Summary of Submission

In an atmosphere of almost complete uncertainty it is extremely difficult to predict whether any change as part of a post-Brexit deal will be positive, negative or neutral for SFHA members. Consequently, the SFHA is only able to comment on the potential implications for housing associations, housing co-operatives and social housing of Scotland leaving the EU, in broad terms across a number of what we have called ‘areas of concern’. These are:

- Demand for Social Housing and Development
- Construction and Health and Social Care Labour Forces
- Public and Private Funding for Social Housing (Domestic Funding, The European Investment Bank (EIB) and EU Funds, State Aid)
- Trade and Materials
- Law and Regulation
- Energy & Renewables

The UK’s membership of the EU did not pose any intractable problems for Scottish housing associations so the SFHA considers that any Brexit deal should enable the maintenance of the positive environment for housing associations that exists in Scotland. The SFHA would therefore urge both the Scottish and UK Governments to work together to ensure that this positive environment is maintained in the context of any Brexit deal. Further work with SFHA members will be required to pull together further information and any relevant figures related to our areas of concern. The specific questions posed by the Committee may be best answered by others but we hope that this submission is nevertheless helpful to the Committee in its deliberations.

1. Introduction

1.1. The SFHA remained neutral during the ‘Brexit’ debate and it is necessary for us to continue to do so. That, taken together with

- the almost complete uncertainty about what the future may bring as a result of Brexit
- our wish not to over speculate
- our wish to be brief and to the point
- the need to further consult with our members

means that, in this submission, we have chosen to outline broad ‘areas of concern’ for housing associations as opposed to advocating, at this stage, specific, detailed courses of political action in relation to those areas. We will do that in due course.

1.2. The areas of concern for housing associations that we have identified result mainly from the fact that they are economic entities operating within a market as
opposed to resulting from their specific purpose i.e. social housing. Consequently, any list of areas of concern risks being neither particularly housing-specific or in any sense exhaustive. They nevertheless provide a starting point for us and for those with an interest in our members’ sphere of operations.

1.3. Without adopting an overtly political position, it is true to say that the UK’s membership of the EU did not pose any intractable problems for Scottish housing associations. SFHA considers that any Brexit deal should enable the maintenance of the positive environment for housing associations that exists in Scotland (and which is now rather different from that which exists in England) as opposed to seeing it jeopardised. By saying that, we do not mean to imply that we assume any Brexit deal will *inevitably* jeopardise that environment. At this stage it is simply a risk.

1.4. In support of this submission, we would wish to draw the Committee’s attention to two recent briefings (one pre- and one post- Brexit vote), from our sister body the National Federation of Housing (NHF) in England with whom we continue to work closely on this issue. They offer very useful overviews of the issues for social housing and, differing political contexts aside, are generally as applicable to Scotland as to England.

1. **The EU referendum and housing associations**


2. **The vote to leave the EU – considerations for housing associations**

http://www.housing.org.uk/resource-library/browse/the-vote-to-leave-the-eu-considerations-for-housing-associations/

**Our Areas of Concern**

2. **Demand and Development**

2.1. Many tenants in the social rented sector are immigrants from the EU. It might be that they leave Scotland. UK citizens currently living in Europe might come back to Scotland and might require social housing. It is currently impossible to tell what this may mean in terms of numbers of people. It may throw up practical challenges in terms of managing demand but, given the diversity of social rented sector tenants overall, the number of people requiring social housing who do not yet have it and extant commitments to affordable housing in Scotland we do not currently consider that these potential outflows and inflows comprise a ‘disaster waiting to happen’. That said, if a significant number of those who did return were generally more reliant on health and social care services and *did* need social housing with those kinds of supports in place, it could change the nature of what housing was required and add to waiting lists if such housing was not readily available.

2.2. If Brexit affects demand for private sector housing and so affects the capacity or appetite of private sector developers to develop there may be a risk of a reduction in ‘Section 75’ developments. This is where under the Town and Country Planning
(Scotland) Act 1997 a proportion of a development for sale is given over to social rented housing as a condition of planning permission.

3. Construction and Health and Social Care Labour Forces

3.1. Housing associations commission developments but they contract out build. Any effect on the ability of the construction industry to build due to labour force shrinkage as a result of changes to immigration policy could threaten development.

3.2. Similarly, many EU migrants work in health and social care services, including those provided by or together with housing associations. Any effect on the capacity of health and social care services due to labour force shrinkage as a result of changes to immigration policy could threaten the provision of those services.

4. Public and Private Funding

Domestic Funding

4.1. If the UK economy is seen (and judged internationally) as weak and if any housing associations have exposure to elements of it that weaken as a result of Brexit there may be issues with accessing finance. However, Housing Association Grant (HAG) rate in Scotland (the current public funding for social housing as set by the Scottish Government) is far in excess of that in England and this arguably means that the Scottish sector remains an attractive option for private investment. Broadly speaking so far, anecdotal feedback from our members suggests that they are not encountering widespread reluctance from the private sector (mainly the retail banks) to invest in social housing being delivered by housing associations.

4.2. It has been suggested that a poorer UK state (as a result of a weaker economy) may not be able to afford its welfare bill because the state will see a reduction in its funds. This will, sooner or later, bite into the public money available for social housing tenants to, amongst other things, pay their rent. This in turn would bite into the income of those that provide social housing. This may turn out to be true but it is also true that the level of any welfare budget is a matter of UK and Scottish political priority rather than an immutable financial fact created by external circumstances and, whilst it is a risk, it cannot yet be assumed that this will be a consequence of Brexit.

The European Investment Bank (EIB) and EU Funds

4.3. Historically, the EIB has invested heavily in UK social housing. The UK’s shareholding in the EIB relies on a complex set of rules that were drafted with little expectation that any shareholder in the EIB would ever cease to be a member state of the EU. The UK has an approx. 16% share in the EIB. It seems likely that the UK’s relationship with the EIB would have to form part of any Brexit deal, as opposed to being left untouched.

4.4. Other EU funds include the European Social Fund (ESF), from which some housing associations have benefitted by way of funds to provide services beyond social housing, and the European Regional Development Fund (ERDF), which has funded work connected to regeneration initiatives.
4.5. Given the UK is a net contributor to the EU, the UK will not necessarily ‘lose’ financially in a direct way from non-involvement in the EU, as it may henceforth be able to keep the money it no longer pays to the EU. How that money is spent will be, of course, a matter of UK and Scottish political priority. We are aware of recent (August 2016) announcements by the current UK Chancellor on what UK Government monies may be made available to replace any funds that may be lost to organisations as a result of Brexit. The level and perceived adequacy of these monies are also matters of political priority and are for political debate within the UK. That said, in keeping with our comments above at paragraph 1.3 we would not wish to see valuable investment in social housing and related services withdrawn and not replaced to the detriment of those people that housing associations support or of housing associations themselves. This may be a particular risk if the Brexit deal struck requires the UK to pay into the EU as a condition of trading with the EU but renders the UK ineligible to receive funds from the EU because it is no longer a member.

**State Aid**

4.6. This is a complex topic and bears the reproduction here of the relevant paragraph from the second NHF briefing referenced above:

4.7. “There are scenarios therefore where the UK might no longer be subject to EU state aid rules, following the conclusion of exit negotiations. In such a scenario, there would be the opportunity for new flexible public funding mechanisms to be developed, but this outcome is subject to the Government making such funding available. If the UK enters new bilateral trading agreements with countries outside the EU, it is highly likely that these deals will contain outright subsidies prohibitions which would not be subject to the exceptions which exist under EU rules.”

4.8. It seems unlikely that any prohibitions on state aid introduced by new post-Brexit trade agreements would affect the primary subsidy to social housing in Scotland; the Housing Association Grant (HAG). As far as we understand it, social housing is not typically covered by such agreements where they already exist between other countries. However, such prohibitions may affect the ability of housing associations to involve themselves directly in other types of development that would not necessarily count as social housing (e.g. shared ownership).

**5. Trade and Materials**

5.1. Insofar as housing associations trade internationally, anything that makes this more difficult or expensive (for example because of the imposition of tariffs or a weak pound) is to be avoided. That said, we recognise that Brexit may change the supply chain in ways that we can’t say will be automatically problematic. To take one small example, the UK is a net importer of building materials, specifically bricks, from the EU. If that source of materials became unaffordable, for whatever reason (e.g. tariffs, exchange rates), it would be a problem but we recognise that there might also be an opportunity for domestic suppliers to step in, at an affordable cost.
6. Law, Regulation and Tax

6.1. So many EU-generated laws and regulations affect housing associations as economic entities, as opposed to affecting them because of their purpose (to build social housing), that it is impossible to consider them all and not all of them are universally seen as ‘bad’. Procurement law is perhaps a specific example that is worth singling out. Housing associations are subject to procurement rules because of the interpretation by the UK Government (made circa. 2004, the UK being the EU member state) of a decision of the European Court of Justice (made circa. 2001) with respect to a French provider of social housing. One might argue that procurement law is a likely and even desirable candidate for repeal post-Brexit as it is complex, bureaucratic and challenging to comply with. However, since the Scottish Government (SG) chose to go further than EU law required in its Procurement Reform (Scotland) Act 2014 (which, being domestic legislation continues in force despite Brexit), presumably because the SG valued what procurement law could do for Scotland, one might assume that the SG would be unlikely to repeal that law any time soon.

6.2. When it comes to tax law, VAT results from EU membership and could therefore become a casualty of Brexit, perhaps a much welcomed one. However, VAT brings in such a huge amount of revenue for the UK Government that it is barely conceivable that it would not be replaced by a UK equivalent.

7. Energy

7.1. Various funding for measures that support energy efficiency comes via the EU. With respect to such funds we refer to our points above at paragraphs 4.3 to 4.5

8. Conclusion and Call for Action

8.1. In an atmosphere of almost complete uncertainty it is extremely difficult to predict whether any change as part of a post-Brexit deal will be positive, negative or neutral for SFHA members. The areas of concern outlined above will provide the focus for SFHA’s work on Brexit going forward.

8.2. As the UK’s membership of the EU did not pose any intractable problems for Scottish housing associations, SFHA considers that any Brexit deal should enable the maintenance of the positive environment for housing associations that exists in Scotland as opposed to seeing it jeopardised.

8.3. SFHA would therefore urge both the Scottish and UK Governments to work together to ensure that this positive environment is maintained in the context of any Brexit deal.