

# Housing Rights

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## Consultation Response

# Reforming the Rating System

February 2017

when everyone has a **home**

## Introduction

Housing Rights is the leading provider of specialist housing advice in Northern Ireland, with over 50 years' experience of advising, supporting and representing clients on housing issues. In the course of our work, we have advised and represented clients from all housing tenures on rates issues. We are therefore pleased to have the opportunity to respond to the Department's proposals.

Housing Rights notes that several aspects of our response<sup>1</sup> to the previous 'Review of Rate Liability in the Domestic Rental Sector' have not been incorporated in the draft proposals. The specific issues raised, which largely relate to rates liability in the rental sector as well as rates recovery, are significant concerns for those who contact our advice service for assistance. It is with disappointment, therefore, that we note that none of these points have been progressed to the proposals contained in the current paper.

The substance of this response therefore contains specific comments on particular proposals contained in the 'Rates Rethink' paper, as well as reiterating points made in relation to the previous review of rate liability in the domestic rental sector, which the current proposals are silent on.

## Summary

- Housing Rights believes that **the Department should consider taking action to simplify liability for rates in the domestic rental sector in Northern Ireland, and/or develop clear and comprehensive guidance on rates liability for landlords and tenants – potentially in conjunction with the Department for Communities**. Additionally, as Housing Rights has previously identified, it is our view that improvements to the rates recovery process are also required.
- With regards to the removal of the University-run Halls of Residence rates exemption, Housing Rights recommends that **if this proposal is implemented, the Department monitor any changes in rent levels in affected Halls of Residence, and any impact this has on the affordability of this accommodation for students**.
- With regards to the partial removal of the Rates Cap, Housing Rights recommends that **given the potential impacts which this step could have on households who own their homes but can face affordability-income issues, Housing Rights recommends that the Department closely monitor the effect of this proposal on rates affordability for affected households**.

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<sup>1</sup> See Housing Rights (2016) 'Response to a Review of Rate Liability in the Domestic Rental Sector'

## 1. Inconsistencies between contractual agreements and primary rating legislation

Housing Rights advisers have extensive experience of advising and representing clients in cases of contested rate liability, where contractual agreements do not align with primary rating legislation.

Housing Rights has dealt with several cases – particularly with private tenants, and/or where the Housing Executive has discharged its Full Duty Applicant duty in “single lets” private rented accommodation – where tenants have paid “rent & rates” as part of a contractual agreement with a landlord, only for the landlord to fail to pay rates to Land & Property Services.

Occupiers of these properties have then been pursued by Land & Property Services, occasionally years after the fact, for rates which they have effectively already paid as part of a contractual agreement with the landlord.

Housing Rights would therefore recommend that:

- **The Department re-consider implementing “Option 4” of the previous consultation on rates liability in the domestic rental sector, which proposed to remove the £150,000 threshold from Article 20 of the Rates (Northern Ireland) Order 1977.** This would have the effect of making all private landlords liable to collect rates and transfer these to Government, whilst maintaining occupier/tenant liability for the actual payment of rates.

Housing Rights believes that **implementing this step would simplify rates liability for landlords and tenants; align with existing widespread tenant understandings of rates liability<sup>2</sup>; and align with expressions of rates liability contained within many tenancy agreements in the private rented sector.<sup>3</sup>**

- **Regardless of whether Option 4 is pursued, the Department of Finance should develop clear and comprehensive guidance on rates liability for landlords and tenants.**

This was originally called for in the Agenda for Action of the Private Tenants’ Forum, a group of people living in or with experience of living in the Private Rented Sector, who are supported by Housing Rights.<sup>4</sup> Housing Rights believes that this guidance should:

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<sup>2</sup> The Department has previously acknowledged that ‘evidence collected over the years points to the current split between landlord and tenant liability leading to confusion [. . .] **Many tenants might reasonably assume that rates were included in their monthly charge which could lead to an arrears situation.**’ See Department of Finance & Personnel (2016) ‘Review of Rate Liability in the Domestic Rental Sector’, p18. Housing Rights’ experience of advising tenants with rates arrears aligns with this understanding.

<sup>3</sup> See DFP, *ibid.*: ‘Many respondents to the 2013 consultation suggested that confusion will still exist in regard to liability and whether it was determined by the Rates Order or by contract law as articulated mainly through tenancy agreements.’

<sup>4</sup> See <http://housingrights.org.uk/sites/default/files/Agenda%20for%20action.pdf>

- Be simply written and formatted, and understandable to the tenant (and landlord)
- Signpost to further sources of information, independent advice and guidance (there is considerable precedent, across government, for signposting to independent advice)
- Directly involve the Private Tenants Forum, and others affected by these issues, when being drafted

Housing Rights notes that in their proposals for change of the Private Rented Sector, the Department for Communities propose to develop a “tenant information pack” which all private landlords must provide to their tenants.<sup>5</sup>

**Housing Rights strongly feels that this is an excellent opportunity for the Departments of Finance and Communities to work together to improve tenant knowledge of rates liability, and would recommend the Department of Finance engage with Communities at the earliest possible opportunity.**

- Housing Rights also notes that despite the previous proposals acknowledging that the Department recognized that current rates recovery processes are unsatisfactory, **no proposals to address the recovery process are contained in the current proposals. It is our view that the Department should take steps to ensure that recovery processes are transparent and affordable.**

## 2. Changes to Halls of Residence rating

Housing Rights acknowledges the Department’s considerations in favour of removing the University-run Halls of Residence “full exemption.”<sup>6</sup>

Housing Rights would, however, caution against any impact that this may have on affordable accommodation for students. **Housing Rights recommends that if this proposal is implemented, the Department monitor any changes in rent levels in affected Halls of Residence, and any impact this has on the affordability of this accommodation for students.**

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<sup>5</sup> See Department for Communities (2017) ‘Private Rented Sector in NI – Proposals for Change’, chap. 7

<sup>6</sup> Department of Finance (2016) ‘Reforming the Rating System’, pp26-27; see also DFP (2016) pp12-13 & 27-28

### 3. Partial removal of the Rates Cap

Housing Rights acknowledges the Department's considerations in favour of partial removal of the rates cap, whereby owners of properties exceeding the £400,000 cap will pay the regional rate on the value of the property which exceeds the Cap.<sup>7</sup>

Housing Rights acknowledges the Department's proposal to take a phased approach in partially removing the cap, and the reference to forms of rates relief available for households.<sup>8</sup> However, given the potential impacts which this step could have on households who may own their homes but can face significant affordability issues, **Housing Rights recommends that the Department closely monitor the effect of this proposal on rates affordability for affected households.**

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<sup>7</sup> DF (2016) p38

<sup>8</sup> *Ibid.*, p37