

# **A New Deal for Tenants**

**Analysis of responses to the consultation exercise**

**Analysis report**

**August 2022**



**Scottish Government**  
Riaghaltas na h-Alba  
gov.scot

- The work of Kingdom Housing Association's money advice team, including in connection with Universal Credit for rent and arrears. There was specific reference to backdated Housing Benefit to cover an Under Occupancy Charge, applications for Hardship Loans and engagement with social work services.
- The Neighbourhood Coach approach taken in East Ayrshire. It was reported that it has helped residents interact with the local authority in new ways and has enabled and empowered people to make their own choices and come to their own solutions. It was reported that the neighbourhood coach assists individuals with a range of issues, including rent arrears and neighbour disputes. It was suggested that this proactive approach to empowering tenants reduces the need for enforcement action in the future.

## Rented sector and gender-based violence

The consultation paper stresses that having safe accommodation is fundamental for women's safety and wellbeing, but that violence against women (VAW) in all forms can have a significant impact on housing needs and experiences. It also explains that the specific harms of commercial sexual exploitation (CSE) as a form of VAW, and particularly the exchange of sex for rent, are important in the context of the PRS.

### **Question 10 – What measures could be implemented to support people involved in sex work, including women subject to commercial sexual exploitation in the rented sector?**

Around 355 non-campaign respondents made a comment at Question 10. Some of these respondents noted that they have no knowledge or experience of the issue and/or did not feel able to make an informed comment.

There was a view that supporting people involved in sex work should not be a responsibility of the private landlord or agent community, including because they will generally not have the expertise to make informed decisions. A slightly different perspective was that qualified agents and experienced property managers know the signs of potential exploitation in a rented property, but that Individual or inexperienced landlords may be less aware.

However, others noted that they were pleased to see recognition that housing, for PRS tenants, influences involvement in CSE and can present barriers to women exiting from it.

## Complexity of the issue

A number of 'Third sector organisations' were amongst those highlighting the complexity of the issues raised by Question 10, with comments including that these issues cannot be addressed through a single question.<sup>6</sup>

It was seen as disappointing that Equally Safe (Scotland's strategy for preventing and eradicating violence against women and girls), is not interlinked with the proposals set out in A New Deal for Tenants. It was also reported that this is the first time that a consultation has specifically included a question about the housing needs of women who sell or exchange sex. This was seen as both encouraging but problematic, in the latter case because it points to the lack of a gendered lens when designing a housing strategy for Scotland.

It was suggested that this consultation is an opportunity for the Scottish Government to design a housing strategy with a gender-based violence (GBV) lens, which aligns with the Equally Safe strategy, and which explores and addresses the specific situation for women who sell or exchange sex. However, there were also questions as to whether a strategy and consultation focused on improving tenants' rights is the right place to consider such an important, complex and potentially cross tenure issue.

In relation to wider housing issues, it was noted that women's needs in the rented sector cannot be separated from their housing needs in general and that housing needs and GBV, including CSE, are closely interrelated. Further comments included that:

- Women's access to and ability to retain housing, their risk of homelessness, and routes in and out of homelessness are affected by violence against women and girls, economic instability, and caring responsibilities. In order to fully understand and address these issues, it is critical that the Scottish Government fulfils its commitment made in the Ending Homelessness Together action plan (2020) to 'Apply a gendered analysis to our actions, ensuring the homelessness system meets the needs of diverse groups of women.'
- Lack of access to adequate housing is not only a factor that can push women to sell or exchange sex, but also remains a huge issue while they are involved, and it often prevents them from moving on.
- Women who sell or exchange sex are not a homogenous group and so their housing needs differ based on their individual circumstances.

In terms of other issues to be considered there was also reference to human trafficking and people with 'no recourse to public funds'.

Overall, it was stressed that women in CSE are not only entitled to have their housing rights fulfilled but need this in order to make choices in their lives and

---

<sup>6</sup> There were a small number of very detailed responses, including from an organising working to raise awareness around violence against women and girls and to improve services for those affected, including people affected by commercial sexual exploitation.

achieve safety and stability. As part of a wider progress to enshrine housing as a human right for everyone in Scotland, women in CSE need to be considered throughout.

Further comments included that the Scottish Government should align any terminology describing sex work in this strategy with that used in Equally Safe. For example, it was suggested that A New Deal for Tenants should refer to CSE or to women who sell or exchange sex, and the term 'sex worker' should be avoided.

### **Multi-agency working and support**

Reflecting comments about the complexity of the issues, there were a number of calls for partnership-driven and holistic interventions. Multi-agency working was seen as essential to tackling a range of issues such as the right to work, assistance with drug and alcohol misuse, homelessness, debt, poverty, poor mental and physical health, poor education, uncertain immigration status, lack of social support from family or other social networks, abusive relationships and escaping exploiters.

In terms of the range of agencies involved, there was reference to all community planning partners and to Multi-agency public protection arrangements. Suggestions for ensuring appropriate and effective multi-agency working included that:

- The Scottish Government should work with local authorities and Health and Social Care Partnerships (HSCPs) to develop operational strategies to ensure that women involved in sex work and people subject to sexual exploitation have access to support and services.
- Scottish Government, local authorities and HSCPs should also work with colleagues within the criminal justice system to ensure effective enforcement action whilst protecting women victims.
- Local agencies should work together, via a shared Prostitution Strategy, to support women to exit.
- Any operational response needs to reflect the natures of the private rented and social housing sectors and work with a wide range of stakeholders to ensure that women who are reluctant to engage or difficult to reach can access advice and support.

In terms of the support that should be available, it was argued that a package of specialist support should be tailored to the specific needs of each woman. A number of non-campaign respondents referred to specialist services and providers having a key role to play, including reference to Women's Aid, rape crisis centres and law centres.

It was also reported that there are excellent examples of models of practice which have been shown to transform women's situations. The importance of tailoring approaches to each area, and co-developing approaches with women with lived experience was highlighted. In terms of some of the key principles that could underpin effective support, there was reference to the Encompass Network's work on [support and exiting services for women involved in prostitution](#). The principles they identified – including being in it for the long term – were seen as transferable

to other issues such as housing, as part of a multiagency approach with services working to provide continuity of care. There were also references to:

- Naming the problem, with local strategies, and the agencies delivering them, recognising the issue, for example in the case of prostitution, as violence against women.
- Being flexible and accessible to enable women living in chaotic circumstances to engage with them.
- The importance of monitoring and evaluation, which then inform the development of future strategies and approaches.
- Addressing on-street and off-street commercial sexual exploitation.

Specific suggestions relating to the type of support that should be available included:

- Providing safe accommodation, potentially involving a move to another area. A 'Local authority' respondent referred to a project which supports women rescued from sex trafficking, with the local authority providing accommodation and a partner organisation with specialist expertise providing support.
- The option of transitional housing for those needing safe and affordable accommodation, and possibly 'breathing space' in terms of rent if they want to exit CSE. Also, providing aftercare to sustain tenancies and support tenants to develop skills to budget, pay bills and claim benefits.
- Ensuring that information is available in understandable formats is vital, particularly for those with poor literacy skills. Information should be available in places where vulnerable women might present or seek assistance such as hospitals, police, homelessness services, addiction support, shelters, volunteer-run community services, and via cultural or ethnic minority groups.

Other comments addressed issues beyond specialist services and the importance that all sectors within housing have an awareness of CSE. In terms of the social sector, a 'Housing association' respondent referred to the specialist training they have developed to enhance the knowledge and understanding of their staff in this area. It was also suggested that public bodies must be given adequate training and resources to spot the signs and to understand and respond to sex work in a trauma-informed manner. Training and understanding were seen as key to ensuring the need for support can be identified quickly and support given at the right time. The importance of creating a culture in which women will not feel stigmatised or judged was also highlighted.

It was also noted that, while women who wish to leave sex work should be supported, it cannot be assumed that every person will want to leave this line of work. There was a concern that the New Deal for Tenants appears to focus only on supporting women who wish to leave. It was suggested that support should not only be established for women wishing to exit sex work but also for women who do not wish to exit. It was acknowledged that the type of support needed will be different, but it was stressed that all women should have access to housing and be given choices and options.

A specific issue raised was that people involved in CSE may have difficulty in providing employment information and references, making them vulnerable to exploitation due to not having a legal tenancy agreement. It was suggested that women without references and looking for a PRS tenancy could be eligible to access a rent guarantor scheme.

### **Protection from eviction**

A number of non-campaign respondents noted that they agreed with the consultation paper's suggestion that the references in the model Scottish Secure Tenancy Agreement and Private Residential Tenancy: Model Agreement to 'immoral purposes' and 'brothel keeping' should be reviewed. Some suggested that they should be removed, with further comments including that the wording does not reflect a trauma-informed approach.

Further comments included that the effect of the morality clause is to leave sex workers in social housing in a more precarious situation and less able to access their rights. The example given was that an abusive partner could use this morality clause to threaten to have his partner evicted if she tries to end the relationship. It could mean that a woman who sells or exchanges sex feels unable to report violence she has experienced, for fear that this will impact on her tenancy.

It was suggested that the Housing (Scotland) Act 2014 urgently needs updating to remove the morality clause. There were also general calls for the protections for people involved in sex work to be strengthened as part of the pre-action requirements and evictions protocols. Specifically, there was a call for clarification that sex work – including sex work which involves criminal convictions for soliciting or loitering – cannot be, in itself, grounds for an eviction from social housing or from the PRS.

### **Sex for rent**

There were also a number of comments about 'sex for rent', which was described as a phenomenon created by the housing crisis. A frequently made point was that, with rents continuing to rise and a shortage of affordable social housing, more tenants are vulnerable to being exploited by unscrupulous landlords through the abhorrent practice of 'sex for rent'. Addressing the lack of genuinely affordable and quality housing through effective rent controls and greater protections for tenants was seen as crucial for all tenants in Scotland, but particularly for those vulnerable to exploitation.

There were mixed views on whether the Scottish Government should look to legislate that 'sex for rent' is illegal in Scotland. Some non-campaign respondents thought it should be, although it was noted that there would also need to be safeguarding measures to support people wanting to leave the current situation.

Others thought the focus should be on additional measures to prevent exploitation through 'sex for rent' arrangements. The concern was that, although men who seek out 'sex for rent' arrangements as the 'landlord' are exploitative and abusive, criminalisation risks making this bad situation worse.

In particular, it was suggested that women or LGBTQ people who are street-homeless and/or drug-using are likely to have experienced criminalisation in the past and risk further criminalisation even if they are the victim of the 'sex for rent' situation that is being investigated. Criminalising 'sex for rent' was seen as risking bringing more police contact into the lives of vulnerable people who may already have had extremely negative experiences with the police.

In terms approaches that should be taken, it was suggested that women who exchange sex for rent, and find themselves in precarious accommodation, need to be protected in the same way as victims of domestic abuse.

### **Landlord Registration and enforcement**

Other comments addressed the potential for strong enforcement action against landlords involved in CSE. In terms of the PRS, there was reference to criminal charges and the swift removal of their registration. It was noted that removal of registration already happens where the local authority becomes aware of any criminal charges, but that the period between registration and renewal is 3 years, and checks are not likely during this period. It was suggested that greater information sharing between relevant partners and agencies may provide earlier intervention and enforcement.

Other comments or suggestions relating to landlord registration included that:

- Additional criminal record checks, increased background checking and the need for references could be considered. However, it was noted that such enhanced checks would have resource implications.
- There could be closer liaison with Police Scotland to tackle links to organised crime.

### **Joint tenants**

The consultation paper explains that previous stakeholder engagement has highlighted two specific tenancy issues that need to be addressed – allowing joint tenants experiencing domestic abuse to end a joint tenancy in the PRS and, where appropriate, enabling them to remain in the family home as a sole tenant.

#### **A joint tenant can end their interest in a private rented sector tenancy**

The consultation paper suggests that there is a need to make legislative changes to the operation of the PRT to ensure that a joint tenant can end their interest in the tenancy without the agreement of the other joint tenant(s). It suggests that this change will be of particular benefit to those experiencing domestic abuse.

**Question 11 – Do you agree with our proposal to amend the 2016 Act to ensure that all joint tenants can terminate their interest in a private residential tenancy without the agreement of other joint tenant(s)?**

**Please explain your answer.**

Responses to Question 11 by respondent type are set out in Table 3 below.