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Dear Mr Howlett

Thank you for your letter of 19 April seeking further information on the Scottish Government's stance on the issues raised in respect of Petition PE1468, lodged by Mike Dailly on behalf of the Govan Law Centre Trust. I welcome the opportunity to set out the Scottish Government's position and respond to the points made in the petition.

Petition PE1468

This petition "calls on the Scottish Parliament to amend Section 16 of the Housing (Scotland) Act 2001 to prevent social landlords from using rent arrears caused by under occupation housing benefit deductions in evictions actions, and instead requiring such under occupation arrears to be pursued as ordinary debt".

The "Bedroom Tax"

Under-occupancy deductions, more commonly referred to as the bedroom tax, is a measure that has been introduced by the UK Government as part of a package of welfare reforms. The measure took effect from 1 April 2013 and reduces the housing benefit of social sector tenants who are deemed to be under-occupying their homes. The Scottish Government has estimated that the average monthly loss will be around £50 per affected household.

The Scottish Government has consistently opposed the introduction of the bedroom tax in Scotland. We are of the view that:

- The rationale for the measure is not of Scotland's making;
- What the measure saves in housing benefit expenditure will be greatly outweighed by the negative economic and social impacts;
- The measure runs roughshod over devolved policy making, taking no account of Scotland's housing and homelessness policies; and
- The Scottish allocation of the DWP Discretionary Housing Payment (DHP) fund is entirely insufficient.

However, as the bedroom tax is a penalty pertaining to housing benefit, the policy is currently reserved to the Westminster Parliament. Notwithstanding this, the Scottish Government is committed to taking all reasonable action to mitigate its impact.

Scottish Government Action

Where responsibility for benefits has been localised, the Scottish Government is doing what it can to protect vulnerable people. This includes:

- An extra £7.9 million for advice and support services in Scotland. This includes a £2.5 million funding stream for social landlords to help those affected by changes to housing benefit;
- A package of £590,000 to boost the capacity of social landlords and homelessness prevention services to deal with housing benefit reforms;
- I wrote to social landlords to make them aware of the flexibility that exists to classify bedrooms for the purposes of housing benefit;
- £40 million with Local Government to protect people who previously received Council Tax Benefit from the UK Government's 10% cut in funding for successor arrangements in 2013/14;
- An additional £9.2 million to the Scottish Welfare Fund, giving a total Fund of £33 million, providing more Community Care Grants and Crisis Grants to the most vulnerable households; and
- £400,000 to support a range of pilots in Scottish local authorities to help test out new ways of delivering services after the introduction of Universal Credit.

The Scottish Government is working in partnership with COSLA and the Improvement Service to strengthen our collective efforts to manage the transition to the new benefits regime for people and councils.

Existing Protection for Tenants

We strengthened protection from rent arrears eviction in August 2012 (regulations laid through 2010 Housing Scotland Act) through pre-action requirements to ensure eviction is a last resort. In every rent arrears case, social landlords must take a number of steps before eviction action can be taken to court. These steps include:

- Give clear information about the tenancy agreement and the unpaid rent or other financial obligations;
- Make reasonable efforts to give help and advice on eligibility for housing benefit and other types of financial assistance;
- Give information about sources of help and advice with the management of debt;
- Make reasonable efforts to agree with the tenant a reasonable plan for future payments;
- Consider the likely result of any application for housing benefit that has not yet been decided;
- Consider other steps the tenant is taking which are likely to result in payment within a reasonable time;
- Consider whether the tenant is complying with the terms of an agreed plan for future payments; and
- Encourage the tenant to contact their local authority (where the local authority is not the landlord).

Landlords must confirm to the court that the pre-action requirements have been complied with and the court checks this before authenticating the summons that landlords can then serve on tenants. Guidance has been issued to assist social landlords understand their requirements.

A tenant who falls into arrears due to benefit changes will therefore have every opportunity to take up advice and assistance and agree a repayment plan that is affordable and sustainable for them. If landlords do raise proceedings, then it is for the courts to consider the reasonableness of granting an eviction order. In doing so, section 16(3) of the 2001 Act requires the court to have regard to, amongst other things, "the extent to which the conduct is or was the conduct of, or a consequence of acts or omissions of, persons other than the tenant".

The Role of Landlords

By reducing housing benefit, the bedroom tax places at risk a tenant's ability to pay their rent. Due to this and the unprecedented nature of the bedroom tax, social landlords are keen to work closely with the households affected to assess individual circumstances and develop ways to lessen the impact of the measure.

Therefore, I advocated the approach taken by Dundee City Council to dealing with arrears as a result of the bedroom tax. The Council has committed that, where the Director of Housing is satisfied that affected tenants are doing all they can be reasonably expected to in order to avoid falling into arrears; they will use all legitimate means to collect rent due, except eviction. This approach strikes a pragmatic balance between supporting the affected tenants and protecting the finances of the landlords, which are used to provide services to all tenants.

Protection from Eviction

This Petition is calling for a blanket exemption to eviction for all tenants affected by the bedroom tax in Scotland regardless of circumstances. The issues that the Scottish Government sees with such an approach include:

- By singling out the bedroom tax, it does not take account of tenants who fall into financial difficulty for other reasons. For example, a tenant in financial difficulty as a result of changes to other welfare benefits, such as Disability Living Allowance;
- We are concerned that such legislation could encourage tenants to get into debt; and
- A change to the legislation would remove the flexibility for landlords to treat each case on an individual basis.

Conclusion

The Scottish Government is opposed to the bedroom tax and is seeking ways to protect tenants and landlords. However, after careful consideration, we do not believe that a change to legislation advocated in this Petition would be in the best interest of tenants or landlords.

Kind regards

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