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**SOCIAL INCLUSION, HOUSING AND VOLUNTARY SECTOR COMMITTEE
REPORT ON STOCK TRANSFERS - JULY 2000
RESPONSE BY THE SCOTTISH EXECUTIVE**

I hope that it will be helpful for me to respond to the Committee's report on stock transfers in advance of the debate scheduled for Thursday.

I would like to congratulate the Committee on producing such a comprehensive, thoughtful and penetrating report on a range of very complex issues. I have given very careful thought to the points made, as I trust this response illustrates, and I look forward to continuing the dialogue, initially in Thursday's debate and thereafter with the Committee, on the important issues raised.

I attach a detailed response to the Committee's recommendations. In this covering letter I should like to flag up some of the key issues emerging.

1. The Core of Our Policies

In Scotland municipally owned housing comprises a larger share of rented, indeed, all housing than in any other country within the European Union. Although the model served Scotland well in the past, and still does in some places, there is now a growing recognition that direct community ownership of homes has the potential to bring benefits in empowerment, management and financing. In the future we believe that tenants in the non-market sector should increasingly have choices about how their homes are owned and managed. Within that broad set of possibilities we see benefits stemming from ownership of housing by local communities where it represents best value and commands the support of tenants. Of course we recognise that other tenants may not wish to move to full community ownership of their homes in the first instance, but would favour more involvement in management, new investment plans, and input into decisions concerning the level of rents and planned repairs services.

The Housing Bill will encourage improvements in planning, participation and management across all types of non-market provision. We will prioritise support for dealing with debt for landlords who embrace a community empowerment vision and are able to attract large-scale new investment. We believe that transfer to community ownership offers a unique opportunity to achieve a number of significant benefits. These are:

Community empowerment, giving tenants a greater say in the management and ownership of their homes. Housing Associations have shown that this approach works and that it not only leads to improvements in housing, but also wider community benefits.

Attracting **new investment** to complement public funding, so as to quickly fund the required investment in repairs and modernisation to bring houses up to modern-day standards.

Tackling **debt**, using public funds to free up future rents to support the attraction of new investment.

Security for tenants, agreed future rent levels, home improvement plans and responsive repairs, and a greater say for tenants, up to and including opportunities for local community ownership.

Community ownership is designed to achieve all of these objectives.

2. The need for investment

*The Committee's **first recommendation** reaffirms that major additional resources are urgently required to tackle the condition of much of the municipal housing stock in Scotland. We have seen the transformation of many communities through the efforts of the housing association movement, combining public and private investment with community control under non-profit landlords.*

In the last 10 years £1.5billion of new investment has been attracted to projects funded by Scottish Homes. More tenants in Scotland deserve these opportunities – a step change in investment and crucially the right to choose how that investment is made. By using private finance to match public investment in the large scale rehabilitation and new build that is required, we can quickly transform the prospects for many communities, and improve the life chances of thousands of Scots families.

Above all, by accessing private investment for repair and new build of former council homes we can concentrate new public investment on those housing needs where the public sector must take the lead – for example in servicing debt, tackling homelessness, and leading the attack on fuel poverty. Quite simply, the old ways of full public funding for repairs and new build will get less done and leave other problems like fuel poverty and tackling homelessness under-resourced. We can do better if we invest better. Scotland needs solutions that suit her particular needs. Tackling debt is a pre-eminent challenge in Scotland. The arms length company proposals in England offer no relief of debt and still rely on full funding by the public sector, hence they fail to deliver the sort of new resources we require in Scotland.

Community ownership can create a “step change” in investment allowing a combination of public and private resources to be brought together to increase overall investment in housing. Using this approach, housing associations now build double the number of houses they could if they relied on purely public resources.

We also have to spend the new investment more effectively – putting tenants at the heart of investment decisions – so we invest in the right stock, in the right way to give tenants the houses that they want. Local investment decisions must be in line with the wishes of tenants. This tenant led approach attracts lenders who know it has a track record of success. We have to be prepared to ask tough questions about the long-term efficacy of past investment decisions – what has worked and why, and what has failed and why.

If the key problem in urban Scotland is the **quality** of the stock, in rural Scotland it is often a question of **quantity** of rented homes. Our community ownership plans are designed to be flexible enough to allow local areas to respond to whichever problem dominates in their area.

Finally the current outstanding debt in respect of council housing across Scotland is almost £4,000 million representing a huge burden on rents. More than half the rents in Scotland go to service this debt. Community ownership, combined with the Executive’s commitment to tackle housing debt, will mean the largest new investment in Scotland’s social housing stock for generations.

3. **Principle of Community Ownership**

The Committee’s endorsement of the objective of tenant-led community ownership (**recommendation 4**) is warmly welcomed, particularly its rejection of the view that stock transfer is the same as privatisation. We have stipulated that all landlords must be non-profit distributing bodies. By excluding for-profit landlords we can guarantee there will be no return to the racketeering of earlier times. Individual needs and community interest will come first. New social landlords will be required to have objectives, constitutions and supervisory arrangements which are right for not-for-profit organisations.

We share the Committee’s commitment to involving tenants in the management of, and decision-making relating to, their homes (**recommendation 3**). These principles underpin much of the forthcoming Housing Bill and the Committee’s support of them is a welcome contribution to the housing debate.

4. **Definition of Community Ownership**

The Committee stated that it has found that some confusion exists over the definition of community ownership but recognises that local communities will continue to define and refine appropriate models of community ownership.

The Green Paper, “Investing In Modernisation - an Agenda for Scotland’s Housing”, published by my predecessor Calum Macdonald in February 1999, described community ownership as follows:

“Community ownership is a way of empowering tenants, maximising the total resources available for investment in public sector housing and securing additional benefits for the wider community. Community ownership would normally result from

the transfer of existing public sector rented housing to alternative community landlords at a price which reflects the value of the stock and under arrangements which ensure that:

- *the housing is owned by a non-profit-making body on which there is tenant, local authority and community representation;*
- *there is effective tenant involvement in key decisions;*
- *housing is available, and continues to be available, to be let at affordable rents to those in housing need, including the homeless and other vulnerable groups; and,*
- *there are guarantees for transferring tenants regarding rent increases, tenancy rights and repairs and improvements to housing stock.”*

I believe that this definition strikes the right balance by setting out the key features of community ownership while avoiding over-prescription that could prevent tenants taking the lead role in determining the model of community ownership and management that is most relevant to their local circumstances. In some instances tenants may feel that they can only achieve their objectives within an ownership framework which applies at the local neighbourhood scale. Equally there may be other circumstance where tenants seek a less intense participative approach and are content with a landlord which operates over a wider area beyond specific neighbourhoods. I want to avoid easy assumptions about what tenants want, because community empowerment is at the core of our policy.

5. Transfer to community-based RSLs

The Committee recommended (**recommendation 14**) that the Scottish Executive should consult on and establish a model for the maximum number of housing units to be managed by a Registered Social Landlord beyond which they should not normally be eligible to take on houses through council stock transfer. The Committee further recommended (**recommendation 15**) that the Scottish Executive should only approve large scale stock transfer proposals subject to guaranteed speedy progress to second stage transfers to community based RSLs.

I agree fully with the sentiments underlying these recommendations, and I particularly welcome the support for community based landlords. But I believe that setting a maximum number of units for any one RSL, before business plans are even prepared, could ignore important local preferences and stifle the creation of innovative solutions to deliver the involvement of communities in the management of their homes. I believe the overriding criterion must be the views of tenants. I share the Committee’s concern that whole-stock transfers to single landlords in urban areas do not realise the vision of full community ownership.

The issue of single and multiple transfers was extensively discussed in preparing the framework document for taking forward proposals in Glasgow. A city-wide transfer would enable a solution in which all of the tenants would have the opportunity to vote in a single ballot and see the entire city's debt burden lifted. The proposals under discussion with tenants do provide for a move to local management arrangements immediately after transfer. Local management arrangements will be provided by new Local Housing Organisations, or an existing community-based housing association, according to the wishes of tenants. And the Glasgow Framework document includes clear steps to ensure that tenants have the opportunity to move to local community ownership as they wish. We will look for similar arrangements in plans emerging elsewhere.

The overriding principle is that the move to local community ownership should reflect the wishes of tenants and should proceed in a manner, and at a pace, that allows tenants to take the lead role. Some tenants will be ready to make this move at the earliest opportunity, especially those who are already constituted as Tenant Management Co-operatives. However, others will move at a different pace.

6. Examination of suggested alternatives to community ownership

We are sometimes asked: what is plan B, if tenants vote No in a whole stock transfer ballot? In that event councils would of course continue to have access to capital allocations under the Housing Revenue Account (amounting to £180m in 2001-02 under the Executive's published spending plans). Scottish Homes' development programme (which is running at around £200m per annum nationally) would also continue to be available for housing investment in the area. Substantial public resources would therefore continue to be available through the HRA and Scottish Homes.

In addition, councils could opt instead for the area by area approach offered by development and regeneration partnerships under the New Housing Partnerships initiative. In simple terms, Glasgow could opt for the Dundee and Edinburgh solutions where, for instance, NHP resources have been devoted to regenerating Ardler and Craigmillar. Dundee and Edinburgh are each benefiting from £25m extra public funding for these areas. Indeed Glasgow City Council, simultaneously with its consideration of a whole stock transfer proposal, is also receiving £12.5m for regeneration partnerships in Castlemilk, Drumchapel, Cowlares and Easterhouse. But the city has concluded that the pace of change was not fast enough to do what could be done under the arrangements that the Scottish Executive were putting in place.

In a rural authority plan B could mean extra support through an NHP development partnership such as in Aberdeenshire which is now building 200 new homes in partnership with housing associations in small communities across its area. The attractiveness of the full transfer option as a route to community ownership is that the Scottish Executive has undertaken to service the residual debt burden – so allowing a new start for **all** tenants in that local authority rather than a piecemeal, area by area approach.

So tenants can say no. But in doing so, they would be rejecting what their local council believes to be the best way forward in that area. It is not a "one size fits all policy". Councils must choose whether the partial or whole stock transfer route is right for them. That choice should be rooted in the fundamentals of the local housing market. The councils coming forward for full transfer are those who believe it is the right solution for their communities – either because of the outstanding debt per tenant (e.g. Shetland), or the size of the local

waiting list relative to the size of the stock (e.g. Western Isles), or the state of disrepair demands such a large injection of new investment (e.g. Glasgow) or, finally, a straight forward belief that homes directly transferred into tenants hands is the best way locally of strengthening their communities.

In the event therefore that transfer ballots are unsuccessful, the resources which have been put aside to deal with the debt problems of those councils would no longer be required for that purpose, and could be deployed elsewhere, such as bids for additional regeneration and development partnerships (including for authorities which have pursued transfers unsuccessfully). However, I need to stress that this route would, in my judgement, not achieve the full range of benefits offered by community ownership for all tenants in that area. Instead, the benefits of community ownership, and of additional investment (including private investment), would be confined to particular localities rather than extending across the whole council area. Moreover, under the current arrangements, debt assistance would be confined to servicing the debt in respect of the houses transferred under the partial transfer, and other tenants in non-transfer stock would continue to bear a debt burden. Above all the council would continue to be responsible for the debt on the remainder of the stock.

More broadly, the Committee has recommended (**recommendation 11**) that the Scottish Executive should examine and make public its examination of ways in which additional finance can be obtained to deal with the condition of social housing. It has been suggested by others that financing mechanisms, such as PFI, arms length companies, or securitisation should be considered.

7.

We will always carefully consider any new funding mechanisms – housing finance is a sector of constant innovation and new ideas. But the bottom line in assessing any proposal will be whether it delivers, firstly, a step change in investment (including attracting additional private investment) and whether it creates opportunities for community ownership by non-profit based landlords. None of the alternative financing arrangements thus far put forward seems to us to provide the scale of new investment needed and to deliver community ownership. We believe that new investment is more likely to be delivered successfully, and to be sustainable, if local people control the uses to which it is put.

PFI could deliver extra investment but is unlikely to deliver community ownership. With PFI models it is not clear the tenant can be at the heart of investment decisions and move from managing their homes and deciding the shape of future investment to ultimately owning them.

Arms-length companies could deliver community empowerment, though not community ownership if tenants did not have the option to take over the ownership of their homes through a community based landlord. Nor could arms-length companies deliver the necessary new investment as they would still have to operate within public expenditure limits.

Securitisation of rents could be a financing arrangement that, combined with the right ownership structure, might deliver the necessary new investment. However, where houses remain in an ownership structure that means new investment will continue to count against public expenditure limits, securitisation on its own will not attract the scale of new investment needed.

So we have an open mind on the detailed financial arrangements so long as the new investment is attracted and tenants are in the lead.

8. 7. **Access to housing for homeless people**

I also want to stress the steps the Executive is taking to ensure that, after transfers to community ownership, councils continue to have access to a supply of housing to meet the needs of homeless people. Model contracts to achieve this are being developed jointly by COSLA and the Scottish Federation of Housing Associations, in order to provide the basis for co-operation between Registered Social Landlords and councils. In addition, there will also be a range of statutory duties and obligations included in the Housing Bill. These will include extending to all RSLs the requirement to give reasonable preference to homeless people in the allocation of houses. The Bill will also contain provisions placing RSLs under a duty to comply with a council's request to house homeless people, and for independent arbitration where agreement cannot be reached. With these proposals, the Executive is, of course, implementing the recommendations of the Homelessness Task Force, which comprised a wide range of bodies working with and for homeless people.

8. **Guidance**

Finally, in response to **recommendation 9**, (that guidance on stock transfer should be published as a matter of urgency to provide a level of consistency and a benchmark on good practice), you will be aware that the Executive issued guidance to local authorities on transfers to community ownership on 28 August 2000. The covering letter accompanying the guidance made clear that the guidance would be updated regularly and that this would take account of the Committee's recommendations and the Executive's response to them. A copy of the guidance was sent to you, and copies are available in SPICE. I also intend to take steps to ensure that all councils, associations, other landlords, tenants and interested parties receive recurrent, updated information from Scottish Homes on developments in private finance for housing.

I would be happy to provide further clarification on any of the responses and I look forward to the Committee's debate in Parliament on 21 September.

WENDY ALEXANDER

**SOCIAL INCLUSION, HOUSING AND VOLUNTARY SECTOR COMMITTEE
3RD REPORT, 2000: HOUSING STOCK TRANSFER**

**DETAILED RESPONSE BY THE SCOTTISH EXECUTIVE TO THE REPORT'S
RECOMMENDATIONS**

This Annex, and the covering letter from the Minister for Communities to the Convener of the Social Inclusion, Housing And Voluntary Sector Committee, together form the Scottish Executive's response to the Committee's report on Housing Stock Transfer. The rest of this Annex sets out the Executive's response to each of the 63 recommendations in the Committee's report.

Recommendation 1

Major additional resources are urgently required to tackle the condition of much of the municipal housing stock in Scotland.

Recommendation 2

The Committee endorses the principle of stock transfer as a primary method of accessing major additional capital investment and moving towards effective community ownership of social housing.

Recommendation 3

The Committee endorses the objective that involving tenants in the management of, and decision-making relating to, their homes is a key underlying principle which should underpin housing policy in the rented sector.

Recommendation 4

The Committee endorses the objective of tenant-led community ownership and rejects the view that stock transfer is the same as privatisation.

Executive's response (recommendations 1-4)

Agreed. In relation to recommendation 3, the Executive's policy goes beyond involving tenants, and gives them choices about the level of participation they wish to have, up to and including local ownership of their houses. In relation to recommendation 4, the Executive would stress that the question of privatisation does not arise, since community ownership is achieved through transfers to non-profit making community landlords on which there is tenant, council and community representation.

Recommendation 5

A. The Board of Management Committee of a Registered Social Landlord should comprise tenants, householders with other tenures (where relevant), representatives of the wider community, and professionals

B. The balance of representation between such groups will vary with local circumstances

C. Tenants and householders and community representatives combined should have a controlling interest on such Board.

Executive's response

We recognise that there may need to be a slightly different balance according to local circumstances and to the size and scope of the organisation concerned. Scottish Homes registration criteria for RSLs already require that the selection process for membership of the governing body maximises the opportunity for community empowerment. It also requires that the governing body consists of people with the range of skills and experience necessary to run the business, and is not prescriptive about the proportion of governing body members drawn from each section of the community.

Recommendation 6

The New Housing Partnership initiative should have clear, measurable objectives, with evaluation criteria in place now. An evaluation framework for the policy should be agreed and implemented as a matter of urgency.

Recommendation 7

As part of the framework resulting from Recommendation 6, information should be made available on how successful bids for NHP funding contribute to the initiative's objectives, and what led to the failure of the other bids.

Executive's response (recommendations 6-7):

We recognise that there should be flexibility to allow for local tailoring of NHP to local needs. The criteria for NHP funding were set out in the Department's letter of 5 December 1997 inviting councils to bid for resources and were as follows:

Each project should be the result of collaboration between councils, Scottish Homes and other parties, such as housing associations, working within an agreed framework which takes into account the views of tenants

Each project should be consistent with the housing strategy for the area as set out in the council's housing plan

Each project should aim to attract private sector finance in order to complement and maximise the impact of public investment in housing.

In the Department's letter of 24 August 1998, inviting bids over the period 1999-2002, it was made clear priority would be given to funding well-founded proposals for transfer partnerships which promote community empowerment and bring in private finance.

Bids were considered against these criteria by the NHP Steering Group (which includes representatives from COSLA, Scottish Homes, the Scottish Federation of Housing

Associations and the Chartered Institute of Housing), and recommendations made to Ministers. The successful projects were those which best met the objectives and criteria. Officials have held discussions with those councils who were unsuccessful. Further meetings can be arranged with individual councils if they wish it.

Recommendation 8

Evaluation criteria should be monitored on a regular basis. There should be periodic reviews of the operation of the policy, relative to its objectives and these reviews should be reported to the Scottish Parliament.

Executive's response

The outputs from the projects are being monitored against the targets set by councils. The Scottish Executive's research programme includes the evaluation of the NHP funds allocated over the period 1999-2002. The evaluation is scheduled to take place in 2002-03.

Recommendation 9

Guidance on stock transfers should be published as a matter of urgency in order to provide a level of consistency and a benchmark on good practice. Such guidance should take account of all the recommendations in this report and be reviewed regularly to incorporate good practice.

Executive's response

The Executive issued guidance for local authorities on transfers to community ownership on 28 August 2000. The covering letter made clear that the guidance would be updated regularly and that this would take account of the Committee's recommendations and the Executive's responses to them.

Recommendation 10

The Scottish Executive should examine ways for its empowerment objectives to be achieved even where tenants choose not to pursue stock transfer as an option.

Executive's response

The Executive's policy is based on the principle that tenants should be given choice about how their homes are owned and managed. In addition, the model of the single social tenancy proposed by the Executive for inclusion in the forthcoming Housing Bill will give to tenants of local authorities and registered social landlords an extensive range of common rights. These include rights to consultation about making or changing policies regarding repairs, maintenance, improvements, demolition, allocations, transfers, rents, services and amenities, service charges and complaints. Tenants will also have rights to be consulted on proposals for the sale or transfer of their houses to another landlord, changes to the tenancy agreement, local performance standards or targets and decisions about contracting in or out of housing management services. In addition, tenants will have rights to be consulted on decisions about the information to be provided relating to the landlord's standards of housing management or performance and about strategies for the development of tenant consultation and involvement. Landlords will be expected to take into account tenant views before making a final decision, providing comprehensive information in an accessible form as part of any consultation process. The regulatory framework applicable to each landlord will undertake monitoring of the effectiveness of the participation strategy.

Recommendation 11

The Scottish Executive should examine and make public its examination of ways in which additional finance can be obtained to deal with the condition of social housing, both stock transfer and any alternatives.

Executive's response

The Executive will always carefully consider any new funding mechanisms. However, the overriding considerations are whether these will deliver a step change in investment and create opportunities for community ownership where tenants have increased control over investment decisions. None of the alternative financing arrangements thus far put forward seems to us to provide the scale of new investment needed and to deliver community ownership.

PFI could deliver extra investment but is unlikely to deliver community ownership. With PFI models it is not clear the tenant can be at the heart of investment decisions and move from managing their homes and deciding the shape of future investment to ultimately owning them.

Arms-length companies could deliver community empowerment, though not community ownership if tenants did not have the option to take over the ownership of their homes through a community based landlord. Nor could arms-length companies deliver the necessary new investment as they would still have to operate within public expenditure limits.

Securitisation of rents could be a financing arrangement that, combined with the right ownership structure, might deliver the necessary new investment. However, where

houses remain in an ownership structure that means new investment will continue to count against public expenditure limits, securitisation on its own will not attract the scale of new investment needed.

Recommendation 12

Where alternatives represent both a means to social inclusion and community regeneration, and also good value for public money, the Executive should consider assistance with relief of housing debt.

Executive's response

Community ownership enables public resources to be directed to relief of housing debt while enabling new not-profit-landlords to secure additional private finance for investment. Debt relief can only be considered where the criteria outlined in the response above (to recommendation 11) are met: namely, there will be a step change in investment and opportunities for community ownership where tenants have increased control over investment decisions.

Recommendation 13

The Scottish Executive should make secure long-term arrangements to finance the servicing of the proportion of housing debt relating to transfers of housing stock by local authorities.

Executive's response

The Executive has given an undertaking to provide funding to tackle the residual debt in those cases where councils transfer all of their houses. Arrangements have also been put in place to service debt for Councils that undertake partial transfers.

Details of the mechanisms to service debt are being considered by the Executive.

Recommendation 14

The Scottish Executive should consult on and establish a model for the maximum number of housing units to be managed by a Registered Social Landlord beyond which they would not normally be eligible to take on houses through Council stock transfer. This should not exclude the possibility of staged transfers. Some members thought this should apply to first stage transfers, but the majority did not.

Executive's response

We are unconvinced that we should dictate the maximum number of housing units to be managed by an RSL. We consider that any number chosen would be arbitrary and could stifle the creation of innovative solutions to deliver the involvement of communities in the management of their homes. What is essential is the achievement of real local control.

Recommendation 15

The Scottish Executive should only approve large scale stock transfer proposals subject to guaranteed speedy progress to second stage transfers to community based RSLs.

Executive's response

We will examine business plans to assess whether they deliver further choices to tenants for more localised solutions which are best suited to individual transfer proposals, taking account of tenants' views.

Recommendation 16

Tenants should be involved from the beginning regarding the future of the housing stock, about Option Appraisal, Feasibility Studies and the subsequent development of proposals for preferred options. Involvement should take place beyond consultation, including input into decision-making.

Recommendation 17

Independent advisers acceptable to tenants and funded by the local authority or the Scottish Executive should be selected by tenants at the earliest possible opportunity to support tenants during the course of the Option Appraisal and development of proposals.

Recommendation 18

The process of tenant involvement should be designed so as to ensure that tenants can take ownership of the framework for further development of proposals, and influence decisions so that they can be comfortable with the proposals in any ballot.

Executive's response (recommendations 16-18)

Agreed.

Recommendation 19

The Scottish Executive should issue guidance as to best practice for tenants to control the development of stock transfer proposals. Consideration should also be given to how best to involve the wider community in developing such proposals.

Executive's response

The Working Group on Tenant Participation, which comprises tenant representatives, tenant advisory bodies, landlord organisations and housing professionals, is developing codes of practice on a range of tenant participation matters, including those arising from housing transfers.

Recommendation 20

The proposed Housing Bill should put in place a legal requirement for a ballot of tenants. If this ballot results in a majority vote in favour of transfer by those who vote, a transfer can take place and it was noted that this would be subject to approval by the First Minister.

Executive's response

The proposed provision in the Bill will require Ministers' consent to transfers to be given only where it is clear that a majority of tenants who express an opinion are in favour of the proposal. Guidance will be issued by the Executive to local authorities about how such opinion is to be sought. These proposals are designed to give certainty to tenants that they will have the opportunity in a secret ballot to express an opinion on whether or not they wish to proceed to community ownership of local authority housing.

Recommendation 21

The Scottish Executive should establish a forum or other vehicle to facilitate the exchange of good practice as a minimum on the issue of tenant and community consultation so that guidance can be developed for future use.

Executive's response

In April 1999, the Working Group on Tenant Participation published the National Strategy for Tenant Participation, "Partners in Participation". The strategy sets out key principles for good tenant participation and commits tenants, social landlords and central government to a programme of action to achieve this. The Group is developing codes of practice on a range of tenant participation matters.

Recommendation 22

The Committee recognises that there are currently different models of community and tenant involvement in housing management issues and related matters, and there is a considerable body of good practice that can be drawn upon. Therefore, the forum mentioned in Recommendation 21 could also facilitate sharing of good practice on matters related to the issue of community and tenant involvement in boards and committees of landlord organisations, and methods of achieving wider participation. This could help to inform guidance for future use.

Executive's response

The Working Group on Tenant Participation will be looking at this in the context of the developing Codes of Practice on Tenant Participation and how it can be best achieved, at a local and a national level.

Recommendation 23

The Scottish Executive should establish a framework within which local authorities would commission and conduct stock condition surveys, including guidance on minimum sampling, parameters of stock condition, and minimum standards of acceptable amenity, including present and future thermal efficiency.

Executive's response

Guidance on stock condition surveys is contained in the guidance for local authorities issued by the Executive on 28 August 2000. This builds on the guidance already available to councils about the conduct of local house condition surveys.

Recommendation 24

Local condition surveys should provide a baseline for discussion and agreement with tenants on investment targets for the new landlord.

Executive's response

In addition, other factors such as demand, turnover and other social/economic indicators will also be relevant.

Recommendation 25

The basis for valuing housing stock that is to be transferred should be different from that for valuing land, including transfer of housing earmarked for demolition. Discounted cashflow is based upon assessing the value of rented housing in stock transfer, by projecting income from rents against expenditure on repairs, management and renewal over 30 years and discounting the resulting cashflows.

While this clearly is appropriate for the transfer of tenanted stock, it equally does not meet the criteria for valuing land or untenanted housing stock being transferred.

Executive's response

Discounted cashflow analysis is a technique for putting a present day value on a flow of net receipts (revenues minus costs) which occurs over a range of years in the future and it is widely used in investment appraisal exercises in many sectors. The Tenanted Market Value approach (TMV), which is more fully outlined in the Executive's guidance for local authorities, is the approach recommended by the Executive where investment decisions relate to homes which are to be let as affordable housing (in the non-market sector). Clearly if the same physical assets were to be used for other purposes then different assumptions about revenues and costs would have to be made; similarly, demolition would require another set of assumptions about future uses, revenues and costs on the site.

Recommendation 26

There should be clear guidance on how to conduct valuations for stock transfer. This guidance should recommend training for staff in local authorities and for tenants on the parameters involved in conducting valuations.

Executive's response

Guidance on valuations is contained in the guidance for local authorities issued by the Executive on 28 August 2000.

Recommendation 27

The valuation and stock condition surveys should be separate exercises, and should be reported separately with different criteria for scrutiny and evaluation.

Executive's response

Stock survey and valuation are separate exercises, with stock survey carried out by building surveyors and valuation carried out by valuation surveyors. However, it is important the 2 exercises are linked. If not, the valuer is unlikely to have confidence in the survey information, and may wish to commission another condition survey.

Recommendation 28

Where there are residual costs to a local authority after transfer/arising from transfer - whether residual debt, breakage or transaction costs, then the Executive should always consider assuming financial responsibility for these.

Executive's response

Agreed, subject to any guidance issued by the Executive about the eligibility of costs for assistance through the New Housing Partnerships programme.

Recommendation 29

Where a Council is left with residual debts to be serviced, a binding and enforceable mechanism must be in place to service the debt until it expires.

Recommendation 30

The Scottish Executive should clarify and confirm to local authorities the mechanism by which it would assist them with excess costs in these situations, and the criteria to be used.

Executive's response (recommendations 29-30)

The Executive is considering the mechanisms and will discuss these with COSLA and, where appropriate with Treasury and the PWLB.

Recommendation 31

Business Plans developed in association with stock transfer proposals should include a comparison of the availability and investigation of the costs of investment from both the PWLB and private sectors and not just the headline rate of interest.

Executive's response

It would not be appropriate for such a comparison to be included in the Business Plans, since these are prepared by the acquiring landlords, which will not have access to the PWLB. However, in assessing transfer proposals, the Executive will compare the costs to the taxpayer of councils retaining their stock against transferring it. The costs and availability of finance is only one factor which influences the value for money of any project.

Recommendation 32

A robust regulatory regime needs to be in place for all social landlords in order to protect future tenants and community interests in housing quality and security

Executive's response

The Executive intends to make provision in the Housing Bill to extend Scottish Homes' current statutory regulatory regime for Housing Associations to cover all

RSLs. This will provide maximum protection for existing and future tenants and also for community interests in housing quality and security.

Recommendation 33

The Committee acknowledges the limitation currently placed on increasing public investment and accepts the prospects and implications of being able to fund investment from the private sector, subject to appropriate checks and controls over such borrowing.

Executive's response

Agreed.

Recommendation 34

A framework should be established at national level to monitor investment, under the auspices of the stock transfer arrangements.

Executive's response

A number of interests, including tenants, councils, new landlords and their funders will have a continuing interest in the delivery of the investment programme. Scottish Homes, as regulator, will take the lead in monitoring the investment made following transfers to community ownership.

Recommendation 35

Clear criteria of value for money should be identified before any approvals are given.

Recommendation 36

The Scottish Executive should ensure proper scrutiny of transfers. They should consult and work with Audit Scotland over the suitability of their procedures so that due scrutiny can take place at the appropriate time.

Executive's response (35-36)

Agreed.

Recommendation 37

Scottish Homes (or its successor) should have the primary role in monitoring RSLs, including those arising from stock transfer.

Recommendation 38

A robust framework of statutory regulation of all social landlords is urgently required.

Recommendation 39

Local authorities should contract with and monitor the performance of RSLs taking on former Council housing, in terms of investment and other commitments

Recommendation 40

In particular, appropriate statutory safeguards should be in place to preserve access to social rented housing.

Executive's response (recommendations 37-40)

The Executive intends to make provision in the Housing Bill to extend Scottish Homes' current statutory regulatory regime for Housing Associations to cover all RSLs. Councils will make arrangements to monitor the contractual agreements on investment and other commitments between them and the new landlords. The Housing Bill will also safeguard access to social rented housing, especially for homeless people.

Recommendation 41

The Executive should encourage the development of a code of practice or suitable protocols between lenders and borrowers in the new framework.

Executive's response

The transfer guidance published on 28 August was aimed primarily at local authorities. We shall continue to consider with the relevant parties – including the Council for Mortgage Lenders, the Scottish Federation of Housing Associations and Scottish Homes – issues relating particularly to lenders and borrowers, and issue guidance as appropriate.

Recommendation 42

Attention must be paid to finalising transfer proposals to local development and interpretation of the strategic role, including strategy for homeless people.

Executive's response

The Housing Bill will contain provisions to underline councils' strategic housing responsibilities. In relation to homeless people, the Bill will include a number of measures recommended by the Homelessness Task Force and designed to ensure that homeless people are not disadvantaged by the transfer of houses into community ownership. These are based around day to day co-operation between RSLs and local authorities, backed by statutory duties and obligations.

Firstly, we are proposing that all local authorities should develop strategies for preventing and alleviating homelessness in their area. These strategies will need to be developed with all relevant organisations, including RSLs.

Secondly, the existing statutory requirement for local authorities to give reasonable preference to homeless people in the allocation of houses will be extended to all RSLs.

Thirdly, the Housing Bill will place a statutory duty on RSLs to comply with a local authority's request to house an unintentionally homeless person in priority need.

Recommendation 43

Decision-making about development funding should be under the control of the local authority, within the context of the agreed housing plan.

Executive's response

The Housing Bill will contain provisions to underline councils' strategic housing responsibilities. These will include giving to councils (primarily where they have transferred their houses to community landlords) responsibility for allocating development funding within an agreed local housing strategy.

Recommendation 44

Local arbitration arrangements should be made to assist in resolving disputes between Councils and associations and other regulated social landlords backed by statutory provision for referral to Scottish Homes or its equivalent regulator as agreed by the Homelessness Task Force.

Executive's response

The Housing Bill will make provision for arbitration arrangements between councils and landlords in relation to councils' statutory responsibilities for homeless people, as recommended by the Homelessness Task Force.

Recommendation 45

Employees and their trade unions should be involved in the process of decision making regarding the future of the housing related services at the earliest possible opportunity, and preferably should be involved in the process of carrying out the Option Appraisal and thereafter.

Recommendation 46

An independent staff advisor acceptable to the trade unions and funded by the local authority should be appointed at the earliest possible opportunity, and preferably

should be in place to facilitate involvement in the process of carrying out the feasibility study.

Executive's response (45-46)

Agreed. The Executive agrees that councils should involve and consult employees and trade unions in considering the future of the housing service. It will be for councils, their staff and trade unions to decide how best to do so.

Recommendation 47

The Scottish Executive should examine the legal framework surrounding the terms and conditions for transfer staff with a view to ensuring that the new organisations maintain and preferably enhance their terms and conditions for employment, and that the same package applies to new staff. To this end, TUPE should be regarded as the base line, but local authorities also should seek assurances from the new landlord with regard to building on this for both transferring and new employees through voluntary agreement.

Executive's response

It will be for new landlord bodies to submit transfer proposals to councils in the first instance. The proposals must take account of the obligations under the TUPE regulations, and any agreed enhancements. The transfer arrangements for staff will be agreed locally between the council and the acquiring landlord. Proposals will be appraised by councils and submitted to the Executive.

Recommendation 48

Local authorities should establish a separate unit at the earliest possible opportunity to deal with both whole stock transfer and secondary transfers in order to ensure separation of transferring staff from those organising the transfer process.

Executive's response

Agreed. The Executive's guidance for local authorities stresses the importance of demonstrating that there is no conflict of interest between the disposing authority and the prospective acquiring landlord.

Recommendation 49

Where whole stock transfer takes place, maintenance services for the new organisation should continue to be provided by the DLO, on a seconded basis, for an initial period of at least five years.

Executive's response

There will be a range of possibilities for the provision of maintenance services which councils and acquiring landlords will need to consider in light of local circumstances. One possibility is for maintenance staff to be transferred to the new landlord; another is for the DLO to remain within the council and be contracted to provide the service to the new landlord. The Executive intends to amend secondary legislation to ensure DLO's are able to provide this service to all RSLs. Within this more permissive national framework, the acquiring landlord will wish to work with council and staff to determine the best arrangement for that area. RSLs will be expected to provide their tenants with the best possible maintenance service under best value principles.

Recommendation 50

Where DLO employees transfer (in whole or in part) to one of the new organisations, before or after the expiry of the initial period, the provisions of Recommendation 47 should apply. Additionally, the level of craft apprentices provided prior to the transfer should be maintained at least, on a pro rata basis depending on the number of employees who transfer.

Executive's response

The transfer arrangements for staff will be agreed locally between the council and the acquiring landlord, taking account of the obligations under the TUPE regulations, and any agreed enhancements. The increase in housing investment will create substantial training and employment opportunities and it will be essential to maximise these opportunities for local people.

Recommendation 51

The targets established through the mechanisms outlined in recommendations 55-56, and in the spirit of the recommendations made in the section above on 'Community involvement and participation in practice', should be incorporated into the new landlords business plan.

Executive's response

The new landlords' investment proposals will clearly be an integral part of the business plan. The Executive and Scottish Homes are also committed to ensuring that councils, new landlords, local enterprise companies and others come together to maximise the employment and training benefits for local people.

Recommendation 52

The Scottish Executive should issue guidance as a baseline for standards to be achieved in improvement and refurbishment of housing stock under New Housing

Partnership programmes as a matter of urgency. This guidance should take account of the consultation exercise being undertaken on building standards.

Executive's response

The New Housing Partnerships Steering Group will be considering this issue in the context of transfers to community ownership. It will be important to ensure that improvements are sustainable. It will also be important to ensure they are affordable, both to rent payers and to tax payers.

Recommendation 53

Monitoring of the targets for and quality of investment in the housing stock by the new landlord organisation should be undertaken by the board of the landlord organisation, financiers, and by Scottish Homes.

Recommendation 54

The Scottish Executive should issue best practise guidance on mechanisms that the new landlord organisations should put in place to allow feedback on the quality and level of work being undertaken to improve the quality of housing stock. Scottish Homes, in its role as regulator, should ensure that these mechanisms are being implemented satisfactorily.

Executive's response (recommendations 53-54)

Scottish Homes will have a key role in monitoring the quality of investment in the housing stock following transfers to community ownership. In addition to the organisations listed above, Councils will make arrangements to monitor the contractual agreements on investment and other commitments between them and the new landlords.

Recommendation 55

Tenants should be involved at all stages in deciding the extent of work to be carried out, the standards of work to be carried out, and the appraisal of the cost of the work. Their involvement in these decisions should be made with the opportunity for a full understanding of the impact each option will have on rents.

Executive's response

Agreed. Transfer will also give tenants, often for the first time, the security of guarantees about future rent levels.

Recommendation 56

Where not already undertaken, a detailed labour market analysis should be carried out at an early stage to establish the skills that the investment will create a demand

for, the degree to which the local labour force can, and will be able to, meet that demand, and therefore the anticipated skills gaps.

Recommendation 57

The Minister for Enterprise and Lifelong Learning and the Minister for Children and Education should take account of this shift in balance in the economy to a greater proportion of construction jobs when considering programmes for training and education but further education colleges and schools must be encouraged to provide a greater degree of training in the manual crafts to students.

Recommendation 58

A multi-agency task force should be established for each whole stock transfer proposal, with the specific remit to maximise the use of local labour from the investment and opportunities for training and apprenticeships, and working within the context of the information established from recommendation 56. The taskforce should be set up immediately, and must have commitment from a wide range of partners.

Recommendation 59

Targets should be set for the taskforce, including the numbers recruited from socially excluded groups within the local authority. The taskforce should be in a position to establish the most appropriate means of achieving its targets, including through the use of local labour agreements.

Recommendation 60

The ability of the companies or organisations tendering for the work financed by the investment to employ local labour should be a significant factor in awarding the contracts. It should also be a consideration in establishing the phasing of the work.

Executive's response (recommendations 56-60)

Agreed. It will be essential to ensure that councils, new landlords, local enterprise companies and others come together to maximise the employment and training benefits for local people. It is important to recognise that these benefits will arise not only in the construction industry, but also in a range of ancillary sectors. As regulator, Scottish Homes will ensure that its guidance and standards do not act as a barrier to this.

Recommendation 61

Providers of social housing should have regard to what tenants and prospective tenants can afford to pay in rent and,

- Central and local decision making in developing and approving transfer proposals should take account of long term affordability and social inclusion

- Rent guarantees should be binding for the period agreed, and should have regard to what tenants can afford.

Executive's response

Agreed.

Recommendation 62

The Committee agreed that any proposal to reform Housing Benefit could impact on the remit of the Committee. The Committee recognises the connection between rent levels, housing benefit and opportunities to work and heard some evidence that high rent levels can undermine the take up of such opportunities. Although not the specific focus of this Inquiry we welcomed efforts by some agencies to adapt current systems to enable greater opportunities for work and recognise the central importance of rent levels and the housing benefit system within such strategies.

Recommendation 63

Housing Benefit reform is a reserved matter, it must however take account of the devolved area of housing. A joint inquiry between the Social Inclusion, Housing and Voluntary Sector Committee and the Social Security Select Committee should be considered.

Executive's response (recommendations 62-63)

As the Committee knows, housing benefit is a reserved matter and any proposal by the Committee to hold a joint inquiry with the Social Security Select Committee into housing benefit is a matter for the Committee to pursue with the UK Parliament. The Committee will however wish to note that the Social Security Select Committee have just completed an inquiry into housing benefit and published their report on 27 July.

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