

25 August 2017

Tenancy Reform - Consultation on Model Tenancy Agreement - Draft Easy Read Notes

Introduction

1. The Scottish Property Federation (SPF) is a voice for the property industry in Scotland. We include among our members: property investors including major institutional funds, developers, landlords of commercial and residential property, and professional property consultants and advisers. We are happy for our comments to be published and shared within the public sector.
2. We welcome the opportunity to offer comments on the draft Easy Read Notes that will accompany the Model Tenancy Agreement (MTA) and the latest draft MTA. We have also contributed to the response from the PRS Working Party and therefore support the response and will not duplicate those comments in this submission.

Premium to Market Rent

3. We are pleased to note that most of the comments that were submitted by the SPF in December have been taken on board. However, there is one key issue that is still a major concern amongst our members. As part of our comments in December we campaigned for flexibility to be allowed for, in relation to how rent and additional services are calculated and incorporated within the Model Tenancy Agreement (MTA) for Build-to-Rent (BTR).
4. It is possible that some BTR PRS schemes would need to command a premium to market rent. The exact level of premium would of course be dependent on the location, product, demand, tenant profile, onsite amenities/services on offer, and competition. We requested clarification as to whether a separate 'service charge' could be chargeable to 'protect' any such added value, particularly in the context of Rent Pressure Zones, or in general relativity to 'market' rent. There are also existing examples of utilities such as centralised district heating systems being metered and recharged per unit, or separate leases (and payments) for parking spaces or garages.
5. Some members have expressed concern that the requirement to include all services as rent may distort data required for evidence to support the designation of Rent Pressure Zones. For example, clarification is required as to how rents can be compared when housing associations are able to charge separately for additional services over and above mid-market or near-market rent, which may not be taken into account. It is important in these circumstances that any evidence for consideration should be on a fair and equitable basis.

Electronic Communications

6. Our members welcome the proposal that the MTA could be served electronically, where both the landlord and tenant agree that is their preferred method of communication. We understand that the new MTA will not be subject to the requirements of the Writing (Scotland) Act 1995, which means that there are no legal requirements in relation to signatures. We also understand that when using electronic communications, the landlord and tenant may agree what sort of electronic signature would be acceptable. For example, if they agree only to communicate

through e-mail addresses, they may simply sign by typing their names. Clarification of this would be helpful.

7. As also stated in December some of our members are firmly of the view that the MTA should be formatted in such a way that it can be administered entirely electronically. Some members have developed an App to cover tenancy application and administration and a requirement to agree in writing to communicate electronically would greatly impede this.
8. The SPF would be pleased to discuss our comments at the Scottish Government's convenience.

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