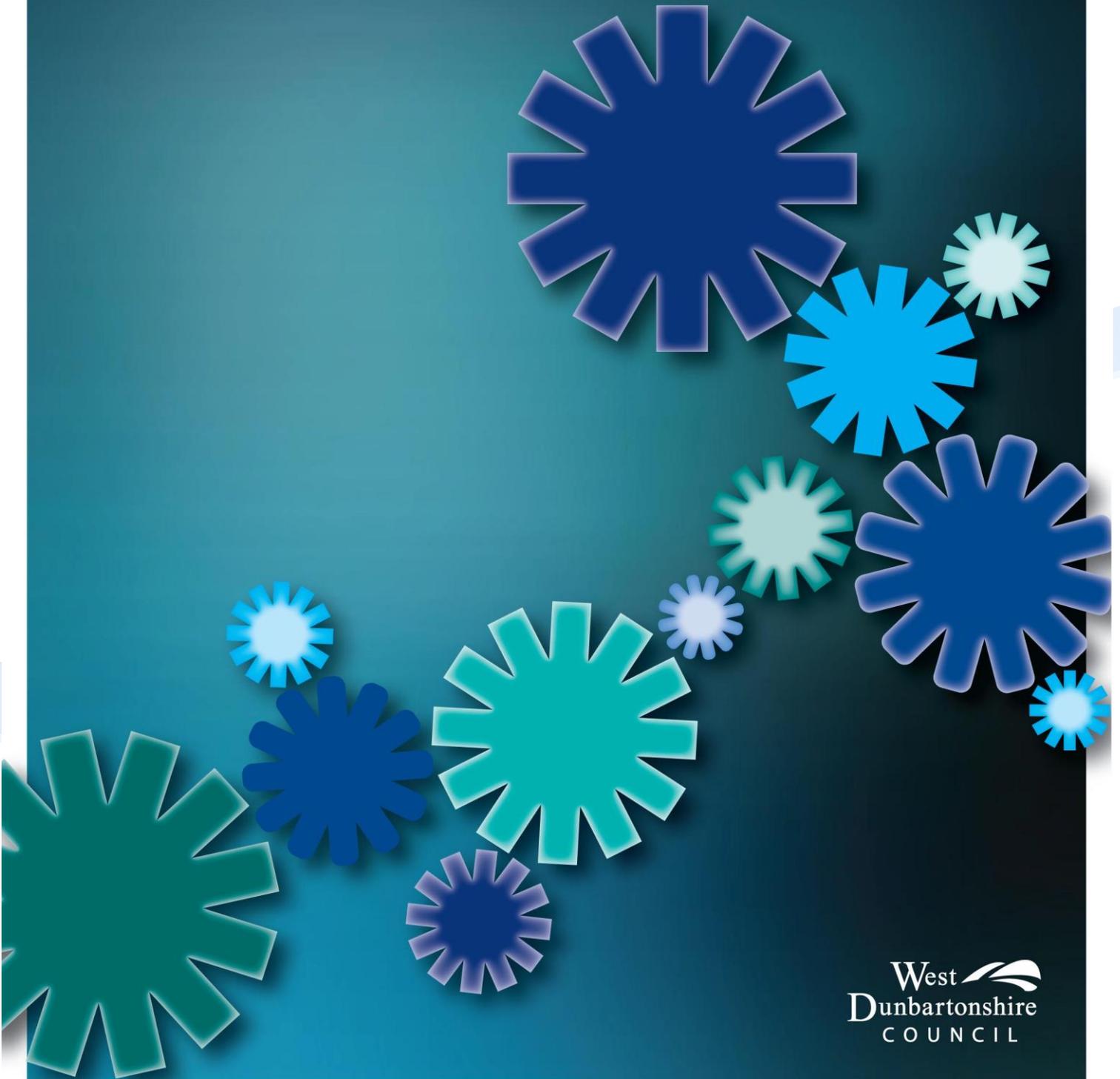


Housing (Scotland) Act 2014

October 2014



Introduction

Welcome to a series of regular briefings prepared by the Housing Strategy and Development team on the big issues concerning housing. These briefings will be shared with staff, tenants and elected members and keep everyone up to date with regards the ever changing policy context that we are operating within.

The Housing Strategy and Development section is responsible for:-

- Providing the statutory strategic housing authority role within the local authority area
- Supporting the development of a culture of continuous improvement in Housing services and to facilitate opportunities to excel;
- Developing and implementing effective strategies for Housing and Community Safety Services within West Dunbartonshire;
- Developing the Council's housing strategy to ensure that it supports the delivery of our strategic priorities;
- Performance management within Housing and Community Safety services; and
- Promoting effective management and the involvement of tenants across all aspects of Housing Services.

For further information on Housing Strategy please telephone 01389 737889 or e-mail: housing.strategy@west-dunbarton.gov.uk

Background

Background

The Housing (Scotland) Act 2014 (the Act) received Royal Assent on 1 August 2014 following its passage through Parliament since its introduction there on 21 November 2013.

The exact timetable for implementation of the Act is not yet known but is it expected to be communicated over the next few months.

Main Issues

The Act is separated into 8 parts that cover the following:

- Part 1 Abolition of the Right to Buy (RTB)
- Part 2 Social Housing
- Part 3 Private Rented Housing
- Part 4 Regulation of Letting Agents
- Part 5 Licensing of mobile home sites with permanent residents
- Part 6 Private Housing Conditions
- Part 7 Miscellaneous
- Part 8 General

The main points within the bill are summarised in detail below:

Part 1 Right to Buy

The Act abolishes the RTB for all social housing tenants in Scotland. The official date for abolition has not yet been announced but it will be no sooner than 1 August 2016.

It is likely that the abolition of the RTB will lead to an increase in sales in the short term. When abolished, it will reduce the capital receipts for social landlords but will ensure social housing stock is available for future generations and provide a steady rental income for social landlords.

Part 2 Social Housing

This part of the Act concerns the allocation of housing, the use of short Scottish secure tenancies (SSSTs) and tenants' rights to assign, sub-let or request a joint tenancy.

The aim of the provisions within this part of the Act are to; increase the flexibility that landlords have when allocating houses; allow landlords to make best use of housing; give landlords more tools to tackle anti-social behaviour and provide further protection to tenants, particularly those with a SSST.

In summary, this part of the Act:

Allocations

- The Act amends the current reasonable preference categories with three groups:
 - Social housing tenants who are under occupying their home

- Homeless persons with unmet housing needs
- Persons who are living in unsatisfactory housing conditions with unmet housing needs

Social landlords will also be able to specify additional groups who will be given reasonable preference in response to local circumstances.

- The Act also allows for social landlords to take property ownership into consideration when allocating a property. The exception to this is where the owner cannot access their home or where occupying it could lead to abuse or a danger to health.
- Social landlords can suspend an application for social housing under the following circumstances:
 - Where there is evidence that an applicant, household member or visitor has been involved in antisocial behaviour in or near their home or towards the landlords staff
 - For a previous eviction by a court order
 - Lost a previous tenancy through abandonment
 - Eviction for damage to the home or its contents
 - For rent arrears where there is no arrangement in place
 - Where false information has been provided to obtain a tenancy
 - Unreasonable refusal of the offer of one or more properties
- The provision within the Bill that allowed social landlords to take age into account when allocating a property was removed during stage 2 of the parliamentary process. This element was strongly supported by housing providers and tenant organisations.

Short Scottish Secure Tenancies

- Social Landlords can give an owner a SSST in cases where they cannot access their home on a short term basis, for example, if they have to move out for extensive repairs
- Social Landlords can convert an existing tenants SST to an SSST or give a new tenant a SSST where there is evidence of antisocial behaviour from the tenant, a member of the tenants household or a visitor in or near their home in the last 3 years
- In cases involving antisocial behaviour, the length of a SSST has been increased from 6 to 12 months with a possible 6 month extension if the behaviour persists. The landlord must state the reasons for issuing a SSST and the tenant has the right to appeal this
- The eviction process for serious antisocial behaviour will be simpler for landlords as use of an existing conviction in the last 12 months can be used as grounds for possession.

Assignment, Subletting, Joint Tenancies and Succession

- Any person seeking the above must have been living in the property as their main residence for a period of 12 months prior to the application. The 12 months period only begins when the person or tenant notifies the landlord that they have moved in
- For a co-habiting partner looking to succeed, the period has been increased from 6 to 12 months. This is also applied to carers and family members
- Assignment may be refused where the applicant would not be given reasonable preference or if it would result in the property being under-occupied.
- A landlord may take possession of an adapted property where the tenant no longer needs the adaptation if suitable alternative accommodation is available.

Part 3 Private Rented Housing

Measures within the Act aim to provide a more efficient and accessible route to justice for both the landlord and private rented tenant.

- A new Housing Tribunal has been introduced to deal with civil private sector housing disputes. This is not expected to be in place till late 2016.
- A time limit for Local Authorities to decide on an application for landlord registration has been put in place. If no decision is made within 12 months the landlord will be given tacit approval, entered into the register and permitted to act as a landlord. The landlord must submit a new application after 12 months on the register
- Requirements for private landlords to provide carbon monoxide detectors and have electrical fixtures, fittings and appliances tested every 5 years
- Local Authorities will be able to seek additional powers to help tackle problems in areas characterised by poor conditions, these will be designated as Enhanced Enforcement Areas. Consultation on this element will take place before the end of the year.

Part 4 Letting Agents

The Act introduces a mandatory registration system that will be established and maintained by the Scottish Government. The Act also gives powers to Scottish Minister to create a letting agent code of practice. Once this is established, if a letting agent fails to comply with the code of practice a tenant or landlord may apply to the new first –tier tribunal who can issue a letting agent enforcement order that will set out the steps the agent must take to rectify the failure.

Part 5 Mobile Home Sites with Permanent Residents

The Act introduces a range of measures to strengthen the licensing regime that applies to mobile home sites that have permanent residents. It establishes a “fit and proper” person test on both the site owner and managing agent. It brings in expiry dates for licenses and allows local authorities to charge for a site license. The Act introduces a range of enforcement powers to ensure that mobile home sites are well managed.

Part 6 Private Housing Conditions

The Act amends existing local authority powers to enforce repairs and maintenance in private homes. It clarifies the existing powers that local authorities have to pay missing shares on behalf of owners in tenement blocks that are unwilling or unable to pay their share of repair works and enables local authorities to use repayment charges to recover this cost. Minor changes are made to maintenance orders and plans and an additional ground on which a local authority can issue a Work Notice is introduced – that is where there is work needed to improve the safety and security of any house.

Part 7 Miscellaneous & Part 8 General

- The Act introduces an exception to the requirement for the Scottish Housing Regulator to consult tenants and lenders before ordering a transfer of assets from an RSL in cases requiring urgent action. It will only apply where a quick transfer would avoid insolvency.
- The Act allows Scottish Ministers to exempt certain housing developments from the '20 year security' rule to ensure that the Scottish Government can offer schemes such as Help to Buy without being exposed to the financial risks associated with the rule
- In the 1980's, 12 types of precast reinforced concrete homes were classed as defective for owners who had purchased through the RTB to qualify for grant assistance with repairs. This assistance is no longer available; therefore the Act repeals this function.

Resource Issues

The additional legislative requirements introduced by the Act have potential resource issues in terms of West Dunbartonshire's Housing and Community Safety Services. Although the Financial Memorandum attached with the Bill "does not give rise to any substantial costs" for the Scottish Administration, local authorities and other bodies and individuals. It identifies the largest cost as arising from the provisions related to SSSTs where there has been a history of antisocial behaviour. The costs are estimated to amount to £760,000 per annum across all local authorities.

In addition, there remains the possibility that there will be future costs associated with the Act, through subordinate legislation.

Finally, the abolition of the RTB in Scotland would result in a loss of capital receipt relating to Council house sales. However, rental income from properties that would have been lost through the RTB will be protected ensuring that these properties generate a rental income for the HRA in the future.

What it means for WDC

The introduction of the Act has been widely supported by the Council and its customers through a number of Scottish Government Consultations.

A number of the Council's policies and procedures will require to be revised in light of the legislation changing and a timetable for this will be produced and communicated when the implementation of the Act is known.

For further information please contact

Jackie Gallen

Housing Policy Officer

Housing Strategy and Development

01389 737721

jackie.gallen@west-dunbarton.gov.uk

