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### Comments on the general scope of the Housing (Scotland) Bill

**The best interests of the child must be a primary consideration in any decision that will concern the child.**

**All the Bill's provisions must be 'proofed' for their potential impact on children, young people and their families.**

The Bill has to meet the obligations of the UN Convention on the Rights of the Child. It also has to comply with the Scottish Executive's own Child Strategy Statement (2000). To date there has been no evidence of either.

Quality of housing is of extreme importance to children and young people and has a direct impact on a child's health and educational achievements. It is therefore important that all housing policy takes account of the needs of children and young people. Recent research has shown that policies pursued by social landlords can have a significant impact on local schools<sup>1</sup>, and the links between poor health and bad housing are well established.

Housing policy has an impact on many other aspects of children's lives. Unsuitable housing for disabled children can make the task of caring harder and can be a significant barrier to enjoying normal childhood experiences<sup>2</sup>. Play and leisure opportunities also need to be considered as a central part of any housing strategy.

The difficulties faced by children in families who are homeless are also well documented. Disruption to their education, personal safety and mental health problems and other health problems are just some of the common issues faced by these children. In addition the effects of homelessness on 16 and 17 year olds and care leavers has to be carefully considered.

The Housing Bill is to be generally welcomed, particularly in its attempts to tackle homelessness. It is to be hoped that the new provisions will have a positive impact on the well-being of homeless children, young people and their families.

Children in Scotland is disappointed that within the general scope of the Bill there is no reference to considering the interests of children. As is stated above, housing plays an important part in the development of children and young people and there will always be a number of

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<sup>1</sup> Housing and schooling: a case-study in joined up problems by Jill Clark, Alan Dyson and Alan Millward, Joseph Rowntree Foundation, 1999

<sup>2</sup> Homes unfit for children: Housing, disabled children and their families by Christine Oldman and Bryony Beresford, Joseph Rowntree Foundation and Community Care, 1998

factors that have to be taken into account before making decisions about a family's or a young person's housing requirements.

The UN Convention on the Rights of the Child (UNCRC) states that  
*In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration (Article 3.1)*

The omission of any such consideration in the Bill is important. While it is recognised that various pieces of guidance refer directly to children, we believe it is important that there is an overarching duty on housing authorities to consider the best interests of children in all decisions that are made.

## **Comments on specific proposals in the Housing (Scotland) Bill**

### **Part 1: Homelessness and Allocation of Housing**

#### **(1) Duty to prevent homelessness**

#### **(2) Advice and information on other issues faced by children and young people that arise as a result of homelessness e.g. schooling, personal safety**

#### **(3) Minimum standards for hostels before children can stay**

#### **(4) Duty to consider the best interests of the child as a primary consideration**

#### **(5) Support for 16 and 17 year olds**

### **1. Duty to prevent homelessness**

As stated above, Children in Scotland is supportive of the proposals contained in this part which we believe will make a positive impact on the well-being of children, young people and families who are homeless. However, we agree with the arguments of homelessness charities that this part could be strengthened with an overarching duty on local authorities to prevent homelessness or at least inclusion with in the strategy of resolving homelessness when it occurs.

*Aim: Change to section 1*

### **2. Advice and information on other issues faced by children and young people that arise as a result of homelessness e.g. schooling, personal safety**

There are a number of areas where the provisions could be strengthened to provide better protection for children and young people. We are concerned that the requirement to provide advice and information is too limited. Children and young people could benefit from independent advice on a number of issues that arise as a consequence of their becoming homeless - schooling, moving away from family and friends, personal safety and other issues. These are not issues that would be covered by the definitions currently used in section 2(1). This sort of advice and information is very important for children and young people who will be faced with a lot of changes and uncertainty. It is also important that this advice is provided in a child friendly manner and that they are able to access it on their own.

*Aim: Change to section 2*

### **3. Minimum standards for hostels before children can stay**

The regulation of hostel accommodation is also welcomed but there needs to be assurance that any regulations will contain a minimum set of standards that should be applied before children are allowed to stay. There is a genuine concern about the safety of children and young people living in multiple occupied accommodation. Some families are known to have stayed in such accommodation while there are other residents who have a history of violence and children have been witnesses to violence in these settings. It is also important that children and young people can have access to safe and suitable play areas whilst living in hostels. Other basic provisions such as access to a bed of their own should be included within minimum standards. While children and young people are in hostel accommodation, we believe that there should be a right to continue their education in their pre-homeless school. There is also a requirement for transport and other support to be made available to allow for this.

*Aim: To seek assurance from the Scottish Executive that this will be included in the regulations*

#### **4. Duty to consider the best interests of the child as a primary consideration**

As stated in our comments on the general scope we are strongly in favour of a duty to consider the best interests of children before making any decision affecting them. This would apply specifically to the proposals for amending the legislation on allocation of housing.

*Aim: Change to section 8*

#### **5. Support for 16 and 17 year olds**

The other general concern that we have already stated is provision for 16 and 17 year olds. We would suggest that all 16 and 17 year olds should be recognised in the legislation as having a priority need. The current Code of Guidance on Homelessness produced by the Scottish Executive recognises the particularly vulnerability of this age group and current English proposals support the inclusion of 16 and 17 year olds as a priority group. It also has to be recognised that 16 and 17 year olds have a particular need for support when moving into permanent accommodation.

*Aim: Change to section 3*

### Part 2: Tenants of Social Landlords

#### Chapter 1 - Short Scottish Secure Tenancies and Schedule 6: Grounds for Granting Short Scottish Secure Tenancy

##### **(1) Duty to consider the best interests of the child as a primary consideration**

##### **(2) Support to be available to young people and families**

##### **1. Duty to consider the best interests of the child as a primary consideration**

While the plans for a standard tenancy to strengthen tenant's rights are welcomed we do have some concern over the situations where short secure tenancies will be used. No mention is made in the Bill for situations where there are children living in the house. While we recognise that the primary relationship to be considered in making these decisions is the landlord/tenant relationship, there should be a clause in the Bill that ensures that interests of children have to be considered in decisions about the use of short secure tenancy provisions.

*Aim: Change to section 29*

##### **2. Support to be available to young people and families**

When a young person has been granted a short Scottish secure tenancy on the basis of previous anti-social behaviour, it is important that the tenancy is combined with an appropriate level of support. This also applies to similar situations involving families with children. Children can be detrimentally affected by their own or other family member's anti-social behaviour.

*Aim: To seek assurance from the Scottish Executive that this will be dealt with in guidance*

### Part 5: Strategic Housing functions of local authorities

#### **1. Local Housing Strategies should be developed in conjunction with other plans, with timetables rationalised and congruent objectives**

#### **2. Children and young people to be consulted**

##### **1. Local Housing Strategies should be developed in conjunction with other plans, with timetables rationalised and congruent objectives**

The strategic housing function of local authorities is an important development and the local housing strategies will play a vital role in the delivery of local authority services. In order for this to be effective it is vital that the strategies complement other plans produced for the area - children's services plans, statements of improvement objectives in education, health improvement plans, community care plans and community plans.

*Aim: To seek assurance from the Scottish Executive that secondary legislation will consider this issue*

##### **2. Children and young people to be consulted**

It is open to the Scottish Ministers to make provision as to the matters a strategy should include and who should be consulted. Matters that should always form part of a strategy are provisions

for safe play areas, access to educational facilities and access to health facilities. Children and young people should automatically be consulted whenever a strategy is being devised. Although this may not need to be part of the legislation, it is important that the Scottish Executive commits itself to some of these principles from the outset.

*Aim: To seek assurance from the Scottish Executive that secondary legislation will consider this issue*

The requirement for encouragement and observance of equal opportunities requirements is an extremely positive aspect of the local housing strategies.

#### Part 6: Grants for Improvement, Repairs. Etc.

Our concerns about grants for improvement are in relation to grants for adaptations required for disabled and/or chronically ill children. The Housing Bill presents opportunities to address flaws in the current system.

The present scheme of means testing of grants, to facilitate adaptations for children under 16, can produce undue financial burdens on families. This is a burden that is somewhat arbitrary in that decisions on grants for under 16s are based on their parent's income. As soon as a child reaches the age of 16 it will be their own income that is taken into account which will very often enable them to access higher levels of grant.

Resources must be available to ensure that physical adaptations are timeously and effectively made. The time it takes to apply, be assessed, to receive money and to eventually install the adaptations can often mean that the adaptation is no longer appropriate for the requirements of the child.

The system also fails to take account of the whole situation affecting the child and their family and does not make allowances for future needs<sup>3</sup>. As stated previously, the legal situation could be improved with a statutory duty to consider the best interests of the child as a primary consideration when making a decision on grants.

*Aim: Changes to sections 85-91 of the Bill.*

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<sup>3</sup> There are examples of legislation which take account of future needs such as s. 6 of the Adoption (Scotland) Act 1978 - 'welfare of the child concerned throughout his life'

**Sections of the Housing (Scotland) Bill you wish to see changed. Can you state what section(s) you wish to see changed, the broad nature of the change(s), why you think your proposed change(s) is/are required and explain how the changes relate to the principles of the Bill**

**Main change**

The main change that we would like to see is a duty on local authorities to consider the best interests of the child as a primary consideration when they are making a decision that will affect a child. This change could be made by adding a sub-clause to all of the relevant sections, e.g.

- allocation of housing (s.8)
- recovery of possession (ss.11-16)
- use of Short Scottish Secure Tenancy (s.29)
- access to improvement grants for disabled children (ss.85-91)

or by including a general duty in Part 7 of the Bill.

**Specific changes required**

section 1:

Homelessness strategies should also set out a strategy for resolving homelessness - this would strengthen the duty on local authorities to go further than alleviate homelessness.

section 2:

To broaden the type of advice and information that must be provided to include advice and information for children and young people who are homeless about the consequences of being homeless.

section 3:

To amend the 1987 Act to include all 16 and 17 year olds who are unintentionally homeless as a group with a 'priority need'.

**Assurances from Scottish Executive**

The issues below would not necessitate changes to the wording of the Bill but are essential components of the proposed secondary legislation. We would be hoping that the Scottish Executive will commit themselves to these proposals during the passage of the Bill.

section 6:

That there will be a minimum set of standards applied to a hostel before a child is allowed to stay there.

section 29:

That support should be provided for young people who have been granted a short Scottish secure tenancy on the basis of previous anti-social behaviour. This support should also be available in similar situations involving families with children.

section 79:

That Local Housing Strategies need to be developed in conjunction with other plans, with timetables rationalised and congruent objectives. They also need to consider provisions for safe play areas, access to educational facilities and access to health facilities. Children and young people should automatically be consulted whenever a strategy is being devised.