

PE1756/C

Association of Local Authority Chief Housing Officers (ALACHO) Submission of 20 December 2019

As you are aware ALACHO has been working with Scottish Women's Aid, the Chartered Institute of Housing and the Scottish Federation of Housing Associations to promote a significant change in practice across the social rented sector when responding to tenants facing abuse from within their own household.

A key part of this work was the new guidance that we jointly published and that is already referenced in the supporting material provided to the Committee. As you will be aware the standard advice for those seeking to escape abuse is to make a presentation to their local council under the homelessness legislation. But we also know that this approach will add the dislocation of homelessness to the trauma that has already been experienced. It is an approach we need to move away from if we are to provide the support that those facing abuse need and deserve.

Central to the new guidance is a switch to an approach based on "perpetrator moves" as a default option (so long as this is consistent with the wishes and the safety of those facing abuse). However, there are a number of challenges in making this approach fully effective including how to ensure that a perpetrator is both removed and kept away from the home. We are aware that there are proposed changes to the criminal law in this respect but as things stand the terms of the Scottish Secure Tenancy do not support this shift in approach as well as they should.

On that basis agree with the petitioner that there is a need to amend the Scottish Secure Tenancy to offer better protection for tenants faced with abuse from within their household.

In our view the changes needed should support a better response where the perpetrator is a tenant or joint tenant or a non-tenant.

As things stand, where the perpetrator is a tenant or a joint tenant a social landlord has no clear or certain route to terminate the abuser's right to live in the property without pursuing an eviction of the whole household. At the very least we need to look at the process of terminating one half of a joint tenancy to support the shift to "abuser moves" as a response. Similarly where the tenancy is held in the sole name of the abuser a clear mechanism to remove them from the tenancy and secure it for the remainder of the household is needed".

This petition focuses on the rather different situation where the abuse is from a non-tenant member of the household. In this area too, we think that landlords can offer more support and protection and that could include the landlord acting on behalf of a tenant to take action to exclude an abuser. Whilst we would strongly support an appropriate change to the law to achieve this we are also aware of a number of risks in such a change to the law. In particular we are concerned about the use of civil tenancy legislation to enforce the criminal law. We have two specific concerns:

Effective protection from abuse and coercive control should not be based on tenure, anyone dealing with abuse should get the same level of support and protection irrespective of the tenure they live in or their status as an occupier, owner or tenant.

This is not an argument for not making the necessary changes to the SST but for ensuring that any additional protection that is provided for Social Tenants is also available to other residential occupiers; and

There is a risk that an abuser could use the revised terms as a weapon to further their abuse. This is particularly the case where the issue is coercive control. We are aware of examples of this type of manipulation of the legislation particularly in relation to the current antisocial behaviour provisions. Our members have seen examples of an abusive neighbour using the provisions of the tenancy against a tenant. Playing on their vulnerability and attempting to dupe the landlord into thinking that they, rather than the target of their abuse, are the victim. Abusers, particularly those using coercive and controlling behaviour can be very manipulative of those around them and their victims are often vulnerable and at a disadvantage.

For the avoidance of doubt we would conclude by saying that we are supportive of the principles and concerns behind the proposal set out in the petition. We have gone further and argued that additional protection is also required where the abuse is perpetrated by a tenant or a joint tenant and we are clear that such an approach is consistent with the role of a landlord in protecting a tenants "peaceful occupation" of their home.

We would also want to be sure that any change in the law was crafted in such a way that sufficient safeguards are provided to prevent an abuser using the tenancy to perpetrate further abuse. We would also argue that the primary focus of the response from all the agencies involved recognises that abuse and coercive control are criminal acts that demand an effective and constant response from the Police, Prosecutors and the Courts. Civil proceedings by a landlord can play an important part and social landlords have a key role to play but that should not take away from the need for clear and effective enforcement of the criminal law in support of all of those facing abuse irrespective of tenure.

In every circumstance the approach should always be driven by the wishes and the safety of those seeking to escape an abuser.