

**Housing (Scotland) Act 2014**

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**1.0 EXECUTIVE SUMMARY**

1.1 The main aim of this report is to inform Members of the content and implications of the Housing (Scotland) Act 2014 which was approved in August 2014 and will be implemented in stages over the next two years. Apart from the abolition of the Right to Buy there is no timescale set for implementation.

In summary, the key points of note for the council relate to:

- Abolition of the Right To Buy (RTB);
- The Allocation of Social Housing and Tenancy Management;
- Private Rented Housing;
- Regulation of Letting Agents;
- New Powers for Local authorities to Improve the Condition of Homes in the Private Sector;
- Licensing of Mobile Home Sites; and
- Miscellaneous and general provisions.

1.2 The main implications for the council will relate to our Private Sector Scheme of Assistance and the potential resource implications if the new discretionary powers to support improvements in private stock are to be utilised. Further guidance from the Scottish Government on these aspects of the legislation is anticipated and will help to clarify our approach over the next year or so. In the meantime a revised Scheme of Assistance is the subject of a separate report to the Committee.

**1.3 RECOMMENDATION**

Members of the Community Services Committee note the contents of this report.

**Housing (Scotland) Act 2014: A Briefing Note.**

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**2.0 INTRODUCTION**

- 2.1 The Housing (Scotland) Act 2014 received Royal Assent on 1<sup>st</sup> August 2014 and individual measures are being implemented over the next two years. The Act introduces a number of legislative changes to safeguard consumer interests, support improved quality and deliver better outcomes for communities.
- 2.2 The measures set out in the Act are specifically intended to enhance housing conditions, retain much needed social housing for the people of Scotland, and safeguard social and private tenants. Specifically, it covers the following :-
- Abolition of the Right to Buy (RTB);
  - Social housing allocations and tenancy management including additional powers for tackling antisocial behaviour;
  - Private rented housing, including changes to the repairing standard and the introduction of a new Housing Tribunal;
  - Regulation of letting agents;
  - Licensing of mobile home sites with permanent residents;
  - New powers for local authorities to improve the condition of homes in the private sector; and
  - Miscellaneous and general provisions including greater powers for the Scottish Housing Regulator (SHR) to transfer the assets of registered social landlords under certain circumstances.

**3.0 RECOMMENDATION**

- 3.1 That the Community Services Committee note the contents of this report.

**4.0 DETAIL**

- 4.1 The Act as passed covers the following areas of housing policy:-

#### 4.1.1 Abolition of the Right to Buy (RTB)

Scottish Ministers made an Order on 20 November 2014 to provide that, under sections 1(1) of the Act, right to buy will end for all tenants of social housing in Scotland on 1st August 2016, unless they submit a valid application to purchase before that date. Any such applications will be progressed in the usual way, but after the date no application can be made. The requirement for local authorities to collect information on right to buy sales and the number of tenants eligible for right to buy under sections 145 and 146 of the Housing (Scotland) Act 2010 remains in force until 1 July 2017. The abolition of right to buy means that there will be a change to the tenancy conditions of those tenants who have a right to buy at present.

4.1.2 The Scottish Government will continue to support affordable home ownership aspirations by alternative means that do not involve the loss of further social rented sector stock, such as: LIFT shared equity schemes (Low-cost initiative for first time buyers); the new Help To Buy (Scotland) shared equity scheme which was launched in September 2012 with a budget of £220m up to 2015; and financial backing for Homes for Scotland's mortgage indemnity scheme.

4.1.3 **Comment** – In recent years RTB sales in Argyll & Bute have dwindled significantly and Pressured Area Designation (PAD) already precludes further substantial losses across most of the authority area. The RSL stock has started to increase after decades of decline and new-build completions currently outweigh RTB sales. Nevertheless, this proposal was welcomed by the council and the housing sector in general. Emerging evidence at a national level suggests that many RTB properties end up in the private rented sector (PRS) (in certain areas up to 43% of local housing allowance PRS claims are for ex-RTB properties) – and as housing benefit claims from the PRS are higher than in the RSL sector, the cost to the public purse has been substantially higher than it would have been if these properties had remained in social landlords' ownership. ACHA is the only local RSL with any significant number of eligible RTB tenancies remaining, and it might be anticipated that they will experience a spike in RTB applications during the two-year grace period prior to the implementation of the legislation. Current estimates suggest that around 2,560 tenants in Argyll and Bute could technically exercise their RTB between now and the 1<sup>st</sup> August 2016, however, it is more likely that the actual number of RTB sales will be closer to 60-80 over this period.

## **4.2 Increased Flexibility in the Allocation and Management of Social Housing**

4.2.1 The provisions in the Act are intended to provide better outcomes for communities by:

- Increasing landlords' flexibility when allocating houses;
- Allowing landlords to make the best use of social housing;
- Giving landlords more tools to tackle antisocial behaviour;
- Providing further protection for tenants, particularly tenants with Short Scottish Secure Tenancies(SSST), by strengthening their rights in a number of ways; and
- Clarifying existing legislation on how SSSTs operate.

4.2.2 Specific measures include:

- Replacing prescriptive priority groups with a broader framework that gives landlords and their communities more local flexibility;
- Allowing landlords to consider any property that a social housing applicant already owns when allocating housing;
- Introducing a qualifying period before succession to a tenancy following the death of a tenant;
- Allowing a minimum period to be put in place before antisocial tenants are eligible for the allocation of social housing;
- Introducing a new right for tenants to appeal a landlord's decision to suspend them from being allocated a property;
- Allowing landlords to give Short Scottish Secure Tenancies to applicants and tenants with a history of antisocial behaviour;
- Simplifying eviction procedures for tenants convicted of a serious offence.

4.2.3 The Act amends the categories of persons to whom social landlords must show "reasonable preference" in allocating their properties. The amended categories cover:

- Homeless persons or persons threatened with homelessness who have unmet housing needs
- Persons living in unsatisfactory conditions who also have unmet housing needs
- Tenants of social landlords who are considered by the landlord to be under-occupying.

4.2.4 Social landlords will continue to be able to specify additional groups who will be given reasonable preference in response to local circumstances. They must consult on changes to allocation policies and a new duty requires all RSLs to take account of the Local Housing Strategy. This is

important particularly in relation to partnership working between the council and RSLs to ensure access to suitable housing for homeless people. Equally, the community-based associations will expect the council to respect their role in meeting housing needs in their local communities. In Argyll and Bute, the council continues to have full partnership involvement with Home Argyll RSLs and was fully engaged in the latest allocation policy review.

- 4.2.5. **Comment** – These changes are unlikely to have a significant impact on social housing allocation policies in Argyll and Bute. The greater flexibility should allow landlords to take greater account of a wider range of pertinent factors and respond to housing needs of local people more effectively.

### 4.3 Reform of the Private Rented Sector

- 4.3.1 Following on from the launch of the Scottish Government's national strategy for the Private Rented Sector in 2012, this Act establishes a new dedicated PRS Housing Tribunal which will provide more efficient, accessible and specialist access to justice for both tenants and landlords. Local Authorities will also be given new discretionary powers to make application to the Private Rented Housing Panel with regards to breaches of the Repairing Standard. Supplementary legislation will also allow local authorities to make an application to Scottish Ministers for additional powers to target enforcement action on areas characterised by poor conditions through an Enhanced Enforcement Area (EEA). Related to this, improving new discretionary powers in relation to private sector housing will give local authorities more tools to use in tackling poor standards of owner occupied as well as privately rented housing. Regulation of the letting agent industry will also include a new Letting Agents register and statutory code of practice, which will promote high standards of service and levels of professionalism as well as provide landlords and tenants with easy access to a mechanism that will help to resolve disputes where these arise. There is no timescale set for the implementation of these provisions.

- 4.3.2 **Comment** – The positive focus on improving and developing the PRS reflects the findings of our own local research and will help to support our own strategic approach to the sector. Allowing local authorities to approach the PRHP will be helpful in cases where the tenant may not have the knowledge or skills to make a case themselves, or where the tenant feels they may be penalised by their landlord for approaching the PRHP. Local authorities will also be able to approach the PRHP independently of the tenant. There will be resource implications for local authorities as preparing a case for the PRHP can be a lengthy process. Consultation on the operation of EEAs ended in December 2014 and will inform specific regulations to be implemented. Regulation of the private lettings agents is seen as a positive move.

#### 4.4 Private Housing Conditions

Members and local communities may welcome the greater enforcement powers for local authorities to require owners to repair and maintain their properties but, although these new powers are discretionary, this could prove onerous to administer and will require to be adequately resourced if they are to be used effectively. The Act updates the Tenancy Management Scheme (TMS) (within the Tenements (Scotland) Act 2004) to allow local authorities to cover the cost of a missing share where the majority of owners have agreed to carry out a common repair but one or more owners cannot be located or cannot cover their share of the work. The local authority can then recover the costs directly from the missing owner through repayment charges. Previously, under the TMS, if the local authority had to cover a missing share, the cost would be split between the remaining owners who would then have to pursue the absent owner for their share. The Act also makes amendments to repayment charges which previously had to be recovered in 30 equal annual instalments. Local authorities will now be given the power to determine a reasonable repayment period of between five and 30 years. Where a period of less than 30 years is proposed, the owner will have the right to appeal.

- 4.4.1 **Comment** - Allowing local authorities to cover the cost of a missing share can help to facilitate common repairs where the majority of owners have agreed to carry out work but are being prevented from progressing by a minority of owners. However this could potentially have significant resource implications for the Council if it chose to use these discretionary powers. It may help to prevent further deterioration of common areas and avoid potentially dangerous situations and the need for emergency interventions. RSLs have similar powers to recoup expenses for works carried out in mixed tenure blocks, which may aid local housing associations to meet their SHQS requirements in situations where an unwilling owner is blocking progress with joint works. Again timescales for the implementation of these powers have not been set.

#### 4.5 Mobile Homes Sites with Permanent Residents

Provisions in the Act aim to modernise and strengthen the current site licensing system for mobile homes. The changes will give local authorities tools to ensure mobile home sites meet acceptable standards, and that licences can be managed and revoked as required. The proposed changes will apply to the licence system for mobile home sites with permanent residents, and will not apply to mobile home parks which are only used for holidays.

- 4.5.1 **Comment** - There are 92 mobile home sites across Scotland, with over 3,000 mobile homes spread across 22 local authority areas. However, the sites are concentrated mainly in 6 particular local authorities, and

Argyll & Bute is one of these. An increasing number of people, many of whom are elderly, live permanently in mobile homes or park homes. The existing powers that local authorities have provide insufficiently strong tools and penalties to deter and tackle poor sites. Therefore, the measures set out in the Act should be particularly welcome within this local authority and will hopefully not prove onerous or costly to administer for the relevant service section.

## **5.0 CONCLUSION**

5.1 Different parts of the Act will be implemented at different times and in most cases we do not yet know the timetable for this, other than the abolition of RTB. Overall, the main policy and financial implications of the Act, for the council, are likely to relate to our Scheme of Assistance for the private sector. Further guidance from the Scottish Government on these aspects of the legislation is anticipated and will help to clarify our approach over the next year or so.

## **6.0 IMPLICATIONS**

6.1 **Policy** – As this council no longer has a landlord function, the main policy implications of this legislation will relate to the Private Sector Scheme of Assistance which is being revised in 2015. In addition, we will need to ensure that the next Local Housing Strategy (and associated aspects of the Single Outcome Agreement) is fully aligned with the requirements of the Act.

6.2 **Financial** - It is not yet clear what the financial implications may be for the council in relation to the new discretionary powers in respect of EEAs and private sector stock condition. The outcome of the recent consultation on supplementary regulations should clarify this matter.

6.3 **Legal** – In the case of this local authority, the new legal powers are primarily discretionary rather than mandatory.

6.4 **HR** – Nil.

6.5 **Equalities** – Nil.

6.6 **Customer Service** - Nil

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