

WORKING GROUP ON HOUSING ACT IMPLEMENTATION: SUB GROUP ON SCOTTISH SECURE TENANCY

SECOND MEETING, 31 OCTOBER 2001, VICTORIA QUAY

Present:

Archie Stoddart, Scottish Executive (chair)
Pat Tracey, Scottish Executive
Dawn Abell, Scottish Executive

Alan McKeown, COSLA
Jim Harvey, Scottish Homes
Marion Gibbs, Shelter
Isabel Wilson, TIS
David Bookbinder, SFHA
Michael Thain, CIH

Welcome and Introduction

1. **Archie Stoddart** welcomed members to the meeting. Apologies were received from **Gordon Birrell**, TPAS.

Minutes of last meeting

2. Minutes of the last meeting (11 September 2001) were accepted as a true record.

Matters Arising

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

Model Agreements for SST and short SST - **Archie Stoddart** advised that the model SST Agreement had now been circulated to landlords and other interests and was available on the Scottish Executive web site (<http://www.scotland.gov.uk/library3/housing/msst-00.asp>). The draft short SST model had been e-mailed to members of the Group and would be going out to consultation around the beginning of December. Group members could choose to comment through the consultation process or to forward comments to **Pat Tracey** in advance of the consultation exercise, preferably by 14 November 2001.

Model Short SST Arrangements

4. **Archie Stoddart** explained that **Derek O'Carroll** had previously fed into the working group on the Model SST and asked if it would be useful for him to attend one of this group's meetings to speak to the short model. It was agreed that his attendance would be worthwhile following the consultation period in February, if there were any particular issues to be discussed. **Archie Stoddart** noted that the Group had had little opportunity to study the draft short SST model but **asked** for any initial comments. **Michael Thain** suggested a short introduction, possibly in the foreword, which explained the difference between the SST and Short SST, how the Short SST related to the SST and what Short SST was used for. This was agreed.

SST and Short SST Guidance

5. **Archie Stoddart** advised that the draft guidance was based on the structure agreed at the previous meeting. He would go through it page by page inviting comments. He asked the Group to bear in mind the questions raised in **Pat Tracey's** e-mail of 29 October 2001 which were:

Is the guidance clear?

Does it have the right balance between explanation and guidance?

Does it have the right tone?

Is anything missing?

Can it be improved presentationally?

The Group went on to consider the draft guidance as set out in WGHA1: SST 2. A useful discussion followed with helpful input from members. The following points were agreed. These are shown under the heading used in the Guidance:

- **The Scottish secure tenancy**

Paragraph 8- reword make the meaning clear.

Paragraph 10 - cross reference to paragraph 22.

Paragraph 11(2)- add in reference that you must be a Registered Social Landlord (RSL) as defined by S58 (1) of the Housing (Scotland) Act 2001.

Paragraph (11 (3) - clarify the position on abandonment by a joint tenant in the first section.

Add in some further examples of times when a tenant might live away from home, in particular custodial jail sentences.

- **Existing tenants of Scottish Homes**

Paragraph 12- will be updated to reflect changing circumstances. Make clear that while tenants remain tenants of Scottish Homes, they will continue to be secure tenants in terms of the 1987 Act.

- **Protecting existing rights under the SST (section11(2))**

Paragraph 13, bullet point 2- should read "statutory assured tenancies"

- **Tenancies which are not SSTs**

Paragraph 22, bullet point 3- "Lettings to students" make clear that this applies to lettings by educational institutions.

- **Termination of joint tenant's interest in tenancy (section 13)**

Paragraph 25- Make clear that reference to 'non-entitled spouse' would apply where the non-entitled spouse was not a joint tenant.

- **Proceedings for possession (section 14)**

Paragraph 27- spell out that it is only landlords who can issue a Notice of Proceedings.

Paragraph 30- to read as "While there is a general obligation on the tenant to make the landlord aware of any qualifying occupiers, landlords will need to make sure that tenants are aware that they require this information and the information is kept up to date. Landlords should in any event make sure that they have an audit trail, which clearly establishes attempts made to identify and notify any qualifying persons.

- **Powers of court in possession proceedings(section 16)**

Paragraph 36- describe what the grounds are but cross refer to the statute for accuracy. Highlight which of the grounds are new or different from the grounds under the secure or assured tenancy regimes.

Paragraph 40- Insert the statutory reference to the criteria for "reasonableness"

- **Abandonment by joint tenant(section 20)**

Paragraph 48. Bullet point 3 notice bringing interest in joint tenancy to an end- put "not earlier than 8 weeks" in bold.

- **General Issues**

It was agreed to stress at beginning of the guidance and in the accompanying letter that the guidance should be read in conjunction with the Model SST and any guidance notes.

The group's preferred option for the layout of the guidance was to follow the structure of the Act, as opposed to thematic or question and answer layout.

6. A number of issues raised at the meeting in relation to the guidance were still to be resolved. These are shown under the heading used in the guidance:

The Scottish secure tenancy

In relation to Page 3, paragraph 11(1) **David Bookbinder** raised concerns that those with assured tenancies in shared houses would not automatically converted to Scottish secure tenancies as it only applies to those in "self-contained" dwellings. **Archie Stoddart** advised that the question was with the solicitors and the Executive would not be in a position to amend the guidance until a response was received from the solicitors.

Succession to SST (section 22 and schedule 3)

David Bookbinder asked if a succession right was in dispute who would be responsible for paying the rent and if rent were paid would this mean that a tenancy agreement had been entered into. **Marion Gibbs** thought not. She said such payment would be non-violent

profits, which was payment for staying in a property, but was not viewed as rent. This avoided the need of giving a tenancy agreement. The Executive undertook to seek advice on the matter and report back to the Group.

ACTION: Scottish Executive

Paragraph 51, bullet point 4- **David Bookbinder** raised concerns that in the case of fully mutual housing co-operatives qualifying persons must also apply for membership and be accepted as members of the association. He asked how you merge the statutory right to succession with the need to be a member of the co-operative, if co-operative refuses an individual membership. **Jim Harvey** would advise the Executive of any information or regulations Scottish Homes have on this subject.

ACTION: Jim Harvey, Scottish Homes

Duty to inspect and Right of Access (Section 17 and schedule 4)

David Bookbinder enquired as to whether landlords had to notify tenants of repair work on request. The Executive would confirm this.

ACTION: Scottish Executive

7. **Archie Stoddart** concluded the meeting by thanking members for their helpful input and re-iterated that any further comments on the guidance should be sent to **Pat Tracey** by 14 November 2001 which is when the next Working Group Housing Act Implementation Group meeting would be held.