

TENANTS HOUSING PANEL

KEY RECOMMENDATIONS

Over the course of three meetings the panel of tenants considered the key challenges they face and agreed a series of recommendations to make to the Committee to inform scrutiny of the Housing Bill and the Committee's ongoing scrutiny of issues affecting the private rental sector more generally.

These key recommendations are set out below.

Housing strategy

- Separate from specific issues about the private rental sector, the panel recommends that the Scottish Government establish a clearer long-term plan for housing needs that emphasises:
 - the creation of housing to meet all housing needs;
 - local responsiveness to differing housing needs in different parts of Scotland.

Improve access to social housing

- The panel contends that the limited availability of social housing is compelling some people to live in the private rented sector, when they would not otherwise choose to do so. The panel recommends that there should be more choice in the housing market but to do that there must be an increase in the availability of social housing.
- The panel recommends that to increase the availability of social housing there must be an increase in the building of social housing as well as a national acquisition strategy.
- As a corollary to this, the panel advocates for disincentives to developers from continuing to build purpose-built student accommodation.
- In the interests of improving choice, the panel also recommends that the supply mid-market rents should be increased.
- The panel also recommends that the eligibility criteria should be changed to allow people with higher incomes to access mid-market rents. It was further recommended that eligibility limits should increase in line with wage inflation.
- To ease movement of tenants between rented property, including mid-market rented accommodation, the panel also recommends that deposits from one property should be transferrable from one property to another property.

Rents and affordability

- In general terms, the panel noted that rents have been increasing at high rates and that for some people affordability was a problem. The panel stressed the importance of fairness in the setting of rents and were supportive of rent controls.
- The panel recommends that landlords should have to apply to a third party such as Rent Service Scotland to increase rent levels for the following reasons:
 - It assists in improving the quality of data collection.
 - It ensures that landlords are acting appropriately.
 - It relieves the pressure on local authorities to collect data.
 - It places the onus on landlords to ensure compliance rather than tenants
 - Unclaimed tenancy deposits could be used to fund this service.
- More specifically, the panel recommends that rents and rent increases should be tied to tenants' income and that rents should still be affordable to tenants earning the minimum wage.
- Some members of the panel suggested that a rent cap should be tied to local housing allowance. This was not supported by all members of the panel, but there was universal support for a review of the local housing allowance although the panel recognised that was a matter for the UK Government.
- The panel recommends that there should be more transparency about any increases in rent and they must be justified by the landlord to the tenant and reflected in the quality of the property.
- The panel also recommends that rent control should be linked to the property rather than the tenancy and as such rent controls should apply to rent increases between tenancies not just within tenancies.
- The panel recommends that landlords should not be allowed to increase rent at any time within the first year of a tenancy.
- The panel also recommend that landlords should not be allowed to increase rent for a set period if they have had an enforcement order granted against them (i.e repairing standard enforcement order, wrongful termination order etc).

Awareness, understanding and communication of rights, including accessibility of language used

- The panel recommends that there should be improvements in the way tenants are provided by landlords with their rights at the point of signing their contract and that information about those rights should be provided in a variety of accessible ways including a variety of different languages.
- The panel also recommends that tenants should have access to information about their property such as information about the condition of the property and status of any repairs.
- The panel notes that awareness of the rent adjudication and Tribunal process is limited and recommends that a concerted effort is made to improve that awareness.

- To support tenants in understanding their rights, the panel recommends that unclaimed tenancy deposit money should be used to fund a helpline and support for tenants.
- The panel also recommends that funding should support dedicated private rented sector advice services that offers lay representation at the Tribunal.
- The panel also recommends that behavioural guidance should be provided to landlords to ensure they act in a way that is not detrimental to tenants.

Enforcement and accountability, including First-Tier Tribunal and Code of Practice

- The panel recommends that if a landlord has evicted a tenant on intention grounds (like selling) they should not be allowed to let property again for a number of years.
- As a corollary to this, the panel recommends that consideration should be given to speeding up the Tribunal system in relation to the use of conduct grounds on the basis that this might encourage landlords to stay in the sector. To do this the panel suggested that there would be a need to tighten up the type of evidence /checking that is done when landlords give notice on the basis of conduct grounds.
- Moreover, the panel recommends that the penalties for wrongful termination of a tenancy should be increased to further discourage landlords from making such evictions.
- The panel also recommends that the Code of Practice for Letting Agents should apply to landlords, individuals employed directly by the landlord in addition to agents
- The panel recommends that the tribunal should an additional member with a background in ethics for discussion on eviction cases where the issue of “reasonableness” is being considered. Moreover, tribunal members should have to declare any conflicts of interest, such as being a landlord and/or landlord representative.
- The panel recommends that the requirement for tenants to provide their new home address in wrongful termination and illegal eviction tribunal applications be removed and suggests instead that an email address and/or representative details should suffice.
- In addition, the panel recommends that the tribunal should have powers to award compensation in repairs cases rather than there being a need to make a separate application.

Personalisation

- The panel recommends that tenants should have a right to paint and decorate their properties.
- The panel recommends that tenants should also have the right to request the removal if unwanted furniture.
- The panel also recommends that tenants should have the right to keep a pet in their property.

- The panel contends that the amount of information a prospective tenant is required to provide a landlord or letting when applying for a private rented tenancy is excessive and that, for example, a prospective tenant should not have to declare they are a single parent or on disability benefits.

Tenancy Deposits

- The panel recommends that if a tenant is able to prove a consistent pattern of paying their rent in previous tenancies it should not be incumbent on them to pay a deposit when entering into a new tenancy.
- The panel recommends that landlords must register the time it has taken to return deposits.
- The panel also recommends other ways in which tenancies could be made more accessible through reducing the burden of deposits:
 - a requirement for a speedier return of deposits to enable a tenant to have the funds to enter into a new tenancy;
 - support from local authorities and voluntary agencies with the payment of deposits; and
 - the capacity to bridge deposits between tenancies in different properties.

Eviction and tenancy issues

- The panel is concerned about the propensity to evict tenants at particular points in the year and recommends longer notice periods to avoid seasonal evictions.
- The panel highlights that concerns about seasonal evictions might be more pronounced in winter, but they may also occur in summer months in other parts of the country.
- The panel expressed concern about certain eviction grounds, specifically grounds 2¹, 3², 5³, 6⁴ and 7⁵ and asks that they be reviewed.
- With reference to ground 2, the panel recommends that other forms of diligence against the landlord be explored rather than the default being to repossess tenanted property. It is suggested that if changes cannot be made to ground 2 and “best price” duty, then it should be changed from discretionary back to mandatory.

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¹ **Ground 2:** Mortgage default (2 months' notice) If your landlord has failed to keep up with their mortgage payments for the home, their mortgage lender might want to sell the home to cover your landlord's debts. Although the blame here lies with your landlord, you still have to move out so the home can be sold.

² **Ground 3:** Landlord intends to refurbish.

³ **Ground 5:** Your Landlord's family member intends to live in the Let Property

⁴ **Ground 6:** Landlord intends to use for nonresidential purposes

⁵ **Ground 7:** Property required for religious purposes

Improve Data

- In general terms, the panel advocates for much more transparency in information about rents and properties.
- The panel recommends that a condition of registration as a landlord must be declaration of how much rent a landlord proposed to charge.
- The panel recommends that landlords must in the landlord register:
 - how much rent they are charging and a history of how much they have charged previously;
 - how many people live in the property and how many people have previously lived there;
 - energy efficiency information.
- The panel recommends that this data must be regularly updated.

Incentivise landlords who need to sell to keep their properties in the private rented sector

- The panel recommends that private landlords who need to sell their properties should be incentivised to keep their properties in the private rented sector.
- To that end, there should be more incentives for buy to let mortgages as opposed to buying as a second property.
- The panel also recommends that there should be incentives for landlords to sell with a sitting tenant in place and at the same time, tenants should have a right to stay in a property after a change of landlord.
- The panel recommends that the tax system could be used to provide incentives for landlords to buy existing let properties with tenants in place, eg changes to LBTT tax or work with local authorities in using acquisition fund money to purchase properties.

Security of joint tenancies

- The panel recommends that there should be individual tenancies rather than joint tenancies. This would remove the obligation on tenants in a joint tenancy to find another tenant to pay the rent if one tenant leaves.