed. In effect there would be scope for the designation to be continued for an indefinite period, subject to review, so long as it is established that the need for the designation remains.

Question 1.10

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

Yes, we are also supportive of this proposal. We have pointed to the need for such a provision in previous consultations. In many areas of South Lanarkshire there is an acute lack of supply of certain sizes and types of accommodation. The legislative proposal would provide an additional option to target specific property types rather than whole areas and help to address the issue.

Question 1.11

Should Ministers devolve pressured area decision-making to Councils?

Yes, it would seem wholly appropriate that the Council, as the statutory housing authority, has the responsibility for and power to designate pressured areas.

Question 1.12

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

The key requirement would be for the process to be clearly and firmly linked to the Local Housing Strategy and assessment of housing need. As part of the LHS review process, consultation with key stakeholders (including affected communities and properties) should require publication of the rationale for decisions and supporting evidence relating to pressured area status.

One of the key issues that may need to be addressed is any rights of appeal which may be sought after a decision is made. In this context, it might be appropriate to have an established 'challenge route' where the Scottish Government or Scottish Housing Regulator could adjudicate if communities or individuals felt Pressured Area Status was inappropriate.

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?

Clearly RSL activity should support local strategic housing objectives determined by local partnerships as part of LHS formulation. Extensions to the ten year suspension, whilst likely to generate broad support, should be gauged against their contribution to such objectives

Question 1.14

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

N/A

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. Through our housing allocation policy we aim to ensure that ex –service personnel receive a high level of priority at the point they leave the forces.

We aim to work with such applicants to ensure that they have suitable accommodation available to them at the point of discharge.

The proposal to encourage landlords to use discretion to disregard breaks in occupancy when calculating right to buy discount, is contrary to the general thrust of the wider right to buy proposals set out in the Bill.

The key focus for the Scottish Government and social landlords should be to ensure that ex - armed forces personnel receive a consistently high priority for adequate housing through housing allocation systems and that a concerted effort is made to tackle the homelessness which all too often affects ex- services personnel.

Question 1.16

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

No. The emphasis in the current guidance noting the exceptional circumstances in which discretion should be used should be retained (examples being “fire, flood, and the need to escape domestic abuse”). Any widening of the criteria would in our opinion run contrary to the objective of safeguarding and making best use of stock.

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.*

Yes. There is little doubt the common purpose and focus of social landlords and the SHR should be on meeting tenants priorities whilst seeking to continually improve performance and value for service users.

In a non market context, we agree it is essential that tenants' interests are 'championed' and that housing providers can be challenged to demonstrate that they are delivering services of a standard and quality that meet legal obligations and tenant expectations. We believe that most landlords would share these objectives. However, it is also important that tenants and the SHR understand and are party to discussions about the ability of landlords to meet some expectations or priorities in the context of resources available. This conversation becomes particularly important in light of proposals elsewhere in the Bill for SHR to measure landlords performance against specified housing service outcomes

Question 2.2

If not, what should be the purpose and why?

N/A

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.

Yes. The proposal is consistent with the move towards a risk based and targeted approach to inspection first set out in "Risk and Proportionality" in 2006 and confirmed in Firm Foundations in 2007. In our response to both documents we confirmed our support for this shift in focus but at the same time agreed with the need for any new regulatory framework to retain a strong role for a scrutiny body with the necessary expertise and influence to drive forward improvement within the sector where this proves necessary

While the approach taken to baseline inspections of local authorities and RSLs can be seen to have consumed resources that could have otherwise been focused on tackling higher risk poor performing landlords, we accept that the pressure the Regulator has brought to bear has helped to drive forward service improvement and promote a focus upon issues which may otherwise have been viewed as a lower priority. One of the key aspects of this has been the evolution of defined (activity and guidance) standards which have helped to provide a clear basis for evaluating service performance.

The risk based approach is already in place for RSLs seems to confirm that full inspections are not required to secure and maintain improvement, provided there is a sound framework for establishing the extent of risk.

The proposals set out within the consultation paper seem to provide a sound basis for achieving this.

It should also be emphasised, however, that for local authorities a full response to the proposals will only be possible once the detailed joint scrutiny framework proposals to be led by the Accounts Commission are set out in detail.

In this context, it would seem reasonable to conclude that the role envisaged by SHR in the joint scrutiny process may well be developed and adapted as work progresses to establish the new 'joined up' and streamlined scrutiny regime.

Question 2.4

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

The following proposals might assist achieve the key purpose of better meeting tenants' priorities and improving performance and value and in so doing help streamline regulation processes

The first concerns the role of tenants, which could change markedly from the current regime when the focus shifts primarily to risk based assessments. The second relates to the role of the SHR in working with landlords to promote and share best practice to help lift standards across the sector.

It is essential that as the proposals develop, there is a clear role for tenants' and tenant representatives within the new framework. The consultation document acknowledges the essential role that tenants play in assessing the performance of their landlord. While this may be reflected in qualitative targets on tenant satisfaction as part of the Scottish Social Housing Charter, there is scope for tenants and their representatives to have a more formal role. This might take the form of, for example, a specific requirement for landlords to involve tenants in the self assessment process, to evidence the ways in which this was achieved, and the contribution made by tenant input to the final outcome.

In relation to best practice, there is a risk that a focus only on what's going wrong as the basis for scrutiny and reporting, misses the opportunity to promote and share good practice . Specifically it is often the 'how to do something' in which landlords are interested and which proves problematic (rather than knowing 'what to do') and the SHR could play a key role in supporting and driving improvements in this area. Recent examples include working with practitioners on practice workshops on asset management.

Question 2.5

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

We would argue that the negative portrayal and image of the sector is fundamentally a product of government policy over the last 30 years or so. This has been based around the promotion of owner occupation as the tenure of choice for those with the financial means to access it. Any attempt to tackle the negative image which Council/public sector/social rented housing now has must be rooted in a more holistic housing and socio-economic policy. This should aim to re-position social rented housing from being a tenure associated with welfare recipients intended for those with little or no other choices, to one which is open to, and seen as desirable by, a broader cross section of society.

In 2007 the UK Government commissioned a report by Professor John Hills from the London School of Economics, which considered the future role of social housing in England. This report tracked the changes which have occurred in social rented housing over the last 30 years and concluded that, while social housing originally contained a broad mix of income groups it has increasingly become a sector where the poorest income groups are concentrated. The report emphasised the need for fundamental shifts in policy both in terms of the:-

- Way in which housing is subsidised; and
- Need to focus attention on helping to create a greater income mix within the sector.

The CIOH has also recently commissioned research which arrived at broadly similar conclusions.

While it is understandable that the consultation paper seeks to challenge the stigma too often associated with the sector, this is not something upon which a change of label alone is likely to have a significant impact.

For what it's worth, we believe the term "community housing" may have less pejorative connotations than social, public, or affordable housing.

On a related theme, as noted in our covering letter, we believe it is important in this respect that the review of the legislation and guidance regarding housing allocation currently ongoing at a national level, considers the fundamental and long term negative impact which the continued statutory and regulatory focus upon allocating housing to homeless and other high need households is having on the perception and reputation of social housing.

Whilst we recognise the complexity of this issue in terms of equity and in relation to a debate about the proper use of scarce resources, we would maintain that it is essential that the legislation is revised to provide greater scope to allow landlords to promote community mix within areas. We believe that the current housing allocation and homelessness framework does not allow the scope to do this.

Question 2.6

If not, what terms should we use?

As noted above, we would favour the term "community housing" as a better and possibly less pejorative descriptor.

Question 2.7

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

We are broadly supportive of the proposal to introduce a Scottish Social Housing Charter (SSHC) and to move towards assessing progress against set outcomes. We do however have some reservations about the abolition of the current performance standards. We believe that there may be scope to retain these as the basis for self assessment by landlords and other stakeholders' i.e. to help (self) assessment of performance against the necessarily broader outcomes which will be encapsulated within the SSHC.

In our opinion the performance standards and the associated self-assessment framework, as they currently exist, provide a clear and useful frame of reference which could be retained within the new approach even if they no longer provide the basis for formal inspection. The current standards seem to us to be both comprehensive and far reaching in terms of expressing the value that services should provide.

On the basis of the consultation document, we have some difficulty seeing how the SSHC can achieve an appropriate balance between national and local priorities, and between standards and outcomes, all within a single statement. In particular, local context, in relation to population demographics and socio/economic characteristics, resource availability, not to mention organisational capacity, will be vital components to take into account in ensuring that specified outcomes, and any subsequent improvement targets, are fair and reasonable in all circumstances.

Nonetheless we are pleased to note the SHRs intention to embark on a widespread debate on the SSHC, the nature and content of its inherent outcomes, and the role and purpose of social housing generally. We look forward to active participation in that process.

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?

As noted in response to 2.7 we are of the view that scope exists to retain the performance standards alongside the outcome approach which is to be enshrined in the charter.

Question 2.9

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

Yes, the proposals would seem to achieve the necessary degree of independence for the regulatory body and we agree with that principle.

It is also important however, to establish the appropriate relationship between the new shared scrutiny proposals emerging post Crerar and the roles and responsibilities of the SHR highlighted in the draft housing bill. The emerging proposals under BV2 herald a joint shared risk assessment led by Audit Scotland. The draft bill clearly (and we believe rightly) envisages a key role for a strong housing regulator, with the key aim of driving service improvements in the interests of tenants and other stakeholders. It is not entirely clear how both objectives are to be accommodated and there is clearly an ongoing dynamic to the emerging situation. Here too we look forward to playing a role in making the new arrangements work to achieve the best outcomes for tenants and other stakeholders.

Question 2.10

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

N/A

Question 2.11

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

Yes, we believe it's appropriate that the SHR should have the promotion of tenants' interests as its fundamental and statutory objective.

Question 2.12

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

N/A

Question 2.13

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

We think it's helpful to consider the appropriate role of the SHR separately in relation to the three different services. Our views in relation to each are set out below:-

Services for Gypsy/Travellers

In our view, it would be desirable if the responsibilities of the different inspectorates (HMIE, SWIA, SHR etc) bodies were identified and consolidated in this area, and that a specific and holistic framework (or set of clear service outcomes) was set established in relation to all key services for gypsy/travellers. The continued location of the regulatory responsibility within the SHR seems to be a legacy of debate around community needs being defined largely by a concentration upon the setting and monitoring of local authority targets for “pitch” numbers. The needs of the gypsy/traveller community, as confirmed by various pieces of research, are at least as broad as those existing in the wider society. It is appropriate therefore that arrangements for the regulation or inspection of services provided to the community reflects this reality.

Services for Homeless Households

We are of the opinion that it would be appropriate for the primary responsibility for the regulation of homelessness services to remain with the SHR. It is important however that the SSHC reflects the fact that the strategic responsibility for preventing and alleviating homelessness lies with local community planning partnerships. Indeed the development of the joint scrutiny framework provides an opportunity to achieve greater coherence in relation to assessing the services which various agencies provide to prevent and alleviate homelessness.

In this context we believe there is scope to consider more geographically based and cross cutting thematic inspections of all services for homeless households.

Factoring Services

We are supportive of the SHR retaining this responsibility. Factoring can be a difficult and complex area and we believe that more research to identify issues and good practice would be of assistance here.

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?

The powers proposed in the Bill seem to us for the most part to be appropriate and relevant as is the aim of driving up standards in the sector. A key issue which remains to be clarified however is how the monitoring requirements for the SSHC are to be met. Agreement on a single suite of statistics and performance monitoring data will be crucial, with the key objectives being to achieve the appropriate balance between ensuring that monitoring data (both quantitative and qualitative) collated by local authorities is sufficient to establish a comprehensive and reliable perspective on performance, while at the same time does not unduly increase the burden on local authorities to produce performance monitoring information.

It will also be necessary to link any of these requirements to any new authority and partner wide arrangements arising from the BV2 shared risk and scrutiny proposals , including local authority self evaluation, to ensure that it avoids duplication of effort and reduces potential burdens in providing the same information to different bodies.

At a national level, there is still considerable discussion underway about the shape of BV2 and the self evaluation processes linked to the new approach, as well as the level and nature of performance information which should be published. It is essential that any proposals emerging under sections 35 – 36 of the bill to assess and publish performance information are in tune with the finalised joint scrutiny framework.

It will be important to see the detailed proposals relating to the powers proposed (under section 32) to enable the SHR to set performance improvement targets for landlords whose performance doesn't match the best being achieved by their peers. As noted above in relation to the specification of local outcomes, key aspects of this approach will be the appropriateness and relevance of any targets set in a particular local context and the nature of any interventions to ensure improvement takes place.

Question 2.15

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

See answer to 2.14 above.

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?

As well as answer to 2.14 above, we have highlighted earlier, there is a clear role for the SHR to promote and encourage best practice in helping drive up standards across the sector. This does not require new or additional powers, but a clear focus on working jointly with landlords and bodies for example, the Chartered Institute of Housing and Scottish Housing Best Value Network to encourage and promote sectoral improvement.

Question 2.17

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

Yes, see response to 2.1 to 2.3 above. The replacement of the current inspection powers is clearly consistent with the move towards a risk based approach to regulatory intervention. However, as noted elsewhere, we also believe there is much in the current approach that is helpful to social landlords seeking to evaluate and improve their performance (the performance standards for example) Ideally the best of this will be retained and utilised by landlords where appropriate and helpful under the new regime even if on a voluntary rather than statutory basis.

Question 2.18

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

Yes.

Question 2.19

If not, what approach would you suggest?

N/A

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?

Yes. It is acknowledged that there is a need for robust monitoring of financial viability and governance of RSLs in the context of ensuring the interests of tenants and lenders are protected.

Question 2.21

If not, what powers would you suggest?

See above

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?

We would wish to see and understand the detail of the new proposed ethical code and consider this alongside the implications of, for example, allowing exemptions for members of the governing bodies and staff benefiting from their positions.

Question 2.23

If not, what would you suggest?

See above

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

Question 2.25

If not, what approach would you suggest?

See above

Question 2.26

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

This represents a significant departure from existing arrangements and would require careful consideration in the context of the aim of ensuring maximum value for tenants for every pound of rent spent per the SSHC.

A profit distributing organisation will have objectives beyond the quality of service to achieve a profit for shareholders. There may therefore be an inherent conflict between profit and service delivery.

It is very likely that in promoting partnership working to increase the supply of social housing, in which we have an excellent reputation and track record, South Lanarkshire Council will continue to favour non profit distributing RSLs over their profit distributing private sector counterparts.

Question 2.27

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

Yes

Question 2.28

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

Yes

Question 2.29

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

N/A

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?

N/A