Ministry of Housing, Communities & Local Government

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Date:

13-3-18

Clive Betts MP
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Dear Clive,

Thank you again for your detailed inquiry into the Private Rented Sector and pre-legislative scrutiny of the draft Tenant Fees Bill, and for the opportunity to provide evidence on behalf of the Government.

I agreed to provide further information on a number of points raised by the Committee. I trust that the following response will address your questions and concerns, and that you will find this additional information helpful.

MRS HEATHER WHEELER MP

Private Rented Sector inquiry

Housing Benefit regulations and Lockdown properties
The Committee raised the issue of landlords converting family properties into self-contained units and asked how the benefits system might create incentives for landlords to subdivide their properties.

We are aware that in a small number of areas, the local housing authority rates have enabled landlords to raise prices for poor quality housing. We are also aware that tenants are eligible for a higher rate of Housing Benefit in self-contained accommodation as opposed to shared accommodation and that in some instances this is being abused by landlords to secure more rent.

The Committee asked what powers local authorities have to prevent landlords sub-dividing properties. These include:

1. Planning permission must be obtained where self-contained units are created from a family house, and it is open to the local planning authority to consider taking enforcement action if this has not been granted.

2. Local authorities can make Article 4 Directions to remove permitted development rights – requiring planning permission where properties are converted from a family house to a small House in Multiple Occupation.

3. Local authorities can use additional or selective licensing as a tool to address significant management issues or poor quality accommodation associated with converted properties.

4. Where there are particular concerns that landlords are renting out poor quality and unsafe accommodation, local authorities have strong and effective powers under the Housing Act 2004 - using the Housing Health and Safety Rating System. They must take appropriate enforcement action if there is a serious risk to the health and safety of tenants.

5. The powers available for local authorities to tackle rogue landlords were strengthened in the Housing and Planning Act 2016. We introduced civil penalties and extended rent repayment orders in April 2017 and we will be introducing banning orders and a database of rogue landlords and property agents for the most serious and prolific offenders in April this year.

6. More generally, it is for local authorities to decide whether a claimant is in shared accommodation or self-contained accommodation and is therefore eligible for a higher rate of Housing Benefit.

We are committed to working with the Department for Work and Pensions to understand how we can make best use of our financial levers and existing powers to support tenants and to prevent landlords from abusing the benefit system to provide poor quality housing.

Deregulation Act 2015 – Retaliatory eviction provisions
The Committee asked about the number of times the retaliatory eviction provisions in the Deregulation Act 2015 have been used by local authorities. We are currently unable to provide this data as local authorities are not specifically obliged to provide it and the Department does not routinely collect it. However, we recognise that this is an area of concern and we are writing to request this information from local authorities to inform our understanding about the effectiveness of the provisions.

Powers to collect landlord information via council tax registration forms
The Committee asked the Minister to clarify the powers that local authorities have to collect landlord names and contact details from tenants via council tax registration forms. Following the introduction of a Private Members' Bill by Dame Angela Watkinson MP, in November 2015, the Department wrote to all local authorities outlining their existing powers under the Local Government Finance Act 1992 to collect data for the purposes of Council Tax administration. Section 237 of the Housing Act 2004 allows data that has been collected for this purpose to be used for the exercise of the local authority's housing functions under Part 1 to 4 of the Housing Act 2004. The letter is available here: https://www.gov.uk/government/publications/council-tax-information-letter-data-on-housing-tenure.

Selective licensing - confirmation of schemes
The Committee asked about the number of selective licensing schemes that have been rejected by the Secretary of State. When local authorities apply to introduce a selective licensing scheme, they can either propose a single designated geographical area, or propose a number of designations in one application; this may be the approach taken for example where the where the problems identified in the designations are different, or where the evidence for one designation is less strong.

Of the seven applications which the Secretary of State for Housing has made a decision on, one has been rejected completely, and two have been confirmed in part. Four have been confirmed in full and one was withdrawn by the local authority.

Review of selective licensing
The Committee noted that it had received evidence on the application process for local housing authorities and requested that we consider whether it can be improved as part of our selective licensing review. We can confirm that we intend to look at this process as part of our review.

13-3-16

Tenant Fees Bill

Treatment of the holding deposit

The Committee members asked whether the draft Tenant Fees Bill specifies a maximum length of time that the holding deposit can be held by the agent or landlord whilst reference checks are carried out.

Schedule 2 of the draft Tenant Fees Bill outlines the parameters for treatment of a holding deposit. The maximum amount of time that a landlord can hold a holding deposit is generally 21 days, pursuant to paragraph 3 and 4 of Schedule 2 (the "deadline for agreement" is defined as 15 days (see paragraph 2(1)) and the holding deposit must be repaid within 7 days of that date. However, there is provision to vary the "deadline for agreement" by agreement in writing which could have the effect of extending the maximum period for which a holding deposit may be held.) However, the landlord must repay the money sooner if he enters into the tenancy agreement or decides not to grant the tenancy before the deadline for agreement. In those cases the deposit must be repaid within 7 days of the date of the tenancy agreement or that decision.

Recovery of unlawfully charged fees

The Committee asked whether Government could work with the Ministry of Justice to look at an alternative route for tenants to recover unlawfully charged fees. Specifically, whether it is possible improve the process for registering a judgement by the First-tier Tribunal in the County Court, to be enforced by a County Court Order. We will work with the Ministry of Justice to look at this issue again and ensure that we adopt the best model to give tenants swift recovery of unlawfully charged fees.

As stated to the Committee, Government did consider whether the First-tier Tribunal would be an appropriate route for tenants to recover their fees. However, tribunals are unable to enforce their decisions and therefore all rulings would need to be enforced in a county court. We therefore thought it was most expedient for the tenant to seek to recover any illegally charged fees via the County Court. This approach reflects that of the Tenant Deposit Protection Legislation. We hope that most tenants will never need to take their case to the courts or to their local authority as the ban will empower tenants to challenge charges from their landlord or agent.

13-3-18