



Response to the Scottish Parliament's Finance Committee Call for Evidence
Private Housing (Tenancies) (Scotland) Bill
From the Association of Residential Letting Agents (ARLA)
November 2015

Background

1. The Association of Residential Lettings Agents (ARLA) was formed in 1981 as the professional and regulatory body for letting agents in the UK. Today ARLA is recognised by government, local authorities, consumer interest groups and the media as the leading professional body in the private rented sector.
2. In May 2009 ARLA became the first body in the letting and property management industry to introduce a licensing scheme for all members to promote the highest standards of practice in this important and growing sector of the property market.
3. ARLA members are governed by a Code of Practice providing a framework of ethical and professional standards, at a level far higher than the law demands. The Association has its own complaints and disciplinary procedures so that any dispute is dealt with efficiently and fairly. Members are also required to have Client Money Protection and belong to an independent redress scheme which can award financial redress for consumers where a member has failed to provide a service to the level required.

Consultation

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

4. Yes. In December 2014 we responded to the Scottish Government's consultation on the Bill and in May we submitted our views to the Bill's second consultation. We have also responded to the Scottish Parliament's Infrastructure and Capital Investment Committee's call for evidence. Where appropriate we commented on the financial assumptions made.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?



5. We are pleased that the Scottish Government has provided figures in the Financial Memorandum as to how the First Tier Tribunal (FTT) will be resourced to deal with the volume of cases.
6. We acknowledge that the policy intention of the Bill is to provide a new tenancy that overall will be simpler and clear to understand, which should reduce instances of legal complications and legal costs. However, we remain concerned about the cost implications for landlords when regaining possession of their property through the FTT. Although point 61 in the FM looks at notice periods, further detail on the cost ratio of 'tenancy to notice period' and the time scales involved is needed to better prepare landlords for how much this will cost.
7. Furthermore, in order to reduce costs for landlords we do not think there should be a fee for applying to the Tribunal. Where tenants lodge any case to the FTT we believe they should pay. This would remove any temptation for tenants to continue stalling proceedings with no financial costs or penalties to themselves. As it stands all the burden appears to be on the landlord or agent.

3. Did you have sufficient time to contribute to the consultation exercise?

8. Yes. However, after agreeing to give evidence to the Infrastructure and Capital Investment Committee our deadline for providing views was moved from 19 November to 4 November. The Finance Committee's deadline for evidence was also 4 November and in addition to the amount of legislative proposals being put forward throughout the UK currently affecting the private rental sector this has been difficult to complete.

Costs

4. If the Bill has any financial implications for your organisation, do you believe that that they have been accurately reflected in the FM? If not, please provide details.

9. The Bill has financial implications for our members. On the issue of training we don't think the costings have been accurately reflected in the FM. For letting agents in particular, changing the tenancy regime will involve significant changes to IT systems



and Content Management Systems as well as staff training. Compliance costs are likely to run into tens of thousands of pounds for independent agencies and hundreds of thousand pounds for larger firms. Therefore we don't think that the figures quoted in Table 1 for training costs (£11,000-£17,000 for a large scale national organisation) under the heading 'other bodies, individuals and businesses' will be enough.

10. ARLA runs courses, masterclass events, regional meetings and qualifications throughout the year in Scotland. To help raise awareness of the new tenancy regime the Scottish Government should use professional bodies such as ARLA to inform and educate the sector. However, ARLA as an organization will incur additional costs in rolling out training and updates for our members.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

11. No. It will be easier for larger letting agencies to absorb the compliance costs mentioned above (paragraph 9). However, with larger agencies being able to respond to changes faster than independent agencies, the Bill could see independent agencies either going out of business or choosing to sell to larger firms. As a result we would see diminished competition in the market and reduced choice for consumers.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

12. No. Members with a buy-to-let mortgage will need more detail about the costs that could be passed on by mortgage lenders who may have made changes to the terms and conditions to reflect the new tenancy as outlined in points 72 and 78 in the FM.
13. It would be interesting to know what/if any discussions the Scottish Government has had with the mortgage industry to determine which additional costs may be passed on to existing and new mortgage holders. Many landlords are not cash rich and need to know whether costs will be passed on so that they can financially plan ahead.



7. Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they could be expected to arise?

14. No. We are still concerned about the removal of the 'no fault' ground as proposed in the Bill. Most landlords use no-fault possession as it is the easiest and fastest way to regain possession of their property.
15. The Scottish Government must take into account the likely impact of rent arrears during longer notice periods and as the FTT is not yet established, we do not know how long it will take for a landlord to successfully regain possession of their property through the FTT.
16. Further, we are aware that rent arrears can be a problem for landlords because, for example, a member organisation in Scotland said in September that the proportion of rent arrears reached a record high in August, rising to 12.2% of all rent due in the month. This increased from 9.6% in July and was significantly higher than the 6.5% rental arrears in August 2014.

Wider Issues

8. Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?

17. We have nothing further to add on this point.

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

18. ARLA believes it is very difficult to quantify any future costs considering that we have no idea about FTT practices and costs.