FINANCE COMMITTEE

To—

- All local authorities in Scotland
- Association of Local Authority Chief Housing Officers
- British Holiday and Home Park Association
- Chartered Institute of Housing
- COSLA
- Glasgow and West of Scotland Forum of Housing Associations
- Homes for Scotland
- MECOPP
- Park Homes Legislative Action Group
- Scottish Association of Landlords
- Scottish Council for Single Homeless
- Scottish Courts Service
- Scottish Federation of Housing Associations
- Scottish Housing Regulator
- Scottish Rural Property and Business Association
- Shelter
- TPAS Scotland.

11 December 2013

Dear Sir/Madam,

**HOUSING (SCOTLAND) BILL**

The [Housing (Scotland) Bill](https://www.parliament.scot/bill/housing-scotland-bill) (the Bill) was introduced in the Scottish Parliament by the Scottish Government (SG) on 21 November 2013.

The Finance Committee has responsibility, within the parliamentary scrutiny process, for the *examination of the cost implications of Bills*. The Committee agreed to invite written evidence from the organisations identified above seeking a response to the specific questions attached to this letter.

Bill

According to the FM, “the Bill’s intentions are to provide the legislative basis for implementing Scottish Government policy priorities and achieving strategic housing objectives”.

There are 7 parts of the Bill for which the Government has identified costs and/or savings. The paper will consider the financial implications of each part in turn, following the structure of the Bill as follows—

- Part 1 – Right to buy
- Part 2 – Social housing
- Part 3 – Private rented housing
- Part 4 – Letting agents
- Part 5 – Mobile home site with permanent residents
- Part 6 – Private housing conditions
- Part 7 – Miscellaneous

The FM states that the Bill “does not give rise to any substantial costs” for the Scottish Administration, local authorities and other bodies and individuals. The FM identifies the most significant individual net cost per annum as being the loss of income to the Scottish Government arising from the end to the right to buy. Overall, net costs of between £1 million and £3 million per annum are expected to arise as a result of the Bill. The one-off costs to the Scottish Government associated with the Bill are estimated at between £270,000 and £400,000.

On costs to local authorities, the FM identifies the largest cost as arising from the provisions related to short Scottish secure tenancies where there has been a history of antisocial behaviour. The costs are estimated to amount to £760,000 per annum across all local authorities. This element of the Bill is also identified as resulting in costs to other registered social landlords (RSLs) estimated at £940,000 per annum. However, the FM also approximates savings of £1.68 million per annum for RSLs “as a result of reduction in legal costs outsourced and incurred...in respect of evictions and appeals.”

Table 2 of the Financial Memorandum, running from pages 39 to 47, sets out the additional costs and savings expected as a result of provisions being introduced.

Part 1 – Right to buy

Costs on the Scottish Administration
Part 1 of the Bill sets out provisions to end right to buy (RTB) entitlements for all tenants of social housing in Scotland. The FM states that “Ending RTB will have minimal impact on central government expenditure”. The receipts to the Government from RTB sales have been channelled into the Affordable Housing Supply Programme and the value of receipts from 2012/13 was estimated to be £2.3 million. The FM identifies the chief impact of this provision as being on social landlords’ capital receipts and rental income.
Costs on local authorities
The financial implications for local authorities arising from the Bill are set out as a balance between the loss of income from RTB sales and the longer-term benefit of continued rental income (net of associated operating costs) from the stock not sold as a result of the reform.

The FM sets out details of the model used by the Government to underpin its assumptions about the impact of this part of the Bill. Details of the financial impact of the various scenarios are set out in table 4 (page 54).

The FM notes that table 4 demonstrates that while the net rental surplus could be lower than capital receipts under preserved RTB terms it is likely to be higher under a range of “plausible assumptions”. The FM goes on to state that—

“…because the vast majority of sales are on the preserved terms, in most cases where the net rental surplus exceeds he capital receipt from preserved RTB, then the overall impact of the reform will also be positive on this measure, even if the rental surplus is less than the capital receipt from modernised RTB sales.” (paragraph 42)

Beyond the modelling of the impact on local authorities that looks at the sales receipts against rental income, the FM also states that—

“Local authorities will have improved ability to manage their assets, as there will be a more predictable revenue stream. This may give them greater confidence to borrow over the longer term.” (paragraph 31)

Referring to consultation with local authorities, the FM notes that “Most local authorities stated that the income lost as a result of losing RTB receipts would be minimal or not significant, and would be offset positively by rental income over the longer term, and outweighed by the positive effects of reforming the RTB more generally”. (paragraph 20)

Costs on other bodies, individuals or businesses
The FM states that “no additional costs have been identified for other bodies, individuals or businesses.

Part 2 – Social housing
Part 2 of the Bill makes provision in relation to three aspects of social housing: allocation of social housing, the short Scottish secure tenancy and the Scottish secure tenancy.

Costs on the Scottish Administration
The FM states that there are “no significant direct costs” for the Scottish Government associated with part 2 of the Bill. The FM recognises that there are some resource implications in relation to the production of guidance and secondary legislation but anticipates that these implications are “expected to be minimal and to be absorbed within existing budgets”. (paragraph 59)

Section 7 of the Bill introduces a new right of appeal which is expected to result in 50 cases per year. The FM states that the impact of this would be minimal with
additional costs estimated as around £5,000 per year. The FM anticipates this cost being absorbed within existing Scottish Court Service budgets.

**Costs on local authorities**
The FM sets out the anticipated costs on local authorities for each element of this part of the Bill in turn. Overall, part 2 of the Bill that is anticipated as having the greatest financial implications for local authorities.

In relation to the provisions regarding allocation of social housing, the FM does not anticipate any direct additional costs on local authorities. The FM states that “Local authorities will want to review their allocation policies” and notes that the estimated cost of revising an allocation policy is around £10,000. However, the FM then goes on to say that it is normal practice for local authorities to regularly review allocation policies and that therefore no additional costs on local authorities are expected in connection with this provision. (paragraph 63)

This part of the Bill also provides for social landlords to grant a short Scottish secure tenancy (SST), or convert an existing SST to a short SST, where the applicants have a history of antisocial behaviour. Landlords must also provide housing support services to enable the conversion of the short SST to a SST. (paragraph 268)

Paragraph 72 sets out that the total costs of providing housing support would be £3.05 million. However, the FM states that this figure is “expected to be a very high estimate of the potential costs” and explains that this is due to the figures being based on local authorities funding all of the housing support but that “stakeholders have said that the majority of housing support services are already being provided by NHS or social work due to the existing broader support needs of applicants” The best estimate of the costs on local authorities for this provision is £764,000, or 25% of the total costs.

The FM also identifies potential efficiencies of around £2.7 million if those in short SSTs desisted from future antisocial behaviour. However, the FM notes that “the extent to which efficiencies will result in financial savings for individual landlords will depend on the extent to which the efficiencies release staff to work on other things”. (paragraph 77)

The FM does not anticipate any significant direct costs on local authorities in relation to the provisions on the Scottish Secure Tenancy.

**Costs on other bodies, individuals or businesses**
As is the case for local authorities, the costs under this heading are considered for each element of part 2.

In relation to the allocation of social housing, the FM sets out similar considerations in connection with the review of allocations policy for RSLs as are set out above for local authorities. The FM notes that the provision introducing the right of appeal to the courts rather than complaint to the SPSO may result in additional costs for RSLs in relation to outsourced legal costs. Based on the number of complaints to the SPSO relating to applications, allocations and transfers in relation to RSLs, the FM estimates this cost at £22,000 across all RSLs. (paragraph 66)
In relation to the short SST, the FM sets out the following annual costs for RSLs—

- £645,000 in connection with the provision of housing support
- £276,000 to meet outsourced legal costs in relation to appeals of tenancy decisions.

Against this the FM also identified potential annual savings of £1.636 million in legal costs that will not require to be met as a result of reduced costs for evictions.

The provisions on the SST are also identified as producing annual savings in legal costs that will not require to be met as a result of reduced costs for evictions. The FM puts a figure of £48,000 on these savings. No additional costs are identified as arising from this element of part 2.

**Part 3 – Private rented housing**

Part 3 of the Bill sets out provisions in relation to the transfer of civil private rented sector cases (PRS) from the sheriff court to the First Tier Tribunal (FTT), introduction of tacit approval for landlord registration and third party reporting to the Private Rented Housing Panel (PRHP).

**Costs on the Scottish Administration**

The estimated costs for the PRS tribunal as set out in the FM are based on an assumed caseload of approximately 700 cases per year. The FM also notes that, dependent on the Tribunals (Scotland) Bill being passed by the Parliament, “the PRS tribunal will be part of a chamber within the FTT”. If other other housing-related jurisdictions were included, the FM states that “This chamber could have a significant overall annual caseload and so there are likely to be economies of scale over time”.

The set-up costs for the panel are modelled on three scenarios; consideration of 2, 6 or 10 cases per committee per day. The estimated costs for these scenarios are £130,793, £96,647 and £89,818 respectively. However, the FM does note that these costs have been estimated using costs from the recent set-up of the homeowner housing panel which was an extension of jurisdiction of the PHRP and that “some set-up costs may vary and there may be some additional costs”.

The estimated annual operating costs are modelled on the same scenarios. The highest estimate is £880,243, falling to £626,995 (6 cases) and £584,306 (10 cases). The FM states that the figures “are best estimates based on current information” and that there are “a number of factors which could alter the final figures”. The number of cases is identified as being the biggest variable that could affect costs and the FM notes that “a more accessible dispute resolution forum could receive more applications from private rented sector landlords and tenants”. (paragraph 112)

As a result of the transfer of cases to the FTT from the sheriff court, fee income for the Scottish Courts Service is estimated to reduce by £49,000 per year. The reduction in cases for the Scottish courts “is not likely to yield any realisable savings but may have a limited effect in allowing remaining cases to progress more efficiently”.

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As additional FTT members will be required to hear PRS tribunal cases, the Bill identifies recruitment costs for the Judicial Appointments Board for Scotland of between £4000 and £11,000, depending on the appointment process adopted. (paragraph 116)

For the tacit approval of landlord registrations, the FM anticipates a one-off cost to the Government of between £14,000 and £18,000 for changes to the landlord registration system and the updating of guidance. Costs of up to £5,700 for the Scottish Court Service in relation to summary applications for landlord registration are expected to be absorbed within existing budgets.

The Bill provides for discretionary powers for local authorities to apply to the private rented housing panel for a determination of whether a landlord has failed to comply with the Repairing Standard.

The FM notes that, as this is a discretionary power, it cannot say for certain how many cases may be referred to the PHRP. However, from a baseline assumption of it taking 10 to 15 years to deal with the total number of disrepair cases, the FM estimates two scenarios for potential costs; the PRHP hearing 650 cases per year over 10 years or 434 cases per year over 15 years.

The FM estimates that new members of the PRHP would be required to deal with the workload arising from this provision with the number of members required being 65 if cases are heard over 10 years and 43 if cases are heard over 15 years.

On the basis of the 10 year period, total costs set out in the FM are £125,418 in one-off set up costs and £652,000 per annum for operational costs. The costs over 15 years are estimated at £90,000 in one-off set up costs and £432,000 per annum in operational costs.

Costs on local authorities
Costs on local authorities arising from part 3 of the Bill are identified only in relation to the provisions for tacit approval of landlord registration. The costs anticipated relate to an application to the sheriff for an extension to the 12-month period in which landlord registration should be determined. The FM estimates the number of cases that will require application to a sheriff to be 60 per year, across all local authorities, with a cost per application of £500-£1,000.

Costs on other bodies, individuals and businesses
The FM does not anticipate any significant additional costs for other bodies, individual and businesses arising from part 3 of the Bill. However, the FM does note that there “are likely to be marginal training costs for advice organisations” in terms of ensuring staff are able to provide advice to clients about the appropriate dispute resolution processes. These costs are not quantified.

The FM also indicates potential savings as a result of cases being considered by a tribunal rather than in the sheriff court. The FM states that “it is not possible to quantify these potential savings at this time” but that “the Scottish Government will monitor the impacts of the PRS tribunal on the wider sector”.

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Finally the FM indicates that an amendment to the Bill at stage 2 in relation to enhanced enforcement areas is expected to incur costs for landlords for providing a Disclosure Scotland certificate (which costs £25 in 2013) on application every 3 years.

**Part 4 – Letting agents**

The Bill makes provision in relation to letting agents that will establish—

- a mandatory register of letting agents, including a fit and proper person test
- a statutory code of practice
- a dispute resolution mechanism for customers of letting agents.

The FM states that “no information in relation to how many letting agents are in operation in Scotland is available”. The FM explains that the estimates included in relation to part 4 have been calculated on the basis of the estimate of UK firms involved in letting agent activity, scaled to the percentage of UK PRS dwellings in Scotland and then applying the proportion of complaints per letting agency to this scaled number. The result of this calculation is therefore based on an estimate of 719 Scottish letting agents and the cost of processing 481 letting agent complaints per annum.

**Costs on the Scottish Administration**

The Government will “take on responsibility for management and delivery of the letting agent registration system, code of practice development and establishment and funding for a dispute resolution panel”. Only the last of these three items is expected to incur additional costs.

The costs of establishing a dispute resolution panel have been modelled on the existing PRHP, with the range of costs detailed on the basis of whether the panel would consider 2, 6 or 10 cases per day.

The annual operating costs for the panel are expected to be between £321,000 (10 cases per day) and £484,000 (2 cases per day). The first year set-up costs are indicated as being between £75,000 (10 cases per day) and £116,000 (2 cases per day). The FM does not indicate which scenario is expected to be the most likely.

**Costs on local authorities**

The FM does not identify and costs on local authorities in relation to this part of the Bill.

**Costs on other bodies, individuals and businesses**

The FM notes that the “introduction of a registration system will result in costs to individuals and businesses operating as letting agents”. Paragraph 216 of the FM states that a fee will be applicable to join the register, for requesting changes to registration details and/or when renewing a registration. It also states that “Fee levels will be set by Scottish Ministers”.

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Paragraph 192 provides an illustration of a three-yearly fee level of £250 per letting agent business, with no fees initially prescribed in relation to requests to amend existing details on the register. The FM states that “the total estimated income to the Scottish Government would be approximately £180,000 in the first year”. This figure can therefore also be read as the cost to the letting agent sector in Scotland.

The FM does, however, go on to note that the estimate “does not include any potential training costs or costs to alter business practices that a letting agent may have to undertake in order to comply with a code of practice”. It goes on to say, in relation to the estimate, that “Therefore, this may be subject to change”.

(Paragraph 219)

**Part 5 – Mobile home site with permanent residents**

The Bill provides for the updating of the licensing regime for residential mobile home sites with permanent residents.

*Costs on the Scottish Administration*

The costs to the Scottish Government for this part of the Bill are expected to be met within existing programmes budgets. The costs anticipated in the FM comprise between £600 and £1500 for subordinate legislation to implement the provisions and £10,000 one-off costs for the development and publication of guidance.

*Costs on local authorities*

The costs to local authorities are intended to be cost neutral, with the cost of carrying out work to licence sites being covered by the licensing fee. Any enforcement action is also anticipated as being cost neutral on the basis of costs being recovered from the site owner.

*Costs on other bodies, individuals and businesses*

The fee for a site licence is given as being around £600 – the FM states that this would total costs of £56,511 every three years across the sector.

**Part 6 – Private housing conditions**

No costs for either the Scottish Administration or local authorities are anticipated as a result of the provisions of this part of the Bill, which are intended to make more effective use of powers under the housing Scotland Act 2006 which allow local authorities to require home owners to carry out work need to repair or maintain private property.

The FM does not quantify what the expected cost of these provisions would be to other bodies, individuals and businesses. However, the FM does state that the powers may “encourage some private landlords to carry out work need to ensure that homes meet the repairing standard” and notes that the Scottish House Condition Survey of 2002 estimated the costs of essential improvements in private rented sector homes to be £223 million.
Part 7 – Miscellaneous

The FM indicates that there are no direct costs associated with this part of the Bill. Provisions in relation to exemptions from the right to redeem heritable security after 20 years are intended to ensure that certain schemes, such as Help to Buy of the Low-cost Initiative for First-time Buyers, operate in such a way that Scottish Ministers are not at risk of receiving the original value of the equity loan rather than the market value of its equity share at the date of redemption.

**Further information and how to submit evidence**

For information, the Infrastructure and Capital Investment Committee is the lead committee. It intends to take oral evidence in early before reporting on the Bill’s general principles in spring 2014.

To facilitate the parliamentary timetabling of the Bill, the Finance Committee invites you to respond to the attached questions by **Friday 31 January 2014**. All responses should be sent electronically (in MS Word - no confirmatory hard copy required) to finance@scottish.parliament.uk. Written responses will be handled in accordance with the Parliament’s policy for handling written evidence received in response to calls for evidence.

Please do not hesitate to contact me should you have any questions regarding this letter.

Yours faithfully,

Catherine Fergusson
Senior Assistant Clerk to the Committee
FINANCE COMMITTEE QUESTIONNAIRE

This questionnaire is being sent to those organisations that have an interest in, or which may be affected by, the Housing (Scotland) Bill's Financial Memorandum (FM) (page 36 of the Explanatory Notes).

In addition to the questions below, please add any other comments you may have which would assist the Finance Committee’s scrutiny of the FM.

Consultation

1. Did you take part in either of the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

2. Do you believe your comments on the financial assumptions have been accurately reflected in the FM?

3. Did you have sufficient time to contribute to the consultation exercise?

Costs

4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the FM? If not, please provide details?

5. Do you consider that the estimated costs and savings set out in the FM and projected over 15 years for each service are reasonable and accurate?

6. If relevant, are you content that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

7. Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Wider Issues

8. Do you believe that the FM reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?