



PE1447/B

PUBLIC PETITIONS COMMITTEE CONSIDERATION OF PE1447

The Chartered Institute of Housing view of what the petition seeks

The Chartered Institute of Housing Scotland (CIH) has sympathy with the petitioner's view that raising action for rent arrears or other breaches of tenancy is a time consuming and expensive affair.

Private sector tenancies, in the main, tend to be Assured Tenancies or Short Assured Tenancies under the Housing (Scotland) Act 1988. Many landlords favour the Short Assured Tenancy because there is a mandatory ground for possession which allows the tenancy to be ended without challenge, so long as all the relevant notices are served correctly. However, as the petitioner has been advised, the notice period is 2 months and this must not expire before the specified tenancy period is due to expire (Short Assured Tenancies must run for a minimum period of 6 months, but may be longer). Other grounds are available to end Assured Tenancies based on negative behaviour, such as rent arrears, but these entail landlords being prepared to evidence the behaviour in court and to have that claim defended.

CIH Scotland believes that the examples cited by the petitioner serve to illustrate the inadequacies of the legal system the private rented sector has access to, as opposed to the law itself. Notice periods are there to protect both the landlord and the tenant and are not the reason the petitioner has experienced difficulties per se. However the time it can take for a case to be heard in court after the notice period has expired exacerbates the situation, and when coupled with the need to obtain legal representation, can be a real barrier to justice.

The only existing route available to a landlord seeking possession is to use the Sheriff court. This is recognised by various reviews and by the wider housing sector to be overburdened, dogged by delays, bureaucratic and adversarial. Since 2004 CIH Scotland has argued that the use of the Sheriff court is inappropriate for housing cases which deserve a specialist arena that is more accessible, does not require legal representation and is more cost effective. In the intervening years we have seen the development of a Private Rented Housing Panel, with its members expanding their remit to decide on factoring cases brought to the newly formed Homeowner Housing Panel, alongside their existing role looking at repair and rent disputes in the private rented sector. We believe that expanding on this model to create a housing tribunal or panel – an option we anticipate will appear in the soon to be published Scottish Government consultation – would make a profound difference to both tenants and landlords.

Where a more streamlined specialist dispute resolution mechanism is available landlords will need to rely less on the use of the Short Assured Tenancy, purely because of the ease with which the tenancy can be brought to an end. Instead, there will be a forum which will enable cases that rely on *any* grounds to be heard in a fair and timely manner.

There is, however, one area that CIH Scotland considers requires attention, although it doesn't directly apply in the petitioners circumstances. Currently there is no mechanism for private sector landlords to recover a property that has been abandoned by the tenant, except by the use of serving notice and seeking a court order. This can result in significant arrears being accrued and differs widely from the existing practice in the social rented sector, where the landlord – following appropriate and thorough checks – can serve a notice to enable them to recover the property after 28 days. It would seem only equitable that private sector landlords have a similar opportunity.

The new CIH briefing which looks at why housing dispute resolution should be improved is available here:

<http://www.cih.org/resources/PDF/Scotland%20Policy%20Pdfs/Dispute%20Resolution/Housing%20dispute%20resolution%20improving%20access%20and%20quality%20Nov%202012%20final.pdf>

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The Chartered Institute of Housing is the professional body for people involved in housing and communities. We are a registered charity and not-for-profit organisation. We have a diverse and growing membership of over 22,000 people – both in the public and private sectors.

CIH Scotland has more than 2,600 members working in local authorities, housing associations, housing co-operatives, Scottish Government and Government agencies, voluntary organisations, the private sector, and educational institutions. The CIH aims to ensure members are equipped to do their job by working to improve practice and delivery. We also represent the interests of our members in the development of strategic and national housing policy.