

## 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

ALACHO ( Association of Local Authority Chief Housing Officers)

Title Mr  Ms  Mrs  Miss  Dr  Please tick as appropriate

Surname

Hayton

Forename

Jim

### 2. Postal Address

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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?

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  No

## CONSULTATION QUESTIONS

### Introduction

ALACHO welcomes the opportunity to comment on the draft strategy for the Private Rented Sector. We are pleased to have been represented on the Group established to prepare the strategy and to have contributed to its development.

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.

Having been represented on the Group, ALACHO is in broad agreement with the vision and strategic aims proposed for the Scottish private rented sector (SPRS) over the next ten years.

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.

The list of strategic challenges is comprehensive. However, the PRS cannot be considered in isolation. Overall, the key strategic challenge must be to fashion an economically efficient and functional Scottish housing system where a good quality, well regulated private rented system plays an important role in facilitating housing choice for Scottish citizens. In the medium to long term this must entail consideration of the relative tax treatment of different tenures, compared with a robust appraisal of the costs and benefits of subsidised social housing as compared with those of the private rented sector and owner occupation. No doubt due in large part to economic imperatives and the need to deal with a large supply deficit, at the moment it is difficult to see where the thinking is currently taking place on what a well-functioning, economically efficient, and equitable housing system should look like in modern Scotland. Even although it may be some time before we reach that destination, it is appropriate to keep it in mind as we seek to improve supply and conditions in the Scottish private rented sector..

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.

Scotland should learn from good and innovative examples of housing provision, funding and quality in any country where these are in evidence. Although only limited information is provided on the Irish and German PRS, the experience of both countries is clearly worth consideration. Ireland's longer term, more secure PRS tenancies and disputes resolution system are certainly worth exploring. Similarly, the long term stability conferred on the German economy through a stable housing system and the key role played by an efficient PRS in this system, is surely to be envied. To learn effectively from other countries' experience will however require in the medium - long term a clear vision and articulation of the values and principles which should underpin the housing system to which we in Scotland aspire. As noted above, we would benefit greatly from a "route map" to guide and inform housing investment and support for different tenures and alternative forms of provision. Otherwise we may simply be reacting to changing circumstances as they arise, on an opportunistic basis.

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?

As the draft strategy for the PRS highlights, the sector is already growing significantly within Scotland, although much of the growth is likely to have arisen from "buy to let" and tenure switch away from owner occupation into the PRS, rather than significant institutional or other investment in new PRS supply. That said, the government has been correct in extending flexibility to LAs and RSLs wishing to promote PRS initiatives as a response to demand in their areas, and some success has been achieved in promoting the NHT and other mid-market rent initiatives. The key to further growth lies in government permitting and resourcing local authorities and their partners the flexibility to develop effective responses to housing need and demand in their localities, including PRS and mid-market rent solutions, by supporting well-argued business cases for further development, and by helping to remove obstacles to development where these exist. This trend towards PRS growth and the potential reasons for this, together with the perceived and potential consequences arising from it, will no doubt be picked up and analysed through Local Housing Strategies, academic and government research. LHS are the best vehicles to identify the magnitude of need for new supply and to set out policies to address this. For its part, the Scottish Government should maintain and strengthen its efforts to generate additional and innovative sources of new investment for the sector.

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?

ALACHO believes that the emphasis in encouraging private landlords to improve properties through investment in maintenance and energy efficiency measures must be based on a reward and sanction based approach. Where public subsidy is involved, either through rent subsidy payments (LHA) or grant assistance, landlords must in turn be subject to compliance with specified quality standards or face sanctions for failing to do so, including withholding of rent or a prohibition on letting until any breach is resolved. This principle is especially vital at the lower end of the PRS market, where vulnerable families and individuals are to be found in ever increasing numbers. In broad terms ALACHO believes that the general thrust of the PRS strategy and other legislation is correct in moving towards this aim. We do however have some concerns about the capacity of local government to undertake an increased compliance role in the absence of resources adequate for this task. We say more on this elsewhere.

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 of the PRS in Scotland is undoubtedly required to improve standards of service and management throughout the country. Empowering tenants through innovations such as tenant Information packs and increasing means of redress in disputes will be meaningless if not backed by enforcement powers which are acted upon. There still appears to be a lack of awareness, wilful or unwittingly, among not only some landlords but also letting agents on the legal responsibilities with which they must comply. Compulsory registration of agents should be considered, as should more widespread use *and publication* of rent penalty notices and de-registration. Many councils would also like to see better liaison between themselves and local PRHPs, perhaps through the introduction of mandatory information exchange protocols. These might include a requirement for PRHPs to inform councils of all *referrals* (and not just outcomes) to facilitate better resolution. It will be obvious however, that increased regulation will require more resources, most probably directed to local authorities, to ensure that any further regulation is effective in its impact.

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

Improving quality of service in the PRS will occur when tenants are fully aware of their rights and responsibilities, and are assisted to enforce these by good quality advice and information from independent sources. A locally based "Hub" type approach is likely to be the best means of achieving this. However, landlords may also require assistance, either to negotiate the complex array of legislation and standards with which they must comply, or advice and information on issues shared in common with other landlords such as rent collection, negotiating the benefits system and impact of welfare reform, and dealing with anti-social behaviour. Many councils have

established local landlord forums to facilitate information exchange in these areas, and landlords' own representative bodies can also play a significant part here.

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

Some councils believe that, important though landlord registration is, resource constraints frequently inhibit the exercise of enforcement powers. Effective, adequately resourced compliance procedures would ensure not only that all landlords are properly registered as fit and proper, but also that sufficient checks were made to ensure that landlords are fit to operate responsibly on an on-going basis following registration.

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

Some councils would like to see more robust powers to inspect property where this is good reason to believe it is being let in very poor condition in breach of appropriate quality standards. In addition, the vital importance of empowering tenants through adequate and effective provision of information has been highlighted above, and is emphasised throughout ALACHO's response. The tenant Information pack should contribute significantly to this aim and facilitating the reporting of rogue or recalcitrant landlords.

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

It should be a clear objective of legislation in this area to ensure a fair distribution of rights and responsibilities between landlord and tenants. Over burdensome legislation could result in landlords either leaving the sector or simply failing to comply due to the costs involved. Through their local landlord forums or similar bodies, councils are best placed to identify ways in which good landlords, which hopefully means the majority, can be assisted or "rewarded" for ensuring the continued provision of good quality housing and service at reasonable rents. This could include assistance in finding tenants through a "trusted landlord" accreditation scheme, preferential access to grant funding and/or advice, or other incentives.

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 ?

The imposition of rent penalty notices or de-registration as a landlord under the "fit and proper person" test are effective sanctions for removing the worst performing landlords from the sector. However, the gathering of sufficient good quality evidence can frequently be a barrier to doing this. Consequently, effective sharing of information between different agencies with a locus in this area, especially the police and local authority, will be critical in this area, as will effective and confidential channels by which

tenants can report their experience of such landlords to councils. Similarly, the outcomes of local schemes, such as the Govanhill Hub initiative highlighted in the strategy, are clearly worthy of further analysis and sharing with others, who can then benefit from the dissemination of good practice.

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

Landlords should be made aware that tenant behaviour and compliance with tenancy conditions is their responsibility in the first instance. Councils however will be able to assist in many cases under their anti-social behaviour procedures, not least as they are likely to be contacted by neighbours in relation to the problem. This may include access to advice and information for tenants and landlords under homelessness prevention procedures, or direct intervention and assistance with evidence gathering for eviction in cases of more extreme behaviour. It is well known that neighbours and landlords alike frequently complain of the time taken to remove serious (and serial) anti-social tenants.

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?

There seems to be a growing consensus amongst councils that in common with landlords, letting agents should also be registered. A campaign of information and the identification and sharing of information and good practice would also contribute to raising standards amongst lettings agents.

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

Yes  No  (i.e. *part* of the answer)

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.
- 

Regulation would permit proper scrutiny of letting agents and help promote better standards of service to tenants. Experience would indicate that ultimately, only effective regulation, backed by robust sanctions for non-compliance, will protect the interests of tenants, many of whom are vulnerable to exploitation. ALACHO would be content whether registration was conducted under the current landlord scheme, or a separate scheme established to cover letting agents. Given that the significant growth in the

PRS in recent years has been accompanied by an increased number of letting agents, encouraging further professionalisation by building on the work of existing associations such as the Association of Residential Letting Agents, would be a step in the right direction. ALACHO also believes that such measures would be welcomed by the majority of agents themselves who are keen to play their part in establishing a reputable high quality PRS in Scotland.

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

Better access to justice is predicated on empowerment through possession of relevant information, in this case better information being available to landlords and tenants alike on rights and responsibilities. The new Tenant Information Packs should help facilitate this aim. That said, the current system of dispute resolution can be lengthy and unwieldy. For this reason, many councils would support in principle the establishment, referred to in the consultation document, of a new independent housing panel to adjudicate on disputes arising between landlord and tenant. CIH Scotland has also consistently argued for such a system, and ALACHO looks forward to participating in the forthcoming consultation on the feasibility of introducing the new panels.

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.

Consumer empowerment is undoubtedly a key factor, indeed a pre-requisite, in improving quality and standards in the PRS and in changing the culture of this sector over time. Unfortunately there will always be tenants who may be too vulnerable or too desperate for housing to adequately pursue their rights, and who for these reasons will need protection from poor standards of service and accommodation through effective regulation.

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

Consumer access to relevant and good quality information. As noted above the introduction of Tenant Information Packs should go some way to redressing the current imbalance. Expanding the availability of independent advice and information centres under the housing options / hubs model is also worth considering. The retention of deposits under the Tenancy Deposit scheme and resolution of disputes by an independent third party will also encourage consumers to challenge unfair and bad practice. It is also likely that, as the new independent dispute resolution panel gains currency, consumers are further empowered to seek re-enforcement of their legal rights and proper redress when these are ignored or mis-stated. Finally, financial support should also be maintained to rights based groups and similar organisations who historically have advocated and acted on

behalf of consumers unfairly treated under the current system.

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

ALACHO is content that the answer to this question is broadly covered in response to the questions above. Advice, information, and advocacy where necessary, are the key elements in improving consumer awareness of rights and responsibilities in the PRS

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?

A balance needs to be struck between the needs of tenants seeking longer term tenancies (possibly families seeking a degree of stability and certainty over children's schooling) and landlord concerns that recovery of the property may become more difficult under longer terms of tenancy. A move towards longer tenancies where acceptable to both landlord and tenants would be desirable, but landlords will need sufficient re-assurance that recovery will be possible in reasonable circumstances. As short tenancies appear to be favoured by landlords as a vehicle for easier recovery, any move to longer term tenancies would probably need to be accompanied by streamlined recovery procedures to avoid landlord rejection.

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.

Our response to Q15 above broadly covers our views in relation to this question.

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

Our response to the questions above broadly covers this issue. Vulnerable tenants, lacking the wherewithal to complain or seek advice, are likely to be most at risk from poor housing conditions and bad landlord practice. A broadly based campaign of information using different media, coupled with support for agencies used to advocating on behalf of such tenants, and support for local centres of advice and information, probably best provided by councils, will be essential components of protection for vulnerable tenants.

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



It is very unlikely that private landlords will have the knowledge, expertise and commitment to inform and advise their tenants on the potentially damaging welfare reforms likely to affect them and their families. Given that the Scottish Government lacks the constitutional power to halt or reverse the reforms, the onus must be on effective strategies for mitigation. The Scottish Government should fund and monitor the outcomes of these strategies but they can best be implemented at locality level by local authorities working in partnership with organisations such as CABs and Credit unions in the voluntary and third sectors. As with Q17 above a co-ordinated and effective campaign of information and advice will be an essential corollary to central and local government action.

Jim Hayton  
ALACHO Policy Manager  
6th July 2012

## **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.