



The Scottish Parliament
Pàrlamaid na h-Alba

PUBLIC PETITION NO.

PE01743

Name of petitioner

John Foster on behalf of Govan Community Council and others

Petition title

Amend the law to protect the rights of pre-1989 Scottish Secure Tenants

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to amend the Rent (Scotland) Act 1984 to prevent disproportionate rent increases being set for Scottish Secure Tenants.

Action taken to resolve issues of concern before submitting the petition

The issue has been raised with our local MSP Mr Humza Yousaf and with the Scottish Government's Housing and Social Justice Directorate. We have also raised the issue with Glasgow City Council who have written separately on our behalf to the Housing and Social Justice Directorate.

Petition background information

This petition is raised by Govan Community Council and Central Govan Tenants' and Residents' Association.

In 2016, a number of pre-1989 Housing Association tenants in Govan, previously known as Scottish Secure Tenants, appealed their rent increases to the Rent Assessment Committee (now the Housing and Property Chamber). Their rents were increased disproportionately by between 35 and 60 per cent for the three-year period of the review. These tenants are generally elderly and the increases have, in a number of cases, caused considerable hardship.

The members of the assessment panel determined what they claimed were comparable rents by conducting online research to identify the rents that were being asked for by private landlords across the City of Glasgow. One of the tenants who was entitled to legal aid appealed to the Court of Session who found that this procedure was 'erroneous in law' and 'fundamentally flawed' and upheld his appeal (2017 Court of Session appeal decision in the case of Mr James Wright v Elderpark Housing Association before Lord Drummond Young).

The Housing and Property Chamber was asked by the other tenants to review their rent increases in light of this judgement but declined to do so. These rents now stand as

increases in light of this judgement but declined to do so. These rents now stand as local comparables for further rent assessments and in one case of appeal in 2018, the Housing and Property Chamber used one of these rents to impose a 95 per cent rent increase. There is therefore every likelihood that as further rents come up for review over the coming period they also will be at risk of disproportionate increases. All pre-1989 Scottish Secure Tenants across Scotland are therefore at risk. In at least one case an existing tenant has had to relinquish their tenancy as a result.

There are currently around 1,000 of these tenancies remaining.

Section 48 of the Rent (Scotland) Act 1984 states:

Determination of fair rent.

(1) In determining for the purposes of this Part of this Act what rent is or would be a fair rent under a regulated tenancy of a dwelling-house, it shall be the duty of the rent officer or, as the case may be, of the First-tier Tribunal, subject to the provisions of this section, to have regard to all the circumstances (other than personal circumstances), and in particular to apply their knowledge and experience of current rents of comparable property in the area, as well as having regard to the age, character and locality of the dwelling-house in question and to its state of repair and, if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture.

(2) For the purposes of determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.

We believe the legal basis on which the determinations were made is flawed and tenants are being prejudiced as a result. This was rectified for one tenant following the court of session appeal but not for others. The injustice therefore continues.

We propose that the wording in Section 48 subsection (1) be amended from "rents of comparable property in the area" to 'rents of comparable social housing in the immediate area'.

We also believe that the small number of tenants whose rents were determined by the method condemned as 'erroneous in law' should be given the right to re-assessment.

Unique web address

<https://www.parliament.scot/GettingInvolved/Petitions/scottishsecuretenants>

Related information for petition

Do you wish your petition to be hosted on the Parliament's website to collect signatures online?

YES

How many signatures have you collected so far?

0

Closing date for collecting signatures online

16 / 09 / 2019

Comments to stimulate online discussion

Do you think the wording in the Rent (Scotland) Act 1984 is sufficient to ensure that determination of rent is fair for Scottish Secure Tenants?

Do you agree that pre-1989 housing association tenants whose rent was determined prior to the 2017 Court of Session judgement should have a right to a review of their decision?

Are you aware of housing association tenants who have been affected by the issues raised in this petition?