



Briefing 14/38 October 2014

Consultation 'Housing (Scotland) Act 2014 – Section 28 Private Rented Housing: Enhanced Enforcement Areas'

To: All Chief Executives, Main Contacts and APSE Contacts in Scotland

For information only to England, Northern Ireland and Wales

Key Issues

The Scottish Government are seeking views on new powers which will enable local authorities to tackle problems characterised by poor conditions in the private rented sector. The paper provides a consultation opportunity following a Call for Evidence. The consultation will run from 14 October 2014 to 12 December 2014.

If you wish your comments to be included in the APSE response to this consultation, please send them to Louise McMillan at lmcmillan@apse.org.uk by 1 December 2014.

1.0 Background

[Section 28 of the Housing \(Scotland\) Act 2014](#) requires Scottish Ministers to provide a scheme to allow local authorities to apply for additional discretionary powers to enable them to target enforcement action in an specified geographic area of private rented housing that appears to be overcrowded (e.g. a high demand on refuse collection) and/or of a poor environmental standard (e.g. properties below tolerable standard, levels of infestation), and where there is a prevalence of antisocial behaviour (e.g. disproportionately high ASBOs, large number of complaints in the area); these areas would be designated as Enhanced Enforcement Areas (EEAs).

Where the Scottish Ministers agree of this necessity, a local authority will acquire certain additional discretionary powers for prescribed purposes – such as power to require landlords to produce documents for inspection and the inspection of properties let by a registered landlord.

The EEA will apply for an initial period of five years with the option to make a further application for an extension, and the scheme requires the local authority to advertise the fact that an area is designated as an EEA.

Scottish Ministers must lay a draft of the regulations before the Scottish Parliament by 1 April 2015; in order to meet this timescale, the consultation is expected to run for an 8 week period during October to December 2014.

The consultation will describe the approach that the Scottish Government proposes to adopt in preparing draft regulations and invites views on that approach and on a draft of the [Equalities Impact Assessment](#).

2.0 Consultation questions

Consultation questions

- Question 1 – Do you agree that this is the right sort of evidence needed to support an application?
- Question 2 – Are there any other types of evidence that you think should be required to support an application for designation of an area? What are those?
- Question 3 – Do you consider these are the right types of discretionary powers to secure positive outcomes for tenants and communities?
- Question 4 – Are there other additional types of powers, or specific powers, that might be useful for targeting action within EEAs? What are those powers and how might they be used?
- Question 5 – Do you think the powers that are granted should be the same for each application, or should they reflect local circumstances?
- Question 6 – Do you agree that an application for the designation to continue should be supported by a summary of how the local authority has used the additional powers and evidence of the impact of that use?
- Question 7 – Do you consider it reasonable that a local authority should provide an annual report on the use of these powers to Ministers?
- Question 8 – Do you have any other comments on what should be covered by the Enhanced Enforcement Area regulations or how these might operate?

Draft Equalities Impact Assessment

- Question A – Do you consider that there are other groups that these regulations will affect? If so, which groups are they?
- Question B – Do you consider that there are other factors that might prevent the desired outcomes being achieved? If so what are those?
- Question C – Do you have any other comments on any aspect of the Draft Equalities Impact Assessment?

3.0 APSE Comment

APSE supports the use of additional powers that assist our membership in tackling prevailing problems in the private rented sector. Scottish Ministers want the private

rented sector to be an attractive, affordable housing option and by providing additional powers they have shown a commitment to changing their relationship with landlords in order to achieve more positive outcomes for all; in doing so, helping to reach the National Outcome for Public Services which states “our public services are high quality, continually improving, efficient and responsive to local people’s needs”.

APSE previously published [Briefing 14-23](#) on the Housing (Scotland) Bill prior to its Royal Assent.

4.0 Response details

As Section 28(3) “requires Scottish Ministers to consult with local authorities, those representing the interests of landlord and tenants and any other persons or bodies considered appropriate before making regulations under subsection (1)”, APSE is preparing a coordinated response on behalf of our membership.

If you wish your comments to be included in the APSE response to this consultation, please send them to Louise McMillan at lmcmillan@apse.org.uk. The closing date for responses is 1 December 2014, a week before the official close date of the consultation – 12 December 2014.

Responses can also be sent directly to the Scottish Government by completing the following form which is also available in the Consultations section of their website – [click here](#).

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