

HOUSING (SCOTLAND) ACT 2001 – TENANT PARTICIPATION PROVISIONS AND CAPACITY FOR CHANGE INITIATIVE

Introduction

This paper considers the potential resource implications for landlords of the tenant participation provisions of the Housing (Scotland) Act 2001 and suggests how available resources might be allocated. It is structured as follows:

- A Background and resources available
- B Implications of the Act for landlords
- C Options for the allocation and distribution of resources
- D Summary of key decisions required

A Background and resources available

Provision has been made within the Housing (Scotland) Act requiring local authorities and RSL's to have tenant participation strategies in place as directed by Scottish Ministers. It also places a duty on them to maintain a register of tenants groups meeting certain criteria.

The Bill introduces a new provision to enable both individual tenants and registered tenants groups to be consulted by the landlord on issues affecting their tenancies and gives tenants a right to manage their own homes. It also gives tenants a statutory right to information on certain aspects of their tenancies and a right to information on request in relation to other aspects.

Scottish Ministers announced on 19 December 2000 that they are to make £4.5 million available over the next three years through a 'Capacity for Change' initiative to help develop tenant participation by:

- Building up the capacity of councils and RSL's to develop successful participation strategies
- Supporting landlords in their preparation for the obligations of the Housing (Scotland) Act 2001
- Targeting support and resources to the landlords who most require it , informed by current practice

It has been agreed that the £4.5 million will be made available over 3-years as follows:

2001-2002	2002-2003	2003-2004
£0.5m	£2m	£2m

B Implications of the Act for landlords

The obligations in respect of tenant involvement can be summarised under the right to information, consultation and participation

Right to Information

The new statutory right to information does not add significant obligations on landlords over and above current good practice. Landlords are already expected to provide a tenancy agreement, and explain it clearly to tenants and give information on allocations policies and complaints procedure. Most landlords in practice have regular newsletters to tenants, which can be used to notify them of key policies and future developments and it is envisaged that the only likely costs would be a marginal, if any, increase in postage costs. It is possible that there may be some initial costs associated with developing an appropriate policy infrastructure to direct the provision of information to tenants. Good practice suggests that landlords should be keeping tenants informed of relevant matters anyhow.

Right to Consultation

Whilst there will be some existing good practice in this area, this will not be as extensive as the new statutory framework might demand. Therefore for many landlords this will be a new activity. The legislation requires landlords to consult tenants over changes that will affect them and enable them to make representations on proposals by the landlord. Landlords must also consult with registered tenant organisations. In practice landlords and tenant will need to agree a framework for future consultation as part of an initial phase of work. In time, regular dialogue and consultation would become a mainstream feature of the housing service. It could therefore be argued that the initial stage would be the most resource intensive time for landlords.

Right to Participation

The resources required to support a participatory framework are likely to build on the work necessary to support rights to information and consultation. In essence, the registering of tenants groups and meetings with these groups as part of decision-making are the new activities. The promotion of such groups would also be a conduit for consultation as well as participation. It is also likely that in practice, consultation and participation in decision making will be part of the same processes. There is also a duty on landlords to have a tenant participation strategy and review the need for resources. They will already have to consider budgets annually, and support for tenant participation will be a part of these considerations. Likewise, landlords should have a tenant participation policy as a matter of good practice and this will be developed jointly with tenants as part of routine dialogue.

C Options for allocation and distribution of resources

There are a number of ways in which the £4.5m to support tenant participation could be used to support landlords in meeting their new statutory obligations. Some possibilities are set out below.

Audit of tenant participation

A preliminary tenant participation audit of landlords could help to clarify priorities for making best use of these resources. The Scottish Executive has funded the Tenant Participation Advisory Service (TPAS) over the last 3 years to pilot an audit technique. This involves an independent analysis of a landlords tenant participation activity against a prepared audit framework. A report of findings and recommended action plan is prepared to inform improvements. The TPAS audit pilot has been received positively by landlords and tenants who have been involved.

There are some clear benefits to this approach, whether associated with a subsequent bidding process or not:

- The audit is seen as being helpful in assisting landlords to develop tenant participation strategies in preparation for Housing (Scotland) Act implementation;
- The audit is considered to be a key tool through which landlords and tenants can prioritise the need for resources;
- Audits require an engagement between tenants and landlords, which can be facilitated by the auditor.
- Audits can support a longer term approach in this area and provide a benchmark against which progress can be monitored
- An audit report would be of interest to the new Executive agency as regulator in assessing performance in this area.

There are a number of practical issues to be considered if an audit is to be achieved including:

- Who undertakes the audit and how is it procured
- Who has ownership of the audit report
- What is the timescale
- What is the relationship between the audit and bidding process

An audit of some 226 landlords would be a resource intensive exercise. Consideration must be given to the method of procuring an audit of this scale. Options might include appointment of a single or group of contractors through a tendering exercise or direct placement with a suitable contractor. The Scottish Executive could directly commission this work and the audit reports would be available to the Executive as well as landlords. On the other hand the Executive could make resources available to landlords to procure their own audits from a suitable contractor and retain ownership of the subsequent audit report. This latter approach does avoid the time and complexity associated with competitive tendering, but would not

necessarily lead to a uniform approach to the audit process. This lack of consistency of approach could be overcome by agreement to a national framework for local audits (this could be drawn from the TPAS pilots)

The Group is asked to consider:

- whether tenant participation audits should be undertaken
- how the audits should be procured
- whether a national framework should be produced to support local audits

Follow up funding for landlords

One option would be to require all landlords to bid for resources based on the results of their audit. If audits were carried out in 2001/02 then they could inform bids for resources in the following 2 years. However, it may be difficult to complete the audits by the end of the financial year and handling a challenge fund on this scale is likely to be very resource intensive.

If it were considered desirable to avoid a bidding process, an alternative approach would be to distribute resources, say on per capita or per landlord basis or some variant of this, on the condition that an audit is undertaken (based on national framework over the funding period). Grant could be made conditional on the resources being used to address priorities identified in the audit.

The Group is asked to consider:

- the timescale for subsequent funding phase post audit
- the relationship between the audit and funding decisions
- the basis on which resources should be available to landlords pre/post audit

Appointment of Development Officers

Some of the resources could be used to fund the appointment of dedicated staff to facilitate and promote good practice in this area. These posts could be funded over the full funding period or be available for a more limited time and the staff concerned could either help landlords as an alternative to the proposed audit and/or help in the implementation of the audit's conclusions. However a relatively large number of development officers may be required if all landlords are to receive help. In addition, a number of other important points would need to be considered in taking this forward including:

- The location of such resources
- The number of staff required
- Their relationship with other possible aspects of the "Capacity for Change" initiative.
- The duration of any such posts

The Group is asked to consider:

- whether national development officers should form part of the initiative.
- the basis of their appointment

D Summary of key decisions required

The Group is asked to:

- Note the background and resources available
- Note the resource implications of the Housing (Scotland) Act 2001
- Consider how the resources to support tenant participation should be allocated and the relationship between constituent elements:
 - audit of practice
 - follow up funding for landlords
 - development officers

**Scottish Executive Development Department
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