



LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

AGENDA

31st Meeting, 2017 (Session 5)

Wednesday 13 December 2017

The Committee will meet at 9.45 am in the James Clerk Maxwell Room (CR4).

1. **Decision on taking business in private:** The Committee will decide whether to take item 5 in private.
2. **Housing Amendment (Scotland) Bill:** The Committee will take evidence on the Bill at Stage 1 from—

Kevin Stewart, Minister for Local Government and Housing, William Fleming, Head, Housing Services Policy Unit, Yvonne Gavan, Senior Policy Officer, Housing Services Policy Unit, and Heike Gading, Solicitor, Scottish Government.

3. **Housing (Amendment) (Scotland) Bill (in private):** The Committee will consider the evidence heard earlier in the meeting.
4. **Work programme (in private):** The Committee will consider its work programme.
5. **City region deals:** The Committee will consider a draft report.

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The papers for this meeting are as follows—

Agenda item 2

Note by the Clerk

LGC/S5/17/31/1

PRIVATE PAPER

LGC/S5/17/31/2
(P)

Agenda item 4

PRIVATE PAPER

LGC/S5/17/31/3
(P)

Agenda item 5

PRIVATE PAPER

LGC/S5/17/31/4
(P)

Local Government and Communities Committee

31st Meeting 2017 (Session 5), Wednesday 13 December 2017

Housing (Amendment) (Scotland) Bill: Note by the Clerk

Purpose

1. This paper provides background information on the Committee's scrutiny of the Housing (Amendment) (Scotland) Bill (the Bill).

Background

2. The Office for National Statistics (ONS), recently held a review of the status of Registered Social Landlords (RSLs) and deemed that, as they are subject to an element of control by the Scottish Housing Regulator and Local authorities, their status should be changed from private sector bodies to public sector bodies in the national accounts. The implications of this being that, when reclassification takes effect, any borrowing undertaken by RSLs would be counted as borrowing by the Scottish Government.

The Bill

3. This Bill aims to remove or limit some of the powers from the Scottish Housing Regulator and Local Authorities that will enable the ONS to reclassify RSLs back into the private sector, but also to make sure that the SHR can continue to protect the interests of tenants and others who use the services of RSLs.
4. The Bill therefore proposes to reduce the powers the SHR has to:
 - Appoint a manager to a RSL;
 - Suspend, remove and appoint officers of a RSL;
 - Exercise control over the disposal (e.g. a sale) of land and housing assets by a RSL (by requiring a RSL to obtain the Regulator's consent to a disposal);
 - Exercise consent over any changes to the constitution of a RSL;
 - Exercise control over voluntary winding-up, dissolution and restructuring of a RSL (mainly by requiring a RSL to obtain the Regulator's consent to these actions).
5. The Bill also gives Scottish Government Ministers the power to bring more legislation to the Scottish Parliament to make further changes to the power of the SHR to control RSLs. The Scottish Government has stated that these will only be used should the current proposed measures not be enough to persuade the ONS to reclassify RSLs as private bodies.
6. The Bill also gives Scottish Government Ministers the power to make further legislation in the Scottish Parliament to limit the influence that a local authority can have over a RSL. Local authority influence over RSLs mainly exists in areas

where there has been a wholesale transfer of local authority housing stock to a RSL. The Scottish Government has confirmed that it will use this power so local authorities may only nominate up to a maximum of 24% of the board members of an RSL, and may not exercise control over RSLs.

7. The ONS has not confirmed at this stage whether the measures will be adequate to fulfil its intended purpose, however, the Scottish Government confirmed that similar measures taken in England and Wales were successful in reclassifying RSLs as private bodies for the purposes of accounting.
8. The Bill (and its accompanying documents) is available on the Parliament's website here:

<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/105852.aspx>

Local Government and Communities Committee Consideration

9. The Parliamentary Bureau designated the Local Government and Communities as lead Committee for scrutiny of the bill as it is responsible for scrutiny of housing matters.
10. The Committee issued a call for views on the bill on 8 September 2017 which closed on 26 October 2017. The Committee received 16 responses which are available of the Committee's website here:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/106440.aspx>

11. A summary of the Bill is available here:

http://www.scottish.parliament.uk/S5_Local_Gov/Inquiries/A_guide_to_HABillFINAL.pdf

12. A SPICe briefing on the bill, providing more detailed information and analysis of the submissions received, is available here:

<https://sp-bpr-en-prod-cdnep.azureedge.net/published/2017/11/16/Housing--Amendment---Scotland--Bill/SB%2017-78.pdf>

13. The Committee took oral evidence from the following at its meeting on 29 November 2017:

- George Walker, Chair, and Michael Cameron, Chief Executive, Scottish Housing Regulator;
- Sally Thomas, Chief Executive, Scottish Federation of Housing Associations;
- David Bookbinder, Director, Glasgow and West of Scotland Forum of Housing Associations;
- Daren Fitzhenry, Scottish Information Commissioner;
- John Marr, Senior Policy Adviser, UK Finance.

[Link to Papers for meeting on 29 November 2017](#)
[Link to Official Report of meeting on 29 November 2017](#)

14. The organisations who gave oral evidence on 29 November 2017 were invited to provide any further information that they felt would be helpful to the Committee as part of its scrutiny of the Bill. Responses have been received from Glasgow and West of Scotland Forum of Housing Associations and the Scottish Housing Regulator and these are attached at **Annexe A**.
15. The Committee will take evidence from the Minister for Local Government and Housing on 13 December 2017.

Other Committee Consideration

16. The Finance and Constitution Committee issued a call for views on the Financial Memorandum of the Bill on 4 September 2017 which ran until 13 October 2017. It received 5 responses and agreed to take no further action. The responses received are available here:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/106009.aspx>

17. The Delegated Powers and Reform Committee considered the Bill at its meeting on 8 November 2017 and agreed to ask questions of the Scottish Government in writing on certain powers within the Bill. A copy of the Committee's correspondence is available here:

http://www.parliament.scot/S5_Local_Gov/Inquiries/20171120_HAB_ScotGovToDPLRCommittee.pdf

18. The Delegated Powers and Reform Committee's report on the Bill was published on 28 November 2017 and is available here:

<https://sp-bpr-en-prod-cdnep.azureedge.net/published/DPLR/2017/11/28/Housing--Amendment---Scotland--Bill-at-Stage-1/DPLRS52017R57.pdf>

Next Steps

19. Following the evidence session with the Minister for Local Government and Housing, the Committee will consider the evidence heard before deciding on its next steps to take as part of its scrutiny of the Bill.

Annexe A

Correspondence from Glasgow and West of Scotland Forum of Housing Associations (GWSF) to the Clerk of 5 December 2017

Dear Jane

Evidence session 29 November – Housing (Amendment) (Scotland) Bill

Thank you for your letter of 4 December, and in particular for drawing attention to the report published by the Delegated Powers and Law Reform Committee, which was referred to during the evidence session on 29 November.

GWSF notes the DPLR Committee's concerns over Sections 8 and 9 of the Bill, and its view that the enabling powers to use regulations to make further changes to the powers of the Scottish Housing Regulator are drawn too broadly.

GWSF has no anxieties that these enabling powers will be used for any other purpose than responding – if necessary – to any ONS decision that the SHR still exerts too much control over RSLs to justify a reclassification of RSLs back to the private sector. However, we recognise and understand the Committee's concern and so would be happy for the enabling powers to be limited in an appropriate way.

Whilst there may be a number of options for limiting the enabling powers, we believe that putting a timescale limit on the use of the enabling powers – for example three years from enactment of the Bill – may be the most straightforward. We would of course be happy for other options to be explored, but would hope that agreement on this can be reached quickly so as not to delay the Bill's passage.

With thanks and best wishes,

David Bookbinder
Director, GWSF

**Correspondence from the Scottish Housing Regulator to the Convener of 6
December 2017**

Dear Bob

Housing (Scotland) (Amendment) Bill

Thank you very much for inviting Michael and I to the recent evidence sessions with the Committee.

After reflecting on the discussion on the Housing (Amendment) (Scotland) Bill, we would like to provide additional information on section 8.

We recognise the necessity of the proposed regulation making power for Ministers in section 8 of the Bill. We see the value in a sunset clause for section 8 as proposed by UK Finance. A level of certainty on our legislative framework is important to enable us to plan the delivery of effective regulation of social landlords over the medium term. In turn this will give social landlords, and their lenders and investors, certainty on what they can expect from regulation.

Please do get in touch if you would like to discuss this further.

Yours sincerely

George Walker
SHR Chair