



Northern Ireland
Assembly

Committee for Communities

OFFICIAL REPORT (Hansard)

Private Tenancies Bill: Propertymark

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With regard to health and safety measures, I listened intently to the Fire and Rescue Service witnesses talk about electrical safety. That has been in place in Scotland for some time, and seems to work.

With regard to energy efficiency standards, what has to be taken into account with the Bill is that it is not a one-size-fits-all solution, particularly given the different housing stock throughout the country. That has to be considered. For properties that cannot meet a minimum standard, perhaps there could be an exemption register to show that there was an attempt by the owner to meet the relevant standards.

Proposing a notice to quit period of up to six months for tenancies of more than 12 months is interesting. We certainly think that there should be grounds for possession. Generally, there is a reason for a landlord wanting a property back. Perhaps grounds for possession should be included. I do not know whether it has been discussed with UK Finance and mortgage lenders that it would take six months for them to get a property back under repossession, and whether they would then encourage buy-to-let lending as well in the terms of the tenancy agreement.

By introducing everything at once, there has to be concern that there would be great expense for landlords, particularly at a time when you may be losing private rented sector stock with a blossoming sales market. To implement a change in costs all at once may be a little bit confusing.

I understand that there is an intention to develop the Bill in the next Assembly mandate. It is a question of whether you are changing a tenancy regime just now and then there will be a transition period from the old regime to the new tenancy regime that is going to be developed further. In Scotland, there are two forms of tenancy agreement. The old system is still in place because it did not transition until we got the new tenancy regime. There is still a bit of confusion among agents, landlords and tenants about which tenancy regime they are under. If there is an intention to develop, it may be best to hold off and develop a tenancy regime and introduce it all at once, as opposed to in little bits, as the Bill proposes.

The Chairperson (Ms P Bradley): Thank you, Daryl, for that presentation, and for your detailed paper.

When scrutinising any Bill, the Committee is always mindful of unintended consequences. You highlighted several issues. One issue that we heard about during other witness sessions is that the requirement for investment by landlords may push them away from the private rented sector, and some may exit it altogether. I do not know whether that is your experience or whether you have received feedback on that. Are there mitigations that we could put in place to reduce the risk of that happening?

Mr McIntosh: That is a short question that has a long answer. There are so many aspects to the Bill. You are right to say that there could be an expense. That depends on the condition of a property. Everybody would agree with raising safety standards. However, there is an expense for landlords to improve their properties. If a landlord spends a bit of money and raises standards, and the deposit is just one month, would it be appealing to have a family or pets move in, given that they had just spent a little bit of money to upgrade the property and would like a little bit more protection with the deposit cap?

That may not be immediate. What tends to happen is that a landlord has a bad experience in trying to get a property back or realises how long it takes to get it back. Bear in mind that a notice to quit does not automatically give back the property to the landlord or the agent; it just states their intention to get it back. A notice to quit period of six months is ample time for tenants to find somewhere else, but we find that they do not move or they approach the local authority and say that they are about to be made homeless. The local authority then tells them to remain until an eviction order has been issued. A six-month notice for a landlord to recover their property can go on for a year or a year and a bit, which is a long time, especially if it is a case of rent arrears because tenants are not paying. That can be a lot of unintended consequences, but the main one is landlords leaving the sector due to costs or poor experience. Not having fair access to justice is also an issue that, we have seen, can arise.

The Chairperson (Ms P Bradley): In a previous briefing that we had, the Landlords Association of Northern Ireland, I think, said that, certainly here in Northern Ireland, it can take up to a year for an eviction to go through the courts. That is the length of time. What impact does that, on top of everything else, have on our landlords?

Mr McIntosh: As I mentioned, once you have had a poor experience, and you have costs and no rent coming in, there is an impact. The model in Scotland, which we are quite supportive of, includes a housing tribunal, and that focuses primarily on landlord, tenant and agent issues. It is free for all parties; they will get reasoned responses. It is also a means for getting rent repayment orders. Landlords can fill in a form to try to recover lost rent, so there is access to justice for landlords.

It is all about balance. Yes, everyone wants tenants to have rights and to make sure that tenants are secure in a home that is safe and warm. The property owner is on the other side. Generally, as I said earlier, a landlord will have a reason for trying to get back a property, so, perhaps, grounds for possession and a reason that they can recover their property should be there as well — on reasonable terms as opposed to waiting for almost a year.

The Chairperson (Ms P Bradley): You mentioned a word that we quite often use in our Bills: "balance". We want to make sure that we have a balanced Bill. We want to make sure that our tenants are protected, but we also want to ensure that we have longevity in the private rented sector, because we rely so heavily on it here in Northern Ireland. The vast majority of our landlords are excellent; we cannot lose sight of that either.

Members, please indicate if you want to come in with any questions.

Ms Armstrong: Thank you very much, Daryl. It is really useful to hear about the experience elsewhere in the UK. We have been told of a concern that, if we opt for an annual increase, which means that you cannot increase rent within 12 months, it will encourage landlords to increase rent more often. When that happened elsewhere, did people find that landlords took the opportunity to increase rent every 12 months?

Mr McIntosh: I do not think that there was a standard experience. People had the opportunity to do it regularly. In the Scottish model, rent increases are limited to once every 12 months. The tenant gets three months' notice, so it is not an immediate hit of "We are going to increase the rent next month". They get told of the proposal to increase rent, and they can accept or reject it, or, if they are querying it or it is a substantial increase, they can put it to a rent enforcement officer. A tenant can be served with a three-month notice the day after taking residence. Some agents and landlords will say, "This is our annual rent increase; this is when we do it". You will hear lots of stories from throughout the UK of a good tenant and a happy landlord who will not increase the rent at all. There was a suggestion of two years. You are then looking at just doing it, with people saying, "It has taken two years to get to this point; we could perhaps get a bit more". If you give the opportunity for an annual increase, it will probably be fifty-fifty, if that. You will hear more stories of landlords and agents just not increasing the rent if they have good tenants.

Ms Armstrong: Thank you. On advance rent, you suggested six months. I want to tease that out. If a tenant has a short-term contract, for under 12 months, would the provision for six months' advance rent be used? Is it used elsewhere?

Mr McIntosh: We have suggested six months. We have highlighted the risk of money laundering associated with someone saying, "Here is 12 months' rent. I am only staying here for four or five. Can I get the rest of it back?" If you give a landlord twelve months' rent up front, they may take it without realising that they have to give money back if the tenancy lasts only six or seven months. It is about protecting the tenant. Sometimes, there is a lack of understanding about what the landlord is entitled to do. When they get all that money in advance, they think, "OK. That is it", but it may be kept only if a tenant stays that length of time.

Ms Armstrong: OK. One of our other witnesses, a landlord, talked about requiring not just a deposit or advance rent but guarantors. How does that work in the Scottish system?

Mr McIntosh: The principles are the same. If it is a student with poor or no references, or if it is someone who has come from overseas or who has just started a job or is looking for employment, perhaps there is someone who can guarantee the tenancy. The principles are the same throughout the UK. It is about somebody to guarantee it.

Ms Armstrong: Finally, please explain to me how the process works in Scotland for people who have a short-term tenancy. There is a deposit. There is advance rent. Guarantors are sought. Does anything else come into play with tenancies of under 12 months?

Mr McIntosh: In Scotland, tenancies do not have end dates. The tenancy starts and ends when the landlord or tenant gives notice. It is ongoing, effectively, so there are no more six- or twelve-months tenancy agreements. When that was introduced, in December 2017, people did not like change, but it has started to work well. A review of it is coming. Intricacies in it were, perhaps, missed or not well thought through at drafting, but most people have accepted it, and it seems to work quite well.

Ms Armstrong: That is interesting, because it suggests that, no matter the length of your tenancy, you are given the same access to notice and the same level of deposit requirement. Daryl, I have asked all my questions. You have been helpful, to the point and a brilliant witness.

Ms Murphy: I will follow up on the same topic as Kellie: the limit on the tenancy deposit. I am intrigued by the point that you made in your written evidence about an unintended consequence of it being indirect discrimination against prospective tenants with pets. You state:

"A larger 'pet deposit' has often been seen as a safeguard against the associated risks".

In your experience of the larger pet deposit, approximately how much would the tenant be charged?

Mr McIntosh: We have suggested two months as a maximum. You could call one month a deposit. You could call it a pet deposit, but we would suggest accepting, ultimately, no more than two months' deposit. We suggest that, if it is capped at one month and a tenant without a pet and one with a pet are both looking at the property, given that they have similar tenant references, the landlord is likely to go for the tenant without the pet, simply because there will, potentially, be lower cleaning-up costs at the end of the tenancy.

Ms Murphy: Thank you, Daryl. I have a supplementary question. Your notes say:

"it does not preclude a landlord from charging a reasonable surcharge commensurate to the risk presented by housing a pet."

In a lot of private tenancies and advertisements in the private rented sector, a lot of landlords will state, "No pets allowed" and use that type of terminology. If we were to get down into the nitty-gritty of it — I am not going to ask what a pet would be, in your words — but for a landlord looking at it, cats and dogs are, obviously, the two go-to pets. However, for example, if I own a hamster, and I am looking to —

Mr Frew: A tiger.

Ms Murphy: Yes, or a tiger. If I am looking to rent a property and I own a hamster, and I approach the landlord and inform him that I own a pet, would the landlord have the mindset that, because I own a pet, he will charge me an additional deposit? You may or may not have experience of that.

Mr McIntosh: I cannot speak for all landlords. From a personal perspective, again, it depends on your pet. We established that almost 50% of the population have some form of pet. I am not sure of the percentage of those owning tigers, though. *[Laughter.]* It would be up to the landlord to make a reasonable judgement. We suggest that there is a deposit or the fact that one has been taken is written into the tenancy agreement. If you have been given the hamster as a Christmas present from somebody who does not like you, you can make an addition to the tenancy agreement and lodge it with the scheme. You are only using that part of the deposit for cleaning up after the pet; the other half of the deposit is what is called a standard deposit.

Ms Murphy: I wanted to probe that a wee bit. You hit the nail on the head by saying that the landlord could, in addition, include it in the tenancy agreement before it is signed.

Mr McIntosh: You identify what the money can be used for. It is for clearing up after any damage or smells left by the pet.

Ms Murphy: That is OK, Daryl. Thank you, Chair.

The Chairperson (Ms P Bradley): Thank you, Aine. Does anyone want to ask anything further?

I have one more question. We have been advised by Electrical Safety First that the cost in relation to electrical testing is in the region of £200 per dwelling on a five-yearly basis. That does not seem overly onerous. Do you foresee that causing any issues? Certainly, knowing that testing has taken place is a benefit for tenants and prospective tenants. What are the issues around testing and that charge?

Mr McIntosh: I do not think that the charge or the costs have been an issue. Certainly, it has to be carried out within five years, but the big issue is when they find something and the landlord is then expected to carry out work to meet the standards. For the majority of landlords, £200 in a five-year period is not back-breaking. Again, if a landlord uses an agent, they will take it on board and arrange all of that for the landlord, which takes it out of their hands. Generally, it is expected, and they will account for that. I do not think that many have had an issue with it. They tend to see it as part of the process.

The Chairperson (Ms P Bradley): That is grand, Daryl. Thank you so much for the really detailed paper that you sent through to us. It will certainly help us when we come to our deliberations. Thank you for your time today.

Mr McIntosh: Thank you.

The Chairperson (Ms P Bradley): Thanks, Daryl.