Housing (Scotland) Bill

1. CIH Scotland welcomes this opportunity to provide written evidence to the Local Government and Communities Committee on the Housing (Scotland) Bill. CIH Scotland is broadly supportive of the content of the Housing (Scotland) Bill and its drive to improve the conditions of private sector housing, improve the value of social housing and safeguard supply.

2. However, there are some areas that require further development and detail in order that the impact of the Bill can be more fully assessed.

3. In providing this written evidence CIH Scotland would also draw attention to its response to Firm Foundations and subsequent responses to the Draft Housing (Scotland) Bill and Private Sector Housing Issues: Housing Bill consultation.

The Scottish Housing Regulator

4. CIH Scotland welcomes the requirement that the Scottish Housing Regulator (SHR) will have to consult widely with the sector on how it will use its powers. Reducing the regulatory burden in line with that recommended in the Crerar Review is accepted by CIH Scotland as a desirable move. The creation of the SHR as an independent body with powers to regulate social landlords as described in the Bill, models this approach. In supporting this CIH Scotland also supports the principal that the SHR will ensure social housing provides a value for money service that has the interests of the consumer foremost.

5. However, protections need to be in place when moving to a less ‘hands on’ approach to ensure that the SHR continues to drive up standards. It is vital that there is no loss of credibility in the method and outcome of the regulatory process. This is a particular concern for landlords, who are required to evidence their good financial management and governance to their lenders and who are reliant on the regulatory grading as evidence of this.

6. This means that the SHR must be properly resourced both in terms of personnel to enable inquiries and regulatory intervention to occur when required and in terms of the training, support and information required for landlords and tenants to help them adapt to the new self assessment approach. In addition, there is a concern that the quality of the information

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3 Scottish Government (July 2009), Private Sector Housing Issues: Housing Bill Consultation http://www.scotland.gov.uk/Publications/2009/07/06160610/0
currently gathered by landlords may not be rigorous enough for self assessment and that a review of this is required as part of the consultation process.

7. A key part of the ‘lighter touch’ self assessment approach to regulation is the right of tenants and other service users to raise a concern with the SHR directly. This requires the introduction of robust safeguards and clear ‘triggers’ to alert the SHR to the need for possible intervention or further investigation in a timely manner. CIH Scotland believes these ‘triggers’ are a vital component of the new regime.

8. The ability to raise concerns that would potentially activate further scrutiny should be available to all stakeholders such as other RSLs and tenants, with regular ‘spot checks’ carried out by the regulator itself. This is particularly critical to achieving the SHR’s aim of protecting the interests of tenants and future tenants. If the consumer is to have a genuine voice in the process it must be accessible to all tenants, whilst providing fairness and a proportionate response. It is important that clear guidance is given on what issues would be of concern to the SHR, what would be the concern of other organisations, such as the SPSO, and what actions will occur as a consequence of highlighting difficulties. Clarity is needed on this, as well as on the action a landlord can take to challenge a decision made by the SHR.

9. In terms of the SHR’s power to charge RSLs a fee, CIH Scotland would like to see this reviewed. There is no clear rationale for charging landlords for being regulated and using this power would lead to increased costs to the landlord, which would ultimately be met via rental increases. This would force the consumer into paying for regulation, which is unacceptable and not mirrored elsewhere in the regulation of services.

Scottish Social Housing Charter
10. This part of the Bill is light in substance and does not provide a clear image of what the Scottish Social Housing Charter would look like. In principal, CIH Scotland applauds its aims but more detailed discussion and agreement on how the Charter will apply is required. The Charter, as a document that will set standards against which landlords are measured, will form the backbone of the revised regulatory regime. As a consequence, it needs to be clearly understood by both landlords and consumers alike.

11. The Charter will incorporate national outcomes, determined by Government in conjunction with landlords and other stakeholders; the Charter will also incorporate local outcomes determined by the landlord in conjunction with tenants, homeless people and other service users; and all this to be signed off by the Parliament. It remains unclear how this will operate.

12. CIH Scotland welcomes consultation and debate on the development of a Scottish Social Housing Charter. We look forward to shaping its
development but would also suggest its name is changed to the Scottish Housing Charter. This would better reflect the role of social landlords who provide services across the whole community and not just to social rented tenants.

Promotion of equal opportunities
13. CIH Scotland welcomes the inherent drive to promote equal opportunities within the Bill by ensuring that both the Scottish Housing Regulator and the Scottish Social Housing Charter have clear objectives linked to this. CIH believes that there is an opportunity to ensure equalities outcomes are properly measured through the proposed Charter, which it believes should focus on outcomes that reflect tenants’ and communities’ priorities and aim to drive up standards in this area.

Right to Buy
14. The Right to Buy (RTB) has significantly reduced the social rented housing stock available for future generations. As such, the Bill’s aim of protecting the current and future social rented housing by limiting the RTB provisions is to be applauded. However, within this aim there needs to be an element of flexibility. A blanket approach to reforming RTB should be avoided as inflexibility can create further challenges.

15. In making reforms to RTB, it must be recognised that landlords use RTB sales receipts to fund capital projects and that projected receipts are factored into future budgets. The CIH Scotland report Reforming the Right to Buy. A Capital Investment demonstrates this. The receipts from RTB are used to help meet SHQS, planned maintenance and loan repayments. Some landlords are concerned that reduced funding via RTB receipts could lead to a greater need for borrowing or rent increases.

16. Landlords should have the flexibility, where there is a good business case to do so, to sell properties to sitting tenants. An example would be where a landlord has only one rented property in an area (that may be exempt from the RTB) and managing and maintaining that property is not cost-effective. A more pragmatic solution would be to sell the property and invest the receipt in further development, regeneration or stock improvement. CIH Scotland is aware that existing laws allow landlords to sell property to sitting tenants, however these are rarely. CIH argues that limiting the RTB will mean that other legislation and associated guidance will need to be revisited to more flexibly meet landlords needs.

17. CIH Scotland believes that, without greater flexibility, the RTB reforms will restrict some landlords from making good business decisions. The suggested position would be one that allows for local decision making in line with local housing strategies that support the need for affordable housing coupled with sustainable communities.

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18. In addition to ensuring that reforms to RTB do not have unintended consequences for landlords, there must also be a full assessment of the impact the changes will have on particular groups in society. For example, some disability groups are concerned that restricting RTB to particular house types may place them at a disadvantage.

19. It must also be acknowledged that reforms to RTB are no substitute for investment in affordable housing. CIH Scotland along with others, continue to call for an additional 10,000 new affordable homes a year.

Registration of private landlords
20. Landlord registration had a patchy start in Scotland and has taken a while to be consistently administered by many local authorities. Some of the better performing landlords commented that there were insufficient penalties applied to the poorer performing landlords. However, more recently there has been considerable progress in registering landlords. It is now time for the registration process to support raising standards in the sector, which is vital as we move towards a need for greater and more positive engagement with the private sector, for example through the use of the new Homeless Persons (Provision of Non-permanent Accommodation) (Scotland) Regulations 2010.

21. CIH Scotland supports wholeheartedly the additional powers available to local authorities in proving that a tenancy is in place and also in increasing the level of the fine to one that should act as a greater deterrent and reflect how seriously non-compliance is viewed. In addition, CIH Scotland believes that the inclusion of additional useful information on the register will support the wider role of registration; to inform tenants and increase public awareness. This information awareness raising should be properly resourced as this area of the Bill is enacted. There is some feeling that landlord registration was not promoted sufficiently in the beginning which has led to a low level of tenant awareness. This can be redressed with an appropriately targeted information awareness raising campaign.

Amendment of Housing (Scotland) Act 2006
22. Amendments to the Housing (Scotland) Act 2006 are broadly welcomed with some caveats. The power of local authorities to pay missing shares from ‘unwilling’ owners and then recover the costs from them will have resource implications for local authorities as the process of recovering costs is in itself expensive and time consuming. CIH Scotland recommends that local authorities have the power to recover all associated costs and not just those of the missing share. This would include all reasonable associated costs such as administration, court costs legal fees etc.

Protection of unauthorised tenants
23. CIH Scotland would like to see better protection of unauthorised tenants where the landlord is being repossessed. Whilst it is recognised that, by definition, these occupiers do not have a long term right to reside there should be a more structured and managed approach to removing them.
This would reduce the burden on temporary accommodation, prevent the trauma of homelessness and provide them with a greater opportunity, with the right support and information, to resolve their own circumstances.

**Local connection**

24. This applies to service personnel only and enables those living and working in an area to acquire a local connection should they make an application for assistance under the homelessness provisions. This will have a limited impact on most local authority areas. Many service personnel will already have a local connection by virtue of family or other connections. Those local authority areas where the new provisions are likely to have the greatest impact should be consulted individually to ensure that there are adequate resources to meet any new duties that may apply. These would primarily be those local authority areas that have a barracks sited within them.

25. The Chartered Institute of Housing (CIH) is the professional body for people involved in housing and communities. We are a registered charity and not-for-profit organisation. We have a diverse and growing membership of over 22,000 people worldwide, with over 2,800 in Scotland. Our members work in both the public and private sectors. We exist to maximise the contribution that housing professionals make to the wellbeing of communities. We also represent the interests of our members in the development of strategic and national housing policy and aim to be the first point of contact for anyone involved or interested in housing.

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