



## **MSP BRIEFING: NEW DEAL FOR TENANTS – SCOTTISH GOVERNMENT DEBATE ON DRAFT RENTED SECTOR STRATEGY, 21 DECEMBER 2021**

### **Introduction**

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 respond to the Scottish Government's draft Rented Sector Strategy, and will seek to engage fully with the consultation process in the coming months. Many of the proposals have the potential to improve Scotland's rented sector. This includes on a new PRS Regulator, a new Housing Standard, and on a national system of rent controls. Through the Rented Sector Strategy, the Scottish Government are also exploring further action that can be taken to ensure rents in the social sector are affordable, including how the supply of rented homes can address affordability.

In order to tackle the housing emergency and fix a broken housing system the Scottish Government needs to strengthen tenants' rights and ensure that enough social homes are built to reduce affordable housing need. The Scottish Government's whole-sector approach to housing is welcome, and we are pleased both rights and supply will be considered as part of the Rented Sector Strategy. However, it is imperative that the Scottish Government recognise that the way to address affordability through supply is ensuring that enough social homes are built in the right places.

Without increasing the supply of social homes, realising the commitment to deliver the right to adequate housing will be extremely difficult.

**We are therefore calling on the Scottish Government to:**

- **Deliver the social homes required to reduce housing need, putting social justice at the heart of social housebuilding**
- **Strengthen and enforce housing rights for tenants in both the social and private rented sector**
- **Ensure the Rented Sector Strategy supports tenants as we move beyond the pandemic**

Delivering the social homes Scotland needs remains the most important action the Scottish Government can take to ending Scotland's housing emergency and fixing our broken and biased housing system. Permanently strengthening the rights of tenants and empowering them to be able to enforce these rights is also a high priority and something Shelter Scotland has long fought for.

### **Deliver the social homes required to reduce housing need**

We welcome the Scottish Government's decision to increase its social and affordable housebuilding commitment, now promising to deliver 110,000 affordable homes (including 70% for social rent) by 2032. This commitment and investment in our communities is crucial if we

are to reduce housing need, and we now need to see the quality homes being delivered at pace, in the right places, and of the right size, in order to reduce housing need and meet wider social justice aims. We note that the draft Rented Sector strategy now refers to this commitment as an “ambition”. For consistency and the avoidance of doubt we would rather this programme is once again referenced as a commitment unless the status of that goal has changed.

Social housing has a central role in everything from being a vehicle for delivering social justice and addressing the climate crisis, to upscaling digital connectivity and reducing child poverty. That’s why it was so vital that the 2022-23 Scottish Budget delivered the funding to match the ambitious targets, and we welcome the additional money provided for the coming year and the restated commitment to delivering 110,000 new affordable homes by 2032.

This is key to ensure the Rented Sector Strategy’s aims come to fruition, and the Scottish Government needs to continue supporting the Affordable Housing Supply Programme as a priority.

- **To create a rented sector that is fairer, safer, and more affordable, delivering the social homes we need to reduce housing need must be at the heart of any strategy**

## **Strengthen and Enforce Housing Rights**

The Scottish Government’s commitment to deliver a new human right to adequate housing through the forthcoming Human Rights Bill is welcome and is a vital step on the journey to ensuring everyone has access to a home that meets their needs. Accompanied with ensuring there is an adequate supply of social housing in the places that need it most, this will help to tackle Scotland’s housing emergency.

We welcome the Rented Sector Strategy’s focus on marginalised groups and look forward to more work being done in this area to fix the broken and biased housing system which disproportionately harms people with disabilities, women and people from ethnic minority backgrounds.

Additionally, the proposal for a new Housing Standard across all tenures is a positive step and something Shelter Scotland has campaigned for over the years. This has the potential to ensure everyone can expect an equal standard of housing, no matter the tenure you are living in.

We welcome the Scottish Government’s focus on rights put forward in the Housing to 2040 strategy published earlier this year. Rights should guide all areas of housing policy including renters’ rights. It is important that the new Rented Sector Strategy reflects the importance of housing rights and puts plans in place to ensure rights are upheld across the housing system, as well as empowering people to enforce their rights.

- **Delivery of the Rented Sector Strategy should be undertaken in the context of progressive realisation of the human right to adequate housing, and in light of the commitment to incorporating this right in Scots law**

## **Social sector evictions**

We should also be doing more to ensure that the social rented sector delivers fairness for tenants.

There should be no eviction by social landlords into homelessness. Eviction rates in the social rented sector, particularly by local authorities, are still too high. For many households, eviction from a social home leads to homelessness. We know that of the 1,866 households evicted from social sector homes in 2019/20, 805 (43%) went on to be assessed as homeless.

Research which we recently commissioned from the University of Liverpool<sup>1</sup> examined the true cost of eviction to landlords and the public purse.

This research found that at a very conservative estimate the total cost of social sector evictions in Scotland for the year 2019-20 was £27.8m. The research also calculated that the average total cost of evicting a single person with low support needs into homelessness, with a not unusual nine month stay in temporary accommodation, is nearly £24,000 per eviction. This research looked at both the direct (such as lost rent arrears, void losses and legal fees) and indirect (including costs of temporary accommodation and servicing support needs) costs of eviction.

Notwithstanding the emotional stress, upheaval and financial impact on families experiencing eviction, this shows how costly evictions are to social landlords and public funds, and that it is not an effective method of rent arrears management. Whilst there is a lot of good practice apparent across the country, the Rented Sector Strategy should outline proposals to ensure social landlords only use eviction action as an absolute last resort, exhausting all other possibilities that allow tenants to remain in their home before an eviction is sought.

- **Continued efforts must be made to drive down evictions by social landlords**

### **Evictions in the PRS**

We support the review of existing grounds for eviction in the private residential tenancy, which was outlined in Housing to 2040 and again in the draft Rented Sector Strategy. Several of the grounds, such as those which allow landlords to sell homes from under the feet of tenants, should be reviewed through the lens of a human rights framework, with consideration as to how to ensure the right to adequate housing is realised in Scotland.

There is also a significant case to be made to extend other protections brought in during the pandemic and to make these a permanent feature of the housing system.

The pre-action requirements (PARs) for eviction proceedings on the grounds of rent arrears introduce an important preventative measure for eviction and homelessness. This extra protection for renters against evictions should be made permanent. The PARs encourage landlords to help their tenants access support and advice on rent arrears management before any eviction action is taken, thus helping them to manage their debt and remain in their home. The PARs are also a step towards greater parity of protection for private and social tenants in line with the Scottish Government's commitments under the Housing to 2040 strategy.

Shelter Scotland also considers that all the grounds for eviction in the Private Residential Tenancy should remain discretionary on a permanent basis, rather than some grounds reverting to mandatory. By keeping all grounds for eviction discretionary this keeps an important extra protection for tenants against eviction and the often-resulting homelessness.

- **We support the review of eviction grounds in the PRT, and believe that all grounds for eviction should remain discretionary post-pandemic**
- **Pre-Action Requirements in the private rented sector should also be made permanent in order to offer tenants greater protection from eviction and homelessness**

### **Access to Justice**

There are significant issues around access to justice for private tenants, preventing them from realising their rights. The First-tier Tribunal (Housing and Property Chamber) was intended to provide "a new, more accessible and effective route to justice for landlords and tenants in the

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<sup>1</sup> Lord, A. and Gu, Y. (2021), [Understanding the True Cost of Evictions in Scotland](#)

sector.” However, the limited data available indicates that there are some serious imbalances of power between landlords and tenants.

Research we published last year<sup>2</sup> shows that tenant attendance at hearings is low, and tenants had no representation or support in 88% of cases. Conversely, when the applicant was a landlord (as in most cases) the landlord had professional representation in 3 out of 4 cases. Data should be collected and published on these issues to improve understanding and awareness, and to support further work to resolve them.

Our National Helpline regularly hears from tenants who have been victims of illegal evictions. The Rented Sector Strategy needs to consider how greater action can be taken to prevent illegal evictions. This includes ensuring Police Scotland are aware of their responsibilities on illegal evictions, greater sanctions for unscrupulous landlords, and an emphasis on rights awareness for tenants to ensure they can respond when a landlord is behaving illegally.

We hope that the proposed new PRS Regulator will help to support more just treatment for tenants. The onus should not be solely on tenants to tackle poor and illegal practice, and a regulator has the potential to be able to help rebalance the tenant/landlord relationship.

- **To create a fairer private rented sector, the new Strategy should ensure the First-Tier Tribunal is more accessible, with better data published on cases seen by the tribunal, and further action to tackle illegal evictions – including rights awareness and tougher sanctions for landlords who break the law**

## Financial Support for Tenants

As the ongoing concerns over the Omicron variant prove, the pandemic is far from over and people still need to be supported to ensure they do not lose their homes as a result of a global public health emergency.

The £10m Tenant Grant Fund is to be applauded but it is insufficient to deal with the scale of rent arrears being faced across the country (estimated to be as much as £126m<sup>3</sup>) and given it is still not up and running in many local authorities, we are concerned that tenants will struggle to apply before the expiry date of March 2022.

The Scottish Government needs to take decisive action to protect tenants from losing their homes now and in the coming years.

- **More funding should be made available through the Tenant Grant Fund and the Fund should be extended to ensure people continue to get the support they need while we recover from the pandemic**

## Affordability

The proposals included in the draft Strategy to address affordability in the social and private rented sectors are welcome in principle. Efforts to strengthen tenants’ rights have the potential to make the private rented sector fairer and more affordable for tenants.

Large numbers of people in poverty are trapped in the PRS as they are unable to access social homes, often ending up in the poorest quality homes and being the most vulnerable to mistreatment by their landlords – making clear the need to step up the supply of social homes in Scotland. 34% of people in the PRS are living in poverty, including 40% of children living in the PRS. That equates to over 250,000 people across Scotland.<sup>4</sup>

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<sup>2</sup> [First-tier Tribunal \(Housing and Property Chamber\) Data analysis and recommendations](#), February 2020

<sup>3</sup> [The Pandemic Arrears Crisis, November 2021](#)

<sup>4</sup> Poverty and Income Inequality in Scotland 2017–20 ([gov.scot](#))

- **Delivering a new generation of social homes will help rescue people from a broken private rented system and provide the affordability and security they need.**
- **Significant improvements in the collection and publication of rent levels paid by sitting tenants should also be made to increase understanding of the scale of the issue and to support the case for action to address affordability issues.**

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