

**SPEECH BY GRAEME BROWN, DIRECTOR OF SHELTER
SCOTLAND TO PRIVATE RENTING CONFERENCE, AUGUST
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CHECK AGAINST DELIVERY

I'd like to welcome you here today on behalf of Shelter and to thank the Minister for his speech. This is the third year Shelter has held a conference on the private rented sector and brought together landlords, letting agents, local authorities and tenants representatives. I have been impressed by the growing level of interest in getting together: one more sign surely that the private rented sector is casting off its cinderella clothes of decades past.

Scotland's private rented sector is a keystone in the housing market. It has grown hugely in the last 6 or 7 years, reversing years of decline and stagnation. As well as substituting for owner occupation, private renting is increasingly meeting the needs of those who cannot find a space in social housing. As we have just heard from the Minister, this is a view that is strongly reinforced by the Government's approach to engaging with the sector: arguably the most positive approach of any government in Scotland that we can recall.

This morning I am going to give an overview of recent reforms and what I think they add up to. I'll look at some current proposals. And I am also going to say what I think still needs to be done. Specifically, I want to look at how the private sector can help to address homelessness.

Let's be clear though. While the development of professional standards has gone some way towards banishing the image of the demon landlord, Scotland's tenants can't yet be confident of being treated fairly.

Through our advice work, Shelter sees far too many landlords tarnishing the name of the sector with unacceptable practices.

We still have far too people coming to us about landlords who threaten violence, refuse to return deposits without justification, and generally make the lives of their tenants a misery.

Just to give an example from the last few weeks of a client in our Glasgow Housing Aid Centre. He and his family were told to vacate a property by his landlord with 3 days notice. He had no written tenancy agreement. The landlord came to his house and refused to leave until our client left. The police were called and wrongly told our client that it was a civil matter and then left. Someone then connected with the landlord arrived and assaulted our client

Now, I know all of you who are landlords here today will be shaking your heads with despair that such cowboy operators continue to ply a trade as landlords. If anyone is here from police services you too will be embarrassed that frontline officers do not know that unlawful eviction and harassment is a CRIMINAL offence.

Mind you, even if the police had taken action there would still be a job to do getting procurator fiscals to press the case. For too many fiscals unlawful eviction is still a no-go area, although I recently heard from a long-standing housing activist how keen the fiscal's office were to press charges on his daughter for the supposed crime of standing around in a clown's outfit at a petrol station protesting about climate change.

A sad reflection of priorities, I think.

Over 20 per cent of Shelter's clients cite a problem with the private rented sector as the reason for seeking advice. This is a disproportionately high number when the private rented sector houses only 8 per cent of households in Scotland.

So while big strides have been made by landlords in reviving the sector and engaging with reform, there are still too many operating unlawfully or at the margins of acceptable practice. And the vast majority of these landlords are the ones housing the most marginal tenants. Tenants with nowhere else to turn but the slum properties at the lowest end of the market.

For these tenants, light touch regulation alone will not provide respite. So I want to focus today, not simply on whether recent reforms have improved the sector as a whole, but on whether they can transform the circumstances of those tenants who endure these Dickensian conditions.

Private renting DOES have a positive role to play in the overall housing landscape of Scotland: easing the pressure on owner occupied markets, particularly for younger households; and acting as a lubricant for the modern economy. Take the most recent influx of workers from Eastern Europe, for example - it's the private rented sector that has overwhelmingly absorbed those workers. Not always in good conditions, of course. But without the sector, where else would these new workers turn to?

But I also recognise that the private rented sector can have a vital role in substituting for social housing, especially in areas where social housing is scarce – city centres on the one hand or remote rural areas on the other.

This is not at all to undermine the case for social housing to be provided in these kinds of areas: rather it is to recognise that, even in a perfect world, supply and need for social housing will never be perfectly balanced. A pressure valve is needed too.

This is why measures to regulate the operation of private landlords are so important. We don't want to lose the flexibility and diversity that is one of the strengths of the sector. But we need to better acknowledge the "social" role that private landlords can have too.

Linked to that social role is a more explicit recognition of the role that private landlords can play in tackling homelessness. This is the first of the main themes I want to look at.

Scotland has an internationally acclaimed policy framework on homelessness, which so far has increased the responsibility of councils to find temporary accommodation for people in housing crisis. But the lynchpin of the programme to tackle homelessness in Scotland is the 2012 target, which will extend the duty to provide permanent housing for all homeless people .

This target presents an enormous challenge and it is now clear that, at least in some areas, it may be too big a task to be shouldered by social landlords alone.

So private landlords have a role to play in tackling homelessness in 3 ways: in prevention; in providing temporary accommodation; and in potentially providing permanent homes.

Firstly in preventing homelessness – there are over 5,000 homeless applications each year from people leaving private renting – better engagement with private landlords, both through information and regulation should help to ensure that the end of a private lease does not become a crisis time in people’s lives.

The Government is about to publish long awaited regulations under Section 11 of the 2003 Homelessness Act. They will require local authorities to be informed about an impending eviction and provide advice and assistance to the tenant. The Government has also recently revised guidance to landlords, local authorities and the police to tackle and prevent illegal eviction.

The second role private landlords have is in providing temporary accommodation for homeless people waiting for a permanent social house – Edinburgh, Mid Lothian, East Lothian and Scottish Borders all now have private sector leasing schemes and other local authorities are running similar models.

Private sector leasing can be attractive for both landlords and councils alike: they ensure a guaranteed rent and management function for landlords, and give councils housing options that do not reduce the amount of permanent housing in the social sector. Private sector leasing seems also to encourage landlords to invest in property, and scheme providers claim private renting is growing in areas where schemes are running.

The third role private landlords may play is in providing permanent accommodation to get people out of homelessness. Currently, homeless households can only be permanently housed in the private rented sector if they are given an assured tenancy and these are few and far between.

[As we have heard from the Minister], and will hear more about this afternoon, the Government has set out plans to allow short assured tenancies to be used to house people who are homeless.

In principle, I welcome greater use of private renting to help people out of a housing crisis, but the idea of giving people only a year's tenancy – as it's proposed – is not satisfactory. In dialogue with other homelessness organisations, Shelter is putting together an alternative proposal which would extend the length of tenancy, following a six month introductory period, during which time the duty to house a homeless person would not be discharged. This would also allow more robust assessments of affordability and support needs to be carried out. Then, after this initial period, a tenancy of 2-3 years would be on offer. I hope that the Scottish Government will look favourably on these proposals.

Such an alternative proposal would also foreshadow longer-term tenancy reform, which I will come back to later.

So there ARE certainly ways in which the private rented sector CAN more effectively tackle homelessness. It would not do to overplay the scale of that role but it is a step in the right direction, nonetheless.

I want now to turn to the second of my major themes, which is to look at the impact of recent changes.

The first area I want to look at is regulation. Most private landlords want to operate to high professional standards and aim to have good relationships with their tenants. In the majority of cases landlords who fall short of this need advice, information and support. This is why Shelter has been working with organisations from across the sector to call for increased consumer rights for tenants, and better incentives for landlords to invest in private renting.

But, as I said at the start, there are still a minority of landlords who abuse their positions through mismanaging their tenancies. The actions of the minority impact on the reputation of the whole sector and undermine the consumer confidence tenants should have in renting.

For these landlords regulation and the setting of clear standards DO have an important role to play.

Shelter has welcomed the launch of Landlord Accreditation Scotland in April and we are enthusiastic members of its advisory group. I hope it sends out a clear message to landlords and tenants alike that they can access good quality homes. But accreditation will only pull up standards among landlords already committed to positive practice. We look to Landlord Registration to target those that are less so inclined. The fit and proper person test which is at the heart of the landlord registration system should ensure that a very minimum standard is met by all landlords.

Registration has had a shaky start. For many local authorities it was the first time they had been required to engage with the private rented sector on such a scale.

Starting in March next year, the first landlords to register will begin the process of re-registration. The Government has already begun to consult on amending some of the administrative processes. But I am disappointed that almost three years down the line, landlords and tenants have had little sign that local authorities will act on evidence of mismanagement by landlords. The focus so far has been on getting people on the register, rather than enforcement of standards.

I support the aims of registration, but I am keen to ensure that it isn't used as the only means for tenants to defend their rights. Local authorities have a role to play in delivering a better quality sector for tenants. But we see many examples where local authorities and their partners aren't acting to protect tenants or send a clear message to rogue landlords.

We should be looking more closely at where disputes occur between landlords and tenant and talking to local authorities about whether landlord registration is the best means for dealing with them. Otherwise, we are in danger of sending out a message that local authorities can police the sector when they may not have the capacity or power to do so. If this happens, we risk undermining confidence in registration as a whole and losing the cooperation of landlords and tenants alike.

Alongside registration and accreditation the other main reform in recent years has been to physical standards. The 2006 Act introduced the repairing standard and the Private Rented Housing panel. And, of course, there is the right to adapt for disabled tenants.

While disrepair is tangible and therefore seemingly more straightforward to legislate on, it is not yet clear whether enhanced rights in this area are sitting neatly with limited security; a point to which I will return. What is more Shelter has argued that poor repair standards go hand in hand with poor management practice. That is why we argued that the panel should also have powers to tackle poor management practice: something that the panel itself supported. That case remains, I would argue.

This is why I am encouraged to see that the Government intends to take stock of recent changes and is carrying out a review of the private rented sector. This should provide a reality check on that part of the sector that serves people who have no housing options elsewhere.

It is in the lower end of the sector, accessed by people who can't afford the higher rents of top end properties and have nowhere else to go, that the worse standards exist. Tenants in these properties are least able to exercise their rights and have most to lose from retaliatory eviction or unfairly withheld deposits.

The third recent change I want to look at is housing benefit

We are five months into a new Local Housing Allowance. Directly giving tenants a flat rate to pay for their housing costs based on a series of local market rents has revolutionised the benefits system. The principle behind the change was to transform what the UK Government saw as a dependency culture by making claimants responsible for their own finances.

Shelter's own analysis of the pathfinder projects for Local Housing Allowance suggested that the really problematic part of the new system was giving the benefit direct to tenants. This was leading to higher arrears and making some landlords refuse to house tenants on benefits. That concern remains. But as the reform has now been fully introduced it has been accompanied by changes to the market areas over which rents are set. Generally, average rents are now being determined over much larger areas and this will have the effect of pushing tenants on the lowest incomes into the lowest demand areas.

Less than six months into the new system it is not easy to tell fully what the impact has been. That is why Shelter is holding a conference on housing benefit in October. Details are in your packs for today.

To finish, I'd like to highlight a couple of areas where there needs to be future change.

The first of these is on the issue of tenancy deposits. Shelter lobbied hard during the passage of the 2006 Act to see protection for tenants from landlords who misuse tenancy deposits.

Currently if a tenant has had his or her deposit withheld unfairly the only way for them to challenge it is the small claims court. But very few tenants pursue their landlord to court and more often than not, their reaction is to write off the loss and seek to move out of private renting as soon as they can.

But for others, unfairly losing what can be a considerable sum of money, can mean the difference between moving smoothly into a new tenancy, and suffering real hardship or even homelessness.

The Housing (Scotland) Act 2006 gave Ministers powers to create a tenancy deposit protection scheme that could end the deposit lottery. The Government has been making slow progress in scoping out what deposit protection might look like. After two years of discussion we are still waiting for major research into tenants' and landlords' experience of managing deposits to complete in the autumn.

Shelter will continue to push to make sure tenants and landlords in Scotland have a better way of resolving disputes over deposits. It is surely right for us to reflect on the experience in England where tenancy deposit protection has been live for over a year now. Evidence from down south suggests that the new legislation has got off to a good start. Department of Communities and Local Government figures from the first year of the three Tenancy Deposit Protection schemes in England are impressive and indicate that one million deposits have been protected in the first year, at a value of nearly £900 million.

I would urge the Scottish Government to act in this Parliamentary term.

I mentioned the issue of security of tenure earlier and this is the second area where I see a need for future reform.

The Assured Tenancy was introduced by the Housing Scotland Act in 1988. At the time it was a compromise between the needs of the private sector and registered social landlords. But since the introduction of Scottish Secure

Tenancies, this compromise no longer makes sense since RSLs are no longer part of the assured tenancy regime.

Since the Assured Tenancy doesn't guarantee possession once a minimum period has elapsed, landlords almost exclusively use Short Assured Tenancies. But having a system where a tenant can be easily removed after a short fixed period significantly undermines progressive reforms in the sector, such as the Right to Repair. Not only that, but it drastically limits the range of functions the sector can perform.

Tenants who have no security beyond six months may understandably be deterred from exercising their rights – and I am very interested to see what impact this has, for example, on the work of the Private Rented Panel.

So I am keen to explore with other organisations the opportunity for a more fundamental reform of longer term tenancies in Scotland: keeping the Short Assured model for when it may suit the type of let, but rethinking the assured tenancy to make it more attractive to landlords and hence increase take up.

I think there is merit in exploring a tenancy regime similar to the Republic of Ireland. In that model, after an initial 6 month 'probationary' period, tenants are given a fixed term tenancy of 3 and a half years. Landlords in Ireland were initially opposed to this change. But since the new tenancy was introduced, far from driving landlords away, the sector has expanded significantly. If security of tenure can be made to

work for both tenants and landlords, it will be a further step in the right direction.

And with people finding it increasingly difficult to get a mortgage, inevitably private renting will be seen as an option that may have to serve them in the longer term.

Households whose preference might have been to purchase are likely to be strong consumers in the private rented market, and for them, the direction of reform will be good news. But for more marginal consumers who are either uninformed or uninterested in pursuing longer term rights, groups such as economic immigrants and students, the prospects aren't so good. Tenants at the lower end of the private rented sector have comparatively little market power, and this is where we should be focusing in future.

The sector of the future may attract more tenants who are looking for long-term solutions. We may also see new types of landlords emerging.

Some housing developers are reacting to an uncertain market by offering 'try before you buy' initiatives. Strathclyde Homes, has a 'Rent to Buy' programme offering an 18 months lease and ending with an option to purchase.

Could developers become the landlords of the future?

So, over the next ten years there could well be further acceleration in the turnaround of the private rented sector through a process which weeds out the worst practice, promotes good practice and ensures that the sector attracts new investment and supply.

I am encouraged by the renewed efforts to revive and re-energise the private rented sector in Scotland. Much has been

achieved to date, but we need to ensure that the raft of recent reform really helps those with little or no market power and security. Those at the bottom end. Shelter's client I highlighted earlier. The forgotten people in Govanhill slum homes which the leader of the City Council in Glasgow highlighted over the summer.

The essential health check for Scotland's private rented sector won't be how it performs at the top end. It won't be how well it performs on AVERAGE. It will be what it does for those tenants. I know that in this room there are many people who share that conviction; who want to be part of the solution; who want private rented to command real respect as a genuine positive housing option and as a crucial part of a healthy local housing system.

Let us make that our goal for today. And after today

Thank you.