

GOVAN COMMUNITY COUNCIL

RESPONSE TO THE SCOTTISH PARLIAMENT'S LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE REGARDING THE PETITION LODGED IN 2019 ON THE RIGHTS OF PRE-1989 SCOTTISH SPECIAL TENANTS OF HOUSING ASSOCIATIONS AND THE REPLY OF THE SCOTTISH GOVERNMENT

Govan Community Council considers it appropriate to remind the Scottish government, through the Local Government, Planning and Housing Committee, of the sequence of events and the very long time period since the petition was first lodged.

In 2016 lawyers hearing appeals regarding rents set by housing associations for pre-1989 tenants saw fit to change previous practice. Previously the interpretation of 'comparable rents' under the Housing (Scotland) 1984 Act had been rents within the immediate neighbourhood. The lawyers now interpreted 'local' as the City of Glasgow rather than local communities – and by doing so used rents from the most affluent areas. This resulted in significant rent increases, in some cases, a near doubling of rents.

A case was appealed through Govan Law Centre to the Court of Session. In 2017 the Court, led by Lord Drummond Young, declared the practice 'fundamentally flawed' and 'erroneous in law' and struck down the rent in that particular case. When, however, that judgement was cited in subsequent appeals, it was ignored. Appealed rents continued to be subject to disproportionate rises. A letter was sent to the Minister for Social Justice and Housing but received no reply. Representations to our local MSP made no progress. In the meantime appealed rents continued to be increased disproportionately causing real hardship and great anxiety for often elderly tenants.

This was the background for the Petition (originally Petition PP 3016 and later after the reconstitution of the Committee PE 1743) lodged in 2019 calling for a very small amendment to the 1984 Act.

The Scottish Government and the Local Government, Housing and Planning Committee will be aware of the subsequent sequence of events. In session 2020-21 Petition PP 3016/PE 1743 was upheld as a valid petition after the consideration of responses from a range of relevant housing bodies. An amendment of wording was proposed to the 1984 Act fully acceptable to the Community Council. This was forwarded to the Local Government and Planning Committee. After consulting with relevant organisations in 2020, this Committee also upheld the Petition and the rewording proposed by the Petitions Committee. It forwarded its recommendation to the Scottish Government.

Following a reminder from the Petitions Committee dated 31 October 2022 to the Minister for Local Government and Planning a holding response was received from the Minister for Zero Carbon Buildings, Active Travel and Tenants Rights on 6 December 2022. This indicated that further consideration was needed.

The Minister eventually sent a letter dated 27 March 2023. This indicated that he thought that the provisions of the Private Housing (Tenancies) (Scotland) Act 2016 adequately covered this issue.

The response now received in 2025 is based on this letter from 2023. Our Community Council therefore finds this result very disappointing.

First, because of the time taken since the submission of the Petition in 2019 to consider a very small and simple amendment that had the backing of the most relevant Scottish housing bodies (and also effectively of the Court of Session) as well as two Committees of the Scottish Parliament.

Second, because of the observation by the Scottish government that the request now affects only a 'dwindling' number of tenants – itself the result of an extremely long process of delay since the matter was first raised with the Scottish Parliament.

Third, because, at least in the Govan area, many tenants have – for good reason – given up seeking to exercise rights previously allocated and in some cases abandoned their tenancies. Members of the Community Council can testify to the upset and trauma experienced by often elderly tenants.

Finally, and most importantly, we are not clear about the relevance of the proposal made by the Minister for Zero Carbon Buildings, Active Travel and Tenants Rights.

It appears to be that these tenants will be subject to the same adjudication as that for private tenancies under the 2016 Act – that rents on appeal do not go above that set by the landlord. It is not clear, however, that the criteria be the rents for comparable housing in *the immediate neighbourhood*, the key issue from the beginning.

No reason has been given by the Minister for the rejection of the very small amendment to the 1984 act as backed by two Committees of the Scottish Parliament.

We would therefore also like the Committee to consider what the Community Council believes to have been a shockingly long process to reach what we see as an evasive and unsatisfactory result – and its implications for the democratic process in Scotland.

In saying this, however, the Community Council would like to thank the staff and members of the Local Government Housing and Planning Committee as well as the Petitions Committee for their support and consideration over the past years.

Yours sincerely

Esme Clark Secretary Govan Community Council
Danny O'Neill Chair Govan Community Council
John Foster Proposer of the petition on behalf of GCC.