INTRODUCTION

1. As the representative body for the principle builders of new affordable rented housing in Scotland, the Scottish Federation of Housing Associations (SFHA) welcomes the opportunity to respond to the Local Government and Communities Committee’s call for evidence on the Housing (Scotland) Bill, as introduced into the Scottish Parliament on 13th February 2010.

2. The SFHA is the representative body for 191 housing organisations – housing associations, housing co-operatives and Glasgow’s local housing organisations. This represents 86% of housing associations and co-operatives in the country. Housing associations and housing co-operatives in Scotland own and manage 47% of the country’s affordable rented housing stock. This represents 279,144 homes across Scotland. The housing association and housing co-operative sector has an asset value base of £7.6 billion in Scotland. This is concentrated in some of the poorest communities in our country.

3. The Local Government and Communities Committee has called for written evidence on the general principles of the Bill. The SFHA has confined its evidence to the key principles relating to Right to Buy and Modernising Regulation.

RIGHT TO BUY REFORMS

4. The SFHA believes that the Right to Buy (RTB) should be abolished completely in order to preserve the existing supply of affordable rented housing. However, we recognise that the proposals in the Bill have been framed with a view to protecting the rights of existing tenants.

5. We welcome the proposals to end the Right to Buy:
   - for new supply social housing
   - for new tenants

6. The SFHA notes that the baseline date proposed for defining new supply social housing is 25 June 2008, the date on which the Depute First Minister first announced the Government’s intention to end the RTB for new supply. The SFHA believes that a more appropriate date to use would be the date on which the Modernised RTB came into effect through the 2001 Act, that is, 30th September 2002. If this date was to be taken, it would have a neutral effect on current tenants, as they would continue to have their existing rights. The advantage for housing staff and tenants would be that they would only have to use one date for defining the beginning of the Modernised RTB and for defining new supply, greatly simplifying matters for all concerned.

7. The SFHA supports the proposed reforms to Pressured Area Designation. We believe that Pressured Area Designation has been under-used since it was introduced and we would hope that the reforms will encourage more local authorities to use it. The SFHA would like to reiterate the proposal we made
during the consultation period. It would be of great benefit to rural associations and co-operatives if Pressured Area Designation was the default designation in any local authority area and that any deviation from this would have to be the subject of a detailed case made by the local authority.

8. The SFHA believes that all charitable housing associations should be exempt from the RTB in perpetuity, irrespective of the date on which their charitable status became effective. We understand that there are around 15 charitable organisations who would not meet the cut-off date proposed in the Draft Bill, placing around 7000 properties at risk of becoming eligible to be bought under RTB in 2012.

The Scottish Housing Regulator

9. The SFHA welcomes the proposal to establish the Scottish Housing Regulator (SHR) as an independent body. We are pleased that there will continue to be a housing specific regulator.

10. We welcome the confirmation in the Bill that the SHR will monitor, assess, report upon and where necessary, make regulatory interventions on the performance of housing activities by all social landlords.

11. The SFHA welcomes the commitment given in the Bill that its proposals will deliver a risk-based and proportionate regulatory regime. However, we know that the deliverability of this depends upon the content of the various streams of guidance that will be coming out for consultation. There are significant additional powers being awarded to the SHR and we will wish to be assured by the guidance on their use that any regulatory action will be genuinely risk-based and proportionate. We believe that the regime must be as transparent as possible about what is being regulated and how. The SHR needs to understand and support the diversity of our sector and that this will require flexibility in the delivery of the regime.

12. The SFHA believes that a robust regulatory framework must be founded upon the twin principles of proportionality and transparency. We want to be assured that there will be sufficient accountability mechanisms in place to ensure that a transparent and proportionate regulatory regime is delivered and to this end, we would like to pose a question to the Committee:

13. Given that the SHR will be accountable to Ministers, does the Committee consider itself to be the appeal mechanism for any regulated organisation who feels that it has received an unjust or unreasonable assessment of its performance

14. The SFHA is opposed to any moves to charge our members for regulation. This would only serve to increase the operating costs of the sector and would eventually impact on the rents charged to tenants. We recognise that this power existed in the 2001 Act and has never been used. We are pleased that our plea has been heard and that the SHR will now be required to consult stakeholders upon and submit for Ministerial approval a fee charging scheme.
15. The SFHA wishes to draw the Committees attention to some of the comments that we made within our evidence to the Finance Committee, specifically our plea that the SHR has access to sufficient resources to develop and maintain the well-qualified, experienced and highly motivated staff team that it will need to be able to consult on all of the forthcoming guidance/new codes, and to deliver the new focused regime.

16. The SFHA supports the principle of requiring the SHR to co-operate with other regulators. We believe that the further development of the Crerar Report’s recommendation of a common database for all regulators will assist in this. The SFHA has discussed the “passporting” principle previously with the Regulator and we are keen to revisit this.

Registered Social Landlords
17. The SFHA has welcomed the clarification that existing RSLs do not have to re-register under any new registration criteria. The wording of the Draft Bill had implied otherwise.

18. The SFHA is also pleased that the Government has listened to our objections to profit distributing organisations becoming eligible to register. We recognise that our members will be concerned that the Bill allows for registration of landlords from outside Scotland but we acknowledge that the Policy Memorandum explains that this is required in order to comply with the EU’s European Services Directive. We will be monitoring the impact of this on existing RSLs in Scotland.

Performance of Social Landlords
19. The SFHA agrees that the regulatory regime should focus on organisations who are not performing as well as others and that it should be a lighter touch for everyone else. As the representative body for housing associations and housing co-operatives, the SFHA is committed to providing support and advice to promote continuous improvement. We are currently developing this core function, in collaboration with experienced partners from both within and out with the sector.

20. The SFHA was pleased to see more contextual detail about the proposed Scottish Social Housing Charter in the Policy Memorandum. We agree that tenants’ experience of landlord services must be at the heart of the new standards. We welcome the statements that the Charter will be based upon what good landlords do already and that it will not require disproportionate reporting to the SHR, nor impose unfunded new burdens on landlords. We also note that it is likely to cover housing and related activities. The SFHA would wish to stress that housing associations and housing co-operatives in Scotland deliver core functions in terms of building and managing sustainable affordable rented housing, developing sustainable communities and are increasingly delivering a range of community and social enterprise initiatives.

21. We remain uncertain about the nature of the proposed “local” outcomes and about whether high level outcomes can be measured in a transparent manner. We acknowledge that there is plenty of scope during the various stages of
discussion and consultation for the SFHA and its members to participate fully in the shaping of the Charter and we are committed to doing so. We must put on record, however, that a number of our members are not persuaded that the existing Performance Standards require replacement.

22. We support the framework proposed in the Bill for the assessment of social landlords’ housing activities, including monitoring compliance with the Charter, setting performance improvement targets and enforcement powers to ensure compliance with the framework. However, we must reserve judgement as to its transparency and proportionality until the consultation drafts of the various elements of guidance become available. We will participate fully in all of the streams of discussion and consultation proposed throughout the Bill’s regulatory regime provisions.

23. We welcome the principle of a Code of Conduct on governance and financial accountability to replace the existing Schedule 7 requirements. The latter have had some unintended consequences for remote rural and small community based organisations who wish to regenerate their local economies. We will participate fully in the forthcoming consultation and will be seeking to ensure that the new Code retains sufficient safeguards to ensure the continued good reputation of the sector.

24. We note the reassurance that the data required of landlords will be that which a good landlord is already collecting by self assessment, performance monitoring and continuous improvement. The SFHA will be working to try to bring together the numerous benchmarking clubs and groups in Scotland to maximise the opportunities for benchmarking. The SFHA has intimated this to the SHR. We note that the SHR will be consulting on how it will assess performance and we would expect this to clarify its expectations around self-assessment information.

25. We welcome the principle of annual reporting by the SHR of its assessment of social landlords’ housing activities and note that it must highlight strengths/good practice as well as areas for improvement. We note also that the report will comment where any costs are unnecessarily or unintentionally high. We agree that social landlords must provide good value for money and therefore must be as efficient as possible. However, we believe that the high quality services provided by our members have a significant social value and that the assessment should take account of this.

Inquiries and Intervention

26. We note the range of new powers for the SHR to inquire and intervene. The Policy Memorandum explains clearly why the new powers are being introduced and whilst we have no objection to any of these new powers in principle, we must reserve judgement about the transparency and proportionality of their use pending sight of the various pieces of draft guidance.

27. We would wish to question the appropriateness of the term “inquiry” as a replacement for “inspection”. Given the range of types of “inquiry” proposed,
we feel that the term gives a misleading impression. It implies that something very wrong has occurred, whereas many of the “inquiries” will be simple low level requests for information. We acknowledge that the Bill Team will have considered many alternatives prior to agreeing this term and having performed the same search for alternatives, we acknowledge the challenge. Perhaps the term “review” or something similar could be considered?

28. We note the new provision for tenants to provide the SHR with information on significant performance failures by social landlords and we look forward to further discussions with the SHR as to how this will be defined and the appropriate framework.

Consultation
29. As referenced throughout our evidence, there are several separate consultations that will follow the Bill and which will put detail onto the key principles outlined in the Bill. Whilst we have given our broad support for the key principles underpinning the proposed regulation and Right to Buy provisions, we may take a different view if we believe that any aspect of the detail causes us to be concerned on the grounds of proportionality and/or transparency.

30. We would also reiterate our earlier point about resources. The SHR will be facing a heavy programme of consultation on the application of its new powers, the new powers themselves and the delivery of a more focused, analytical regime. This will be extremely challenging in a climate of reducing financial resources and will impact on the quality of the regulation delivered.

SFHA
4th March 2010