

Annex A CONSULTATION ON DISPUTE RESOLUTION IN HOUSING



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Association of Residential Lettings Agents (ARLA)

Title Mr Ms Mrs Miss Dr Please tick as appropriate

Surname

Richards

Forename

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3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate Yes No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate Yes No

ANNEX B

CONSULTATION QUESTIONS

Option 1: Preventative Action

1. Do we need to consider legislation to assist the early resolution of disputes, for example by imposing additional legal duties on landlords or other public bodies?

Yes No Don't Know

If "yes" please provide reasons for your answer.

For mediation to work it must be voluntarily entered into by the parties.

1a. If yes, in what areas should these duties be imposed and for what purpose? e.g. should we impose wider pre-action requirements before landlords could raise eviction proceedings in any case?

Please explain your own views.

Comments

2. Would this sort of upstream action be preferable and achieve better outcomes than a new Housing Panel or reformed courts?

Yes No Don't Know

3. Are there non-legislative measures we could take to encourage the prevention and early resolution of housing disputes between parties?

Yes No Don't Know

3a. If yes, what measures would these be?

Mediation should be more readily available.

Option 1: Mediation

4. Do you think mediation should be made more widely available for housing disputes?

Yes No Don't Know

4a. If no, please explain your views.

Comments

4b. If yes, what sort of housing issues would mediation be most effective at resolving?

Rent arrears and landlord repairs.

4c. If yes, would it be better to do this by expanding existing provision or by creating a new housing mediation service?

Expanding existing provision New mediation service

4d. If yes, how can parties be encouraged to use mediation to resolve housing problems?

Legal aid only available if mediation has failed.

4e. If yes, how might mediation be funded?

The party who has raised the issue should pay.

4f. If yes, do you feel there are enough mediators across Scotland to deal with housing cases?

It is impossible to predict the quantity of cases without knowing how the system will be funded. If mediation is a free service it will be considerably busier. However it is important that mediators come from a range of backgrounds.

5. What can we do to improve public awareness of mediation as a way of solving housing disputes?

Social and private landlords need to be made aware. The tenants information pack provides a good opportunity to make tenants aware.

Option 2: Pre-court Housing Panel

6. Do you think there should be a Housing Panel as a pre-court dispute resolution forum for some housing disputes?

Yes No Don't Know

6a. If yes, which cases should the panel handle?

Repairs and arrears.

6b. If yes, are there cases which would not be appropriate?

Anti-social behaviour.

6c. If yes, who should be able to refer cases to the panel?

Landlords and tenants.

6d. If yes, who should be panel members and would they require particular qualifications?

The chair should have a legal background as this can be helpful when managing hearings.

6e. If yes, how long should panel orders remain in place for?

Depends on the circumstances.

6f. If yes, if panel orders (e.g. to pay rent arrears) were not complied with, how and when should the case be escalated to court for a final decision (e.g. on whether to evict the tenant)?

Depends on the circumstances.

6g. If yes, in addition to the management activities of landlords and regulatory bodies, what added value would a Housing Panel provide?

Relieving the court system

6h. If no, what alternative form of formal dispute resolution might better apply to the cases described here?

Comments

6i. If no, do you think improvements to the dispute resolution system would be better delivered through proposals for civil court reform as outlined in paragraphs 4.5 to 4.9?

Yes No Don't Know

Option 3: Housing Panel Replacing the Courts as Decision Maker

7. Should there be a new housing tribunal, to be called the Housing Panel?

Yes No Don't Know

7a. If yes, who should be members of this type of Housing Panel?

Comments

7b. If yes, should the Housing Panel be created by expanding the caseload of the Private Rented Housing Panel?

Yes No Don't Know

7c. If yes to question 7, which housing cases should a new Housing Panel consider?

Comments

7d. If yes to question 7, should parties be charged a fee for raising actions before a new Housing Panel?

Yes No Don't Know

7e. If no to question 7, what do you see as the main difficulties and challenges in establishing a Housing Panel?

No reply

7f. If no to question 7, do you think improvements to the dispute resolution system would be better delivered through proposals for civil court reform as outlined in paragraphs 4.5 to 4.9?

Yes No Don't Know

Equality issues

8. Which equality groups, if any, do you think will be differently affected by each of the options in this consultation paper?

None

9. How do you think they will be affected by each option (positively or negatively)?

No affect

10. What changes could we make to each of the options to mitigate or remove any adverse effect on the equality groups you have identified?

No adverse affect

11. What opportunities do the changes/options present for equality of opportunity to be advances, and/or the fostering of good relations between and among different people?

Avoiding the court system is good for the relationships between all landlords and tenants.

Business and Regulatory Impact Assessment

12. Are there businesses, public bodies or 3rd sector organisations not already listed in the BRIA that we should engage with in developing one or more of these policy options?

Yes No Don't Know

If yes, please provide details of these organisations.

Comments

13. Which options will impact on these organisations and what would the impact be?

The favourable impact for landlords and tenants means there will also be a favourable impact for lettings agents.

14. Could the enforcement, sanctions or monitoring of any of the options have a disproportionate impact on any organisation or group of organisations within the public, private or third sectors?

Yes No Don't Know

If yes, please explain what the impact will be

Comments