1. COSLA and SOLACE welcomes the broad direction of Draft Housing (Scotland) Bill, in particular measures to safeguard social housing for future generations and the move to more risk-based, proportionate scrutiny, in line with the Crerar Report.

Right to Buy
2. In the Bill, the right to buy is only specifically ended on new supply housing. The consultation policy paper, however, contains other proposals, notably to end right to buy for all new tenants other than a few exempted categories; and to extend pressured area status to 10 years from its current 5 year application.

3. COSLA and SOLACE strongly supports the ending of right to buy on all new supply housing to safeguard those houses which councils are currently building and which they may choose to build in future. However, it must also be acknowledged that right to buy has played a significant role in providing much-needed finance for councils over the years. While this is diminishing as supply gradually reduces, nonetheless it is particularly useful for councils to have the flexibility to apply right-to-buy and pressured area status in ways which are locally-sensitive and beneficial for their own communities. COSLA and SOLACE therefore supports the flexibility for councils to end RtB for new tenants as well as for new supply housing. As many councils also safeguard their housing through maintenance and improvement, we emphasise the importance of safeguarding councils’ Right to Sell as a means of raising finance in order to meet SHQS and other requirements.

4. With regard to pressured-area status, Local Housing Strategies (LHS) should evidence the need for this status to be applied and, equally, LHS should identify when pressured area status should be removed – 10 years would certainly allow more flexibility but can be just as arbitrary as 5 years. COSLA and SOLACE would welcome the flexibility for councils to designate pressured-area status and to apply it to particular types of housing as well as areas. COSLA and SOLACE are also of the view that the 28 days’ notice proposed in the Bill for new supply notification of exemption to RtB will not be practicable in all circumstances and seeks reconsideration of this issue by ALACHO and Scottish Government to find a solution which matches the intent of the Scottish Government with the practicalities of housing offers.

5. While COSLA and SOLACE welcomes guidance on continuous occupation powers, we value the flexibility, which comes with discretionary powers and would not support any move to a legislative requirement.

Regulation
6. The Bill empowers the Scottish Housing Regulator (SHR) to inspect and regulate both housing associations and council landlords. The consultation policy document outlines an alternative proposition, with council housing services scrutinised under the Accounts Commission’s BV2 Reviews and the SHR continuing to inspect housing associations. COSLA and SOLACE supports this latter position as a transitional arrangement, in line with the Crerar Review of Scrutiny and the drive to reduce the burden of scrutiny. We propose that RSLs continue to be inspected by the SHR and that councils are scrutinised by Audit Scotland.

7. Section 2.4 highlights the fact that there have been significant changes in the approach to external scrutiny following the publication of the Crerar Report. The modernised regime is more risk-based and proportionate and the SHR’s role sits within the Best Value 2 (BV2)
audit framework. COSLA and SOLACE welcomes this change as a significant improvement compared to the previous cyclical inspections.

8. However, COSLA and SOLACE also views the Bill as a unique opportunity to move in the direction of the longer-term objective to have a single scrutiny body, as recommended by Crerar. In the short term, we believe that housing and homelessness can be scrutinised by Audit Scotland as part of the Accounts Commission’s BV2 Audit. This position also reflects the fact that the delivery of better outcomes for current and future tenants requires a range of interventions from a number of services – many of which are delivered by councils – all of which come within the ambit of Local Government and the BV2 audit. As Best Value extends across the public sector, the scope for co-ordinated action is much increased.

9. We agree that RSLs should continue to be inspected by the SHR and that:

   • High level outcomes identify those areas of governance, strategy, delivery and engagement by which performance of both RSLs and councils should be scrutinised and risk-assessed;
   • Housing knowledge, if required, is brought into Audit Scotland with transfer of appropriate staff from SHR;
   • Initial peer assessment support to councils is delivered through the Scottish Housing Best Value Network with some resource transfer/secondment from SHR;
   • Where potential risks to or within housing and/or homelessness services are identified by Audit Scotland, referral will be made to SHR for specialist scrutiny;
   • Both SHR and Audit Scotland will move to a more tenant/taxpayer-focused, risk-based, peer reviewed, proportionate scrutiny;
   • Primary responsibility for performance management, assessment and improvement lies with landlords;
   • Future scrutiny builds on the considerable feedback provided from all 32 council housing service inspections carried out over the previous cycle;
   • Meetings are held between tenants’ representatives; taxpayer representatives; ALACHO, SFHA; CiH, COSLA, SOLACE; SG, SHR; Audit Scotland and other key stakeholders to take a strategic overview of scrutiny to monitor implementation, and to identify shared issues to be progressed.

10. It is COSLA and SOLACE’s view that for the benefit of delivering shared, cross-cutting outcomes, building on and sharing good practice, increasing efficiencies, and reducing the burden and cost of scrutiny across the public sector equally, all publicly-funded bodies should eventually come within the orbit of a single scrutiny agency. As a transition to this Crerar recommendation, it is proposed that Audit Scotland should provide the primary scrutiny of all housing and homelessness and related services and outcomes, with SHR only providing more detailed support where clear risk is identified.

11. This structure would allow for scrutiny across inter-related strategies and partner bodies in a consistent way and would enable more detailed scrutiny to be reserved for and focussed on those areas of service delivery which are highlighted as requiring it. In essence, this is the obverse of the current system whereby regulation agencies undertake time-consuming and detailed inspections and provide evidence to Audit Scotland.

12. On the issue of profit-distributing bodies being eligible for registration, we consider that fundamental to registration should be the concept of public ownership and democratic governance structures. We would not wish to see resources diverted from public housing
to private housing unless there are clear best value, governance and public ownership assurances in place.

13. The Bill describes a Scottish Social Housing Charter with examples of areas where high level outcomes would be agreed nationally for all social landlords to meet. In addition, RSLs and councils are empowered to add additional local outcomes. In the policy paper, these outcomes are described as “standards”. It is COSLA and SOLACE’s view that high-level outcomes will be more useful in driving consistency where it is desirable whilst allowing for locally-appropriate and democratically-accountable approaches, than standards which invariably tend to focus on what can be measured rather than on those aspects of housing which are actually important to tenants, housing service clients and taxpayers. It will be imperative that high-level outcomes do not in any way cut across but articulate fully with Single Outcome Agreements and strengthen rather than diminish local democracy.

14. COSLA and SOLACE strongly oppose any move to detailed national outcomes across every council service, having agreed under the Concordat, that we will work together with the Scottish Government on agreed national outcomes, with delivery entirely devolved to councils and their local partners. A Scottish Social Housing Charter must not become a back door to “regulation creep” and would have to be in line with the clear intent of the Concordat to reduce rather than increase reporting burdens on Local Government. Given the confusion which exists around the proposed Charter and the nature of “outcomes” or “standards”, COSLA and SOLACE recommends that detailed discussions are held between COSLA, SOLACE, ALACHO, SFHA, tenants’ representatives and Scottish Government to identify the most effective way to proceed.

Social Housing

15. It is COSLA and SOLACE’s view that changing the term from “social housing” to an alternative will make little difference in the long-term unless perceptions about private and public sector housing are altered. One of the key issues which has informed negative perceptions of social housing is the publication of “improvement reports” by SHR which focus only on their interpretation of “negative” aspects of service rather than a more balanced approach to highlighting and sharing good practice and recognising the impact of wider council and RLS roles (e.g. around community safety and environmental services) in delivering sustainable communities.

16. Any name change should reflect the fundamental difference in ownership, rather than referring in any way to the profile of the tenants. COSLA and SOLACE therefore supports common usage of terms such as “public rented sector” to differentiate housing which is in public ownership from that which is privately owned, and to challenging and removing any forms of stigma which may be attached to public housing. However, COSLA and SOLACE also recommends a broader consideration of how current inspection approaches only serve to stigmatisate public housing.

COSLA and SOLACE

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