Comments to the Infrastructure and Capital Investment Committee

Right to Buy

Advantages and disadvantages:

Tenants who have exercised their RTB

- The majority have done well i) by selling at a profit ii) renting out the property iii) improving the property, including extensions, to a greater degree than was possible for their landlord at the time
- Some have suffered i) through changes in circumstances ii) remortgaging up to the market value or taking out home improvement loans beyond their means (including changes in circumstances)
- Older tenants who were only able to buy through ‘gifted money’, usually from younger relatives i) security of tenure ii) sustainability eg repair costs iii) effects on DWP benefits through deprivation of capital rules

Remaining tenants have suffered

- At the beginning, RTB receipts went to central government (that has been rectified gradually over the years)
- There has never been a concomitant reduction in historic debt; fewer tenants are left to service the debts through their rents and the debt on each property has increased
- RTB led directly to a lack of investment in the housing stock, including modernisation, cyclical repairs and new build
- However, restrictions on RTB have encouraged modernisation and improvements in existing stock, and new build, even if the extent of the latter does very little to bridge the gap between supply and demand in social housing

Landlords

- The social sector has done very badly i) stock reduction ii) growing waiting lists iii) for Local Authorities, duties to the homeless iv) changing demographics vs the housing stock, not forgetting the under occupancy charge
- The private sector has benefited and extended through the reduction in available social housing

RTB was initially proposed by a Labour Government under Jim Callaghan. The further development of that under the Conservative Governments of Margaret Thatcher has been an unmitigated disaster, and resulted in the current housing crisis. RTB should be abolished as soon as is reasonably possible, and the proposed three year notice period is more than adequate, especially regarding older tenants as outlined above.

Moreover, existing legislation already concerning Pressured Area Status, states that tenants prior to PAS retain RTB, and those awarded tenancies thereafter, have no RTB. That will only lead to all Social Landlords applying for their entire housing stock to be under PAS, an excellent solution to retaining housing stock, and the decision is now in the aegis of LAs.

Any property bought under RTB must give due consideration to the value, and the projected lifetime, of improvements carried out by the landlord. The overall effect of that would be an increase in the market value of the property. The value of the property on the open market should be the sole criterion in determining the initial selling price. Currently, properties are undervalued as they have a sitting tenant, and the price is attenuated by TMV (tenanted market value).

The level and type of information to tenants on RTB given by social landlords will depend on guidance from the Scottish Government. Given that, cost could be a major factor if no additional funding is granted.

Allocations
Flexibility is an important feature, but not paramount. Its main role is concerning individual cases. There is also a need to consider local situations within the remit of a landlord who has a broad spectrum of properties and locations.

Age should not be a consideration outwith local letting initiatives that are moving towards specific housing needs. Mixed communities are a stated aim of the Scottish Government.

Each LA, regardless of whether or not they remain landlords, should operate a Common Housing Register. That should become mandatory, with financial assistance if necessary. That would help to standardise letting policies within local areas, if not nationally.

Regarding qualifying periods, it is best dealt with on a case by case basis. However, assignations and sub-lettings can be seen as a way to circumvent housing lists. The situation with carers can be more complex, especially if the carer has given up their own home (rented or owned). It is important to give due consideration to circumstances.

Antisocial behaviour

There are problems in legislating within this area. Each LA has its own Anti-social Behaviour policy (compulsory). However, those can vary widely, especially when it comes to applying to raise court proceedings. As a result, there is a risk that histories of ASB could be regarded as circumstantial evidence unless there is corroboration.

There are also instances where the ASB is not by the tenant/applicant, but by a minor, allegedly under their control, or by a previous associate they have been trying to avoid.

In any event, the proposed changes are minor and will have little effect. The only good point is the greater level of protection for complainants, especially third parties.

Private Sector

Tribunals are a good idea in general; they can provide more timely solutions in a less formal atmosphere, adjudicated by a panel, including housing experts, and not by a Sheriff of indeterminate knowledge of the rented sector. However, the substantial majority of heritable cases presenting at Sheriff Courts Civil are in the public sector. Extending tribunals to cover such cases would be advantageous, not the least in reducing the pressure on civil courts.

It is high time that letting agents were regulated. Not only would that lead to a reduction in sham contracts, but also a greater uptake in landlord registration.

Increasing LA powers to pay missing shares misses the point. If the landlord cannot be found or, more importantly, identified, the tenancy should be rent-free, as covered by existing legislation.

I trust that you find my comments helpful.

Dr Sam Hewitt
27 February 2014