

## ANNEX A

# CONSULTATION ON A STRATEGY FOR THE SCOTTISH PRIVATE RENTED SECTOR



## RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

### 1. Name/Organisation

Organisation Name

West Lothian Council

Title Mr  Ms  Mrs  Miss  Dr  *Please tick as appropriate*

Surname

Edwards

Forename

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### 3. Permissions - I am responding as...

Individual

/

Group/Organisation

*Please tick as appropriate*

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

*Please tick as appropriate*  Yes  No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

*Please tick ONE of the following boxes*

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available? **Yes**

*Please tick as appropriate*  Yes  No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

Yes

No

## CONSULTATION QUESTIONS

1a. Do you agree with the vision and strategic aims proposed by the Scottish Private Rented Sector Strategy Group, for the sector over the next 10 years?

Yes  No

If not, please explain why, offering your own views.

1b. Do you agree with the key strategic challenges for the sector?

Yes  No

Are there any other key strategic challenges that should be highlighted in the strategy? Please provide reasons for your answer.

**Investment** – The general principle of bringing in more investment to the sector is good and this should include investment to maintain and improve the quality of housing in the private rented sector. Some financial institutions impose conditions on mortgages that prohibit property being let to tenants on benefits. This needs to be reviewed

**Regulatory Framework** – As well as being effective, this needs to be effectively co-ordinated and adequately resourced.

**Better Energy Efficiency** – There is a need for a range of incentives (and possibly penalties) to ensure landlords improve energy efficiency in their property.

**Empowered Tenants** – Tenants should have access to advice prior to signing up so that they understand the implications of taking on the tenancy in terms of affordability (including energy costs) and security of tenure.

There are specific challenges associated with mixed tenure and better ways of addressing these need to be developed.

2. What can Scotland learn from the approach to the private rented sector taken in either of the two case study examples or other countries? Please state what specifically would be transferrable from these countries to Scotland why.

The encouragement of long term tenancies is worth considering. The experience from Ireland seems to be worth examining in relation to how it could be applied in the Scottish context.

A strong regulatory framework giving both tenants and landlords confidence in the market and levels of protection.

3. What more could the Scottish Government and Local Government do to encourage investment or to growth the supply of new homes in the private rented sector?

Encourage financial institutions to review their current lending policies to encourage investment. Enable more flexibility to lenders to provide affordable

homes for tenants claiming benefits.

The difference between VAT rates for new build and repair/refurbishment needs to be reviewed. Altering VAT on repairs and refurbishment could encourage greater investment in the sector and help the construction industry.

Tax Breaks – explore the possibility of tax breaks for registered and accredited landlords

Business Gateway – explore potential link to offer training, raise awareness on the “business” of becoming a private landlord.

4. What more can be done to support and encourage private landlords to invest in:

- a. maintaining and improving their properties condition; and
- b. the energy efficiency of their properties?

a. Consider how tax is applied to improvement and repairs on property. (See also response to Q7a

Simplifying the annual tax return system and providing a range of advice, information and assistance on this process.)

b Energy efficiency – access to a range of incentives is already being offered but there maybe opportunity to promote this further to the Private Rented Sector. West Lothian Council have recently extended the UHIS scheme to target private landlords specifically.

Linking the Council Tax banding and EPC rating to make a property more or less attractive to rent could encourage a landlord to improve its rating.

Consideration should be given to including Energy Performance Certificate in the tenant’s information pack along with a plain English overview of what it means for tenants.

Ensure tenants are made aware of what is available regarding energy efficiency and explore setting up of local Tenant Participation Groups with learning and mentoring from local Tenant Participation Groups.

5. Is better regulation of the private rented sector in Scotland required to improve standards of management and access to redress for consumers? If so, in what areas do existing regulations fall short and how could this be improved?

Better regulation is essential for the health of the sector as a whole.

There is a need to ensure that the Landlord Registration scheme is working effectively. The use of “light touch” in relation to current regulation is confusing for staff administering the scheme and undermines the degree and type of enforcement investigations which can be carried out. The scheme also requires to be adequately resourced. There should be tighter controls and enforcement.

Now maybe a good time to consider setting up an Advisory Group to consider how best to “police” the scheme and to explore any good practice examples throughout Scotland.

Consider using the Scottish Core Standards (Communities Scotland 2006) as the minimum standards required. Redress could be considered through extending the powers of the Private Rented Housing Panel for both landlords and tenants.

6. Are there non-legislative alternatives to improving quality of service within the private rented sector that may be as effective?

Better use of Landlord Accreditation and linking this with landlord registration. This will ensure the same standards are being applied across Scotland in line with

Scottish Core Standards. This will also enable access to training sessions and private sector advice to landlords across Scotland. West Lothian Council encourages landlords to become registered and hosts locally run courses. Publicity and education should actively encourage tenants to look for accredited landlords. Possible reduced registration fees for accredited landlords. Reduce reporting requirements for those landlords that are accredited.

7a. What more can landlord registration do to improve the quality of management in the sector?

Making more comprehensive use of the Fit and Proper Person regime. The current guidance should be considerably expanded to highlight the recent changes in the law and the potential matters which could be included in the scope of the regime. It should also give some detail on how individual local authorities should produce internal policies on F&PP checks which will stand up to scrutiny. One option may be to develop landlord registration to resemble some aspects of a licensing scheme to ensure that complaints could be investigated and referred to Committee if repeated breaches of conditions were alleged.

There is no direct link between failure to maintain a property and the “Fit and Proper Person Test under Landlord Registration. The legislation or guidance should make it explicit that the F&PPT should consider whether there is evidence that

- The home is defective, in disrepair
- Subject to a Repairing Standard Enforcement Notice
- The landlord has failed to pay a debt incurred against the local authority or other party where works have been carried out under statutory powers or the Tenements Act.

7b. What further action can be taken to ensure that landlord registration can be effectively enforced?

The guidance which refers to “a light touch” means that in practice anyone can apply to be registered without their identity or their previous convictions being checked. This needs to be reviewed.

*There is a need to consider imposing a duty on a local authority to enforce and provide sufficient resources to do so.*

7c. Are there ways of simplifying the burden for good landlords?

Landlord Accreditation deliver training sessions, provide good practice documentation. Tenants and landlords information packs and offer advice to reduce the burden.

Local Deposit Guarantee Schemes or Local Authorities who have a Private Sector Team usually give advice, assistance and information on setting up, managing and ending tenancies. Consideration should be given to a wider range of publicity for these local schemes for more resources at local level.

West Lothian Council encourage private sector landlords and agents to work with them to ease their burden. Once they are registered and accredited they are then offered access to a housing officer with private sector knowledge who will assist them in setting up, managing and maintaining tenancies. This also includes free access to advertising their properties on

<http://www.westlothianhomechoice.co.uk/Home> which is a web based property portal also offering advice on housing options locally.

We get continual feedback from applicants for landlord registration that the landlord registration website is very difficult to use. Many applicants who are

otherwise used to online applications give up and apply via the paper route. This needs to be fixed urgently. The part of the system dealing with joint owners needs to be simplified.

Consideration should be given to creating flexibility in the period of registration. Landlords against whom there have been no justified complaints should get additional time for their landlord registration. Those against whom justified complaints exist should have their registration period shortened.

8. What further action can be taken by local authorities and their community planning partners to help remove the worst landlords from the private rented sector in Scotland?

Providing greater assistance advice information and ease of access to training sessions to enable landlords to change their practices prior to removing from the sector. Need to ensure that there is sufficient support to pursue landlords that are not meeting the required standards. If landlords do not engage to change their practices then the penalties for being “unfit” landlords need to be clear and easy to enforce. There needs to be a robust mechanism for preventing “unfit” landlords from continuing to let property. Greater joining up of complaints against landlords so that it is clear which ones are the persistent offenders.

Ensure Tenancy Deposit Schemes processes and Landlord Registration are joined up to identify “unfit” landlords. Explore possible on the spot fines for landlords who choose to ignore becoming registered.

9. How can problem tenants living within privately rented properties be dealt with more effectively?

Consider focusing on tenants’ responsibilities more effectively at the beginning of a tenancy. Deliver tenants’ information session locally to go through all aspects of being a tenant to ensure they understand their rights and responsibilities. This requires to be delivered in a way that is easy to understand, in plain English and not the legal jargon used throughout the signing up process. The Tenant Information Pack will be a useful tool to assist through the process but consideration needs to be given to using plain English and to ensure it is understood by tenants.

There is a clear training need to help landlords assess prospective tenants more effectively. There is also the need to promote the use of mediation to address tenancy disputes.

10a. In addition to action on tenancy deposits and illegal premiums – what more can be done to address the problems identified from poor letting agent practice?

Consideration should be given to regulation in this sector. This would include compulsory training for all staff within the agency to ensure they adhere to the Scottish Core Standards and are kept up to date with Private Sector Legislation. Landlord Accreditation Scotland could be encouraged develop more courses aimed at training Letting Agency staff and explore providing a recognised qualification. This could be a mixture of face to face training and on line training that could become recognised by SQA. A specific training session should be considered to explain to agency staff the contents of the lease so they are confident to go through the lease with tenants.

10b. Is further regulation of letting agents in Scotland the answer?

Yes  No

If you think that it is, please provide reasons for your answer, explaining what the best format might be for regulation. For example:

- expansion of landlord registration to include all agents;
- a separate system for agents similar to that proposed for property factors due for implementation in October 2012; and/or
- a legal obligation that all agents must be a member of a recognised professional body.

Consideration should be given to making it compulsory for all agents to be registered and that the same "fit and proper" test is applied. Landlord Accreditation Scotland is already providing training to landlords/letting agents across Scotland. Consideration could be given to developing the services they offer to assist with the regulation of agents.

11. What more can be done to provide better access to justice for tenants, landlords and local authorities pursuing housing related cases?

PRHP currently make it quicker and easier for tenants to make landlords meet their legal obligations. Landlords may be willing to meet their obligations but unable to do so therefore we should provide an opportunity for issues to be investigated and allow for the possibility of action being taken to resolve things. This needs to be better publicised to inform, advise and offer assistance on how to resolve issues early. Consideration should be given to expanding the powers of the PRHP with training on their services delivered through Landlord Accreditation training sessions across Scotland.

Consideration should be given to PRHP becoming involved in mediation when a tenancy looks like it could break down to try and resolve any issues as early as possible. If this is not possible, through PRHP, consideration should be given to joining up local mediation services with those delivering private rented services within local authorities so they can respond quickly.

Procurator Fiscal specialists on Environmental or Workplace Health and Safety crime exist. Consideration should be given to creating Housing specialist Procurators Fiscal.

12. Do you think that consumer empowerment can succeed in providing improvement in quality and standards in the private rented sector? Please provide reasons for your answer.

Tenant Information Pack may help as this will offer structure to the information that will be required to be provided at the start of a tenancy. Consideration should be given to ensuring the content of the pack is in plain English and that landlords/agents take the time to go through this information with tenants.

Consideration to having more information on what the landlords should have in place to be registered along with advising tenants what their landlords should have in place.

Better advice and information on the PRS needs to be made available more widely so that tenants and landlords know and understand their rights and responsibilities. Consideration could be given to setting up of Tenant Participation Groups for the private sector who could be involved in local and national barriers rather than

“professional” trying to say what’s best for them.

13. What more can be done to support and empower consumers in the private rented sector?

Tenant information pack may help if the pack is structured in a logical and easy to understand format. It is important to make available high quality, easy to understand advice from a range of sources.

Consideration could be given to local authorities to developing a private sector team of staff who are trained not only in housing but specifically private sector legislation and practices. If the sector continues to grow and increasingly used to assist people in housing need a dedicated local authority team would provide the level of expertise required to develop effective partnerships and provide high quality advice and assistance to tenants and investigate options of longer term leases.

14. What more can be done to improve consumer awareness of rights and responsibilities in the private rented sector?

Publicity campaigns both at national and local levels

Information and advice in plain English

Identifying good practice throughout Scotland and ensuring there is a platform to share across all local authorities to enable cost effective replication.

15. What more can be done to meet the demand for longer tenancies and greater security of tenure through the existing Short Assured Tenancy, for those tenants and prospective tenants that desire it?

Promote advantages of longer tenancies for landlords and tenants

Promote to landlords, agents and tenants that a SAT does not have to be for agreed for the minimum period of 6 months. Consideration could be given to encouraging landlords / agents to be more flexible to tenants’ circumstances and not to always go for what has become the norm over the years.

16. Should the Scottish Government consider alternatives to the Short Assured Tenancy in order to enable greater tenancy security? If so, what would be the conditions that would need to be met for this to work for landlords as well as tenants? Please provide reasons for your answer.

Yes, other options should be considered and could be agreed taking into account individual tenants circumstances. If local authorities have a private sector team they could mediate especially with ‘vulnerable’ tenants and landlords to ensure the tenancy was suitable to both their circumstances.

If more time is spent at the beginning of a tenancy, matching tenants, discussing needs, length of tenancy, affordability etc then this should assist with long term sustainability within this sector which in turn will reduce costs for both landlords and tenants.

Generally as part of housing options approach, there should be a range of flexible options available but would require more dialogue with landlords and agents locally to discuss their requirements and aspirations. This could be discussed at Landlord’s Forums or by setting up local Steering Groups or possible through discussions at Landlord Accreditation Training sessions which are well attended and run throughout Scotland.

Could sign up for longer tenancy be done at the same time as the SAT but with the tenancy only extending if the landlord and tenant are happy to do so. (this could link too with the proposals outlined in the Affordable Rented Housing consultation)

17. What more can be done to ensure that vulnerable tenants living within the private rented sector are aware of their rights and responsibilities?

Advice and information should be provided in ways that are accessible and in places where people go to. Consideration should be given to local authorities having a Private Sector Team who would be responsible for raising awareness. Information should also be made available through housing options interviews if tenants express interest in private sector housing. Consideration could be given to further develop [www.westlothianhomechoice.co.uk](http://www.westlothianhomechoice.co.uk) to include information, advice and helpful tools to assist with raising awareness. Consideration should also be given to raising awareness and identified training for professionals who work with tenants in private sector housing as there is currently a lack of awareness around rights and responsibilities.

18. What more can be done by the Scottish Government to mitigate against the UK Governments Welfare Reforms that affect the private rented sector?

Consideration could be given to continuing the Advisory Group that was established to assess the impact on the welfare reform. This Group could focus on ways to mitigate against this and explore the way forward to prevent debt and homelessness.



## **ANNEX B**

### **SCOTTISH PRIVATE RENTED SECTOR STRATEGY GROUP**

The remit of the Scottish Private Rented Sector Strategy Group is to advise the Scottish Government on the development of a strategy for the private rented sector in Scotland that will support tenants, landlords, local authorities and others to continue to encourage a flourishing, professional and high quality PRS equipped to provide sustainable housing solutions for Scotland in the 21<sup>st</sup> century.

Re-established by Scottish Ministers in September 2011 and independently chaired by Professor Douglas Robertson (School of Applied Social Science, Stirling University), the group is made up of representatives from the following organisations:

- Shelter Scotland
- Scottish Association of Landlords
- Scottish Land & Estates
- Chartered Institute of Housing
- City of Edinburgh Council
- COSLA
- Association of Local Authority Chief Housing Officers

Minutes of all six of the meetings which took place to inform the development of this consultative strategy are available on the Scottish Government [website](#). Alternatively, you can request copies by contacting Yvonne Gavan on 0141 271 3782.

In order to support the work of the group and the development of a strategy for the sector, the Scottish Government has also established a virtual Private Rented Sector Strategy Group which comprises of a wide range of individuals and organisations who have an interest in the future of the sector. During the development of this consultative strategy, the views and opinions of this virtual group were sought on a regular basis, in order to inform the discussions of the Scottish Private Rented Sector Strategy Group.