



## Briefing for the Public Petitions Committee

**Petition Number:** [PE01468](#)

**Main Petitioner:** Mike Dailly on behalf of Govan Law Centre Trust

**Subject:** Evictions due to under-occupation deductions

Calls on the Scottish Parliament to urge the Scottish Government to amend Section 16 of the Housing (Scotland) Act 2001 to prevent social landlords from using rent arrears caused by under occupation housing benefit deductions in eviction actions, and instead requiring such under occupation arrears to be pursued as an ordinary debt

### Background

The petitioner raises concerns regarding section 69 of the Welfare Reform Act 2012 and the Housing Benefit (Amendment) Regulations 2012 which cover housing benefit under-occupancy provisions for tenants in the social rented sector. As of 1 April 2013 these provisions will see an estimated 105,000 tenants across Scotland who are considered to be under occupying their property by one or more bedrooms receive either a 14% or 25% reduction to their housing benefit. This equates to an average of £12 per week ([Scottish Government 2013](#)).

The petitioner feels that any arrears accrued due to the bedroom tax are not the fault of the tenant and to pursue eviction would be unfair and unreasonable. It would also have a detrimental impact on homelessness and would place increased pressure on finance and resources at the local authority level. Furthermore the option of moving is unavailable to many as there are not enough smaller properties for people to move to.

The petitioner states that the success or failure of a tenant in preventing eviction action can depend on only a few pounds a week. Payment plans to avoid rent arrears eviction can be as little as £3.55 a week. Therefore he feels that the prospect of losing from £12 up to possibly £22 per week in housing benefit will mean that Scotland's law centres and advice sector will be unable to defend many eviction cases in practice.

He contends that an amendment to section 16 of the Housing (Scotland) Act 2001 should be made to prevent 'bedroom tax rent arrears' being used to establish or justify eviction, and instead the landlord could obtain a payment decree for these type of arrears and pursue them as an ordinary debt.

## Scottish Government Action

In the view of the Scottish Government eviction should only be used as a last resort. It introduced measures in sections 153 and 155 of the [Housing \(Scotland\) Act 2010](#) to improve protection for tenants in the social rented sector facing eviction for rent arrears. These measures strengthen the pre-action requirements that must be followed before action to evict can be taken and make a change to repossession orders which means that there is a final opportunity, even after a court has granted an order for possession, for tenants and landlords to agree a way to resolve the arrears and avoid eviction

The Minister for Housing and Welfare wrote to councils in March 2013 to encourage them to consider all possible options and use all reasonable means to prevent eviction of housing tenants struggling to pay rent due to the bedroom tax. It highlighted the example of Dundee City Council which has committed that where tenants are doing all that can be reasonably expected to avoid falling into arrears, they will use all legitimate means to collect rent due, except eviction. The letter also makes landlords aware that in certain circumstances it may be possible to reclassify rooms so they are not considered bedrooms.

In addition to Dundee City Council Angus, Argyll and Bute, Clackmannanshire, East Ayrshire, Fife, Highlands, Midlothian, Perth and Kinross, North Ayrshire and West Dunbartonshire have committed to a non-eviction policy. Clackmannanshire and Renfrewshire are reported in Scottish Housing news as having tabled a motion for debate in support for non-eviction. City of Edinburgh Council has also released the text for a non-eviction motion to be debated on 16 April 2013.

## Scottish Parliament Action

There have been many Parliamentary Questions and Motions raised by Members on issues surrounding the bedroom tax. Actions specific to the subject of evictions include the following:

**[Motion S4M-05517](#): Kevin Stewart, Aberdeen Central, Scottish National Party, Date Lodged: 29/01/2013. The Bedroom Tax, an Attack on Scots** [Accessed 04.04.13]

That the Parliament regrets the UK Government's decision to introduce the so-called bedroom tax, which, it believes, will cut tenants' housing benefit if they have a spare room; understands that over 100,000 people in Scotland will be affected and lose out on up to £600 per year; considers that this will have a negative impact on single parents who share custody of their children and disabled people who live in specially adapted social housing, and believes, with regret, that these plans will lead to more rent arrears and evictions in social housing.

Supported by 36 members

**[Motion S4M-05724](#): Hanzala Malik, Glasgow, Scottish Labour, Date Lodged: 25/02/2013. Real Impact of the Bedroom Tax** [Accessed 04.04.13]

That the Parliament notes growing concern regarding the so-called bedroom tax under new welfare reform plans, which means that social housing tenants can lose a portion of their housing benefit if they are deemed to be underoccupying their home; understands that Shelter Scotland has urged the Scottish Government to make up to £50 million available to

help tackle the impact and that the charity's three-point plan calls for a guarantee that no-one should be evicted for bedroom tax arrears or deemed intentionally homeless if they are evicted for that reason; understands that the Scottish Government has calculated that eight out of 10 households affected by the change included a disabled adult, and considers that these concerns are serious and that steps must be taken before real hardship is suffered.

### **Supported by 10 members**

**Question S4W-12541: Jackie Baillie, Dumbarton, Scottish Labour, Date Lodged: 30/01/2013 [Accessed 04.04.13]**

To ask the Scottish Government whether it will take action to prevent local authority or housing association tenants being evicted due to rent arrears that arise because of the proposed housing benefit reforms.

Answered by Margaret Burgess (25/02/2013): The Scottish Government has been consistent in our opposition to the way in which welfare reforms are being implemented by the Westminster Government and is discussing with key stakeholders how to help tenants cope with them.

We are very sympathetic to the difficulties that some tenants will find themselves in as a result of these reforms but in the interests of tenants themselves, we cannot advocate placing tenants in situations where they cannot afford to pay off debts to their landlords. We are also concerned that if tenants do not pay their rent in full, landlords will lose a significant proportion of the income they rely on to provide services to all of their tenants.

The Scottish Government has already strengthened the protection for tenants in Scotland against eviction for rent arrears. From 1 August 2012 we brought pre-action requirements for rent arrears into force to ensure that eviction is a last resort.

**Question S4W-13016: Jackie Baillie, Dumbarton, Scottish Labour, Date Lodged: 08/02/2013 [Accessed 04.04.13]**

To ask the Scottish Government whether it plans to issue additional guidance on evictions in the context of changes to the housing benefit system and, if so, what the guidance will contain.

Answered by Margaret Burgess (05/03/2013): The Scottish Government is committed to ensuring that eviction is the last resort. In August 2012, it introduced regulations under the Housing (Scotland) Act 2010 which require landlords to have exhausted all attempts to resolve the arrears with the tenant before taking action to evict. In June 2012 we published guidance for social landlords on these pre-action requirements. The guidance is published at: <http://www.scotland.gov.uk/Publications/2012/06/2337> .

We will update the guidance to take account of the introduction of Universal Credit in due course.

We have also recently funded the Chartered Institute of Housing to provide guidance to social landlords on the UK Government's reforms to housing benefit. This guidance highlights the challenges landlords are likely to face and asks landlords to identify whether there are other ways of collecting unpaid rent which do not risk the tenancy. The guidance is published at:

[http://www.cih.co.uk/resources/PDF/Scotland%20Policy%20Pdfs/Bedroom%20Tax/CIH\\_Bedroomtax\\_e.pdf](http://www.cih.co.uk/resources/PDF/Scotland%20Policy%20Pdfs/Bedroom%20Tax/CIH_Bedroomtax_e.pdf)

**Emergency Question, Jackie Baillie, Dumbarton, Scottish Labour, Date Lodged: 27/03/2013** [Accessed 04.04.13]

To ask the Scottish Government whether it will bring forward emergency legislation to protect tenants from eviction as a result of arrears arising from the so-called bedroom tax and financial support to help local authorities and housing associations mitigate its impact.

Answered in the Chamber by Nicola Sturgeon (27/03/13): "The change that is proposed in the question would create an anomalous situation and would provide no additional protection for people who get into difficulties as a result of welfare cuts other than the bedroom tax. Further it would involve the Scottish Government taking £50 million out of other areas of public spending". (For full text see the Official Report)

The issue was also discussed in the [7<sup>th</sup> meeting of the Welfare Reform Committee on 26 March 2013](#). An evidence panel of four council representatives from across Scotland discussed their views on the so called Bedroom Tax and the no eviction commitment taken by Dundee City Council. Dundee and Highland Councils representatives voiced their support for the commitment. The North Lanarkshire representative stated that the council doesn't want to evict anyone but is working on an impact analysis of the implications of the under occupancy legislation before deciding on evictions. There were also general concerns raised over the impact that any reduction on council income could have on capital building projects. Scottish Borders Council who was also present does not hold any housing stock.

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