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- Individual
 Organisation

Full name or organisation's name

Edinburgh Tenants Federation

Phone number

0131 475 2509

Address

Norton Park Conference Centre
57 Albion Rd, Edinburgh EH7 5QY

Postcode

EH7 5QY

Email

info@edinburghtenants.org.uk

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- Yes
 No

A New Deal for Tenants - Draft Strategy Consultation Paper Questions

Introduction

ETF is pleased to respond to this consultation; however we recommend also consider our additional views noted here as well as the responses to the questions posed.

We consider that:

- The use of bed and breakfast accommodation for homeless people and families in particular should not be considered a housing option
- People who require it should be provided with a stable, safe home that meets quality standards
- Landlords need to invest in the properties tenants live in at present before further new builds are developed
- Rent affordability is crucial in any considerations for the future of Scotland's Housing, including consideration of affordability meaning all housing costs such as utilities and council tax
- The consultation document could have been better presented by having clear sections and associated questions for PRS, SRS and Student sectors

Abbreviations Used

- ARC - Annual Return on the Charter
- CPI - Consumer Price Index
- EESSH - Energy Efficiency Standards in Social Housing
- LSA - Legal Services Agency
- LA - Local Authority
- MMR - Mid Market Rent
- PRS - Private Rented Sector
- RTO's - Registered Tenants Organisations
- RSL - Registered Social Landlord
- RPI - Retail Price Index
- SG - Scottish Government
- SHQS - Scottish Housing Quality Standard
- SRS - Social Rented Sector
- TP - Tenant Participation

1. What barriers do people with protected characteristics face in their experience of the rented sector?

- Accessibility for people with disabilities, wheelchair users etc. We consider there is limited availability of housing across sectors to suit these needs.
- Accessibility of housing for asylum seekers and refugees can be difficult due to stigma in some places
- Homeless people are not always able to access the housing they require
- People with visual impairments, non - English speakers etc may find it hard to access housing as information is limited / unavailable
- Training and skills of staff may not always meet the needs of people looking for housing / housing information

2. Do you have any suggestions for how we can better meaningfully embed tenant participation within the private rented sector, including for people with protected characteristics, in national and local policy/decision making?

- SG needs to ensure all PRS landlords are registered prior to ensuring TP can be a right within the sector
- Potential to develop Registered Tenants Organisations within the PRS, similar to SRS, with similar criteria, roles and responsibilities for both tenants and landlords
- Ensure PRS tenants have set standards of communication and engagement that they are required to meet

3. What are your views on the future role tenants' unions could have in supporting tenants to actively participate in decision-making at a national and local level in Scotland?

- The development of tenants' unions would need to be for all tenants, PRS, SRS, Students etc.
- The Swedish Model is worth looking at in more detail, however consideration of fees, criteria, role of unions etc needs consultation and clarification. Consideration is also required of how the PRS and SRS are managed and funded differently, with particular reference to affordability, services and investment
- Any tenant union development would require a set criteria, with particular reference to fees, affordability and VFM as well as what the fees would pay for etc.
- Consultation with the Regional Networks, RTO's Federations etc would also be required

4. How best can we ensure people are aware of their rights and how to exercise them in:

A. The private rented sector?

- Information and communication need to be developed, provided, and promoted to all PRS tenants. This should be part of the tenancy agreement
- Clear tenancy agreements with similar / same rights as SRS is required for PRS tenants
- SG needs to ensure tenants who exercise their rights within the PRS do not live in fear of eviction or other negative behaviours by the landlord
- Tenants have power and SRS / SG and others need to advise PRS tenants of this
- Work is required to empower the PRS tenants
- Alternative communication methods other than written information

B. The social rented sector?

- As above
- Clear information is needed for all tenants re Charter, SHR etc in plain English
- SG and other stakeholders need to further promote TP, Scrutiny, RTO's, Federations etc
- Reinvigoration of TP - and statutory right to TP should be developed

5.

After 4 years of the Private Residential Tenancy being in place, how well do you think the 18 grounds for eviction are working? Is there anything that you would like to see changed? Please explain your answer with reference to the relevant ground(s).

- We are unaware of the usage of these grounds and recommend this is provide to organisations such as ETF and reported to wider community / society to allow us to assess how this is / is not working
- We consider SG needs ensure notice to quit timescales when landlord is selling property is enough time to allow people to secure a new home
- We consider the 18 grounds seem sufficient
- Support is required for tenants who must move out when the eviction ground is not their fault
- PRS landlords should be required to provide information to tenants on how to access housing options advice

6. Are there any additional specific grounds for ending a tenancy that you think should be added?

- Yes
- No
- Don't know

Please explain your answer.

- 18 seems significant

7. Do you have any views on our proposal to take forward a clarification in relation to the use of ground 6 – 'Landlord intends to use for non-residential purpose'?

- This requires clarification and SG needs to ensure that landlords are then deregistered. We have concerns that some landlords may evict a tenant and then use property for short term let, such as holiday let / AirBnB. This requires a different registration process and Councils need to be able to monitor usage and deal with any issues
- PRS landlord registers should be made public and easily accessible

8. What further refinements could be made to either the private rented or social rented sector pre-action requirements in order to further protect and support tenants?

- We do not consider we have enough information on this, but agree PRS landlords should be required to do homelessness prevention work, provide housing options information etc, especially for people losing home for reasons other than rent arrears or ASB
- We consider this should be the same for SRS

9. Can you provide any examples/case studies of where the pre-action requirements have worked well in practice?

- No information on this
- We recommend SG develops information sheets on this and circulates good practice case studies

10. What measures could be implemented to support people involved in sex work, including women subject to commercial sexual exploitation in the rented sector?

- We understand it is illegal to use a home for “disreputable purposes”, and this can adversely affect women in the industry
- We also note men and children can be in the sex industry, with children in particular being a priority for protection
- Landlords need to work with the police and social work to enforce rules and protect children and adults involved in sex work and / or victims of sexual abuse

11. Do you agree with our proposal to amend the 2016 Act to ensure that all joint tenants can terminate their interest in a private residential tenancy without the agreement of other joint tenant(s)?

Yes

No

Don't know

Please explain your answer.

- People should be treated as individuals and able to terminate tenancies, especially where people are vulnerable and in difficult situations
- The person who leaves the property should no longer be liable for rent or council tax payments for the property

12. In the social rented sector, the notice period required for a joint tenant to end their interest is four weeks.

A. Should a similar 4 weeks' notice period apply for a joint tenant in the private rented sector to give to their landlord and other joint tenant(s) to end their interest in the tenancy?

Yes

No

Don't know

Please explain your answer.

- To give landlord adequate notice and make sectors similar
- Discretion should be given if person has to leave if they are a victim of a domestic or other abuse / harassment etc.

B. Should there be longer notice periods where there are more than two joint tenants to reflect the greater prevalence of multiple joint tenancies in the private rented sector, for example in student households?

Yes

No

Don't know

Please explain your answer.

- No need to increase timescales
- Discretion should be given if person has to leave if a victim of a domestic or other abuse / harassment etc.

13. Should this proposal be taken forward, are there any additional safeguards that should be put in place for remaining joint tenants in the private rented sector?

- Yes
- No
- Don't know

Please explain your answer.

- Should not be responsibility of remaining tenants to secure another tenant
- Remaining tenants should not need to pay the additional rent / council tax for the vacant room

14. Should we introduce a similar ground to that in the social sector, to enable private landlords to initiate eviction proceedings to end a perpetrators interest in a joint tenancy and transfer the tenancy to a tenant who was subject to domestic abuse allowing the victim/survivor to remain in the family home where they wish to do so?

- Yes
- No
- Don't know

Please explain your answer.

- Rights should be same across sectors
- Rights of victims should be protected first

15. Unlike the social rented sector, private rented sector housing cases are heard by the Tribunal. What are your views on the Tribunal's role being expanded to consider transfer of tenancy in relation to cases of domestic abuse?

- We are unsure of how many activities / actions go to the Tribunal, therefore need stats for this
- We consider that these rights should be enshrined in law and landlords could therefore transfer tenancy without people having the additional stress of going to a Tribunal to remain in their home

16. Should we streamline the eviction process (remove the discretion of the Tribunal), where there has been a criminal conviction relating to abuse of another person living with them in the let property (joint tenant or co-habitee) which is punishable by imprisonment in the previous 12 months?

Yes

No

Don't know

Please explain your answer.

- As above, victims should be protected first
- Other tenant safety should be taken into account, particularly in abuse cases
- Interests of children in household need to be protected too

17. How can we help improve the immediate and longer-term housing outcomes of domestic abuse victims living in the private rented sector?

- Ensure knowledge of background and circumstances
- Support and information provided re refuges, social work services etc.

18. If unclaimed deposits were to be reinvested, do you agree that the period after which the funds would be available for reinvestment should be:

i. after all avenues to reunite deposits with their tenants have been exhausted, and

ii. after a period of 5 years?

Yes

No

Don't know

Please explain your answer.

- Landlords need to evidence that all efforts to return the deposits prior to being able to access the deposits
- Landlords need to evidence the money is reinvested in the property
- Money could be used to provide information and advice to PRS tenants

19. How could a right to keep pets be most effectively introduced for the private sector, for example by the introduction of a statutory right or by amendment to the Model Tenancy Agreement, and should exceptions be allowed?

- People should be supported to keep pets, but there is a requirement to ensure pet owners are responsible, there are not multiple pets, types of pets need to be suitable to type of accommodation and pet owners need to be responsible for safety and cleaning of internal and external areas and consideration of other people living in the building / community
- Clarification is required on pets being a pet or worker dog, such as guide dogs, blood pressure dogs etc.
- Rent deposits should be used to clean property at end of tenancy if required
- HOWEVER - landlords should be allowed to refuse permission if he / she wants to

20. Should the right to keep pets also be introduced as a right in the social sector?

Yes

No

Don't know

Please explain your answer.

- As 19 above

21. How could the right to personalise a privately rented home be most effectively introduced for the sector and what is an acceptable definition of personalisation? For example, should the property be returned to the original state by the tenant where there is no explicit agreement between the tenant and landlord?

- Painting and decorating should be permitted, within reason similar to SRS and does not create any damage to the property

22. Should different consideration be given where a property is furnished or unfurnished?

Yes

X No

Don't know

Please explain your answer.

- As above

23. Is there a need to review how a private landlord can be protected against damage to their property caused by personalisation, above the current tenancy deposit limits, and who should resolve disputes?

- Should go to the Tribunal
- Could be dealt with by the proposed PRS regulator

24. Do you think additional protections against the ending of tenancies during the winter period are needed?

For example, some or all of the following:

- Restricting the service of notices during the winter period;
- Pausing or extending notice periods so that notices do not expire during the winter period;
- Pausing or extending the period (following expiry of the notice period) during which eviction proceedings can be raised; and/or
- Restricting the ability of landlords to raise eviction proceedings (following expiry of the notice period) during the winter period.

Yes

No

Don't know

Please explain your answer.

- This would depend on circumstances i.e. criminal offences, property damage, tenancy breaches should not automatically mean eviction delays in winter. Tenants have responsibilities as well as landlords to pay rent, behave etc.

25. If measures to restrict the ability of landlords to commence eviction proceedings during the winter period were introduced, what do you think is a reasonable 'winter period' timeframe?

- No comment

26. What other policies or interventions could be considered to prevent evictions during the winter period?

- No comment

27. Should we introduce a specific requirement for the Tribunal and Sheriff Court to consider delaying the enforcement of eviction orders and decrees during the winter period?

Yes

No

Don't know

Please explain your answer.

- No comment

28. Do you agree the current calculation for unlawful eviction should be reformed and simplified, as proposed?

Yes

No

Don't know

Please explain your answer.

- We agree level of compensation needs to be an effective "punishment"

29. If the current system for calculating damages was reformed in this way, what do you think would be the appropriate minimum and maximum level of multiplication that the First-Tier Tribunal for Scotland (Housing and Property Chamber) could apply?

- We agree with the LSA proposals

30. What other ways can we make it easier and more attractive for victims of illegal eviction to seek redress and exercise their rights?

- Provide tenants' rights information
- Demonstrate how penalties have been enforced

31. In the event of a criminal prosecution not taking place, how best can we ensure that a tenant is compensated, where evidence exists of an unlawful action?

- As above

32. Should students living in Purpose Built Student Accommodation be offered similar rights to students who rent from a private landlord? If so, how can we best achieve this without impacting on the supply of Purpose Built Student Accommodation?

Yes

No

Don't know

Please explain your answer.

- Unsure, as we understand students have student unions who could work on their behalf
- We do consider students in shared student accommodation should have the same rights as students in PRS

33. Are there any particular aspects of the Private Residential Tenancy that are not working for the student market and what, if any changes/amendments, would help to address these or to encourage landlords to rent more to students?

- Yes
- No
- Don't know

Please explain your answer.

- No comment, we do not have enough information on this

34. What would be the key features of an effective guarantor scheme?

- No comment, we do not have enough information on this

35. How could we support the development of guarantor schemes that meet the needs of those groups who could benefit from them?

- No comment, we do not have enough information on this

36. What are the key issues and concerns relating to current pitch agreements for Gypsy/Travellers on public sector sites?

- No comment, we do not have enough information on this

37. If you rent or let a residential mobile home as a main residence, what type of tenancy do you have and what are the common problems you experience?

- No comment, we do not have enough information on this

38. What do you believe are the key housing issues facing people with:

1. A tenant farm or a rented croft house?
2. Tied accommodation as part of their employment?

- No comment, we do not have enough information on this

39. What can we do to improve the outcomes for those people with a tied house for their employment who are approaching retirement and may face losing their home?

- No comment, we do not have enough information on this

40. What are the most important factors to be incorporated into a shared understanding of housing affordability (e.g. household size and composition, regional variations, housing standards, treatment of benefits)?

- Clarification is required on - Affordable to whom?
- Rents and other housing costs - fuel costs, energy efficiency etc
- We would like to see fairness in localities re size and type of houses for rent having the same rents
- Service charges need consideration as some SRS landlords include these in rents, whilst others don't
- Landlords need to provide clear and concise information on what services are included in rents / what rent pays for
- SG needs to commit to a Scottish agreed definition of affordability - we understand that some SRS landlords consider this is 25% of income, others consider it is 30%
- Benefits, Local Housing Allowance, Universal Credit, Discretionary Housing Payment, Bedroom Tax etc. needs to be taken into account

41. If we are successful in reaching a shared understanding of affordability in Scotland, how should it be used and evaluated?

- Baseline of affordability across Scotland at present is required to allow future monitoring
- Should develop a clear definition rather than a shared understanding, which could be open to interpretation
- Landlords also need to have an awareness of the local economic indicators
- SHR regulation, in partnership with the Tenants Panel

42. Do you think the data we are proposing to collect will provide all the necessary evidence to inform national and local rent control considerations?

Yes

No

Don't know

Please explain your answer.

- More information is required, in particular with how affordability is considered in relation to owner occupiers, PRS and SRS
- More information is required on how SRS and PRS landlords spend tenants rent money re property upkeep, improvements etc
- Information is required on how owners' investment in their homes relates to the percentage income spent on mortgages etc. - HOW is this gathered / evidenced
- **NOTE** as a country we cannot reach a common definition of affordability, unless we have more details as above

43. What can we do to ensure that landlords and agents provide accurate rental data (and other relevant property information), as soon as any changes are made?

- Should be a requirement of landlord registration
- Could be similar to ARC in SRS
- NOTE - we understand some landlords will say the rent level fits within LHA / housing benefit cap, but actually charge the tenant more, therefore this needs to be addressed before we can ensure rental data is correct

44. What is your view on making rental and property information publicly available for tenants and others to view?

- Yes, we agree this is definitely required

45. What is your view on enabling Rent Penalty notices to be issued where a landlord fails to provide up to date registration, rent data and property details?

- We agree, this should be similar to register of companies, with fines enforced

46. Do you agree that the rent adjudication process should only result in rents being decreased or maintained?

- Yes
- No
- Don't know

Please explain your answer.

- Should be role of the new regulator and property should be assessed independently and linked to proposed rent controls

47. Do you agree with the proposal not to extend any national rent controls to the social rented sector?

- Yes
 No
 Don't know

Please explain your answer.

- We consider the SRS does require national rent controls to ensure affordability and equality for tenants across Scotland

48. Do you think the current safeguards for rent setting in the social rented sector are sufficient and, if not, how could they be strengthened?

- Yes
 No
 Don't know

Please explain your answer.

- Rent controls introduced
- Rent increases should be linked to when pensions increase (September) as we have an aging population
- All landlords should use the September CPI for proposed increases - bit in SRS and PRS
- Consistency is required on whether landlords should use CPI or RPI as basis for proposed rent increases

49. Are there elements of the existing Rent Pressure Zone system that could be built upon when designing a new system of rent controls?

- Yes
 No
 Don't know

Please explain your answer.

- This requires additional work, as it is not working as well as it should
- More tenant involvement is required in this - FROM THE START

50. Do you agree with the vision and principles set out above in relation to a future model of rent controls for the private rented sector in Scotland?

- Yes
 No
 Don't know

Please explain your answer.

- In principle we agree, however we need more information on what will be defined as "affordable" and "good quality" homes

51. How do we ensure that we are achieving the right balance between building new properties and acquiring existing properties through the Affordable Housing Supply Programme?

- Landlords / Councils and RSL's need to have a clear understanding of housing needs, waiting lists, homeless people in temporary accommodation / Bed and Breakfasts etc to ensure that new builds and acquisitions meet current and future needs. **NOTE** - we are very concerned that current Local Housing Strategies are out of date and do not meet needs of population
- We also consider there is a need to address issues with Planners and National Planning Framework, which is totally out of touch with the peoples lived experience of housing and homelessness
- **NOTE** in Edinburgh and other cities there is a need to address the differences between the poorer areas and richer areas i.e.. "real Edinburgh" and the Tourist Edinburgh
- Councils and RSL's need to ensure that current properties are improved to meet EESSH, SHQS, Net Zero etc
- We consider that in regeneration areas, less homes are built than demolished, which will never meet housing needs

52. Where has the acquisition of existing stock for the Affordable Housing Supply programme worked well and are there other opportunities to engage with owners/landlords to allow first refusal to those delivering the Affordable Housing Supply Programme?

- We do need more information on this across Scotland
- We do know of some buy backs of ex local authority / RSL housing, but unclear on whether it is a success or not
- Promotion of potential to buy back and rent from the SRS landlord buying it should be promoted more
- Speeding up of acquisitions is required

53. Beyond the routes already available to deliver MMR homes how could new, additional investment in this be supported?

- We do not consider MMR rent properties are as beneficial as SRS properties and would recommend this should be phased out and more SRS homes built
- MMR stock cannot focus on the challenges we have for addressing housing needs
- MMR properties are now being offered to people who cannot really afford them to allow Councils to discharge duties re offers of housing
- MMR is only available to people working with a specific level of income, so again does not address housing needs of people with protected characteristics or people on SRS waiting lists

54. What measures can we put in place to help encourage BtR developments in Scotland?

- No comment, we do not have enough information on this

55. Is the approach to allocations achieving the right balance between supporting existing social tenants and those who are seeking a home within the social sector?

- Yes
- No
- Don't know

Please explain your answer.

- People are waiting for a house for years, whilst others are housed quickly
- Choice Based Lettings (particularly in Edinburgh) no longer addresses the housing need or allocates homes fairly. The system is not clear for people who are homeless, and staff do not / cannot provide information and support
- Tenants are no longer able to move home easily to suit needs or aspirations
- The current system does not work for the majority of people seeking housing - we still have too many people in B&B's / temporary accommodation
- If people in temporary accommodation are sectioned, they automatically lose their place and are homeless again, once they are well
- The current system does not allow for mixed communities that can thrive
- The current system does not support peoples needs or desires to move to another local authority area

56. What more can be done to support people with protected characteristics trying to access social rented homes?

- Increased training and support from advisors, support workers etc
- Clear signposting where required
- Allocation policies co-produced with tenants and applicants that is reviewed bi-annually to ensure it meets evolving needs
- Long-term support needs to be provided for people who require this

57. What is the best way to ensure that landlords undertake essential repairs in a timely fashion?

- Enforcement
- More rights to repairs for tenants in PRS
- Agreed standard across PRS and SRS
- Regulation to be introduced
- Clear standards set, promoted, and enforced, with fines for non-compliance

58. What do you think are the strengths and weaknesses of the current registration systems and what could be improved to help drive up standards of management?

- Private landlords should be legally obliged to register
- Introduction of a national registration system
- Regulation to be introduced
- Clear standards set, promoted, and enforced, with fines for non-compliance

59. What are the key challenges for landlords in meeting all the housing standard requirements and timescales and what support could be put in place to help landlords overcome barriers?

- Yes
- No
- Don't know

Please explain your answer.

Challenge

- Increasing costs of materials
- No clear definition on standards of housing in PRS - should be working towards standards like ESSH and Net Zero
- Lack of trades people to do work
- Some landlords see properties as an investment / way to make money and not about providing homes to suit people's needs

Support

- Increased communication with tenants
- Clear guidance on what is a suitable standard of home
- Information on what is classed as an emergency / essential repair etc.

60. What is your personal experience in securing necessary adaptations – either for yourself, or for your tenants – in rented accommodation?

A. What barriers did you face, if any?

- Timescales for adaptations in Council housing = too long
- Officers do not listen to tenants needs
- Officers tell tenants what they are getting, rather than what they need
- Officers doing assessments are not trained to a high enough standard to make the right decisions
- Officers treat tenants poorly and as an inconvenience when asking for adaptations
- The Council comes across as uncaring to tenants, with people unable to use all parts of homes due to defects or adaptations not done
- Funding not available throughout the year and tenants being told there is no money to do the work - RSL sector
- RSL and Council tenants are having to “go to Chief Execs and Councillors” to get work done
- Where tenant with a stroke had to move to sheltered housing, ramps to front of property not installed, which was a fire safety risk
- Repairs, maintenance, and improvements not done or done well
- Staff not trained to support people with mental health issues / panic attack at home, council officers just left person’s home
- Right to Repair Info not provided to tenants

B. Did this occur in the private or social rented sector?

- RSL
- LA

61. Do you consider the vision and principles for the private rented sector Regulator to be the right ones? Are there any additional principles that you think are important?

- Yes
- No
- Don't know

Please explain your answer.

- We consider that the principles are positive as a starting point and would like to see PRS housing regulated to ensure housing and tenancy standards and rights similar to the SRS.