

# A Consultation on the Future of Land Reform in Scotland

**Shelter Scotland response**

February 2015

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**Shelter**  
Scotland

## Introduction

Shelter Scotland welcomes the Scottish Government's renewed focus on land reform. The commitment to the diversification of land ownership in Scotland, the intention to provide clear publicly available information on the ownership of land and increasing community ownership are all positive initiatives that the Scottish Government should pursue.

Central to the Scottish Government's focus on land reform should be an ambition to reduce inequality and increase the wellbeing of everyone in Scotland. To achieve this it is essential that the Scottish Government focus their attention on housing. There are currently 1.46 million owner occupied homes in Scotland, 99,000 empty or second dwellings, 368,000 homes in the private rented sector, 277,000 homes rented from housing associations and 318,000 homes being rented from local authorities.<sup>1</sup> The largest aspect of land value is tied up in our homes: an estimated £325 billion in 2014,<sup>2</sup> more than double Scotland's GDP.<sup>3</sup> And as recent history has shown an instable and volatile housing market can lead to dire consequences in the rest of the economy.

A key part of this picture is the negative effect the pressure being exerted on Scotland's housing system is having on the wellbeing of Scotland's population. There are 150,500 people on local authority housing waiting lists across Scotland.<sup>4</sup> In 2012-13 36,457 people made homeless applications and 29,326 people were assessed as homeless by local authorities.<sup>5</sup> There were 10,308 households in temporary accommodation as at September 2014 – with 2,662 of these households containing children.<sup>6</sup> These are all markers of the strain Scotland's housing system is currently under and all merit the Scottish Government's focus as part of a land reform program.

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<sup>1</sup> Scottish Government, Housing Statistics for Scotland, 2014

<sup>2</sup> Savills UK, 'UK homes now worth a total of over £5.7 trillion, up 10% year on year', 12 January 2015 [http://www.savills.co.uk/\\_news/article/72418/185344-0/01/2015/uk-homes-now-worth-a-total-of-over-£5.7-trillion--up-10--year-on-year](http://www.savills.co.uk/_news/article/72418/185344-0/01/2015/uk-homes-now-worth-a-total-of-over-£5.7-trillion--up-10--year-on-year)

<sup>3</sup> Scottish Government, Key Economy Statistics, November 2014 <http://www.scotland.gov.uk/Topics/Statistics/Browse/Economy>

<sup>4</sup> Scottish Government, Housing Statistics for Scotland, 2014

<sup>5</sup> Scottish Government, Operation of the Homeless Persons legislation in Scotland, 2013-14

<sup>6</sup> Scottish Government, Operation of the Homeless Persons Legislation in Scotland: Quarterly Update: July-September 2014, Quarterly Accommodation Reference Tables, 2015

As such, Shelter Scotland welcomes Scottish Government policy initiatives on land reform, including the recent consultation on proposals to give private tenants the right to stay in their homes for as long as they need. However, Shelter Scotland believes the land reform agenda needs to go further. Both to address the stark need for good quality affordable housing in Scotland, and to stabilise the housing market across all tenures. These are some of the issues we should set out to address through land reform.

Shelter Scotland is responding to this consultation in its capacity as a national housing and homelessness charity. As such we have only responded to questions which cover issues which touch upon the issues faced by our clients and the people we represent.

## CONSULTATION QUESTIONS

### **Draft Land Rights and Responsibilities Policy**

#### **Q 1. Do you agree that the Scottish Government should have a stated land rights and responsibilities policy?**

Yes.

#### **Q 2. Do you have any comments on the draft land rights and responsibilities policy?**

Shelter Scotland welcomes the content of the draft land rights and responsibilities policy.

Shelter Scotland recognises that this is intended to be a broad statement on the Scottish Government's direction of travel on land reform. However, a more detailed policy statement on how exactly the Scottish Government will pursue its stated aim of "a fairer, or wider and more equitable, distribution of land in Scotland...with greater diversity of land ownership" would also be welcome. Specifically, Shelter Scotland would like to see reference to housing's role within this.

Importantly, the Scottish Government's stated vision on land rights and responsibilities make reference to the link between land rights and the promotion of fairness and social justice, alongside environmental sustainability and economic prosperity. For Shelter Scotland one key aspect of land reform is how it can help ensure that everyone in Scotland has access to good quality affordable housing that they can settle in long-term. There are many strands to this. For example; are we taxing land and property efficiently and intelligently? Do property rights provide a basis for safe and secure homes across all tenures? And are we making best use of land and property in Scotland?

While a careful balancing act may be required in some instances in relation to land rights, the Scottish Government should not overlook the acute demand for adequate housing in Scotland along with the positive impact that a stable housing system – with safe, secure and

affordable homes – would have to the overall wellbeing of everyone in Scotland. This approach to land reform is expressed well by the Scottish Human Rights Commission:

*"Land reform raises a number of important human rights considerations which encompass a much broader set of issues than those we have heard discussed to date. Far from being a "red card" to stop discussion of land reform in its tracks or to polarise the debate in unhelpful terms, human rights should be seen as a framework for constructive dialogue between landowners and communities.*

*Scottish Ministers are empowered by the Scotland Act 1998 to observe and implement international human rights obligations. These include but go beyond the European Convention on Human Rights. For example, the International Covenant on Economic, Social and Cultural Rights places a duty on ministers to use the maximum available resources to ensure the progressive realisation of rights like the right to housing, food and employment.*

*Viewed through this broader human rights lens, land is seen as a national asset with key questions arising of how to strike the most appropriate balance between the legitimate rights of landowners and the wider public interest"<sup>7</sup>*

Shelter Scotland is also of the view that when human rights arguments are introduced to discussions on land reform this should be done so constructively and as a helpful addition to the debate.

### ***Aspirations for the Future***

#### **Q. 3. Considering your long term aspirations for land reform in Scotland, what are the top three actions that you think the Scottish Government should take?**

##### **Action 1:**

The Scottish Government should carry out a review of how innovative reforms to the taxation of land and property might be used to stabilise house prices and ensure that everyone in

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<sup>7</sup> Scottish Human Rights Commission, 'Commission comments on human rights and land reform', 26 January 2015 <http://www.scottishhumanrights.com/news/latestnews/landreform>

Scotland has a safe, secure home that they can afford. This should form part of the Scottish Government's review of council tax which is due to commence in 2015.

**Action 2:**

The Scottish Government should modernise property rights in Scotland to give everyone the right to a safe and secure home. The reform of the tenancy in the private rented sector – which the Scottish Government recently consulted on – is a key part of this. Shelter Scotland believes that enhancing private tenants' security of tenure should be central to the Scottish Government's reform along with a framework for setting rents which are reasonable and predictable.<sup>8</sup>

**Action 3:**

Ensure we make best use of the property already available in Scotland by giving local authorities the powers necessary to bring empty properties back into use. Additional powers for local authorities to both compel empty property owners to sell and to step in to manage empty properties should be a key part of this mix.

**Proposals for inclusion in a Land Reform Bill**

***Proposal 1 - A Scottish Land Reform Commission***

**Q. 4. Do you agree that a Scottish Land Reform Commission would help ensure Scotland continues to make progress on land reform and has the ability to respond to emergent issues?**

Yes.

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<sup>8</sup> Shelter Scotland's response to the Scottish Government's consultation on a new private tenancy, 2014,

[http://scotland.shelter.org.uk/professional\\_resources/policy\\_library/policy\\_library\\_folder/shelter\\_scotlands\\_response\\_to\\_the\\_scottish\\_governments\\_consultation\\_on\\_a\\_new\\_private\\_tenancy](http://scotland.shelter.org.uk/professional_resources/policy_library/policy_library_folder/shelter_scotlands_response_to_the_scottish_governments_consultation_on_a_new_private_tenancy)

**Q. 5. What do you think the advantages or disadvantages of having a Scottish Land Reform Commission would be?**

In Shelter Scotland's view one of the advantages of a Scottish Land Reform Commission is the potential for land reform to be driven by a body independent of government. Organisations such as Shelter Scotland would be then able to actively engage with the Commission on issues which touch upon land reform.

**Q. 6. Do you have any thoughts on the structure, type or remit of any Scottish Land Reform Commission?**

Shelter Scotland believe that the Commission should be independent of government and be allowed to play a key role in driving forward the land reform agenda in Scotland. The Commission should be able to gather evidence and actively explore policy issues relating to land reform. As stated earlier in our consultation response Shelter Scotland believes that housing should be a key feature of such a Commission's work.

**Proposal 3 - Information on land, its value and ownership**

**Q. 11. Do you agree that better co-ordination of information on land, its value and ownership would lead to better decision making for both the private and public sectors?**

Yes.

**Q. 12. Do you hold data you could share or is there any data you would wish to access?**

N/A.

**Q. 13. What do you think the advantages or disadvantages of wider and more flexible sharing of land information would be and do you have any recommendations about how this can best be achieved?**

Better co-ordination of good quality land information could improve the delivery of affordable housing by reducing costs and delays in the development process and smoothing out anomalies arising from complex layers of ownership.

## **Proposal 4 - Sustainable development test for land governance**

**Q. 14. Do you agree that there should be powers given to Scottish Ministers or another public body to direct private landowners to take action to overcome barriers to sustainable development in an area?**

Yes.

**Q. 15. What do you think the benefits would be and do you have any recommendations about how these can best be achieved?**

### **Compulsory Sale Orders**

Shelter Scotland supports the Land Reform Review Group's recommendation that the Scottish Government give local authorities the power to issue Compulsory Sale Orders.

As the host of the Scottish Empty Homes Partnership (SEHP) Shelter Scotland has argued for the introduction of a 'housing re-use power'<sup>9</sup> as an additional tool for local authorities to use in relation to empty or unused residential property. While we don't envisage such a tool to be used in every circumstance, it would be a useful addition to the range of tools that local authorities have at their disposal. Members of the Scottish Empty Homes Officer Network (managed by the SEHP) have repeatedly reported to us that existing enforcement measures are not fit for purpose, costly and time consuming.

While a Compulsory Sale Order would fall short of the full range of powers we envisage a local authority would have under a housing re-use power, they would be a welcome addition to the range of powers currently available to local authorities. For these Orders to be effective in promoting residential re-use of vacant property they should include 'property' in addition to 'vacant and derelict land'. By including 'property' this would allow for the possibility of a Compulsory Sale Order being used in respect of a long term empty home or a long term empty commercial property with residential conversion potential. An effective empty homes enforcement tool, used as a last resort after all other positive advice and incentives have been applied, is key to fruitful voluntary conversations with empty property owners. A Compulsory Sale Order for vacant and derelict land and property could be an important tool

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<sup>9</sup> A proposal supported by the Land Reform Review Group, section 22.2, The Land of Scotland and the Common Good: Report of the Land Reform Review Group, 2014



for empty homes officers employed through the Scottish Empty Homes Partnership and by local authorities across Scotland, enabling them to unlock some of the 31,000 long term empty homes in Scotland.<sup>10</sup> While we do not have figures for the amount of vacant non-residential property in Scotland with residential potential, such a power would equally enable local authorities to explore the potential in these wasted and unutilised buildings.

Shelter Scotland would welcome further discussion with the Scottish Government on Compulsory Sale Orders and our proposal for a 'housing re-use power'.

### **Building affordable housing**

Such powers may also be used to facilitate the development of good quality, affordable housing in an area where such housing is scarce. This is particularly important in rural communities where the supply of affordable housing can be limited. Should a land owner obstruct such a development, which is clearly in the interests of sustainable development in an area, then the Scottish Government may be able to intervene to bring a development forwards.

#### **Q. 16. Do you have any concerns or alternative ways to achieve the same aim?**

N/A.

### **Proposal 5 - A more proactive role for public sector land management**

#### **Q. 17. Do you agree that public sector bodies, such as Forestry Commission Scotland, should be able to engage in a wider range of management activities in order to promote more integrated range of social, economic and environmental outcomes?**

Yes.

#### **Q. 18. What do you think the benefits would be and do you have any recommendations about how this can best be achieved?**

Public sector bodies who own large areas of land in Scotland can play a key role in providing affordable housing in rural communities. Affordable housing built on Forestry Commission

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<sup>10</sup> According to Council Tax records.

Scotland land through the National Forest Land Scheme<sup>11</sup> is a good example of a public body which can play a role in the delivery of badly needed affordable housing in rural Scotland. Shelter Scotland believes the Scottish Government should explore how provision of affordable housing through bodies such as Forestry Commission Scotland can be expanded, building on good examples such as Ardgeal Kincaig developed by the Highlands Small Communities Housing Trust.<sup>12</sup>

**Q. 19. Do you have any concerns or alternative ways to achieve the same aim?**

N/A.

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<sup>11</sup> Forestry Commission Scotland, National Forest Land Scheme

<http://scotland.forestry.gov.uk/supporting/strategy-policy-guidance/communities/national-forest-land-scheme-nfls>

<sup>12</sup> [http://www.hscht.co.uk/site2010/site10/pages/documents/Ardgeal\\_000.pdf](http://www.hscht.co.uk/site2010/site10/pages/documents/Ardgeal_000.pdf)