

## Eviction of Tenants in the Social Rented Sector: Protection of Tenants with Rent Arrears

### GWSF Response to Scottish Government Consultation (May 2010)

#### Consultation Questionnaire

##### Question 1

Do you think there is a need to do more to reduce the number of tenants evicted in the social rented sector for rent arrears?

Yes.

- ✓ Deal with landlords who are performing poorly.
- ✓ Promote existing good practice. No consolidated or practical good practice guide is available for Social Landlords. It may be prudent to trial this, in a way that is monitored, prior to introducing a statutory requirement for a pre-action protocol. Also, need to ensure the point below is enacted as RSL's may be able to answer yes to all requirements of good practice and a protocol, but if statutory and other support is not provided then it runs the risk of becoming a box ticking exercise.
- ✓ A more widespread 'corporate' approach' has to be achieved, involving RSL's Local Authorities, support groups etc. All too often RSL's are dealing with multiple issues that Tenants suffer from, with little assistance. All too often funding cuts are cited as an excuse, even though research from tenancy sustainment projects proves that the returns far outweigh the costs. As local authorities ultimately bear the majority of the costs post eviction - due to their homelessness responsibilities - they need to focus more funding on their statutory duties that have an impact on **prevention** of eviction. So we would like to see good practice guidance emphasising the need for statutory bodies to engage with landlords effectively and help ensure that the wider range of services needed is in place to assist vulnerable tenants. This, not just landlord practice, is a key issue.
- ✓ A review of housing benefit administration would go a long way to assist with this issue. Many RSL's provide welfare benefits advisors for Tenants pre or at the sign up stage. This enables the Landlord to inform the Tenant of their rent liability in advance. Many Tenants however have many complex needs and as a result H.B. is not paid as they have failed to provide relevant documentation. Provision of documentation requires Tenants to take their information to another office, which is often far from where they live. The communications sent to Tenants from HB depts. is often ambiguous and technical, resulting in Tenants ignoring it as they cannot read or do not understand the requests being made to them. Allowing RSL's a greater role in the verification process for HB would be a great benefit. So could providing local authorities with positive encouragement to make their services more accessible to their clients (eg by "outposting" HB staff to local, community-based landlords as has

happened in parts of Glasgow).

Also, the inability for people in furnished homeless accommodation to be able to claim HB at two addresses while they await an outcome from a community care grant application, is a huge factor in the creation of rent arrears for this already vulnerable client group. As less vulnerable Tenants can claim HB at two addresses in certain circumstances, why can it not be extended to this client group?

- ✓ Much of the literature referred to in the consultation paper, fails to acknowledge that often, eviction for arrears take place solely due to the unwillingness of tenants to pay the rent. Account has to be taken of this also. Perhaps an in depth analysis of the causes of rent arrears/reasons evictions have been pursued, should be undertaken, to inform what action is actually required?
- ✓ Unpaid rent can have a direct impact on a Landlord's ability to deliver services. The Government has to ensure therefore that it does not create a situation where it is sending out a message that rent arrears are OK or that Landlords should not be evicting Tenants under any circumstances, as ultimately, this will affect viability and other tenants will be subsidising the non-payers. Any new measures that may be put in place, including publicity material, must emphasise very clearly the fundamental obligation that tenants have to pay rent, and that landlords will continue to deal firmly with those tenants who can pay but who refuse to do so.

## Question 2

Do you think that identifying and sharing "good practice" on preventing rent arrears **would** help to reduce the number of tenant evictions?

Yes. However there has to be a willingness on the part of the Landlord to enact the good practice. Targeted inspections of poor performing landlords by the Regulator, with specific and detailed regulation plans for improved performance, would also have a role to play. In the past, the Regulator's attention on evictions has been primarily at sector-wide level. If there are landlords who are evicting high numbers of tenants, it needs to be clearer how the Regulator is investigating the reasons for this and what action it is taking if there is evidence of poor practice.

### **Question 3**

How can we encourage landlords to adopt “good practice” in sustaining tenancies?

As above. Need to be careful here about the terminology being used as you have shifted from actions to reduce evictions for rent arrears to adopting good practice for sustaining tenancies – which goes much wider than just looking at rent arrears!

### **Question 4**

What examples of “good practice” in preventing rent arrears do you think should be shared with other social housing providers?

As per Q1, needs to be directed at the areas that need it. This is a very wide question! Also, emphasis should not just be on preventing arrears, need to include management and recovery- look at the whole picture.

### **Question 5**

How best do you think the sharing can be done?

Needs to be a national method, not just guidance or advice issued by one body – which non members do not get access to. Such guidance may need to take into account the different issues faced by different types of organisations e.g. rural and urban. Also, as stated above, probably best done via targeted inspections by the regulator to poor performing organisations.

### **Question 6**

Do you think that including in the Social Housing Charter an outcome on landlords’ effectiveness in helping tenants maintain their tenancies would help to reduce the number of tenants evicted for rent arrears?

Previous advice for the Scottish Government was that Tenants would decide the contents/outcomes for the tenant’s charter, so unable to answer this one. If this is to become an outcome then it runs the risk of becoming ‘tokenistic’ as it is looking at ‘effectiveness in helping.....’, how would that be measured? Another box ticking exercise? Need to ensure role of other organisations re their support role is also taken into account.

### Question 7

Do you think that a pre-action protocol would help to protect tenants from eviction?

Yes but not on its own (this is stated without having sight of any drafts). As detailed in answers above, there is a lot more that requires to be done in tandem with any protocol.

### Question 8

Are there any unintended consequences in pursuing this option?

If it becomes a box ticking exercise, it could give *carte blanche* to poor performing RSL's to continue with their practices.

### Question 9

Do you think that a pre-action requirement would help to protect tenants from eviction?

As per Q7 above.

### Question 10

Are there any unintended consequences in pursuing this option?

If it becomes a box ticking exercise, it could give *carte blanche* to poor performing RSL's to continue with their practices.

### Question 11

What do you think should be included in a pre-action protocol or pre-action requirement for social landlords?

As stated above. There has to be a comprehensive study of what the real problems are and the scale of them to inform this, if it is to proceed. Given changing economic climates, is it the intention to have evolving documents in place? Where pre action protocols highlight that eviction action is having to be pursued as a last resort due to the failure of other agencies failing to perform their roles – how will this be captured regionally. Will the Scottish Government look at introducing measures to deal with this?

As a minimum, the protocol should address whether the Tenant has made reasonable efforts to pay rent.

### **Question 12**

Should landlords be able to retain tenants in their existing tenancy?

This would depend on what the arrangement would be. Would a court order for rental payments be put in place with immediate eviction if Tenant defaulted without prior arrangement e.g. due to change in circumstances? Would arrears still be current and not become former tenant arrears? Would all expenses be payable by the Tenant – bearing in mind that other tenants rent money is being used to fund the legal action? Etc.....

### **Question 13**

Are there any unintended consequences of pursuing this option?

As above. Much more information has to be provided on this proposal before this question can be answered.

### **Question 14**

Is there anything else that we could do to make sure that eviction of tenants for rent arrears is a last resort?

It is the last resort, presumably for the majority of Landlords. Where it is not, it is perhaps something for the Regulator to oversee via Landlords producing action plans. Action plans could be triggered from APSR benchmarking by peer groups.

### **Question 15**

Are there any issues around eviction for particular groups, for example, around age, disability, gender, race or religion?

Only in relation to the support that may be required from other agencies in relation to overall tenancy sustainment.

### **Question 16**

What comments do you have on our Partial Regulatory Impact Assessment, specifically on any other costs or additional burdens associated with the options set out in this consultation document?

You state at point 8 that forms will be prepared in consultation with the sector. Does this mean all RSL's will be consulted or just the organisations listed at point 3?

GWSF was not invited to take part in the earlier consultation leading to publication of this paper. We represent a significant part of the Scottish housing association sector, with 45 housing associations currently in membership. We would welcome the opportunity to have a direct involvement in future consultation meetings or events arranged by the Scottish Government.

Please send your completed **Respondent Information Form** and questionnaire to:

[SocialHousing@scotland.gsi.gov.uk](mailto:SocialHousing@scotland.gsi.gov.uk)

Or by post:

Housing Management and Affordability  
Social Housing Division  
Scottish Government  
Area 1-H  
Victoria Quay  
Edinburgh EH6 6QQ

You can download a Word version of the questionnaire and Respondent Information Form from our website.

We invite responses to the consultation paper by **28 May 2010**.

If you have any queries about how to reply, please contact a member of the team on 0131 244 1514 or e-mail us at [SocialHousing@scotland.gsi.gov.uk](mailto:SocialHousing@scotland.gsi.gov.uk)



## RESPONDENT INFORMATION FORM

Please Note That This Form **Must** Be Returned With Your Response To Ensure That We Handle Your Response Appropriately

### 1. Name/Organisation

Organisation Name

Glasgow and West of Scotland Forum of Housing Associations

Title Mr  Ms  Mrs  Miss  Dr  Please tick as appropriate

Surname

Forename

### 2. Postal Address

c/o Govanhill Housing Association

79 Coplaw Street

Glasgow

Postcode G42 7JG

Phone

Email:  
patricia@provanhallha.org.uk

### 3. Permissions

I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate  Yes

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate  Yes

No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No