Background
1. Edinburgh Tenants Federation (ETF) is the umbrella organisation for tenants and residents associations in Edinburgh and a Registered Tenant Organisation. This response is based on previous consultation with members on the proposals in the Bill and additional comments since the Bill has developed.

Summary
2. ETF broadly welcomes the proposals in the Draft Housing (Scotland) Bill and the opportunity to influence its direction. We have received support from members to call for the Right to Buy to be ended entirely. Likewise there is strong support for tenant participation to be a more central and enduring part of establishing a Scottish Social Housing Charter, and in establishing an independent Scottish Housing Regulator with the power and flexibility to safeguard and promote the interests of tenants.

Part 1: The Scottish Housing Regulator
- ETF welcomes making the Scottish Housing Regulator independent and given the powers and the flexibility to safeguard and promote tenants’ interests and priorities. We also welcome the inclusion of safeguarding and promoting the interests of homeless households and recipients of housing service in the objectives of the Scottish Housing Regulator, and in strengthening the role of tenants, homeless households and service users through the duties of the Regulator.
- Crucial to this development will be the need for tenant representation on the Scottish Housing Regulator Board to ensure that the purpose of the Regulator is delivered rigorously and consistently. ETF made this point in its initial response in 2009, however this has not been carried through to the current draft, and should be considered as an amendment to the Bill.
- ETF welcomes that the SHR will have a duty to encourage equal opportunities and will require social landlords to provide housing services in a way that encourages equal opportunities.
- ETF is watchful of Section 25 which allows the Scottish Housing Regulator to charge fees for its services in respect of performing any functions in relation to a social landlord. We welcome that the Scottish Housing Regulator would have to consult with tenants on such proposals, however are concerned that charging fees to landlords would have an impact on tenants’ rents.
- At the local level there needs to be a requirement for tenant participation in monitoring a landlord’s performance; scrutinising and finalising the performance information submitted to the Regulator; and a clear mechanism and criteria by which tenants can independently alert the Regulator about service failure and call for intervention.

Part 2: Registered Social landlords
3. It is positive that the Scottish Government has listened to concerns raised by ETF and others in the consultation, and has removed the proposal that profit-making businesses could register as Registered Social Landlords.

Part 3: Performance of social landlords
- ETF welcomes the development of a Scottish Social Housing Charter setting out the legally enforceable standards for service delivery. ETF welcomes the
The opportunity to be involved in the early stages of developing the charter nationally, but would like further clarification on the participation and consultation methods that will be used by the Scottish Housing Regulator in developing standards.

- The way the Scottish Housing Regulator involves tenants to develop the Charter will be seen as a benchmark of Tenant Participation by social landlords, therefore its participation and consultation processes must be robust. ETF would seek to ensure that the following is in place:
  - Participation at all Stages of development is not limited to the Regional Networks.
  - All Registered Tenants Organisations, non Registered Tenants Organisations and individual tenants in areas without representation have the opportunity to be involved in developing the Charter.
  - Independent development support is available for tenants’ representatives that are involved in developing proposals with the Scottish Housing Regulator, including in determining the wider consultation mechanisms.
  - Adequate resources for tenant participation are in place to ensure tenants can participate fully.
  - The Scottish Housing Regulator must make clear any selection process for tenant representation in the ‘stakeholder discussion groups’, and ETF would like to be involved at this stage.

- ETF agrees that the first Charter should run for four years.
- The proposal for two charters, a local and a national charter is welcomed.
- There needs to be tenant involvement in developing and monitoring the implementation of the Charter at both national and local levels.
- To this effect, ETF would strongly propose that a national standard for tenant participation is included in Part 3, Section 32 (1) as well as a local standard in Part 3, Section 32 (2). This is necessary because national research\(^1\) has indicated that progress on implementing the tenant participation parts of the Housing (Scotland) Act 2001 is at best patchy; and some landlords are not delivering well at all on Tenant Participation.
- ETF also welcomes that the local Charters should link to Local Authority Single Outcome Agreements, as this will streamline accountability. In some areas, like the City of Edinburgh it is still not clear where local Community Planning and Tenant Participation fit, therefore a national standard for Tenant Participation would provide a clear and legislative role for Tenant Participation in the SOA. This would hugely benefit tenants who feel Tenant Participation has been cut out of the SOA or disenfranchised locally in the bid to ‘widen’ engagement.
- Linked to this, ETF would like to suggest the Bill is amended to include a proposal to ensure landlords work together on a Local Authority basis to develop a local Charter. For example, an ‘Edinburgh Standard’ to encompass all social landlords in the City of Edinburgh Council area would enable tenants living in Edinburgh to have a single social housing standard they could refer to. This would make benchmarking between landlords easier for tenants to understand.

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\(^1\) Evaluating Scottish social landlords’ progress on tenant participation (ODS Consulting; March 2008)
• This could also pave the way for a local Tenant Participation Standard, that could enhance local tenant participation arrangements. Guidance should be issued on how this could be achieved.
• The Scottish Housing Regulator must ensure local priorities for service development are about adding to and improving on national requirements. There must be no scope for any diminution of national standards.
• It is positive that services for the accommodation needs of Gypsies and Travellers are included in the proposed local standards, as this will go some way to enabling better provision for their needs. However, Gypsies and Travellers should be involved in determining these standards.

Points for clarification
4. ETF would be interested in exploring the following with the Scottish Government:
• Opportunities for tenant involvement in setting and reporting standards that will be measured by the Scottish Housing Regulator annually. Tenants must be involved in agreeing the Key Performance Indicators (both qualitative and quantitative) that marks how landlords perform
• The way tenants will be involved and how the Scottish Housing Regulator will check landlords’ progress in delivering the Scottish Housing Quality Standard
• How clear, and easy to understand information will be provided to tenants to enable them to check how their landlord is performing
• The role of the Scottish Housing Regulator in arbitrating between tenant representatives and landlords in agreeing service standards.
• How landlords will be supported to engage with tenants on the Charter, given that the Tenant Participation Team in the Scottish Government has changed its focus from supporting landlords to deliver Tenant Participation to providing support to the Regional Networks.
• How tenants will be made aware of the Charter
• How an Environment Standard could be developed as part of the Scottish Housing Quality Standard / Charter

Part 5: Regulatory Intervention
Points for clarification
5. ETF would be interested in exploring the following with the Scottish Government:
• The mechanisms for tenants to approach the Scottish Housing Regulator to highlight ‘serious service failure’ by their landlord (Section 93), and the definition of ‘serious service failure’.
• The number of tenants/Registered Tenants Organisations that will be required as a ‘tipping point’ to result in intervention by the Scottish Housing Regulator and how the Scottish Housing Regulator will respond to tenants’ requests for intervention
• The powers of intervention the Scottish Housing Regulator has in cases of serious service failure and how tenants would be involved in influencing an improvement plan.
• Where failures in management of a housing service (Section 106) are due to the involvement of elected members, what action could be proposed by the Scottish Housing Regulator to remedy this.
Part 6: Registered Social Landlords: Accounts and Audit

6. Whilst recognising that this section of the Bill is for RSLs, the Bill does not make reference to the security of the Housing Revenue Account by Local Authorities. ETF would like the Bill to outlaw the transfer of funds from the Housing Revenue Account to the General Fund.

Part 11: Reforms to the Right to Buy

7. ETF has always been opposed to the Right to Buy. The Right to Buy has been a central part of government policy to promote home ownership and to marginalise affordable rented housing. The result has been a critical shortage of affordable rented housing, a major lack of investment in affordable rented housing over many years, restrictions on developing and managing “mixed tenure” estates, and, ultimately, the credit crunch and economic recession.

- ETF welcomes the proposals to end the RTB on new stock and for new social housing tenants.
- The proposals to extend the scope of pressured area to enable Local Authorities to designate pressured area status on particular areas or types of housing are welcomed. As are proposals to extend the designation of Pressured Area Status from 5 to 10 years.
- It is positive that Local Authorities will have to consult with tenants before designating a Pressured Area Status. This should be linked to the national standard for Tenant Participation.
- By limiting the RTB for new and returning tenants, the Bill takes into account the difficulty regarding tenants being able to buy more than one property.
- Regarding the notice period given to (prospective) tenants for new supply properties about their Right to Buy, clarification needs to be made on the notice period and method of informing the (prospective) tenant.
- However these proposals do not go far enough. ETF proposes that the Right to Buy be ended completely for all tenants. What is needed is the investment to deliver a right to an affordable rented home.

Part 12: Landlord Registration

- ETF welcomes the measures put in place to help protect tenants of private landlords, including increased fines for landlords operating without registering from £5000 to £20,000. However, this may not act sufficiently as a deterrent. Private landlords should be subject to the same ultimate sanction as Registered Social Landlords and Local Authorities under the Scottish Housing Regulator. If breaches have been sufficiently serious, then properties should be confiscated and placed in the ownership of a Local Authority/RSL to manage. The offending landlord should be disbarred from letting property.
- Physical checks on the standard of properties should be made when landlords are accepted on to the Landlords Registration Scheme.
- Property Management Companies who manage properties on behalf of landlords should be compelled to register with the Local Authority where that property is located.

Part 13: Amendments to the Housing (Scotland) Act 2006

- ETF welcomes the new provisions that Local Authorities can recover costs arising from a maintenance plan where the owner fails to submit a maintenance
order. This will assist in ensuring that private tenants have a higher property standard.

- The Bill does not make clear however, whether Local Authorities will pay these costs from Housing Revenue Accounts, therefore further impacting on social tenants’ rents.
- The provision of a Housing Renewal Area that can deal with problems of poor quality housing on an area basis are also welcomed, with the proviso that this is not funded by tenants in social housing.

**Part 14: Miscellaneous Amendments**

**Local Connection**

8. ETF supports that service men/women would be able to establish a ‘local connection’ in an area they have lived or worked in.

Edinburgh Tenants Federation

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