

# Private Tenants' Forum

*working to improve the private rented sector*



## Response to the Review of the Private Rented Sector

## **1. Introduction**

The Private Tenants' Forum (the Forum) was established in 2012 and is currently supported by Housing Rights. The Forum's members are individuals who have experience of living in the private rented sector (PRS). Their personal experience adds to their ability to contribute to the review of the future of the private rented sector.

The aim of the Forum is to encourage tenant participation in shaping relevant legislation, policy and practice in the PRS. Their objectives are:

- To actively influence legislation, policy and practice in areas relevant to private tenants
- To provide a supportive environment for PRS tenants to voice and share views
- To help create a culture that is committed to the principles of tenant involvement in the future development of the PRS
- To support and encourage improvement of the PRS

In 2014, the Forum produced their Agenda for Action, which is an eight-point plan for improving the PRS (see Appendix 1). The Agenda for Action called for:

1. Better information and education
2. Affordability
3. Compulsory licensing of private landlords and letting agents
4. A standard tenancy agreement
5. Security of tenure
6. Improve health and safety standards
7. Repairs to be carried out within specified timescales
8. An independent complaints service to help resolve tenancy disputes

The Forum were pleased to sit on the Department of Communities (DfC) working group and provide their feedback during discussions with DfC regarding the Proposals for Change (the Proposals) and have eagerly anticipated the Proposals' publication. The Forum now welcomes the opportunity to respond to the proposals. A number of the Forum's action points are directly relevant to the proposals contained within the consultation. This response reflects the opinions of the Forum and is largely based on the position already set out in the Forum's Agenda for Action.

## **2. Supply**

The Forum would like to highlight their concern regarding the lack of a housing outcome in the draft Programme for Government. Without a specific outcome, there is no government mandate in place to improve housing in Northern Ireland. The Forum are concerned that, without a government mandate to encourage them, the proposals relating to supply will have a limited chance of success.

### 3. Affordability

- Proposal: Introduce legislation to stipulate that rents can only be increased once in any 12-month period.

As stated in the Agenda for Action, the Forum believes that '*financial barriers that currently limit access to private renting should be minimised*'. The proposal to introduce legislation regarding rent increases is a positive change to *maintain* affordability, but the Forum does not believe that it goes far enough to deal with the affordability issues related to *accessing* the PRS, which are currently being experienced by people in Northern Ireland living in the PRS. The Forum knows that there are bigger affordability problems than the rent people are charged; for example, poor letting standards and landlords' resistance to rent to people in receipt of housing benefit. To deal with the affordability issues relating to access, the Department could consider the expansion of regulated government supported schemes which assist households access privately rented accommodation and affordable credit.

There is a risk that the proposal could encourage the practice of 12-monthly rent increases becoming standard. To mitigate against this risk, the Forum recommends restrictions are included in any legislation. These restrictions should include:

- a limit on the percentage by which a rent can increase in a 12-month period;
- a ban on rent increases during the first year of the tenancy; and,
- a requirement for a formal notice which states when and by how much the rent will increase.

### 4. Security of Tenure

- Proposal: Seek to bring forward legislation to ensure all private tenants are issued with a written agreement which must contain mandatory terms regardless of the type or length of the tenancy.

One of the key action points in the Forum's Agenda for Action was the introduction of a standard tenancy agreement to improve standards within the PRS. As such, the Forum welcomes the proposal to bring forward legislation to issue all PRS tenants with a written agreement containing mandatory terms. It is vitally important that both tenants and landlords understand their rights and responsibilities.

The Forum believes it will be imperative to include all relevant stakeholders in the design of such a document, so that landlords, tenants, agents and relevant statutory/voluntary services come to an agreement on the design and content. Engaging all invested parties in this way will ensure the document is useful and employed province-wide.

- Proposal: Amend the Notice to Quit Period from 4 weeks to 2 months for tenancies lasting longer than 12 months.

The Forum would urge the Department to consider how this extended Notice to Quit period would impact on tenants. There is potential for the proposal to increase the cost of accessing the PRS, as landlords and agents may start asking for 2 months' rent at the start of a tenancy. This would

increase the affordability barriers that already exist and prevent households from being able to access a privately rented home.

Furthermore, the proposal could negatively impact upon tenants in receipt of housing benefit. Presumably, if a tenant in receipt of housing benefit were to move from a private rented property to a social tenancy, their housing benefit payments would not cover the extended overlap in tenancies. This could result in debt problems for tenants. If this proposal is to be established, the Forum would suggest that Housing Benefit Regulations are revised to reflect the new Notice to Quit period.

- Proposal: Seek to introduce legislation for a Fast Track Eviction Scheme which may include mandatory grounds for possession and provide appropriate safeguards to ensure fairness.

The Forum would be cautious to introduce measures which make it easier to evict private tenants, as improving security of tenure is one of the Forum's key action points. If such a scheme were to be introduced, it would be very important that safeguards would also be in place. The Forum would like more information on how such a scheme would be applied in the Northern Ireland context and what safeguards would be legislated to accompany it, before providing feedback on this proposal.

## 5. Tenancy Management

- Proposal: Develop a tenant information pack which a landlord must provide to the tenant at the commencement of a tenancy.

In their Agenda for Action, the Forum called for '*a requirement for landlords to provide an information pack for all new tenants to their properties*'. The Forum is pleased to see the proposal to introduce a tenant information pack. The Forum would urge the Department to ensure that such a pack is useful to the tenant and includes tailored information, specific to the property the tenant is renting. The Forum would recommend that such a pack include, for example:

- Information setting out the rights and responsibilities of the tenant and the landlord
- All the landlord's contact details
- Inventory
- When and where the bins and recycling are collected
- Copies of manuals for appliances
- Energy performance, electric and gas certificates
- Copy of the Fitness Standard
- Information on how to request a Fitness Standard check
- Information on Tenancy Deposit Schemes
- What to do if you have a complaint
- Housing Rights' contact information
- Information on the Housing Ombudsman

The Forum would be keen to be included in further discussions around the development of the tenant information pack.

- Proposal: Amend the Landlord Registration Regulation to incorporate a fitness declaration at the point of registration. Sample checks could be carried out by councils on these declarations.

The Forum welcomes this proposal but would suggest that it is important to include measures to ensure it is effective. This would include: informing tenants about the landlord fitness standard (this could be included in the tenant information pack); creating a route for tenants who believe their landlord is not meeting the fitness standard to request a check is made by their council; and, ensuring councils are resourced to make the random checks and have the authority to enforce the standard.

- Proposal: Introduce a regulatory framework for all letting agents including bringing forward legislation to ban letting agent fees.

This proposal reflects the Forum's call for letting agent licensing and a ban on letting fees and, as such, the Forum very much support it. The Forum has recently been carrying out some further research into the letting fees charged by agents across Northern Ireland and has found that these can be very expensive and vary considerably between agents. The Forum believes that the practice of charging tenants to access accommodation is wrong because it is the landlord who chooses the agent and receives the service from the agent. Tenants should not be subject to letting agent fees. The Forum would suggest that there is clear information on the ban of letting fees in the proposed tenant information pack to ensure that the practice does not continue.

## 6. Property Standards

- Proposal: Introduce legislation as soon as practicable to make it a mandatory requirement for private landlords to provide smoke and carbon monoxide detectors and to carry out periodic electrical checks.

Private rental homes should be safe, secure and decent. The Forum supports this proposal but would like to see further legislation to improve health and safety standards in the PRS.

There is a much lower health and safety standard in the PRS than for Houses in Multiple Occupation (HMOs) and social housing. The current Fitness Standard used to assess private rented properties is very basic. Whilst the Forum is anticipating the publication of the Review of the Housing Fitness Standard, they would urge the Department to consider widening this proposal to include the introduction of a Housing Health and Safety Rating System, as is currently used in England and Wales.

## 7. Dispute Resolution

- Proposal: Examine the financial case for establishing an independent housing panel for Northern Ireland.

One of the key points in the Forum's Agenda for Action is the development of '*an accessible complaint handling service set up to specifically sort out disputes between landlords and private tenants*'. The Forum welcomes the proposal to consider the development of a housing panel, but would advise the Department to examine more than only the financial case for same. The Forum suggests that the scope of the Department's investigations be widened to include the existing need

for and non-cost benefits of having an independent housing panel. Currently, access to the courts can be a lengthy, expensive process, which fails to address the imbalance of power that can exist between landlord and tenant. An independent housing panel could address these barriers to participation. The Forum would like to know more about how the housing panel would work in Northern Ireland and would like to be involved in the development of same, so that tenants' views are represented in the panel's design.

## 8. Tenancy Deposits

- Proposal: Introduce retrospective protection so all private rented deposits will be protected, irrespective of the date the tenancy started.

The PRS can be a lifelong tenure for many people living in Northern Ireland. As such, the Forum think this a positive proposal because it will ensure that all tenants are protected, not only new tenants.

- Proposal: Amend legislation to remove the loophole meaning offences under the Tenancy Deposit Scheme cannot be prosecuted after 6 months have passed.

The Forum are pleased that this loophole will be closed and welcome the proposal.

- Proposal: Amend legislation to allow part of fixed penalties, paid by landlords, to be paid to tenants.

The Forum consider this very positive as it will compensate tenants for the poor service they have received from the landlord.

- Proposal: Monies in designated accounts – The Department will explore the feasibility of allowing scheme administrators to use monies in designated accounts to work with Housing Associations to invest in affordable housing.

The Forum suggest that another way to use these monies could be to support tenant participation in the PRS, and expand on this point in the conclusion below.

## 9. Annex A 2006 Private Tenancies Order Proposals for Change

- Proposals: Tenant to be provided with a rent book which must contain certain specified information; and which should include the rateable value and monthly *charges for the property, and who is responsible for their payment*; and, a requirement for landlords to provide electrical certification as part of application for fitness certificate.

The Forum agrees these clarifications of the Private Tenancies Order are important and suggest that both the rent book and the electrical certificate should be included in the Tenant Information Pack.

- Proposal: Create an offence similar to that in Article 28 for Article 36 if a person obstructs an authorised officer of the council from entering the property.

The Forum would urge caution regarding this proposal and encourage the Department to consult Scotland's model of dispute resolution in similar matters, as carried out by the First Tier Tribunal –

Housing and Property Chamber. The Forum would be supportive of mediation in such circumstances, but not prosecution.

## **10. Conclusion**

The Private Tenants' Forum hope that the outcomes of this review will lead to real improvements in the private rented sector, and that monitoring and enforcement of all new changes will be in place. Members of the Forum are happy to participate in any future discussions on the subject.

The Private Tenants' Forum is pleased with the positive impact their contribution to the Proposals for Change to the private rented sector in Northern Ireland. The inclusion of the majority of the key action points from the Forum's Agenda for Action evidences the value of involving private tenants in policy development. The Private Tenants' Forum is keen to continue their involvement in policy development within the sector, and to see private tenant participation expand more generally throughout the sector.

The Private Tenants' Forum was established in 2012 with charitable resources from Housing Rights. Since the end of 2014, there have been no dedicated resources to support the work of the Forum, though it has continued to be assisted by Housing Rights. In light of the Proposals for Change, and the achieving of much of the Forum's proposals for their Agenda for Action, Forum members have now reached a watershed and are considering the strategy for moving forward to their next phase.

The Forum consider this an ideal opportunity for the Department to consider how they can meaningfully support private tenant participation in its widest form. Tenant participation in the social housing sector is well resourced, in part due to the Government's contribution of funds and support. The Proposals for Change demonstrate that the Department want to make the private rented sector in Northern Ireland fit for the future. The Forum suggests that achieving this will require a similar level of tenant participation as currently exists in the social housing sector, and that this could be funded, for example, through the designation monies involved in the tenancy deposit scheme. The Forum will be pleased to discuss this point further with the Department, and its members are keen to contribute to the development of increased tenant participation in the private rented sector in Northern Ireland.

For further information, or to get in touch with the Private Tenants' Forum, please contact:

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