



IN RESPONSE TO THE SCOTTISH PARLIAMENT'S PUBLIC PETITIONS COMMITTEE'S CALL FOR EVIDENCE ON PUBLIC PETITION PE1468 ON EVICTIONS DUE TO UNDER OCCUPATION DEDUCTIONS

May 2013

1 The SFHA's Views on Public Petition PE01468

- 1.1 The Scottish Federation of Housing Associations (SFHA) cannot support Public Petition PE01468 from the Govan Law Centre Trust on evictions due to arrears arising from under occupation deductions.
- 1.2 Rent arrears arising from restrictions on eligibility for Housing Benefit imposed on tenants by DWP should be treated no differently from the many other situations which trigger an arrear, such as illness, or job loss. Tenants are liable for their rent, whether it is paid through Housing Benefit or not.
- 1.3 We do not agree that it would be fair for landlords to be able to differentiate legal responses based on the nature of arrears. We are concerned about the fairness of this. Other forms of welfare changes adversely impact on support to tenants. Also, working households may find it difficult to meet their rent payments as a result of reductions in earnings. But no-one is suggesting that landlords should not be allowed to seek eviction in these circumstances. Housing associations and co-operatives treat every rent arrears case on its own merits but consistently, by taking all of the facts into account, offering advice and assistance and making suggestions to help the tenant to tackle the situation.
- 1.4 Eviction is rarely used and only having exhausted the alternatives, but it remains an important tool for every landlord in the management of tenancies.

2 Impact of Under Occupation Deductions

- 2.1 In common with other housing bodies across the UK, we opposed and lobbied against proposals to restrict tenants' eligibility for Housing Benefit relative to house size. We did so because the proposals are unfair and incompetent, not least due to the structural mismatch between the profile of stock and households which means there simply are not enough smaller houses.
- 2.2 While housing associations and co-operatives are proactive in doing all that they can to help people under occupying properties to find a smaller property to rent, the Scottish Government's assessment into the impact of welfare reform estimates that there are 12,572 one bedroom properties available for let by housing associations and co-operatives in a year, with a further 13,269 two bedroom properties available. Leaving aside any other allocations considerations this falls well short of what would be required to relocate the:
 - 75,800 affected households under occupying by 1 bedroom and therefore subject to a 14% reduction in support (which equates to £9 per week on average in Scotland); and

- 19,600 affected households under occupying by 2 or more bedrooms and therefore subject to a 25% reduction in support (which equates to £16 per week on average in Scotland).¹
- 2.3 Leaving aside all of the other welfare reforms, Scotland's social landlords therefore face the prospect of having to collect an additional £51.7 million per year in rents simply as a result of under occupation restrictions.
- 2.4 In April 2012, the SFHA commissioned i.s.4 housing and regeneration limited (i.s.4) to conduct an independent examination of the potential direct and indirect financial impacts of welfare reform on housing associations and co-operatives in Scotland. The report was published in August 2012.²
- 2.5 The analysis suggests that the various welfare reforms will result in a total loss of benefit income for working age tenants in the RSL sector of up to £228m by 2017. Around £33.5m of the annual estimated loss is related to Housing Benefit reform. Working age households will face further significant pressure as a result of the reform of other working age benefits and the uprating of benefits using CPI rather than RPI. Our analysis suggests that, by 2017, a further £39.5m will be lost annually as a result of other working age reforms and £50.4m will also be lost each year as a result of the uprating of benefits using CPI rather than RPI.
- 2.6 The estimated losses of income to tenants is critically important to landlords because a tenant's propensity to pay their rent on time is sensitive to overall levels of household income, not just Housing Benefit.
- 2.7 The tenants most exposed to the reforms include:
- Tenants who are out of work, including those with disabilities and complex support needs
 - Tenants who are on low incomes and may have children (larger families, in particular);
 - Tenants who have non-dependents living with them;
 - Tenants who are considered to be under occupying against the relevant size criteria.

¹ Scottish Government (2011), *Housing Benefit changes: Scottish Impact Assessment*. Available at <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/supply-demand/chma/marketcontextmaterials/hbchangesscottishimpact/> (accessed 17th May 2013)

² i.s.4 (August 2012) for SFHA, *The Impact of Welfare Reform on Housing Associations and Housing Co-operatives in Scotland*. Available at <http://www.sfha.co.uk/sfha/welfare-reform/welfare-reform-research-and-publications/menu-id-311.html> (accessed 17th May 2013)

- 2.8 Transitional Protection may assist some households for a short period of time, but will not alleviate the long term financial pressure tenants and ultimately on landlords.
- 2.9 The scale of the reforms for tenants indicates significant direct financial risks for landlords including:
- Rent loss as a result of increased arrears and bad debts. Our analysis suggests rental income could be at risk amounting to £51.2m.³ The £33.5m which is currently met directly from Housing Benefit and which tenants will have to fund from other sources in future is a particularly significant risk. Most organisations anticipate increased rent arrears as a result of the various welfare reforms.⁴
 - Slower and costlier cash collection as a result of having to collect rents individually from tenants (currently the majority of tenants who receive Housing Benefit mandate payment via the local authority, made in batches to housing associations and co-operatives). We estimate a 50% increase in current tenant arrears, amounting to £12.4m, representing 1.3% of gross rents.
 - An increase in cost of between £11.902m and £12.676m, depending on whether financing costs are required, and arising as a result of increased housing management activity.
- 2.10 Unless these increased costs and reduced income levels can be alleviated for landlords, the result across the sector will be poorer financial performance. This may cause issues for some landlords, particularly being able to meet agreed financial and business plan parameters and in meeting existing loan covenants to lenders.
- 2.11 Landlords that are likely to be most exposed will include those who have a higher concentration of working age and single households who are currently out of work or are on low incomes. The exposure may be further increased if, within those households, there are concentrations of tenants with disabilities or with large families.
- 2.12 As well as the direct financial issues associated with welfare reform, there are a number of additional indirect impacts which are likely to involve financial consequences for our members. Whilst it is difficult to be too specific in anticipating indirect consequences of the reforms, these can be considered in two key categories as follows:
- Pressures for individual housing associations and co-operatives, and the extent to which welfare reform detracts from the delivery of their specific business, financial and performance targets. This will be very specific to each landlord and their particular circumstances.

³ i.s.4 (August 2012) for SFHA, *The Impact of Welfare Reform on Housing Associations and Housing Co-operatives in Scotland*. Available at <http://www.sfha.co.uk/sfha/welfare-reform/welfare-reform-research-and-publications/menu-id-311.html> (accessed 17th May 2013)

⁴ SFHA (February 2013), *Preparing For Welfare Reform*. Available at <http://www.sfha.co.uk/sfha/welfare-reform/welfare-reform-research-and-publications/menu-id-311.html> (accessed 17th May 2013)

- The ability of housing associations and co-operatives to deliver the Scottish Government's broader housing and housing related policy objectives including new housing supply and the prevention/reduction of homelessness.

3 Eviction Action by Housing Associations

- 3.1 There is clear evidence that housing associations and co-operatives only ever seek repossession as a last resort after all other approaches have failed. Furthermore, tenants are already protected by the tests of reasonableness and proportionality applied by Sheriffs to repossession actions. There is a tremendous amount of good practice being carried out throughout the housing association sector in relation to the early identification of risk and prevention of rent arrears, as well as the recovery activity once an arrear has started to accrue. Though some of this practice is innovative, the majority of it includes established, tried and tested techniques which our members have used successfully.
- 3.2 Many of these methods have now been formalised into pre action requirements, introduced by the Housing (Scotland) Act 2010, which are effectively a check list of actions a landlord must take before being able to serve an eviction notice on a tenant. These requirements, along with the Sheriff's tests of reasonableness and proportionality, are more than sufficient protection against unfair eviction.
- 3.3 It is never in the interests of a housing association or co-operative to evict a tenant without having pursued all of the alternatives. Scotland's housing associations and co-operatives are not cavalier about evicting tenants. Eviction action is not pursued lightly. The SFHA and its members view eviction as an absolute, but necessary, last resort. Evictions are a failure for all concerned.
- 3.4 And a tiny proportion of tenancies end in eviction: barely a quarter of 1% (0.25%) of all tenancies in 2011/12, of which 96% of all evictions were for rent arrears. Scotland's housing associations and co-operatives have made great strides in recent years to reduce the number of evictions they carry out.⁵

Year	Number of evictions by housing associations	Relative to previous year
2009/10	942	- 38%
2010/11	761	- 19%

⁵ Shelter Scotland (March 2013), *Evictions by social landlords in Scotland*. Available at http://scotland.shelter.org.uk/data/assets/pdf/file/0006/635028/Evictions_Report_11_-12_FINAL_2.pdf (accessed 17th May 2013)

2011/12	767	- 0%
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4 Concluding Comments

- 4.1 Housing associations and co-operatives have a duty of care to all of their tenants to ensure that rental income is collected in order to pay for services. Indeed, in response to welfare reform, most of our members have increased the resources in their budgets to provide more advice, support and debt management assistance and so they must ensure that nothing undermines their ability to pay for this.
- 4.2 The Scottish Housing Regulator expects housing associations and co-operatives to ensure they minimise the risks arising from rising arrears and bad debts. The majority of associations are charities and the charity regulator OSCR would similarly expect its trustees to ensure that risks to the business are minimised.
- 4.3 Removing a sanction for non-payment of rent for one category of arrear undermines the landlord's ability to collect rent. Both the duty of care to all tenants and ensuring fairness and equity in treating arrears in the same way, no matter how they have occurred, is fundamental to how our members are expected to operate and be held to account.
- 4.4 For these reasons we cannot support this petition.

SFHA

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