

## Briefing for Stage 1 debate of the Private Rented Housing (Scotland) Bill - 27 January 2011

The private rented sector (PRS) plays an important role in meeting housing need in Scotland, but it can, and must, do more. In general Shelter Scotland supports the measures contained in this Bill, but shares the Local Government and Community Committee's (LGCC) view that more and further-reaching reform will be necessary to develop a thriving and professional PRS sector.

### Summary

- This Bill is a positive first step towards reforming the PRS, however a more comprehensive package of reforms will be needed to create a professional PRS which meets the needs of all tenants.
- Shelter Scotland broadly supports the changes to Landlord Registration (part 1)
- Shelter Scotland is concerned about linking the planning regime to HMO licensing (part 2)
- Shelter Scotland believes it is important to address overcrowding issues, but has reservations about the measures in the Bill regarding overcrowding (part 3)
- Shelter Scotland is happy with the measures made relating to the tenancy regime (part 4)
- Shelter Scotland believes that there is scope for further reform to: the tenancy regime; regulation of private landlords and the provision of information and advice for tenants.

### Landlord Registration (part 1 in the Bill)

Shelter Scotland is broadly supportive of the changes that are proposed to the Landlord Registration Scheme, which we hope will provide greater clarity to local authorities. These provisions improve on the current situation but do not, by themselves, ensure effective measures against rogue or criminal landlords. There may be a number of areas which will need tightening up at Stage 2, which have been signalled in the Stage 1 report. Further refinements may also emerge from the Scottish Government's review of Landlord registration.

### HMO licensing (part 2 in the Bill)

Well managed and well regulated HMO accommodation plays a vital role in meeting housing need in areas where there is a high demand for housing. In general terms, we support the measures set out in the Bill to bolster the ability of local authorities to enforce the current licensing regime.

## Concerns regarding the creation of a link between Planning and HMO licensing

Shelter Scotland has some misgivings that the measure within the legislation which will link the planning regime to the HMO licensing regime will work. We believe it will not achieve what MSPs hope it will achieve i.e. stop the subdivision of properties and the bad management of HMOs.

We have misgivings for the following reasons:

- a requirement to get planning permission may act as an incentive for more landlords to **evade** HMO licensing. This is a view that is supported by the local authorities we have spoken to. Glasgow City Council, for example, has a policy of refusing planning permission to flatted property that is not a main door access, and a substantial proportion of HMO accommodation in the city falls into this category. Glasgow, which already has a substantial problem of unlicensed HMOs, will find it increasingly difficult to enforce the licensing regime if planning permission were to become a pre-requisite of HMO licensing. Evasion of licensing impacts disproportionately on tenants and communities at the lower end of the rental market.
- A key concern among MSPs and campaigners relates to the development of flatted property which often sees subdivision of rooms into additional bedrooms and the redesign of layouts. The Stage 1 Report from the Local Government and Communities Committee assumes that this issue would be addressed by the requirement for planning permission where it applies, **however this is not the case**. Planning permission relates to the change of use of a property, and would only apply to internal redesigns of living areas where the property is listed.
- Shelter Scotland believes planning controls **should not** be used to plug the gap caused by lack of proper enforcement of HMO licensing or powers to tackle antisocial behaviour. Local authorities have **existing powers**, under landlord registration, the HMO licensing regime, anti-social behaviour legislation and building control, to intervene when poor management of an HMO impacts the well-being of the community. For example through 'neighbour nuisance', clash of lifestyles, badly maintained accommodation or accommodation unsuitable for the use that is made of it. Properly resourced enforcement of these powers should be the first step in dealing with HMO problems in communities.

## Overcrowding (part 3 in the Bill)

Shelter Scotland believes that it is important for the Scottish Government and local authorities to tackle and reduce overcrowding, given the negative consequences for the households concerned and for the wider neighbourhoods in which they live.

Shelter Scotland believes that overcrowding is essentially a **symptom of housing shortage and low incomes relative to housing costs**. Attempts to tackle this problem must avoid stigmatising vulnerable households by blaming the victims and potentially making their living conditions worse.

Shelter Scotland has significant reservations about the measures in this Bill, which we believe could displace the problem of overcrowding, at best, or result in homelessness, at worst. We believe that further constructive changes to the Bill could alleviate some of these concerns.

## **Shelter Scotland's proposed additional measure to tackle overcrowding**

The Bill sets out some very specific measures to tackle overcrowding in the PRS giving local authorities the discretionary power to tackle overcrowding by serving an overcrowding statutory notice. Shelter Scotland believes that included as part of this discretionary power there must be a measure in the Bill which would:

- require local authorities to enter into discussions with the landlord **and** occupiers with a view to drawing up a plan to ensure that the occupiers do not become homeless.
- require local authorities, where necessary, to provide assistance and advice with re-housing options, which are consistent with the terms of notice and in line with the agreed plan.

## **Further research on overcrowding and monitoring the impact of the new power**

Shelter Scotland agrees with the concerns which the LGCC has raised about the application of the overcrowding provisions. The LGCC has noted that there are no available figures on how many people will become homeless due to this power and what the consequences will be in relation to the levels of homelessness and impact on housing stock.

Shelter Scotland recommends that the Scottish Government:

- reviews how the overcrowding power is working, and in particular, the impact it has on reducing overcrowding and the extent to which persons have become homeless as a result of its use
- Carries out a more comprehensive review of overcrowding in Scotland and what other mechanisms could be developed to reduce this problem
- Revisits Part VII of the Housing (Scotland) Act 1987 and perhaps amends it to take into consideration the current issues with overcrowding.

## **Miscellaneous (part 4 in the Bill)**

Shelter Scotland is happy with the measures made relating to the tenancy regime which include: making all pre-tenancy charges to tenants illegal; allowing a private landlord to apply to the Private Rented Housing Panel for assistance; clarifying the notices required to be issued to gain possession of a property subject to a Short Assured Tenancy and the provision of Tenant Information Packs.

## **Longer term changes to the Private Rented Sector**

Given the timescales involved in developing this Bill, we appreciate that the measures are relatively modest in scope. They seek to bring about incremental changes to the existing policy arrangements for the PRS, rather than comprehensive reform of the sector. Shelter Scotland sees these legislative measures as a 'halfway house', the first phase in a longer process that we believe will lead to more strategic reform of the PRS.

Shelter Scotland would like to see in the longer term a:

- Review of the 22 year old tenancy regime to see if it is meeting the needs of ALL tenants; to look at the possibility of longer term tenancy options for tenants, as in the absence of social housing and in light of the risks and costs associated with home-ownership tenants are likely to consider the PRS sector.
- Strategic review of the systems for regulation of private landlords with the aim of creating a flourishing, dynamic and professional PRS sector.
- New approach developed to provide tenants with information and advice to ensure that they become better-informed consumers.

In addition Shelter Scotland recommends that further consideration be given to how tenants can more easily access justice. In the LGCC Stage 1 report the Gill review was mentioned - 'Lord Gill recommended introducing a dedicated housing court' and the Minster has mentioned a dedicated housing panel option which would incorporate the Private Rented Housing Panel. Shelter Scotland would strongly support further consideration of these proposals, linked to the wide-ranging review suggested above.

Please see Shelter Scotland's Stage 1 written evidence for more information on the measures proposed in this Bill. [Shelter Scotland - Written Evidence from Shelter Scotland at Stage 1 of the Private Rented Sector \(Scotland\) Bill](#)

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