

A Response from the NI Private Tenants' Forum to the Department for Finance and Personnel Consultation Paper

Review of Rates Liability for the Landlord Sector

Summary

As a group of private tenants¹ we believe the proposed changes contained in this Review of Rates Liability for the Landlord Sector will not significantly improve the situation for tenants in the private rented sector (PRS). It is obvious that rating liability in the PRS is extremely complex and needs to be simplified and clarified. Unfortunately, we do not believe that these proposals do enough to address the difficulties faced by tenants in determining liability for rates.

We are concerned that tenants will still be unfairly pursued for the failure of landlords to pay rates bills. Also confusion will continue to exist for both landlords and tenants in deciding who has responsibility to make these payments. Although we welcome the proposals contained in the consultation paper, we don't believe they go far enough in clarifying liability. We therefore propose that a wider discussion should take place with all interested parties to consider this complex issue and develop a long term solution.

Proposals

We welcome the Department's aim to simplify the rules governing rate liability in the landlord sector and we broadly agree with the four proposals made in the consultation paper. However we feel that the proposal to standardise the landlord allowance at 10% is an issue which should be mainly dealt with in consultation between landlords and the Department. The proposal to simplify the system by removing the frequency of rent payment criterion from Article 20 in the Rates Order will help Land & Property Services (LPS) in determining liability. However, as noted above, we believe that these are only stop-gap measures in trying to resolve this complicated issue and detailed discussions should be held with key stakeholders to review how the collection and payment of rates can be better administered in the PRS.

In our view, tenants usually assume that rates are included in their monthly rent payments and expect the tenancy agreement (if one exists) or the rent book (rarely provided even though it is a legal requirement) to explain and detail this arrangement. They are not generally aware of the provisions of the Rates Order and don't understand how a property's capital value can impact on their liability for rates. This information is generally not brought to people's attention when they are searching for a rental property.

In our experience as private tenants, most landlords include an amount towards rates in each rental demand and specify this in the tenancy agreement if one exists. The only information usually provided to tenants is a monthly rental figure which includes rates, so a tenant often never knows what amount is being taken by a landlord or letting agent for rates. The form of tenancy agreement

¹ See appendix 1 for background information

or lease commonly used by letting agents usually states that 'the landlord will be responsible for the payment of rates.' In cases where the landlord does make these payments the tenant will be pursued by LPS despite having already paid rates to the landlord. The tenant's only form of redress is then to sue the landlord for the return of the money paid to her/him, which can be both expensive, time consuming, and a cause of distress - knowing that a bad debt from this source can affect their credit rating.

We would like to see an assurance from the Department, and eventually contained in legislation, that tenants are not prosecuted for rates liability where it can be proved that they have made rates payments to their landlord in line with their tenancy agreements. This evidence base could take the form of entries in Rent Books (which landlords are meant to provide to their tenants) or as direct debits/standing orders/receipts etc.

One of our members, Jan Branch, who has been affected by this issue, has proposed a practical way of addressing this:

"For long-term renters, straight-forward legislation which can be expressed clearly in any valid and viable lease issued by a landlord or estate agent is a priority; tenants must know not only who is scheduled to pay what costs but who has actually paid them.

For this reason, I propose it becomes mandatory at least once a year, possibly better still every six months, for a tenant whose rent includes rates, that a formal receipt for rates paid by tenants and passed on to Land & Property Services should be issued by the landlord, or through the estate agent. A defaulting tenant is quickly picked up once the monthly payment ceases; why should tenants not have the same protection from defaulting landlords?"

Conclusion

Rating legislation as it currently stands is confusing and many people are unaware of their liability to pay rates. We accept there is no simple and immediate solution to this issue. We recognise that making landlords responsible for collection and payment of all rates, as is currently the case for HMO and empty properties, would appear to be most efficient and easily manageable system. However this could mean that under this system tenants on low incomes would no longer receive assistance with rates payments through housing benefit. It could also lead to an increase in monthly rent charges for tenants across the sector as landlords and agents simply pass on the rates costs to their tenants. Government accepts that current rules have proved to be complicated to administer and difficult to understand. Unfortunately the proposals in DFP's consultation will do little to remedy this problem. We believe government should convene a wider consultation exercise to find a long term solution to this problem. The forum will be pleased to provide further information in support of this submission.

Further information

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June 2013

Appendix 1

NI Private Tenants' Forum

The forum is a group of private tenants who have come together to campaign for improved conditions in rented accommodation. Developed in partnership with Housing Rights Service (HRS), and founded in 2012, the forum is funded by the Oak Foundation as part of a programme to work with tenants, landlords, government and other interests in developing appropriate policies and services in order to prevent and alleviate homelessness in Northern Ireland.

Membership of the forum is on an individual basis from private tenants who have encountered difficulties in accessing and sustaining tenancies and who wish to see an improvement in how tenants are treated in the private rented sector (PRS). The forum has contributed evidence to the recent DSD consultation on a housing strategy for Northern Ireland and helped carry out a 'mystery shopping' survey of upfront fees charged by letting agents.

Aim

The aim of the forum is to encourage tenant participation in shaping relevant legislation, policy and practice in the PRS.

Objectives

The objectives of the forum are:

- To support and encourage consumer driven improvement of the PRS
- To help create a culture that is committed to the principles of tenant involvement in the future development of the PRS
- To provide a supportive environment for PRS tenants to voice and share views
- To actively influence legislation, policy and practice in areas relevant to private tenants.

Values

The values of the forum are:

- Confidentiality - Not disclosing information to any external source (unless required to do so by law)
- Co-operation - Working together and with others to achieve shared goals
- Equality - Opposing discrimination and treating everyone fairly
- Independence - Not subject to the control of any organisation or political party
- Respect - Acting with integrity and treating everyone in a non-judgemental manner.