
To: Communities and Housing Policy Board

On: 25 October 2022

Report by: Director of Communities and Housing Services

Heading: Cost of Living (Tenant Protection) (Scotland) Bill 2022

1. Summary

- 1.1 This report details the emergency measures contained in the Cost of Living (Tenant Protection) (Scotland) Bill 2022.
 - 1.2 The Bill contained two main emergency measures, the first relating to a rent cap until at least March 2023 which applies to the majority of tenancies across the private and social rented sector. The rent cap has initially been set at 0% and is therefore in effect a rent freeze.
 - 1.3 The second emergency measure contained within the Bill is a temporary moratorium on evictions. The moratorium will prevent enforcement action for individual evictions for a maximum of six months in the private and social rented sector except in a number of limited circumstances.
 - 1.4 The Bill was passed by the Scottish Parliament on Thursday 6 October 2022 and is now law.
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2. Recommendations

- 2.1 It is recommended that the Communities and Housing Policy Board:
 - (i) note the contents of this report.
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3. Background

- 3.1 The Scottish Parliament passed the Cost of Living (Tenant Protection) (Scotland) Bill 2022 on Thursday 6 October 2022 and this is now law.
- 3.2 The Bill has been introduced as part of the Scottish Government's overall response to the emergency situation caused by the impact of the cost of living crisis. The temporary measures are intended to:
- protect tenants by stabilising their housing costs;
 - where possible, reduce impacts on the health and wellbeing of tenants caused by being evicted and/or being made homeless by giving them more time to find alternative accommodation; and
 - seek to avoid tenants being evicted from the rented sector by a landlord wanting to raise rents between tenancies, and reduce unlawful evictions, via a moratorium on evictions and by raising the level of damages that may be awarded
- 3.3 The new legislation introduces a temporary freeze on in-tenancy rent increases and a temporary moratorium on evictions which is expected to continue until at least 31 March 2023. In addition it will provide increased damages for unlawful evictions until at least 31 March 2023. Further information on these measures is detailed in section 4 and section 5 below.
- 3.4 After 31 March 2023, there will be the option to extend the measures for two further periods of six months with Parliamentary approval, which means that the measures are time bound and cannot be extended without Parliamentary scrutiny. In addition, it contains provisions that require the measures to be reviewed, and reported on, every 3 months, and for the Scottish Government to expire or suspend any provision that is no longer necessary or proportionate.
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4. Rent Cap

- 4.1 The emergency measures set a maximum permitted rate of rent increase in rent in the majority of tenancies across the private and social rented sector. The cap will be set at 0% (and hence is in effect a rent freeze) and is expected to remain at that level for the period to 31 March 2023. It will be possible for the Scottish Government to vary the cap whilst the emergency measures are in force if necessary, to respond to changes in the wider economic circumstances.
- 4.2 Recognising the impact the cost crisis may also be having on certain landlords, the legislation includes safeguards for private sector landlords, allowing them to apply to a Rent Officer (part of Rent Service Scotland) to increase rent to partially cover an increase in the preceding six months of prescribed costs.
- 4.3 The majority of rents in the social rented sector, including Renfrewshire Council are set, following consultation, from 1 April each year, therefore the

cap does not have an immediate impact on the levels of rent charged by local authorities or Registered Social Landlords. However, it will provide certainty to social sector tenants that their rent cannot increase while the cap is at zero.

- 4.4 The possible extension of these measures beyond April 2023 does create some uncertainty going into the HRA budget setting process for the next financial year. Members will be aware that there is a duty to consult with tenants on the annual rent setting process. As a result of the uncertainty around the permitted level of rent increase in 2023/24 officers will be modelling a range of possible scenarios to inform the rent consultation and budget setting process, including assessing the possible impact on investment plans.
- 4.5 The Scottish Government has indicated that it will work closely with the social rented sector to determine the best way forward from 1 April 2023 and further detail will be confirmed in due course.

5. Temporary moratorium on evictions

- 5.1 The moratorium will prevent enforcement action for individual evictions for a maximum of six months in the private and social rented sector, college and university halls of residence and PBSA (Purpose Built Student Accommodation) except in a number of limited circumstances. This maximum of six months' delay will apply to individual cases unless the emergency legislation itself ceases to be in place before the end of the 6 months.
 - 5.2 A number of safeguards have been put in place to allow evictions in limited circumstances. This includes cases of anti-social behaviour and criminality, to protect other tenants and the local community, cases of abandonment, to avoid empty properties and additional exemptions to support landlords who find themselves in financial hardship.
 - 5.3 This also includes cases where there is substantial rent arrears, to prevent tenants building up unmanageable debt. This will allow eviction action to proceed where the total owed at the point the order or decree is issued is at least six months' worth of rent (defined as £2,250 for the social rented sector as this equates to 6 months' worth of average rent).
 - 5.4 Where an eviction order or decree was granted before the legislation came into force or where the landlord raised eviction proceedings before the legislation comes into force and served an eviction notice before the announcement on 6 September 2022, the case will not be caught by the moratorium and will still be able to be enforced in line with current legal requirements.
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Implications of the Report

1. **Financial** – The Scottish Government has indicated that it will work closely with the social rented sector to determine the best way forward from 1 April 2023 and further detail will be confirmed in due course. While there is no impact in the current financial year, any extension of a rent freeze beyond the current financial year will have significant implications for the HRA business plan.
2. **HR & Organisational Development** – None
3. **Community/Council Planning** – None
4. **Legal** – None
5. **Property/Assets** – None
6. **Information Technology** – None
7. **Equality & Human Rights** - The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because it is for noting only.
8. **Health & Safety** – None
9. **Procurement** – None
10. **Risk** – None
11. **Privacy Impact** – None
12. **COSLA Policy Position** – None
13. **Climate Change** - None

List of Background Papers: None

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