

Private Housing (Tenancies) (Scotland) Bill

Written submission to the Infrastructure and Capital investment Committee

Glasgow City Council

In respect of the anticipated direct and indirect costs incurred by Glasgow City Council and other relevant local bodies in relation to the implementation of the Bill should it become law, separate representation has already been made to the Scottish Parliament Finance Committee (4th November 2015). This response to the Infrastructure and Capital Investment Committee therefore relates mainly to the practical application of the main provisions of the Bill.

Our comments are based on further consideration of the key provisions and a request for clarification on the role of local authorities, particularly in regard to guidance on amendments to the identification of Rent Pressure Zones.

REMOVAL OF THE “NO FAULT” GROUND

As there appears to be little prospect of the ‘no fault’ ground being reinstated in the Bill, the Council merely notes that the Bill allows a tenant to give notice to end the tenancy at any time but does not afford the same right to the landlord. Whilst recognising that the purpose is to provide additional safeguards for tenants, this change may of itself discourage further investment in the sector which may in turn contribute to a shortage of available accommodation. Our view is that landlords who wish to end the tenancy will use one of the recommended repossession grounds. This may result in a particular stream of cases being referred to the First Tier Tribunal. We would recommend that an in-built review process be established to assess the economic and social impacts of this change within a minimum of three years from the implementation date.

INITIAL TENANCY PERIOD

We have no comments to make on this provision.

CONTINUATION OF TENANCY

This provision gives security of tenure (other than through repossession on the proposed stated grounds) and brings PRS tenants’ rights into line with those of social rented tenants. There is a risk for landlords that in agreeing by default to a permanent tenancy at the expiry of the initial tenancy period, it will be more difficult to remove these tenants with the requirement for the landlord to take the case to the FTT to evict on the grounds of non-payment of rent or anti-social behaviour. Having to prove that a tenant has breached the tenancy conditions could discourage landlords from continuing to operate a service. Currently, they can wait until the agreed end lease date and simply not renew the tenancy.

MODEL TENANCY AGREEMENT

We have no comments to make on this provision.

NOTICE TO LEAVE

We have no comments to make on the provisions proposed in respect of Notice periods.

GROUNDINGS FOR REPOSSESSION

At paragraph 67 of the Policy Memorandum, reference is made to the issuing of Overcrowding Statutory Notices (OSNs). The Policy Memorandum appears to assume that local authorities are already issuing OSNs. This is not the case, as the report on the outcomes of the recent consultation on the power have not (so far as we are aware) been made available to local authorities, and no final version of the guidance has been received. The purpose of serving an OSN (as a last resort) is to encourage the landlord or occupant to find a means of reducing the overcrowding, and not to evict the tenant or take the property out of the PRS system.

RENT LEVELS AND 'RENT PRESSURE ZONES'

In principle, it is right that rents are not increased excessively in any given 12 month period. However, the task of identifying these rent increases is being devolved to Rent Service Scotland and local authorities, even although it is the Scottish Parliament which has the power to cap the levels of rent increase for sitting tenants in areas where "rents are rising excessively" (paragraph 74).

Information currently exists on rent increases and decreases by house size within Broad Rental Market Areas (BRMAs) e.g through Scotstat; Citylets data, which can include more than one local authority. If local authorities individually or jointly opt to request a rent cap, they have to decide if some or all of the BRMA should be designated. How will they be able to do this without asking Ministers to impose a rent cap across the board (i.e the whole BRMA)?

This also raises the question of consistency of practice and policy between local authorities which share the BRMA. Whilst it is likely that there would be co-operation and sharing of methodology to identify inflation busting rent increases within local authorities sharing the same BRMA, we think that it would be helpful for the Scottish Government to issue practical guidance on the full process including data sourcing, consultation, designation and monitoring/review which can be agreed in advance.

The alternative would be to make BRMAs co-terminous with local authority boundaries, however in the case of the major cities, we know that there will be geographical areas within the cities where rent caps would not be appropriate as rental charges are remaining static or are actually falling.

Rent increases are likely to vary from landlord to landlord, from street to street and even house to house. The only means of identifying "hotspots" may be through individual referrals to Rent Service Scotland, and then for RSS to notify the relevant

local authority of the specific locations of these properties. However local authorities will need to establish an information-sharing protocol with RSS which is compliant with data protection legislation. Can the Scottish Government guarantee that such co-operation will become a reality?

Even if local authorities are able to gather enough evidence to suggest that rents are being increased above CPI+1% in any given area, will this be enough to make a case to Ministers to so designate a particular group of properties? The statistics that local authorities currently have access to are a snapshot in time and may not in fact reflect current rental charges. In addition, the nature of the tenancy agreement may stipulate specific breakdown of the rent to include service charges, council tax or other add-ons for replacement of furnishings, white goods and fittings. What is the baseline for deciding that these items are included or excluded from the rent cap?

Local authorities need to be provided with or have access to 'live' accurate independent data to be able to monitor rent charges (including allowing for service charges etc) rather than relying on secondary data which is based on historical averages. As Scot Stats own material suggests, rent levels can decrease as well as increase even over relatively short periods of time, and the Scottish Government and the local authorities could be open to appeals from individual and collective groups of landlords who may be able to cite unfair treatment when compared to other BRMAs or local authorities which have opted not to apply for designation of RPZs.

In short, we believe that the identification of PRZs will be difficult without the co-operation of different parties (tenants, RSS, local authorities, Scottish Government officers, landlord representative bodies), and we wonder how Ministers will impose rent caps if and when an RPZ has been designated, how long it should remain an RPZ and who will monitor compliance.

IMPLICATIONS FOR THE SCHEME OF ASSISTANCE

There is no specific reference to the Scheme of Assistance within the Policy Memorandum. Our expectation is that the new tenancy is likely to generate queries in relation to the provision of advice to owner-landlords.

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