

## SCOTTISH SECURE TENANCY: TENANT PARTICIPATION GUIDANCE: DRAFT STRUCTURE

### ➤ **Introduction - guidance on tenant participation provisions in Chapter 3 of Housing (Scotland) Act 2001**

#### Purpose of circular

- Explaining the provisions of Chapter 3 of the 2001 Act in relation to:
  - Tenant participation
  - Consultation with tenants and registered tenant organisations
  - Tenant management agreements

### ➤ **Framework**

- National Strategy on Tenant Participation
- Codes of Practice on Tenant Participation
- Better Homes for Scotland's Communities
- Tenants Information Service: Feasibility Study
- 2001 Act
  - information
  - consultation (including on change of landlord)
  - participation
  - monitoring and regulation
  - tenant management
- section 106 Equalities Requirement
- Secondary Legislation
  - criteria for registration/de-registration of tenant groups

### **Tenant Participation (S53)**

- Tenant participation strategy (TPS) requirement - emphasise strategy not a one off paper exercise and must be kept under review
- Purpose of TPS/ Key Principles
- Access to information - what information (s23 requirements and beyond)/ accessible
- Arrangements for obtaining and taking account of tenants' views
- Opportunities to influence - range of methods
- Notifying tenants of matters on which proposals to be made
- Information to be provided about such proposals and their likely effect
- Assessment of resources required to give effect to strategy
- Statement of resources proposed to give effect to strategy
- Develop links to other policy areas, for example, community learning, pooling of resources, community involvement and the link between local housing strategies and tenant participation.

#### **Process**

- Direction by Ministers
- Consultation with tenants - throughout all stages
- Developing participation strategies - TP HealthCheck/ formal audit
- Publication of TPS
- Monitoring & Reviewing Strategies
- Regulation - cross refer to what the regulator will be looking for and how regulator will look at use of Healthcheck
- Role of elected and committee members - management committee not enough

### ➤ **Register of tenant organisations**

- duty to maintain register
- open to public inspection

### ➤ **Criteria for registration (by order)**

- Definition of 'registered tenant organisation'
- Constituted bodies - regular elections, open financial records and membership, minutes of meeting and record of attendees

- Open and Accountable membership policy
- Equalities Commitment
- Recognisable and identifiable contact (address)
- Data Protection Implications

► **Process**

- Role of landlord and of tenant group
- Procedure for registration and removal from register
- Landlords to publish registration criteria and make available on request
- Landlords to assist creation of RTOs - including support for groups without formal structure to become RTOs.
- If group do not wish to register, individual rights but landlords encouraged to continue to consult group.
- Landlord to give reasons if refusing to register
- Registration limited to 2-years after which RTO to re-apply but landlords can require more frequent re-registration if they wish.
- if any changes to RTO's constitution or geographic boundaries, it should re-apply
- Right of appeal
  - On decision to register/ deregister /remove/not remove from register

► **Consultation with tenants and registered tenant organisations**

- Requirement to notify tenant about proposals affecting tenancy - clarify meaning of 'notify'.
- Requirement to notify likely effect of proposals on tenant
- Requirement to have regard to representations by tenant or tenant groups, made within reasonable timescale.
- Proposals to which this applies
  - policy in relation to housing management, repairs or maintenance
  - standard of service
  - tenant participation strategy
  - disposal resulting in change of landlord/owner
- Without prejudice to tenant participation requirement

► **Tenant management agreements**

- Background - 1987 & 1993 Acts
- What is a tenant management agreement? - provide example
- Who can enter into an agreement - provide example co-op constitution
- Scottish Ministers approval
- Criteria for approval
  - co-op approved
  - able to exercise functions competently and efficiently
  - where functions relate to houses, representative of tenants of those houses
- Approval process
- Appeal to Scottish Ministers on landlord's refusal to make agreement (right to manage)
- Effect of agreement on responsibility of landlord

► **Tenant management agreements : further provisions**

- extent of agreement
- definition of function - of local authority/RSL/Water or Sewerage Authority
- letting of land
- effect of agreement on local authority housing revenue account and Exchequer contribution or subsidy
- definition of "Exchequer contribution"

➤ **General Issues**

- Include a glossary of terms and make sure guidance is in plain English so that it is user friendly for tenants groups as well as landlords.
- Include information on resource allocation and development officers
- Some pointers to good practice to be included in guidance and examples of good practice could be solicited as part of a consultation exercise.
- Include a sample constitution
- What do we do about registration of Federations?