



SHELTER SCOTLAND: EVIDENCE ON THE IMPACT OF THE COST OF LIVING (TENANT PROTECTION) (SCOTLAND) ACT

Shelter Scotland exists to defend the right to a safe home and fight the devastating impact the housing emergency has on people and society. We work in communities to understand the problem and change the system. We run national campaigns to fight for home.

We welcome the opportunity to provide evidence to Ministers on the impact of the measures introduced as part of the Cost of Living (Tenant Protection) (Scotland) Act 2022. These emergency measures included a freeze on rents and a moratorium on evictions for social and private tenants.

From our work we know that people across Scotland are struggling as a result of the cost-of-living crisis. Increasing numbers of people are finding it difficult to afford their housing costs and having to make impossible choices – such as choosing between eating or heating their homes.

Protections from eviction and increased housing costs are essential during this time of significant financial hardship. The Cost-of-Living Act has taken steps towards protecting people by providing some short term protections for tenants to support them to keep their homes.

We welcomed the additional measures introduced through the legislation, however we argued that these measures need to be properly resourced and enforced to ensure they have a positive impact and prevent homelessness. We are also concerned about the detrimental impact they may have on delivering the new social homes required to reduce housing need unless the rent freeze is fully funded.

Evidence from the front line

We have spoken to our housing advisers, legal team and digital advice team to better understand the impact this legislation is having.

We recognise that to date the evidence is limited, but we have seen the impact of the new act with our advisers successfully challenging and stopping some evictions and rent increases using this new emergency legislation.

This indicates that some of the emergency legislation is working, but as it has also required the support of our advisers to ensure it is enforced, we would urge the Scottish Government to do as much as possible to support private tenants in particular to understand their rights and how to enforce them.

We are also aware that some landlords are acting unscrupulously to circumnavigate the emergency legislation and evict tenants from their home without following the correct legal process.

Our advisers have seen an increase in the numbers of illegal evictions and harassment of tenants forcing them to leave their home. This issue came up during the covid period too and we would ask that the Scottish Government continue to proactively work closely with Police Scotland to ensure that illegal eviction cases are always treated as a criminal matter, not a civil one.

Social sector evictions

When the bill was progressing through the Scottish Parliament we called for the level of rent arrears to be increased for which an eviction could be pursued. Our evidence showed that for social tenants we are supporting, who are struggling to keep their home due to rent arrears, their rent arrears were all over the £2,250 level.

We argued that in order to support more people to keep their homes, it was important to recognise this evidence and if the bill was to successfully protect more people from eviction, then it needed to be amended.

Our Law Service have reported that of the 84 social sector eviction cases which they have worked on from January to October 2022 (prior to the Cost-of-Living Bill being introduced), the average amount of rent arrears was £5,701.

Since the Cost of Living (Tenant Protection)(Scotland) Act 2022 came into force, our Scottish Housing Law Service have not observed the new legislation having any impact on Court proceedings throughout Scotland. We have not observed any discussion of or reliance on the Act in the Courts we regularly attend.

In terms of the social sector, we do not expect the Act to impact our case work going forward. This is because the exemption under Schedule 2, Section 1(5)(b)(i) will apply to the majority, if not all of our clients. In general, rent arrears in the social sector are in excess of £2,250 by the time the case reaches Court.

We have been required to regularly dispel confusion among our clients on the protections afforded by the Act. There is a widespread misconception that an 'eviction ban' is operating, which prevents all evictions from taking place at present.

We also have serious concerns for the long-term implications of the figure of £2,250 being considered to be 'substantial rent arrears' in the social sector after this emergency legislation ends. We believe it could create a perverse incentive for social sector evictions to be granted for far lower levels of rent arrears than they were previously granted, putting more households at risk of homelessness.

Rights awareness

Shelter Scotland advisers report that tenants are unclear of their rights in relation to the Cost-of-Living Act. Tenants are often misunderstanding the emergency legislation to mean they aren't at risk of eviction, and this may not be the case due to the exemptions within the Act. This lack of clarity caused in part by the Scottish Government's messaging around the Cost-of-Living Act is causing confusion.

As we highlighted in [our briefings on the Act](#), a large-scale rights awareness raising programme is required to ensure all tenants are aware of their rights in relation to the emergency legislation, and the support that is available to them.

We strongly recommend that the Scottish Government writes to all private and social tenants to make them aware of this emergency legislation and the resulting changes to their rights, as it did with the emergency legislation changes during the coronavirus pandemic.

As an indication of the increased need for advice since the middle of September this year, there has been an increased interest in the advice pages on our website, with people seeking to find out what their rights are in the current crisis. Nearly 16,000 people have accessed our site looking for this information since 16 September, making clear the need for clear information on housing rights to be provided. We would ask that additional information should urgently be provided by the Scottish government, and all Local Authorities for social and private tenants.

Tenant Hardship Grant Fund

Shelter Scotland welcomed the extension of criteria to the tenant grant fund which was announced alongside the emergency measures in the Cost-of-Living Act. The extension meant that this financial support would be available to all tenants with any rent arrears, not just Covid-related arrears.

However, we have serious concerns that this extension in criteria has not become a reality. As far as we are aware, no Local Authority has updated their webpages on the tenant grant fund with information on this change of criteria. There is also a lack of transparency over how much of the original £10 million is left in this fund and how much each of the Local Authorities have left.

Our advisers are no longer signposting tenants to the tenant grant fund, as they have not received any communication from Local Authorities on whether the new extended criteria apply yet, or if the fund is open for applications again.

There should be clear communication on what support is available across the country, so that where there are funds available, tenants that are at risk of losing their home are aware of the financial support available.

Where Local Authorities no longer have any tenant grant funds left and there are tenants who require this money the fund should be topped up to ensure tenants can access the help they need.

There should also be adequate monitoring mechanisms put in place to enable accountability on how the money is being spent and how many people have been able to keep their home as a result.

Supply of social homes

Whilst the measures outlined in the Cost-of-Living Act provide some limited short term protections for tenants, the structural, long term solution to the housing emergency is delivering more social homes to reduce housing need.

Social landlords have expressed significant concern on the impact that the rent freeze will have on their ability to build new social homes, as the rent revenue partly funds the building of the social homes required to meet housing need.

The rent freeze measures, and any potential rent cap in the social sector beyond the end of March, must therefore be fully funded to ensure social landlords can continue to plan for and build the 38,500 social homes required by 2026 to reduce housing need. Failure to deliver these homes by the end of this parliament will mean affordable housing need will increase.

Additional changes and protections required

We understand that more private landlords will likely be struggling to keep their rented properties due to the rising mortgage rates, leading to increased evictions and homelessness as the new Act allows landlords to evict a tenant if they need to sell up due to financial hardship.

We would argue that if a private landlord is needing to sell up, they should as a required first option, sell their properties to a social housing provider where that is appropriate. Tenants should be offered the opportunity to remain in their home as it is sold and turned in a social home. Ensuring less tenants are thrust into the homelessness system which is creaking under the strain in many areas. This should be considered alongside our call for a Scottish Government national acquisition programme to purchase homes on the open market for use in the social rented sector.

For further information please contact Alice_Tooms-Moore@shelter.org.uk or David_Aitchison@shelter.org.uk

Please be aware they will **not be available until the 19th December 2022.**