

Briefing

Briefing for the parliamentary debate on Stage One of the Housing (Scotland) Bill, 29th June 2005

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Shelter welcomes the Communities Committee Stage One report on the Housing (Scotland) Bill. The Committee's vision for the private rented sector recognises the poor legal protection and redress for thousands of private tenants in Scotland. We welcome, in particular, the recommendation for a Rent Deposit Protection Service and better protection for those renting mobile homes; both are issues Shelter has campaigned on for years.

The Bill is intended to invigorate the private sector by improving conditions and ensuring the whole sector functions better. However, there are a number of areas where amendments are required, and this briefing sets these out for debate.

Where does the Bill fall short?

The Bill requires Stage Two amendments in a number of key areas:

- **As proposed, the Private Rented Housing Panel for Scotland is restricted by its remit and fails to give tenants the full legal redress they need.** The remit should be expanded to include management obligations.
- **The Code of Practice for Landlords lacks teeth because it is not a statutory code.** The small number of landlords who engage in bad practice will not be compelled to increase standards, undermining the system further. A **minimum operating standard** would ensure better standards without placing an excessive burden on landlords.
- **Empty properties in disrepair have an adverse impact on communities, attracting vandalism, arson or antisocial behaviour.** Local authorities need compulsory leasing powers to be able to bring these properties back into use, and ensure better conditions in the private sector.
- **The current legal framework makes it easier for landlords to unlawfully evict tenants.** They can exploit the fact that tenants have little knowledge of the law, and that criminal prosecutions are difficult to secure and very rare. A duty should be placed on local authorities to investigate allegations of unlawful eviction.
- **Over 1200 households live in a rented mobile home as their principle residence.** The Scottish Executive should have regard to the Communities Committee recommendation and bring forward an amendment to give those renting mobile homes equivalent legal protection to those renting permanent structures.

The Private Rented Housing Panel

The panel is being established to give tenants legal redress when their landlord has broken the law. However, the panel will only operate where the landlord has not met obligations around repair. **The remit of the proposed panel should be broadened to cover instances where the landlord has managed the property improperly, for example entering the property without giving notice.** The improvement of physical standards is so dependent on good management standards that the powers of the panel would be severely restricted under the current proposals.

The Code of Practice for Landlords

While the proposals for a letting code are a welcome recognition of the need to improve management standards, the Code should not be viewed as an alternative to management standards. **This is because the landlord would not be legally obliged to adhere to the terms of the Code. The Code is not a statutory standard, or a legal obligation for landlords. Therefore a tenant does not have legal redress if their landlords breached the Code.**

The letting code, or other initiatives like voluntary accreditation, will not increase management standard in the private rented sector because they do not set a statutory benchmark for how landlords operate; such an approach is best achieved by setting a minimum operating standard on the face of the Bill, alongside the new repairing standard.

Dealing with Disrepair and Empty Properties

There are over 87,000 properties in Scotland that currently lie empty; 22,500 have been empty for more than six months. Most vacant dwellings (42%) were built before 1919. Many owners do not have the means to bring derelict properties or properties in disrepair back into use, however, properties that are vacant for long periods can also have an adverse effect on the local community as they can attract vandalism, arson or antisocial behaviour. Shelter believes that local authorities should have the power to compulsorily lease long-term empty properties. The lease would last for a fixed period, during which time the local authority can repair the property and lease it to another household.

Tackling Unlawful Eviction and Harassment

Unlawful evictions, sometimes known as illegal evictions, occur when a tenant or someone else living in the property is 'unlawfully deprived' of occupation of the premises. Despite evidence from our Housing Aid Centres that unlawful evictions are widespread, convictions are difficult to secure. This is because there is no mandatory provision for investigating allegations of unlawful eviction. In other words, when an individual makes an

allegation, the police cannot be compelled to investigate. The individual is often left with no alternative but to let the issue drop.

Shelter proposes that the law be changed to ensure that an investigation is initiated when alleged unlawful eviction and harassment takes place. This investigation should be lead by the local authority, in conjunction with the police. This is similar to English legislation, where local authorities, and not the police, lead investigations into unlawful eviction or harassment. This would be similar to the duty to investigate nuisance under environmental health legislation.

The duty would only apply to the investigation and does not place a duty on local authorities to pass the case to the Procurator Fiscal. This means that if a tenant made a vexatious claim, such a claim would not amount to a case against the landlord, merely an enquiry into the facts by the local authority.

Better protection for those renting mobile homes

Over 1200 households live in a rented mobile home as their principle residence. However, despite being private rented tenants they have far less legal protection than a household living in a permanent structure. These households have almost no legal protection from rent increases, cannot enforce better standards on their site, and are constantly under the threat of eviction if they raise concerns with their landlord.

The current increase in mobile home use is clearly a response to the lack of affordable housing, particularly in rural areas of Scotland. Strengthening legal protection for mobile home residents should therefore be just one part of the policy response. As part of their local housing strategies, local authorities should be working to decrease the number of mobile home dwellers living on unlicensed sites, and increasing standards in mobile homes across the board.

Shelter has produced a series of policy papers on its proposals for amendments to the Housing (Scotland) Bill. These can be downloaded on www.shelter.org.uk For more information contact Grainia Long, Policy Manager, Shelter Scotland on 0131 4737194 or grainia_long@shelter.org.uk