

Housing Rights

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Consultation Response

Proposals to seek reversal of the reclassification of registered social housing providers in Northern Ireland

February 2017

when everyone has a home

Introduction

Housing Rights is the leading provider of specialist housing advice in Northern Ireland. We provide advice, support and representation to our clients, supporting them to deal with their housing issues and sustain their homes.

Housing Rights welcomes the opportunity to respond to the Department's proposals to seek reversal of the ONS reclassification of registered social housing providers in Northern Ireland.

Summary

- **Housing Rights would urge the Department, under proposal A, to ensure that any social housing Regulator is explicitly independent, separate from public policy responsibilities and located outside of Government.** Such an independent Regulator could both follow best practice in this field, as established in Scotland, and contribute to the Department's objective of ensuring that registered housing associations are classified as private bodies.
- **Housing Rights** welcomes Proposal M, which would repeal or at a minimum make voluntary the "Right to Buy" house sales scheme, and **supports the full repeal of the "Right to Buy" scheme.**
- Whilst acknowledging the particular focus on the time-frame for enacting these proposals, **Housing Rights urges the Department to ensure that draft legislation enacting any proposals is subject to full consultation and scrutiny, by relevant stakeholders.**

1. Need for independent Housing Regulator

Housing Rights welcomes the paper dedicating a section to how tenants and the public interest will be protected in light of the proposed changes – specifically, the following:

*‘With the changes which are needed to legislation to facilitate a reversal of the ONS decision, **there is an opportunity to include a greater level of detail in the legislation with regard to the role of the [social housing] Regulator.** For example framing the objectives of regulation in legislation would strengthen the statutory basis for regulation and **with enhanced powers the Regulator would continue to provide protection for tenants and the public interest.**’¹*

To this end, proposal A would amend Article 4(1)(c) of the 1992 Housing Order, and introduce a new article dealing with regulation of the sector, and the protection of tenant and public interest.

When considering the nature and role of this social housing Regulator, **Housing Rights would urge the Department to ensure that the Regulator is explicitly independent, separate from policy responsibilities and located outside of Government.** Instituting an independent and legislatively based Regulator, which is free from Government policy and operational objectives, would help to ensure that the Regulator is free to focus solely on monitoring, enforcing and working to improve standards in social housing.

In this light, Housing Rights notes the experience of social housing regulation in Scotland.

The independent Scottish Housing Regulator was established in 2011. The Government’s aim in establishing this Regulator was to separate the policy role of Government from the Regulator’s role of measuring performance in social housing²; and to explicitly empower the Regulator to make judgments about service delivery, decide on how to discharge its own functions, and report on these publicly.³ The independence of the Regulator stems from the Scottish Government’s “Crerar Review” of regulation and inspection of public services in Scotland, which found that

‘The unique role of external scrutiny is to provide independent assurance that services are well-managed, safe and fit-for-purpose, and that public money is being used properly. The five guiding principles for external scrutiny should be public focus, independence, proportionality, transparency and accountability.’⁴

The Regulator’s objective, enshrined in statute, is to:

¹ Department for Communities (2016) ‘Proposals to seek reversal of the reclassification of registered social

² See Scottish Parliament (2010) ‘Housing (Scotland) Bill: Policy Memorandum’, p6

³ See Scottish Government (2007) ‘Firm Foundations: The Future of Housing in Scotland’, p54

⁴ See Crerar L (2007) ‘The Crerar Review: The Report of the Independent Review of Regulation, Audit, Inspection and Complaints Handling of Public Services’

‘Safeguard and promote the interests of people who are or may become:

- *Homeless;*
- *Tenants of social landlords; or*
- *Recipients of housing services provided by social landlords.*⁵

Housing Rights also supports a similarly broad objective for a Northern Irish Regulator, enshrined in law, which could ensure that an independent Regulator would have power to protect all recipients of social housing services.

Housing Rights further believes that **a commitment to an explicitly independent Regulator, placed on a statutory footing and situated outside of Government, could contribute to the Department’s objective of ensuring that registered housing associations are classified as private bodies.**

2. “Right to Buy” scheme

Proposal M states that the legislation establishing the “Right to Buy” scheme for registered housing associations in Northern Ireland ‘should be repealed or at a minimum amended to make the scheme voluntary.’⁶

The “Right to Buy” scheme increases pressure on the supply of social housing, running directly counter to the aim of the proposals, which is to ensure that registered social housing providers are able to continue to access private finance and build new homes. **Housing Rights therefore welcomes this proposal, and would support the full repeal of the “Right to Buy” scheme.**

3. Importance of full legislative process

Housing Rights notes that several of the proposals are to amend existing legislation, generally to clarify or frame when particular existing powers can be used.

Whilst acknowledging that there is a particular focus on the time-frame of placing proposals in law in order to reverse the ONS reclassification, **Housing Rights would urge the Department to ensure that draft legislation enacting any proposals is subject to a consultation and scrutiny, by relevant stakeholders.**

For more information on this policy response, contact our Policy & Public Affairs Officer,
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⁵ Housing (Scotland) Act 2010, para 2

⁶ DfC (2016) p14