

**WORKING GROUP ON HOUSING (SCOTLAND) ACT IMPLEMENTATION
NOTE OF SECOND MEETING: WEDNESDAY 1 AUGUST 2001
VICTORIA QUAY, EDINBURGH**

Present:

Richard Grant (Chair)	Scottish Executive
Beverley Francis	" "
Malcolm Clark	" "
Pat Tracey	" "
Dawn Abell	" "
Archie Stoddart (part)	" "
Alan McKeown	CoSLA
Elaine Zwirlein	"
David Bookbinder	SFHA
Linda Ewart	"
Karen Watt	Scottish Homes
Karen Robertson	" "
Michael Thain	CIH
Marion Gibb	Shelter
Lesley Baird	TPAS
Isabel Wilson	TIS

WELCOME AND APOLOGIES

1. **Richard Grant** welcomed members to the second meeting of the Working Group. No apologies had been received.

MINUTES OF FIRST MEETING

2. These were agreed as an accurate record.

MATTERS ARISING

3. There were a number of issues arising from the previous meeting:

Report back on short assured tenancies – **David Bookbinder** reported that he had spoken to some members about the conversion of short assured tenancies to SSST. Most recent cases had been in supported accommodation. **Richard Grant** said that he had been speaking to Executive lawyers about conversion procedures and they had pointed out that since the short Scottish secure tenancy was a separate tenancy from the SST itself, it would not be possible to use the order making powers in section 11 to arrange for the conversion of short assured tenancies to SSSTs. He had asked for further advice on this.

View of members on continuation of RTB terms – **Richard Grant** thanked representatives for contributing and reported that the consensus appeared to support a move to the modernised

RTB on all new tenancies. He reported that further legal advice was being sought on more complex cases, including where houses were demolished.

Action: Scottish Executive

Implementation of SST: transfers – **Beverley Francis** gave details of the impending Scottish Homes stock transfers and on the partial transfers anticipated prior to the introduction of the SST. **Richard Grant** explained that the Executive was planning to allow for the early implementation of the SST for local authorities contemplating whole stock transfers from 1 April 2002. As far as partial stock transfers were concerned, there was no practical possibility of introducing the SST before 1 April 2002 so that any transfers taking place before that date would need to be based on a switch to assured tenancies. For partial transfers that took place after 31 March 2002, the Scottish Executive would be willing to consider early implementation if Scottish Homes or the local authorities concerned thought that this would be helpful. It was agreed that the Scottish Executive would meet the Scottish Homes Initiative Unit staff to discuss this further.

Fanchea Kelly letter – Richard Grant said that the advice from the Executive lawyers to Fanchea Kelly had been circulated with the minutes. In response to a query from **Alan McKeown**, **Mr Grant** stressed that this was simply the view of the Executive's Solicitors and it was for CoSLA and others to obtain their own legal opinion if they had any concerns. The advice had been that any rent arrears would remain the responsibility of the tenant when the new SST is introduced as conversion to the SST did not constitute an end of the previous tenancy.

Consider scope of paper on 9(2) orders – This issue was dealt with as a separate agenda item later in the meeting.

IMPLEMENTATION WORKPLAN

4. It was agreed that the paper – which had been sent out in hard copy - would be revised after the discussion. Although the chart set out to include all issues connected with SST implementation, **Richard Grant** conceded that there had been some omissions: in particular, no time was given for lawyers to prepare statutory instruments and general guidance on RTB had to be built in. **Beverley Francis** explained that the use of a Gantt chart would help manage the workload and hopefully prove easy to adjust. It also highlighted the various orders, guidance and information that would be required. In the three main areas being considered – SST, RTB and tenant participation – guidance would be drafted, then circulated for views. It was anticipated that for the three areas, guidance would be developed by end October 2001 (SST), end November 2001 (RTB) and end January 2002 (tenant participation). Orders, information leaflets and the other details would then follow once the central guidance had been agreed. He pointed out that there was also a commitment to consult more widely, particularly with the Social Justice Committee.

Action: Scottish Executive

5. **Richard Grant** went on to suggest the setting up of three sub-groups to consider specific issues connected with these three main areas. **Alan McKeown** agreed, provided each group was provided with a proper remit. It was then agreed that sub-groups would be

formed to consider relevant issues, before returning to the full group for confirmation. Advice to Ministers would come from the main group. The full group would be informed of the membership of the sub-groups, which would be determined following contact with the bodies represented. In response to a question from **Lesley Baird**, **Richard Grant** said that there were no specific funds available to pay for attendance at sub-group meetings.

Action: Scottish Executive

6. In ending this part of the discussion, **Richard Grant** noted that as the representatives were content, he would formally indicate to Ministers that they should proceed with a September 2002 date for implementing most of the measures.

Action: Scottish Executive

SECTION 9(2) ORDERS

7. The discussion centred on a paper (WHHAI-4) which had been issued, outlining possible issues which should be protected during the transfer to SST. **Richard Grant** explained that Ministers needed to take a view on which rights should transfer and it would be helpful to have advice from the Working Group.

Joint tenancy – It was recognised that existing provisions were slightly more generous than those being introduced. **Marion Gibb** raised concerns about existing joint tenancies where the house was the only or principal home of only one partner. **Richard Grant** noted that it was not clear how many tenancies would be affected, but it was a provision that would be difficult to remove for existing tenants who had taken advantage of this right.

Assignment of tenancy –The Group agreed that there should be no difficulty with the removal of this provision, as it had always been discretionary. It was agreed that it would not be protected.

Conversion/ASBO in force – There was a discussion on whether conversion to a short SST should apply where ASBOs were in place before or after conversion to SST. It was agreed that there was a strong case for recommending that the provision should only apply where an ASBO was taken out after the introduction of SST. Not only was this considered fairer to the tenant, it also ensured that Sheriffs were aware of possible consequences for a tenant of an ASBO being granted.

Succession – It was recognised that there was no current six month residency test and any difficulties arising from this provision would be of a limited duration. Consequently, it was agreed to recommend that this should not be protected.

Right to repair – It was agreed to recommend that this measure should be introduced without special arrangements, to avoid a two-tier system from developing.

Abandonment – It was agreed to recommend that this measure be introduced for all tenants, with no protection.

Repossession – **Richard Grant** explained that the Executive would wish to consult the CML on this. The view of the Working Group was that there was little benefit in seeking to protect existing rights of lenders since these were not really relevant to RSLs.

Rent or charges – It was agreed to recommend that the rights of existing tenants to apply to the Rent Officer or the Rent Assessment Panel should be protected.

Short assured tenancies – It was noted that these would not be covered by the section 11 order.

Modernised right to buy – Ministers had made it clear that tenants with a current right to buy would continue to enjoy this on existing terms.

ALLOCATION OF RESOURCES

8. **Richard Grant** started the discussion on the relevant paper (WGHAI-6) by pointing out that the resources available to help with the introduction of the SST were allocated to the following two financial years, although steps could be taken to bring, say, £0.5 million of this forward. On the dispersal of these resources, he indicated that he was looking for agreement.

9. **Karen Watt** asked about the tasks each landlord would be expected to conduct. **Beverley Francis** responded that there would be start-up costs associated with the SST which every landlord would be expected to complete, regardless of size. In addition, there could arguably be some economies of scale and extra rural costs. But the expectation was that there would be similar start-up costs, followed by fairly average per capita costs for all (apart from a slight urban/rural difference and possible additional costs arising from dispersed stock).

10. **David Bookbinder** said that an additional factor influencing start-up costs could be the number and level of activity of tenant groups. He went on to ask if the 6:4 split in resources over the two years could be changed. **Richard Grant** responded that this would be difficult; changes could only be achieved by viring resources from elsewhere. He said it was expected that the sign-up process would spread into 2003-2004. Changes could be made if this was the feeling of the Group, but he felt that of greater benefit would be to inform landlords of their allocation quite soon, allowing them to plan accordingly.

11. **Michael Thain** asked about the regulatory requirements connected with sign-up. **Karen Watt** replied that it was for the Group to stipulate what was required, but that all tenants would have to be provided with the opportunity to sign, either individually or at collective events. **Isabel Wilson** pointed out that the maximum sign-up should be encouraged, as tenants who did not sign up to a new tenancy agreement would gain statutory rights only, not contractual ones. **Richard Grant** said that he would try to confirm the statutory/contractual rights position with lawyers, as well as gain a view on whether previous rights would carry forward if a tenant did not sign a new agreement.

Action: Scottish Executive

12. There was general agreement that some variation on Option 6 – flat fee plus per capita top up - was preferred. **Richard Grant** asked for representatives – particularly from CoSLA and SFHA – to consider this more fully and to let the Executive have views, preferably with

supportive evidence, on the levels of flat fee. **David Bookbinder** pointed out that there were a number of very small landlords which should be treated differently. **Richard Grant** said the Executive would speak to the SFHA separately about this.

Action: Scottish Executive, CoSLA, SFHA and All

TENANT PARTICIPATION AUDIT

13. **Richard Grant** opened the discussion by asking if the Group wished to encourage the audit, together with follow-up funding and if so, how this should be progressed. He went on to ask if the Scottish Executive should appoint consultants to conduct the audits or provide the resources for landlords to conduct the work themselves. His preference was for landlords to conduct the audits, but with consistency in the approach adopted. He recognised that a bidding process for the work could be very time consuming and landlords conducting the audits could use some of the resources allocated for the appointment of development officers to co-ordinate the work.

14. In response to a question from **Michael Thain**, **Richard Grant** confirmed that monies for both the introduction of the tenant participation provisions of the Bill and to support the introduction of the SST would be ring-fenced.

15. There was a wide-ranging discussion about the value of audits and, if these were to go ahead, whether they should be undertaken by independent third parties or, alternatively, if landlords should be encouraged to undertake a self-audit using a standardised form. TPAS had developed and piloted an approach to tenant participation audits, with Executive funding, and it was agreed that the report of this work would be circulated to interested parties. It was also agreed that the Executive would arrange a separate meeting involving TPAS, TIS, Scottish Homes, COSLA and SFHA to discuss this further.

Action: Scottish Executive and TPAS

LEAFLET TO LANDLORDS AND TENANTS ON SST

16. **Richard Grant** said that the draft document had been circulated on email and some comments had been received. He asked those present if this was what they had in mind and if anything was missing. **Michael Thain** suggested that the paper indicate the main differences between the SST and existing tenancy arrangements. **Lesley Baird** said that TPAS had already produced a paper on the differences and promised to forward a copy. **Richard Grant** thanked her for that and agreed that the final leaflet would contain a table outlining the main differences. He asked for any further comments by 10 August to allow for distribution shortly afterwards.

Action: Scottish Executive, TPAS and All

ANY OTHER BUSINESS

17. **Beverley Francis** asked if everyone present was content for Group papers to be placed on an Executive Internet site. This was agreed.

Action: Scottish Executive

DATE OF NEXT MEETING

18. The next meeting of the Working Group was arranged for Wednesday 19th September at 2pm in Victoria Quay.

Scottish Executive Development Department
15 August 2001