SUBMISSION FROM CONFEDERATION OF ST ANDREWS RESIDENTS ASSOCIATIONS

1. CSARA is a confederation of four residents associations in the town of St Andrews. Many of the housing issues we deal with are related to the enormous concentrations of HMOs in the town, a situation which skews the housing market and results in very few first time buyers being able to compete with HMO buy-to-let landlords, whose properties, in effect their business premises, can attract a premium of up to £100,000 with an HMO licence. Large family houses, and even former council houses are the subject of HMO licence applications and the permanent population of the town has been decreasing as the student population, now nearly half the total, increases. St Andrews is now an unsustainable community as there are very few replacement young families able to set up home here.

2. Community representatives have not been involved in any of the stakeholder groups advising the government officials on the issues that should be included in the Bill. The community voice has therefore been absent from the discussions which have helped to shape the Bill. We are grateful for this opportunity to bring forward issues which are very critical for communities such as ours. Consequently most of our evidence comments on issues which are not currently contained in the Bill.

3. Our headline concern is the adverse impact that concentrations of HMOs have on community sustainability and viability. These impacts are now well-researched. They include the destruction of community cohesion as short-term and often seasonal tenancies start to predominate in particular areas. The impacts include a domino effect on conversion of family homes to HMOs when a tipping point is reached. HMOs are businesses, which produce profits and attract buy-to-let investors who need not pay council tax or business rates if they house students. Many landlords are members of landlords associations act professionally, but others are less reputable. Because of light-touch regulation and an under-resourced enforcement system, they are able to avoid the consequences of failure to obtain a licence.

4. Poor maintenance of properties, indifference to environmental conditions and ignoring the concerns of neighbours are common with such landlords. Even when HMOs are well-managed, concentrations can cause problems as long-term residents experience a succession of temporary and often seasonal HMO tenants. Social isolation is very common, and community and neighbourly support is undermined. Some areas become ghost towns during vacations. Family-orientated shops are converted to fast food outlets, pubs and take-aways. Pride of place is diminished and a slide towards environmental degradation is inevitable.
5. Recognising these impacts, legislation has been introduced in Northern Ireland and England specifically to ensure that HMOs do not become concentrated in particular localities. This legislation does not seek to limit the number of HMOs overall, but to maintain mixed, viable and sustainable communities. This can be achieved simply by a change to secondary legislation – the Use Classes Order - to require that all HMOs as defined in the Housing Act have prior planning permission. The current proposals in the Bill to require only certain HMOs to have planning consent will simply shift the problem to properties which do not need planning consent. As time goes on, HMO problems have become more entrenched and an urgent response to this issue is required in Scotland.

6. We also consider that significant changes are required in the enforcement regime so that illegal landlords are not able to continue to operate with impunity. We do not think that the cost of improved enforcement should fall on responsible landlords. At present this is inevitable because of the self-funding nature of the licensing scheme. We have produced suggestions as to how this can be achieved. Essentially we consider that the present system of relying on the criminal code to bring prosecutions is too cumbersome and rarely successful. Procurators Fiscal understandably do not prioritise licensing offences. Also the criminal standard of proof places unnecessary obstacles in the way of prosecution and this is evidenced by the very few prosecutions initiated, despite widespread evidence of unlicensed landlords continuing to operate for many years.

7. We also consider the “light touch” regulation approach to be misguided in a situation where HMO licensing was introduced to deal with serious risk to tenants. Legislation introduced to protect tenants serves only to protect unscrupulous landlords. Introducing civil proceedings in this area would provide an income stream for enforcement which otherwise has to rely on increased fees for law-abiding landlords. We have not been impressed by any of the arguments against the introduction of this proposal, and would be happy to provide justification of this view on request.

8. Without the changes we have suggested, enforcement will continue to seriously be under-resourced and the whole purpose of the licensing legislation undermined.

9. Regulation of the willing cannot be a satisfactory response to a duty to protect the health and safety of tenants, many of whom are young and living away from home for the first time.

10. A further concern is the efforts of some landlords to avoid the licensing scheme by inappropriately converting flats in tenements to self contained bed sits. This inevitably involves the relocation of toilets, kitchens and showers away from their traditional stacked arrangement. The result is noise nuisance
for neighbours and flooding damage to flats below – outcomes which are frequently encountered in communities we are in contact with. These issues have serious consequences for the quality of life and even the physical and mental health of neighbours. We consider that there should be a clear assumption against subdivision of rooms and relocation of services in tenement and flatted buildings. This would be completely in tune with the Bill’s objectives to improve the quality of living accommodation and environment, both for HMO tenants and their neighbours.

11. Allied to this is the subdivision of rooms to increase rental income – an activity which increases density of population and noise in residential tenements and puts pressure on rubbish disposal arrangements and common areas. HMO tenants are often crammed into extremely small spaces, which while barely meeting minimum standards, do not represent the quality environment which the Bill should be aiming for.

12. We consider that such arrangements offend against the purpose of the bill to improve environmental standards and maintain the quality of housing, including traditional tenement buildings, a mainstay of Scottish Housing provision, for future generations.

Summary
13. We have identified responses for the difficulties identified which are entirely compatible with the purpose of the Bill to improve conditions in social and private housing.

14. We wish to stress that the proposals we have made to improve the HMO regulation processes are proportionate, do-able, and have most have been introduced successfully in other legislations. They would improve conditions for all community members including the residents of HMOs, and could be implemented at no cost to the public purse.

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Secretary CSARA

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