

19-Nov-15

Jim Eadie MSP, Convenor
Infrastructure and Capital Investment Committee
The Scottish Parliament
Edinburgh
EH99 1SP

Private Housing (Tenancies) (Scotland) Bill: additional written evidence at stage 1

Dear Convenor,

Shelter Scotland was very pleased to be given the opportunity to provide both written and oral evidence to the Infrastructure and Capital Investment Committee on the principles of the Private Housing (Tenancies) (Scotland) Bill.

Since our oral evidence session on the 4th of November 2015 a number of points have been raised to the committee by stakeholders at an oral evidence session held on the 11th of November 2015. These comments covered both the bill and Shelter Scotland's position on certain elements of private rented sector reform. Shelter Scotland would like to take the opportunity to clarify our views on the issues raised before the deadline for written evidence closes.

Antisocial behaviour

The issue of antisocial behaviour was discussed at length during the evidence session held on the 11th of November. Shelter Scotland believes that antisocial behaviour which blights communities should be tackled quickly and effectively. It is important to note that antisocial behaviour is not confined to the private rented sector. For example, antisocial behaviour also occurs amongst owner occupiers, but for this group there is no means to deprive them of their housing. In the social rented sector complaints of antisocial behaviour must meet a certain level of proof before they are established. This is important to ensure that where accusations of antisocial behaviour arise they are addressed fairly and are considered by an impartial decision maker. This is essential given the significance of a sanction which ultimately has the potential to deprive someone of their home.

Under this bill where an accusation of antisocial behaviour is made the First-Tier Tribunal is able to consider a wide variety of evidence and exercise its discretion. This allows all aspects of the case to be considered. Importantly, alternative options to granting an eviction order – for example, providing support where this is available – can be explored at a hearing where this is appropriate. An automatic

eviction, especially one granted without the need to provide a reason, serves only to exacerbate the issue, putting the tenant into crisis and moving the problem elsewhere.

The difference for private landlords under this bill is that they will be required to actively manage their properties where issues such as antisocial behaviour occur. Importantly, where antisocial behaviour is serious and unresolvable – for example if persistent and severe abuse has occurred – the tribunal has the power to evict. Professional and reputable private landlords should have no difficulty in complying with this requirement.

Providing landlords with the power to end all private rented sector tenancies without reason, just to address a minority of antisocial behaviour cases, would be the incorrect approach. Requiring that landlords provide a reason to evict hardwires fairness, balance and the protection from arbitrary eviction into the private tenancy regime in Scotland. Professional and reputable landlords have nothing to fear from this.

Student lets

Shelter Scotland is also aware that the view was expressed to the committee that Shelter Scotland did not ask for students to be included in this reform. We would like to clarify that Shelter Scotland is of the view that students should be given security of tenure. This is also the view of student representatives, such as the National Union of Students in Scotland.

Students are a diverse group. They range from those seeking accommodation nearby to an educational institution in term time only, to those who may have caring responsibilities and those with young families for whom safety and security is of central importance. Therefore to make a separate provision for all students outside of this bill would be a mistake.

It also carries with it the risk of providing landlords with a loophole to subvert the central issue of security of tenure that the bill in its current form sets out. Such a loophole could be capable of repeating the same flaws which exist in the current private rented sector tenancy. The short assured tenancy under the Housing (Scotland) Act 1988 was never intended to be the main form of tenancy, with its much-reduced security of tenure. The assured tenancy – with indefinite security of tenure – was, in fact, originally envisioned to be the main tenancy type.

Shelter Scotland is confident that concerns raised by landlords who operate in the student sector can adapt their communication and management practices to fit the student market. For example, by highlighting the importance of serving notices to students who are only seeking accommodation within

term time. This work could be taken forward in conjunction with educational institutions across Scotland.

We hope this clarifies Shelter Scotland's position on the bill and we thank the committee for taking the time to consider our views on the draft legislation.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Adam Lang', with a long horizontal flourish extending to the right.

Adam Lang
Head of Communications and Policy
Shelter Scotland