

# CRISIS

## WRITTEN SUBMISSION

Crisis, the national charity for single homeless people, welcomes the publication of the Housing (Scotland) Bill 2013. In particular we welcome the introduction of measures to regulate letting agents.

In addition to the issues Crisis has raised previously in our responses to the Private Rented Sector Strategy and Better Dispute Resolution in Housing Consultations, there are some additional areas of concern which we would like to highlight to the Committee.

### **Part 2 - Allocation of social housing based on age**

The provisions in Part 2 of the Bill to allow social landlords the ability to take age into consideration when allocating housing has the potential to further restrict access to housing for younger people in Scotland.

The new legislation appears to be contradictory to the equal opportunities requirements in the Housing (Scotland) Act 2001<sup>1</sup> and there is a real danger that this unnecessary provision will further reduce the already limited housing options for younger people.

This is a particular issue for those in receipt of benefits as at present single claimants aged up to 35 years old are only eligible for the Shared Accommodation Rate (SAR) of Housing Benefit (HB) in the private rented sector which is based on the cost of a room in shared accommodation. In many areas of the country this type of shared accommodation simply doesn't exist or there is not enough available. Crisis research<sup>2</sup> has found that only 13% of properties were affordable at the SAR, but when we took into account landlord willingness to let to benefit claimants, which is a longstanding problem, only 1.5% of the total were both affordable and accessible to SAR claimants.

As a result social housing is often the only choice for single people receiving HB in this age group. However, they also face restricted access to this sector as 75% of social housing stock in Scotland is estimated to be family sized<sup>3</sup> and as a result of the bedroom tax, claimants would not be eligible for the full rent in these properties. Even with the recent increase to local authority Discretionary Payment funds many tenants are reluctant to move into a property which they would be deemed to under occupy and social landlords are wary of housing tenants who would face a shortfall.

An argument put forward for the introduction of consideration of age when allocating social housing is that it will reduce future anti social incidents. Crisis believe this is an unfair measure as the vast majority of younger tenants do not engage in anti social behaviour, and anti social behaviour is not restricted to young tenants. A more productive approach to reducing anti social behaviour would be through the use of pre tenancy training. There are also a number of existing measures available to social landlords to tackle anti social behaviour. The Bill contains increased provisions

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<sup>1</sup> The Housing (Scotland) Act 2001 - Part 7, Section 106.

<sup>2</sup> Crisis (2012) *No room available: a study of the availability of shared accommodation*

<sup>3</sup> Fitzpatrick et al (2012) *The Homelessness Monitor: Scotland 2012*. Page 45 Crisis: <http://www.crisis.org.uk/publications-search.php?fullitem=377>

for dealing with anti social behaviour, including the use of Short Scottish Secure Tenancy, and these changes should be given an opportunity to be in before any consideration is given to restricting the allocation of housing to younger tenants.

In 2012/13, 40% of homelessness applications in Scotland were from single people under 35<sup>4</sup>, and there is a danger that limiting access to social housing for younger people could result in increased incidents of homelessness and rough sleeping.

Crisis therefore strongly believes that social housing should be awarded based on need and restrictions should not be put in place based on age.

### **Part 3 – Transfer of sheriff’s jurisdiction to First-tier Tribunal**

The transfer of private rented housing cases from the sheriff court to a tribunal has the potential to address some of the issues with the current system. In particular, housing cases can be afforded low priority; sheriffs can lack expertise in housing law and the adversarial nature of the sheriff courts can be a barrier to some individuals accessing justice.

However, it is important to ensure that when setting up the First-tier tribunal the needs of vulnerable tenants are considered and they are afforded access to legal advice and support. This is particularly important when dealing with cases of eviction for rent arrears. Eviction has serious consequences for households and can result in homelessness. Any changes to the current regime must take this into consideration and ensure that landlords continue to take the necessary steps to try and resolve disputes before proceeding with repossession action.

We would encourage the new First-tier Tribunal to learn from the operation of the Private Rented Housing Panel (PRHP). The PRHP has been successful in dealing with repair and rent rise cases outside the court system, however, as a result of a lack of awareness there has been limited uptake of the service by tenants. In order for the tribunal to be a success the Scottish Government and local authorities must ensure that PRS tenants are fully aware of the changes and we would like to see promotional work carried out in addition to the updating of the tenant information pack.

### **Part 3, Section 23 - Electrical Safety in the Private Rented Sector**

Section 23 of the Bill proposes changes to the repairing standard contained within the Housing (Scotland) Act 2006. Crisis believes there is a further opportunity to strengthen the repairing standard to ensure that those living in the PRS are not subject to unsafe electrical installations.

The current Repairing Standard requires private landlords to ensure that electrical installation and appliances provided as any part of a let are in a ‘reasonable state of repair and in proper working order at the start of and throughout the tenancy. However, given the growth of the PRS sector which has doubled in size in the previous decade and that 69% of domestic fires in Scotland are caused by electricity<sup>5</sup> we believe there is a strong argument to introduce mandatory electrical safety inspections.

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<sup>4</sup> Scottish Government (June 2013) Operation of the Homeless Persons Legislation in Scotland 2012-13

<sup>5</sup> Analysis by the Scottish Government of Fire Datasets: DCLG and Scotland for 2012-13

Crisis support the Electrical Safety Council proposals for five yearly checks, by a registered electrician, of both fixed electrical installations in all rented property and any electrical appliances supplied with lets. We believe this strikes the right balance between protecting tenants from faulty electrics without being too onerous a financial commitment for landlords.

#### **Part 4, Section 51 – Meaning of letting agency work**

Crisis are funded by the Scottish Government to provide training, support and highlight best practice for rent deposit guarantee schemes (RDGS) in Scotland. RDGS provide a deposit, usually a bond, to help homeless and vulnerably housed people access the private rented sector. Schemes also provide tenancy support and assistance to both landlords and tenants to increase the sustainability of a let. As a result the majority of these schemes would come under the definition of a letting agent as set out in Section 51 of the Bill.

RDGS do not make a profit and all funds are used to house vulnerable clients, therefore any requirements to pay for registration could have an impact on their financial situation and the number of tenants they are able to house.

Schemes have also raised concerns with Crisis over potential limitations placed on their work as a result of being bound by a code of conduct designed for the professional profit making sector. Many schemes have to be selective of their clients and can place requirements into the granting of a tenancy, such as registering with a credit union, and there are concerns that this will not be compatible with the code of conduct.

We would encourage the Committee to look at alternative definitions or an exemption, to ensure that RDGS are not unfairly impacted by this provision. We would be very happy to discuss this area in more detail if required.

**Crisis**  
**28 February 2014**