

NATIONAL LANDLORDS DAY: 14 NOVEMBER 2017

The Scottish Association of Landlords (SAL) have confirmed the questions that the Minister will be asked by Sally Magnusson (Chair) during his appearance at the 2017 National Landlords Day.

Following a welcome and brief introduction for the Minister, he will be invited to take part in the Q&A session in front of delegates. Some questions have follow up/interjections that may be asked by the Chair and we understand that she will also invite questions from the audience at the end of the interview. Responses to each of the questions have been provided in a bullet point format.

Q1. I remember chairing this conference last year and hearing you speak about the importance of enforcement of legislation and that you were going to make that a priority in your role as Minister – tell us exactly what you have done in the last 12 months to make this happen?

- I have always been clear that effective enforcement of the wide range of legislation already in place to support a better private rented sector in Scotland is crucial and good progress is being made towards this.
- In September we launched new statutory guidance to encourage all local authorities to make better use of the extensive range of powers available to them to take tougher, targeted enforcement to tackle those who flout the law.
- I am aware of some excellent enforcement and prosecution work going on in local authorities across the country. Back in May, a landlord in Fife was convicted for continuing to act as a landlord after their registration had been refused. A disqualification order – the first of its kind – was granted and the landlord was fined £500 and banned for 12 months.
- Many of you will be aware of the Enhanced Enforcement Area (EEA) legislation that we brought into force in 2015. A four block area in Govanhill became the first area to be designated as being of EEA status and a recent review of the impact of the enhanced enforcement work going on there clearly showed its success. For example, during initial inspections only 21 properties within the area met Repairing Standard requirements. Through the Councils continued engagement with landlords, 175 properties met the standard on their second inspection.
- Building on this, in September a further nine landlords in the area have been struck off the Register after being found unfit to rent out property. Indeed one landlord was renting a house with faulty electrics, no hot water, a broken toilet and holes in the floor – completely unacceptable! Glasgow City Council was able to make eight of the bans as a result of the EEA in Govanhill.

- I was therefore delighted, in August this year, to approve a second EEA application by Glasgow City Council. This expands the area in Govanhill subject to enhanced enforcement – helping the council to tackle the worst landlords in the area.
- Finally, the Scottish Government is currently taking forward an important piece of work that will see guidance developed on enforcement and prosecutions activity in the private rented sector. Working in partnership with Police Scotland and the Crown Office and Procurator Fiscal, we are developing a range of information and guidance for practitioners – including local authority staff and police officers who become involved in investigations – to help support them through what can often be a complex process. I hope this guidance will be ready early next year.

Potential follow-up question/Interjection:

Q. Is it the case that these laws are, quite frankly, unenforceable?

- No, I don't believe this is the case. I know local authorities carry out a wide range of enforcement and prosecution activity in the private rented sector. However, I recognise that this can be a complex and challenging process and that is why we have published new statutory guidance for local authorities and are working towards additional guidance specifically on enforcement and prosecution activity for parties involved.
- It is important to note that both the police and crown office have an important role to play in successful prosecutions and therefore I am delighted that both organisations are working in partnership with us at the moment.

Potential follow-up question/Interjection:

Q. But some tenants are still living in sub-standard accommodation – what are you doing about that?

- They are, and it's not acceptable. Local authorities have a range of discretionary powers to tackle poor standards in the sector. Including the power to inspect a property and report a breach of the Repairing Standard to the First Tier Tribunal Housing and Property Chamber, as well as powers to apply to Scottish Ministers for an area to be designated as an Enhanced Enforcement Area.

Q2. It seems to me that a weakness in Government here might be the lack of pressure put on local authorities to do anything about enforcement – wouldn't you agree?

- I think it is very important to be clear that enforcement success can't simply be measured on the number of prosecutions. We know there is a huge range of proactive work being taken forward by local authorities across Scotland, to help improve practice and raise standards in the private rented sector and I will shortly be writing to all local authority Chief Executives to highlight our on-going commitment to this.
- For example, with the support of Shelter, we now have established Landlord Liaison Officers in Dundee and Lochaber and we support a similar post in Glasgow. Their job is to work with landlords to make them aware of their responsibilities and encourage compliance, meaning that enforcement and prosecution action is not needed. And I have already mentioned the recently published statutory guidance for local authorities. This shares practical examples of the good work that authorities do to help landlords improve their practice and what enforcement action can be taken against those landlords who won't meet their legal responsibilities.
- Back in February this year, we also launched a new online Landlord Registration IT system to replace the outdated and unsustainable system. I know that there have been some issues with the system and my officials are working with Registers of Scotland to address these as quickly as we can. Once the full programme of enhancements to the new system has been delivered, Local authorities will be able to dedicate more time to enforcement.
- We will shortly be publishing a consultation seeking views on potential amendments to secondary legislation. This would expand the information that landlords must provide in their application for registration, strengthening the Fit and Proper Person Test. This is an important tool in enforcing landlord registration, therefore we would welcome your views when the consultation opens for responses.

Potential follow-up question/Interjection:

Q. So what can you do to force local authorities to take action?

- The legislation gives local authorities powers to enforce landlord registration. It does not give me powers to direct them on how they use these. I have made it clear in the statutory guidance that I expect local authorities to use their powers. My officials will continue to work with local authority landlord registration officers to support and encourage a more effective and targeted approach to enforcement in their localities. As I have outlined, many authorities work proactively with landlords to improve practice, so that they can meet the requirements of registration.

Q3. Our letting agent delegates here today will no doubt be waiting in anticipation of the introduction of the new register of agents and Code of Practice, due to go live on 31 January 2018 – can you, here today, assure us that will be properly enforced?

- You are right to focus on the importance of effective enforcement – it is a key part of helping to remove the rogues from this sector.
- Unlike Landlord Registration, the letting agent register will be a single register for Scotland that will be administered centrally by the Scottish Government. My officials have already undertaken a huge amount of work to identify and engage with agents – including those who don't realise that they are currently operating as an agent – to make them aware of their responsibilities.
- The Code of Practice, passed by Parliament, makes great strides in providing a benchmark to raise standards in this sector and I expect the Scottish Government to play its role in making this work. We are currently working to develop and implement an effective Monitoring and Compliance Framework that makes best use of our position in the sector.
- Before admitting a letting agent business to the Register, Scottish Ministers will assess a range of people to ensure they are fit and proper to be involved in controlling a letting agency business and we will check that the qualification requirements have been met. We will challenge non-compliance through the judicial system where this is necessary.
- But we all have a role to play in this. I want to see landlords and tenants making effective use of the First-tier Tribunal for Scotland (Housing and Property Chamber) to challenge poor performance from their letting agents. With no fee to access the Tribunal, this new body should provide a more accessible means to challenge such behaviour.
- And letting agents themselves will be well placed to report non registration of rogue operators after the registration period ends. This will enable the Scottish Government to challenge a business' failure to comply with the law.

Q4. Whilst I'm sure delegates here welcome – as they did last year – your commitment to tackling rogue and, to be honest, criminal landlords for not complying with the law, what are you doing to support the many law abiding and registered landlords that are out there and here today?

- We are keen that local authorities increase their engagement with all landlords and the recently published guidance, highlights case studies of successful practice to support landlords – such as the Landlord Support Officers currently in place in a number of authorities.
- The real, criminal rogues are thankfully in the minority and powers such as Enhanced Enforcement Areas and the forthcoming guidance for practitioners on enforcement and prosecutions will help target those. However, many landlords are simply unaware of their responsibilities or feel over-whelmed when entering the market and education is often the key.
- Many local authorities hold regular landlord forums, issue newsletters and offer training opportunities – all help to drive up standards. Under the new Code of Practice for Letting Agents they must not act for a landlord who is in breach of housing law and they must report that landlord to the local authority.
- The forthcoming consultation on the prescribed information required at the point of registration, aims to provide greater reassurance that all landlords are complying with their legal duties, helping to level the playing field.

Potential follow-up question/Interjection:

Q. You could argue that there is more stick than carrot – couldn't you?

- I don't think this is the case at all. We listened to the calls of SAL and other representative bodies, who campaigned for many of the measures we are discussing here today, such as introducing a modern, easier to use tenancy regime – where landlords are able to take action more quickly in the event of rent arrears, recovery of abandoned properties and communicating with tenants.
- You called for free access to an independent and specialised housing Tribunal, as well as the letting agent industry itself calling for regulation to remove the rogues from the sector – that is why I am delighted to be here today to let you know the important progress we have made in responding to you.

Q5. We've all been shocked and saddened by the tragedy of the Grenfell fire in London and note the Scottish Government's response in the wake of the findings of the inquiry. How can we be assured similar properties in the social and private sectors are safe in Scotland?

- First of all, building standards systems and regulations for high rise domestic properties in Scotland, means that the type of product used on Grenfell Tower should not be used in the cladding systems here.
- As many of you will know, a Ministerial Working Group was established on 20 June, 6 days after the Grenfell tragedy, to review our building and fire safety regulations and ensure that people are safe in Scotland's buildings.
- The Ministerial Group prioritised a consultation on fire and smoke alarms in Scottish homes. This was originally planned for 2018, as part of a wider consultation on harmonising standards across tenures, but instead was brought forward and launched on 8 September. The consultation is open until 1 December and, if you haven't already done so, I would urge you to read this over and respond.
- The standard currently required in the private rented sector represents best practice and we are seeking views on options to extend this standard to social rented housing, owner occupied flats, or to all housing irrespective of type or tenure.
- Turning to existing powers to tackle poor fire safety standards, local authorities have powers to submit a third party application to the First Tier Tribunal Housing and Property Chamber, in order to enforce the Repairing Standard and where a property is identified as being below required standards, we expect local authorities to use the wide range of powers available to them to tackle that.
- Using Enhanced Enforcement powers as an example – Glasgow City Council reported that the most common breach of the Repairing Standard in the initial 4 block EEA area was inadequate or non-existent smoke detection equipment. Discussion with landlords and reinforcement of the message resulted in marked improvement in fire safety between the first and second inspection visits.

Potential follow-up question/Interjection:

Q. I understand that fire safety standards in private rented accommodation are different to that in social housing – why is that the case – surely all tenants should be afforded the same standards of safety, regardless of who their landlord is?

- Absolutely. We want and expect everyone to benefit from the same level of protection and the consultation sets out our proposal that the same standard should apply for everyone in Scotland, whether you own your own home, or rent from a social or private landlord.

Q6. We are going to hear more today about the Private Residential Tenancy, due to come into force very soon, along with many more changes winging landlords way. Is there more legislation in the pipeline for landlords that we should be aware of?

- The Private Residential Tenancy will be the biggest change to the Scottish private rented sector for a generation. As part of our run up to the new tenancy coming into force on 1 December, I would urge all landlords and letting agents to become familiar with the wide range of information and advice available on the Scottish Government website.
- Building on this, I am delighted today to be able to launch the digital Model Tenancy Agreement – an important tool which will help landlords fulfil their duty to provide the written terms of a Private Residential Tenancy. You will be able to use, free of charge, this to create a bespoke tenancy for your tenants and properties. I believe you can see a demonstration of this at the Scottish Government stand in the exhibition area.
- You've already heard this morning about our intention to improve the energy efficiency of the worst performing privately rented stock. I want to ensure that tenants are able to enjoy homes that are warmer and more affordable to heat, and that poor energy efficiency will no longer be a driver for fuel poverty.
- That's why I am committed to introducing standards to improve the least efficient properties. My officials will continue to refine the proposals taking account of the analysis of responses to the consultation that was published this morning, including how best to provide an appropriate lead in time for their effective introduction. I will confirm those standards as part of the route map for Scotland's Energy Efficiency Programme, which will be announced next year.
- I am also committed to improving the condition of PRS properties, to help ensure a fair deal for all private tenants. With the report from our consultation on energy efficiency and condition standards in private rented housing published this morning, and response analysis now complete, we will be taking forward secondary legislation in 2018 to amend the repairing standard in a number of areas, including electrical safety and the safety of heating systems, and for the tolerable standard – the most basic threshold of fitness for human habitation – to become part of a private landlord's duties under the repairing standard. More information on the outcomes from the consultation is available from the Scottish Government website.

- Turning back to fire safety, over the past 20 years, significant progress has been made in fire safety in Scotland – the number of fires has nearly halved and the number of fire fatalities has fallen by over 60%. We know that we already have high standards for fire and smoke alarms in the private rented sector - however, one death from fire is one too many and as we look to realise our vision for safer and stronger communities across Scotland, it is clear that more can always be done to achieve improved fire safety.

Q7. It is interesting that you've not mentioned the thorny subject of rent controls that opposition parties at both Holyrood and Westminster are championing the cause of. Is the Scottish Government about to announce the introduction of rent controls in Scotland?

- One of the important measures that the 2016 Act introduces is Rent Pressure Zones (RPZ).
- The Rent Pressure Zone provisions in the 2016 Act balance tenants' interests, while giving landlords confidence that they can recover their legitimate costs, including for improving their property. It is a proportionate approach to rent controls that was agreed by Parliament when the Bill was passed last year.
- The discretionary powers for local authorities are intended to be used to tackle hot spot areas where existing rents, for private residential tenancies, are showing higher than average increases.
- The local authority will have to provide robust evidence to demonstrate that the criteria in the legislation are met. These are:
 - rents payable within the proposed RPZ are rising by too much;
 - rent rises within the proposed zone are causing undue hardship to tenants;
 - the local authority within whose area the proposed zone lies is coming under increasing pressure to provide housing or subsidise the cost of housing as a consequence of the rent rises within the proposed zone.
- Initial rents will continue to be market led.
- The cap will apply to existing tenants who have a private residential tenancy. Rents charged for tenants with Short Assured tenancies and other tenancies will not be affected.
- The Scottish Government is required to consult with tenant and landlord representatives in the area to be designated and, if satisfied that the evidence is there, lay regulations in Parliament within 18 weeks of receiving that valid application.
- If Scottish Ministers are satisfied that the criteria for a Rent Pressure Zone is met, then they must lay regulations in Parliament setting out the designated area, the percentage at which rents will be capped (CPI+1%). The cap will apply to rent increases for sitting tenants with a Private Residential Tenancy and will apply for up to 5 years.

Potential follow-up question/interjection

Q. Some local authorities have already stated publicly that they want to apply for a rent pressure zone for their whole area, City of Edinburgh Council for example.

- The City Council must submit a valid application, which evidences (as set out in the Scottish Government's Requirements document) that the criteria defined in the legislation are met and to specify the cap that they wish to be applied (CPI +1%).
- I recognise that increasing the supply of homes is the sustainable, long-term solution to addressing housing affordability and Scottish Government affordable housing investment in Edinburgh will be substantial over the Parliamentary period.

Q8. We hear so much about there being a housing crisis and how people are struggling to find a home. Surely as investors in Scotland, many landlords here today might think why should we bother and opt to sell up and invest elsewhere. What can you do to assure them that investing in the private rented sector in Scotland is worthwhile?

- Let me be clear that I fully recognise the crucially important role that the landlords here today play in meeting the needs of the 760,000 people who call the private rented sector home. I know the majority provide good quality accommodation and high levels of service but there is still important work to be done in order to ensure the sector is being managed professionally and the homes being provided are of a good quality.
- The regulation already in place, and due to come into force over the coming months, is intended to ensure that people living in the private rented sector live in good quality, safe homes and the range of legislation that you will hear about today- from a new modern tenancy to energy efficiency measures - aims to achieve that.
- I believe these legislative measures will make the sector a more desirable place to call home, benefitting all involved. That is why events, such as today, where we can hear the views of landlords operating in Scotland are so very important.
- Turning to larger scale investment in the sector, we recognise that the private rented sector offers new opportunities to increase the rate of housing delivery, contributing to the creation of well-designed, sustainable places whilst also supporting Scotland's Economic Strategy.
- Build to Rent is an important part of our More Homes approach. This approach aims to support the increase in the supply of homes across all tenures. Creating quality, warm and well managed housing – fit for the needs of modern society.
- Through Build to Rent, we can help meet the growing demand for private rented homes – while driving up standards, quality and choice for tenants and improving the energy efficiency of stock.
- The recent launch of the Rental Income Guarantee Scheme (RIGS for short) is a significant Government initiative for Build to Rent. Designed with the house-building, landlord and investment sectors – it offers a tailored approach for Scotland. It's a risk sharing scheme, designed to provide greater confidence during the early stages, when lettings risks is at its highest.

- This scheme, combined with our other initiatives such as – New Planning Delivery Advice on Build to Rent; tax relief on multiple dwellings (not available in England); and a modern tenancy system – demonstrates our commitment to a progressive private rented sector, with a supportive policy framework for inward investment.

Potential follow-up question/Interjection:

Q. Any good news for landlords?

- We have listened - and will continue to listen - to the experiences of landlords. As I have said, the legislative changes that the sector are about to embrace will make renting a home more desirable and on a longer term basis, especially for families, this is good news for tenants and landlords.
- Our focus on encouraging better enforcement in the sector, will see local authorities encouraged and supported to make better use of their existing powers and develop better working relationships with key partner agencies, such as Police Scotland. This is crucial in continuing to tackle the rogues that are still out there.