

**WORKING GROUP ON HOUSING (SCOTLAND) ACT IMPLEMENTATION  
NOTE OF FOURTH MEETING: WEDNESDAY 14 NOVEMBER 2001  
VICTORIA QUAY, EDINBURGH**

**Present:**

<b>Richard Grant (Chair)</b>	<b>Scottish Executive</b>
<b>Archie Stoddart</b>	" "
<b>Pat Tracey</b>	" "
<b>Malcolm Clark</b>	" "
<b>Dawn Abell</b>	" "
<b>Alan McKeown</b>	<b>CoSLA</b>
<b>Elaine Zwirlein</b>	<b>CoSLA</b>
<b>Linda Ewart</b>	<b>SFHA</b>
<b>Karen Watt</b>	<b>Communities Scotland</b>
<b>Michael Thain</b>	<b>CIH</b>
<b>Jamie Ballantine</b>	<b>TPAS</b>
<b>Isobel Wilson</b>	<b>TIS</b>

**WELCOME AND APOLOGIES**

1. **Richard Grant** welcomed members to the fourth meeting of the Working Group. Apologies were received from Marion Gibbs, Shelter, and Karen Robertson (Communities Scotland). **Jamie Ballantine** represented TPAS in place of Lesley Baird.

**MINUTES OF SECOND MEETING**

2. **Malcolm Clark** said that the reference in paragraph 8 of the minutes, in relation to allocation of resources, mistakenly referred to resources being allocated in equal amounts over 2 years rather than on a 60: 40 split over two years. With this amendment, the minutes were agreed as an accurate record.

**MATTERS ARISING**

3. *Allocations Guidance* - **Richard Grant** said that the draft had been further revised in the light of comments made at the last meeting and had been sent to group members and to the Social Justice Committee. Subject to any comments the guidance would be put to Ministers early next month for approval to publish. He explained that there would be no need for wider consultation on this particular piece of guidance, which was simply a straightforward explanation of the legislation and its impact on landlords' policies with regard to admission to housing lists and allocations. He said that subject to Ministerial agreement, the new provisions would commence on 1 April 2002.

4. **David Bookbinder** raised the question of guidance on the practical management issues around the new provisions, e.g. of managing a long housing list. He appreciated that these might not be appropriate for the guidance the Scottish Executive was producing but wondered if the Regulator might be considering complementary guidance which might address such areas. **Karen Watt** said she had circulated the draft allocations guidance to her

own team and would be happy to discuss with them whether Communities Scotland should look at these matters and signpost to good practice, either at this or a later stage.

5. **Elaine Zwirlein** wondered whether the Regulator might clarify what was meant by 'reasonable preference'. **Richard Grant** said he hoped that the guidance relating to section 19 and the implications for choice based lettings helped to indicate how reasonable preference would work in practice, but that ultimately this had to be a matter of judgement and he doubted that the Regulator could be definitive. **Karen Watt** said that Communities Scotland had now agreed standards and the tie in with statute and good practice but that these were not prescriptive. There was scope for fine tuning where necessary between now and April next year when these would be published.

6. In response to a point raised by **Elaine Zwirlein**, it was agreed that the reference at paragraph 21 (v) to outstanding debts not relating to the tenancy should be further clarified by the addition of the words "i.e. not rent arrears or service charges" and that the words "or service charges" should be inserted after "outstanding rent arrears" in the second section of paragraph 21 (v).

7. **Alan McKeown** said that he would forward comments from councillors on the draft guidance and the Group agreed that subject to the follow up work on the detail of the guidance, including incorporation of any final comments by Friday 23 November, the guidance could go to Ministers for approval to publish.

#### **SST sub-group**

8. **Richard Grant** said that the minutes of meetings of the sub-group on the Scottish secure tenancy and a draft of the model short Scottish secure tenancy agreement were for the information only of the Group. **Pat Tracey** said that the Model short SST agreement would be going out to wider consultation at the beginning of December and comments would be invited in that context.

9. Turning to the draft guidance on the Scottish Secure Tenancy, **Richard Grant** said that the SST sub-group hoped to finalise the guidance at its next meeting on 20 November and to go out to consultation, with a view to final guidance being available from 1 April 2002.

10. In reply to a concern raised by **Jamie Ballantine** that guidance by April next year would not allow time for consultation with tenants on the contractual terms of any tenancy agreement, it was made clear that the publication last month of the model SST Tenancy Agreement was intended to ensure sufficient time for consultation on such matters. The SST guidance would be consulted upon, particularly in relation to the detail of Orders required to give effect to the new arrangements, but was intended simply to explain the new SST provisions and the steps landlords need to take to implement the new regime.

11. In response to a further point raised by **Jamie Ballantine**, it was agreed that the section on a right to a joint tenancy at paragraph 17 of the draft SST guidance should clarify the right also to a sole tenancy.

12. At paragraph 25, of the guidance, relating to termination of a joint tenant's interest in a tenancy and the requirements of the Matrimonial Homes (Family Protection) (Scotland) Act

1981, it was agreed that an example should be included of when a non-entitled spouse might not be a joint tenant, e.g. where two brothers are joint tenants and one has a partner who is not a joint tenant.

13. It was also agreed that the guidance should encourage the use of the Model SST Agreement which, whilst not mandatory, provided an example of good practice against which the Regulator might assess landlords' standards. The Executive undertook to consider a form of words which was not too prescriptive.

14. In response to a question from **David Bookbinder**, **Mr Grant** confirmed that comments on the draft orders to be included in the guidance might be required earlier than on the guidance itself. This depended on the timetable for current whole stock transfer proposals.

**Action: Scottish Executive**

### **Right to Buy Sub Group**

15. The minutes of the second meeting of the sub-group were tabled for information. **Malcolm Clark** spoke to paper **WGHA1 -13** reporting on the work of the RTB sub-group and in particular the revised structure of guidance for the right to buy. The original structure envisaged guidance along the following lines:

- Part 1 – introduction
- Part 2 – the existing RTB
- Part 3 – the modernised RTB
- Part 4 – the transition to the modernised RTB

At its second meeting the sub-group agreed the need to re-think the original structure since the modernised RTB builds on the existing provisions in the 1987 Act. It, therefore, agreed that parts 2 and 3 should be merged into a single section dealing with the modernised RTB as it will exist when the 2001 Act is implemented. **Mr Clark** asked for comments on the revised structure to be sent to him as soon as possible to allow work on drafting the guidance to be taken forward.

**Action: All**

5. In response to a query from **Karen Watt**, **Richard Grant** said that confirmation was still awaited from Communities Scotland on its role with regard to advising RSLs of the implications of “opting in” and the likely financial implications, also the question of development funding for Cash Incentive Schemes. **Karen Watt** undertook to check the position. **Richard Grant** said that it was hoped to go out to consultation by end November on the draft guidance together with the two draft orders, one of which was particularly complex and required close scrutiny.

**Action: Karen Watt**

## Tenant Participation sub-group

6. Minutes of the first meetings of the sub-group were tabled for information. **Richard Grant** said that there was a need to begin thinking about the criteria for registration of tenant groups and guidance on tenant participation strategies etc. and that it was important that time was taken to get these right.

7. On resource allocation, **Archie Stoddart** confirmed that the proposal was that the £4.5m available - aside from any top-slicing for development officer posts- would be allocated on a pro-rata basis (£6,000 flat rate and £4 variable), as with the resources for implementation of the Scottish secure tenancy. He said that the Tenant's Information Service had raised issues at the second meeting of the sub-group about the position of smaller landlords suggesting that the flat rate be adjusted to £13,000 per landlord with a rate of £2 per unit but that this was not supported by the sub-group.

8. Turning to paper **WGHA1-11** on Development Officers, **Mr. Stoddart** said the sub-group had been attempting to turn the idea of development officers into reality by distilling down the key elements that would be required for such posts. He said that SFHA had made clear that they did not favour such an approach but would be willing to accept it should the consensus be in favour. **Alan McKeown** said that while COSLA broadly supported the concept, its members were not keen to confirm support until they saw the detail of what was proposed and would be seeking clarification at their next membership meeting on 29 November.

9. **Archie Stoddart** said the sub-group had agreed that there should be development officer posts, under one management, working to a framework which was geographic rather than landlord specific, and that the host organisation would take account of functional aspects e.g. special needs, etc. He said that what was needed now was decisions on the host organisation and on the process of appointing the development officers.

10. **Jamie Ballantine** said TPAS supported the proposal to appoint development officers. **Michael Thain** said that from point of view of CIH, the development of a central unit for a period of time was particularly valuable for housing professionals. On the functional aspect, he suggested that it would be useful to include development of equality opportunities in tenant participation strategies. It was agreed that this was also an issue for registration of tenants groups which should be open and inclusive.

11. **Elaine Zwirlein** said there was general agreement with the principle of development officers but more information was needed on how these would interface with local authority officers, on the precise role of the development officers, i.e. were they to be enforcers or supporters, on how the host organisation would be chosen, on how transparency and independence would be assured and duplication of work at a local level avoided.

12. **Archie Stoddart** confirmed that the development officers would be seen as a resource that could be drawn on by landlords but on a level of strategic advice not on a consultancy basis to provide hands on service delivery at the local level.

13. It was agreed that the Executive should press on with consideration of options for the host organisation and process of appointing development officers for discussion at the next meeting of the sub- group on 4 December 2001, and that COSLA's would feed in the views of

its membership after its 29 November meeting. A draft structure for guidance on criteria for registration and on tenant participation strategies etc would also be prepared for the next subgroup meeting. **Alan McKeown** said that Fife Council had prepared a tenant participation strategy and he undertook to make a copy available to the Executive.

**Action: Scottish Executive/ COSLA**

### **Resource allocations for SST implementation**

14. **Richard Grant** said that paper **WGHA1-14** put the nuts and bolts on previous discussions on this subject. He said that the funding breakdown took into account self-contained and non self-contained accommodation but did not take into account Abbeyfields and perhaps other similar accommodation. The effect of taking these on board would be to slightly reduce the flat rate payment for organisations with over 250 units, but that the impact on overall allocations would be marginal. **David Bookbinder** said that traditionally Abbeyfields were large shared houses which would not be eligible for SST or short SST. **Karen Watt** confirmed that there were some 60 Abbeyfields at present. It was not clear whether some of these might offer accommodation which fitted in with the SST regime and it was agreed that where they did there would be an entitlement to a share of the resource allocation.

15. **Richard Grant** asked the Group to note that the first year's allocation would be based on the most up to date stock figures available, i.e. 30 September 2001 for local authorities and 31 March 2001 for RSLs. In the case of local authorities involved in stock transfer, payment would be made to the local authority and it would be for the local authority to sort out the matter of transfer of resources to the acquiring landlord; it was not a matter in which the Executive could arbitrate.

16. **Mr Grant** said that discussions were being held with Communities Scotland about distribution of the resources. It was envisaged that landlords would draw down the funds against outputs set by the Executive. **Archie Stoddart** said that arrangements had still to be finalised but the intention was to keep the process as simple as possible, with a letter going out to landlords in early January with indicative sums, followed by a grant offer letter from Communities Scotland in April enclosing a pro forma of outputs. Grants would be paid in one annual sum after 30 June 2002, on presentation of a completed pro-forma of outputs, to comply with the rules on no grant in advance of spend. A further pro-forma would require to be completed at the end of the year to draw down year 2 funds.

17. **David Bookbinder** said members were relieved and pleased to be receiving resources but they expected to have carried out all their consultations and sign ups by end March 2003. He asked if there was any possibility of 100% funding in year one, rather than a 60% - 40% split over 2-years as proposed. **Alan McKeown** said that the local authority position was less clear, it was likely that some authorities, particularly the larger ones, would require 2-years. The important thing was the outcome of all tenants signed up to the new SST. **Richard Grant** said he was not sure what flexibility there was within programmes to allow a variation in the proposed 2-year split. He undertook to look into the matter. **Alan McKeown** pointed out that if an end year pro-forma was to be required, this should be added to the outputs in **WGHA1-14**. **Archie Stoddart** confirmed that further dialogue would be held with Communities Scotland to finalise outputs and the Group would be informed. He advised the Group that Pat Bagot of Communities Scotland had e-mailed suggestions for coverage of

equalities requirements. It was agreed that these should be included. **Archie Stoddart** asked that any further comments on the proposed outputs be fed back to the Executive and advised that a similar exercise would be conducted for the tenant participation resources which would be the subject of a separate grant offer letter.

**Action: All**

#### **ANY OTHER BUSINESS**

18. In reply to a question from **David Bookbinder, Richard Grant** confirmed that it had been agreed that the earlier commencement date of 1 April in the case of stock transfers would not apply in the case of partial stock transfers, only to whole stock transfers

#### **DATE OF NEXT MEETING**

19. It was agreed that the next meeting of the Working Group would be arranged for Wednesday 23 January 2002 at 2 p.m., subject to confirmation.

Scottish Executive Development Department  
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