



Preventing homelessness through making evictions a last resort

The Scottish Government has issued a consultation paper on reducing the number of evictions for rent arrears from councils and Registered Social Landlords. It has raised the possibility of the current Housing (Scotland) Bill being amended to reflect a new consensus on evictions.

Shelter Scotland welcomes the paper and the range of options set out in it. We are firmly of the view that the time is right for evictions policy to be modernised by introducing “Pre-Action Requirements (PARs)”. These PARs would be a series of steps that landlords must take before they were able to take a tenant to court. These steps reflect what is already good practice so we are sure that progressive landlords, tenants groups and everyone who is committed to homelessness prevention will also back this option.

Background

Over the past two years Shelter has published a series of reports showing that eviction action is still a very common way for social landlords to deal with rent arrears. We showed that social landlords are evicting proportionately more tenants than mortgage lenders are repossessing homeowners. We have argued that eviction is a blunt and often ineffective tool for dealing with debt. This point has been borne out by the experience of some progressive landlords including:

- Stirling Council, which, in a “best-value” audit, showed that the cost to the council of evicting 23 tenants was far higher than the debt incurred.
- Glasgow Housing Association, which has managed to reduce evictions very significantly at the same time as dramatically reducing rent arrears.

So Shelter believes that eviction policy is ripe for modernisation.

Options

The Scottish Government has identified 5 options:

1. Identifying and sharing good practice;
2. Including an outcome on sustaining tenancies in the Social Housing Charter;
3. Pre-action protocol;
4. Pre-action requirement; and
5. Allowing tenants to retain their existing tenancy.

It is important to appreciate that these are not mutually exclusive options. Indeed, they could be used in mutually re-inforcing ways. For example, better dissemination of good practice could be re-inforced by greater scrutiny by the Scottish Housing Regulator via the Social Housing Charter. And neither option would preclude setting firm requirements in law. Moreover, option 5 – reforming “technical evictions” – could sit side by side with all of the other options. In fact, only options 3 and 4 are mutually exclusive and this is only because option 3 is a weaker version of option 4.

Shelter supports better dissemination of good practice and other essentially voluntary approaches (in various degrees, options 1, 2 and 3). As we have argued above, there is certainly good practice to be shared. Over the last few years, bodies like CIH, SFHA and Communities Scotland (as was) have very helpfully drawn together a lot of useful material on managing arrears and handling legal action.

However, we also argue that voluntary approaches have a natural threshold. Typically, the progressive organisations which are already committed to good practice engage best and, as a result, get better. Meanwhile, landlords which are more inclined to cling onto established practices get further left behind. Since these are usually the landlords whose practices give rise to most concern the result is to amplify the uneven-ness in approaches between areas and landlords. Moreover, the potential role of the Scottish Housing Regulator and the Social Housing Charter is likely to be more strategic in scope than to allow intervention in individual cases; and, in this way, complementary to rather than a substitute for PARs.

That is why Shelter is urging the housing sector to back statutory Pre Action Requirements in the consultation response. This is option 4. PARs would set a series of tests that the landlord would be required to demonstrate to the Courts before legal action could begin. So, for example, is the tenant clear about the debt; has he been helped with ways of addressing it; has he agreed and kept to a reasonable repayment plan; and so on?

Pre Action Requirements:

- Provide a level playing field across all landlords;
- Give greater clarity and certainty to the courts and to frontline staff; and
- Crystallise current best practice.

PARs also ensure that the position of social housing tenants is no less favourable than that of home-owners. This is because PARs are directly lifted from the example of the Home Owner and Debtor Protection (Scotland) Act 2010, which will go live in summer 2010. At a time when there is justifiable concern that social tenants should not be seen as second class citizens, there is an important point of principle here as well.

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