

**PROPOSED PROTECTION FROM EVICTION (BEDROOM TAX)
(SCOTLAND) BILL – JACKIE BAILLIE MSP**

SUMMARY OF CONSULTATION RESPONSES

This document summarises and analyses the responses to a consultation exercise carried out on the above proposal.

The background to the proposal is set out in section 1, while section 2 gives an overview of the results. A detailed analysis of the responses to the consultation questions is given in section 3. Section 4 includes Jackie Baillie MSP's commentary on the results of the consultation.

Where respondents have requested that certain information be treated as confidential, or that the response remains anonymous, these requests have been respected in this summary.

In some places, the summary includes quantitative data about responses, including numbers and proportions of respondents who have indicated support for, or opposition to, the proposal (or particular aspects of it). In interpreting this data, it should be borne in mind that respondents are self-selecting and it should not be assumed that their individual or collective views are representative of wider stakeholder or public opinion. The principal aim of the document is to identify the main points made by respondents, giving weight in particular to those supported by arguments and evidence and those from respondents with relevant experience and expertise. A consultation is not an opinion poll, and the best arguments may not be those that obtain majority support.

Copies of the individual responses are available on the following website: www.jackiebaillie.co.uk. Responses have been numbered for ease of reference, and the relevant number is included in brackets after the name of the respondent.

A list of respondents is set out in the Annexe in the order of the numbers assigned to them.

SECTION 1: INTRODUCTION AND BACKGROUND

Jackie Baillie MSP's draft proposal, lodged on 25 September 2013, is for a Bill to:

protect Scottish secure tenants from eviction as a result of rent arrears attributable to under-occupancy deductions of housing benefit.

The proposal was accompanied by a consultation document, prepared with the assistance of Govan Law Centre. This document was published on the Parliament's website, from where it remains accessible:

<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/29731.aspx>.

The consultation period ran from 25 September 2013 to 18 December 2013. Late responses were accepted until 6 January 2014.

The following organisations and individuals (170) were sent copies of the consultation document or links to it:

- 32 Local Authorities
- 69 Housing Associations
- 32 Housing Advice Services
- 6 Law Centres
- 31 Representative Organisations

A press briefing was organised on 25 September 2013 to coincide with the official launch of the Bill proposal.

Additionally, press releases were sent out on 25 September 2013 and on 18 December 2013 to mark the start and end date of the consultation period.

The consultation exercise was run by Jackie Baillie MSP's parliamentary office.

The consultation process is part of the procedure that MSPs must follow in order to obtain the right to introduce a Member's Bill. Further information about the procedure can be found in the Parliament's standing orders (see Rule 9.14) and in the Guidance on Public Bills, both of which are available on the Parliament's website:

- Standing orders (Chapter 9):
<http://www.scottish.parliament.uk/parliamentarybusiness/26514.aspx>
- Guidance (Part 3):
<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/25690.aspx>

SECTION 2: OVERVIEW OF RESPONSES

78 responses were received.

The responses can be categorised as follows:

- 16 (20%) from representative organisations [third sector, religious organisations, political party or other body with a role representing its members or supporters' views collectively]
- 8 (10%) from public sector organisations [local authorities]
- 6 (9%) housing organisations
- 11 (14%) from individual politicians [MSPs and councillors]
- 37 (47%) from private individuals [members of the public]
- 2 (3%) submissions where confidentiality requested
- 33 (43%) very similar responses from anti bedroom tax campaign groups
- 20 (26%) late responses accepted

There was a substantial overall majority of support from respondents for the aims of the proposed Bill to prevent evictions for tenants in social housing who can demonstrate that their rent arrears are caused solely by the bedroom tax. There was also majority agreement that this should be achieved by amending section 16 of the Housing (Scotland) Act 2001 so that bedroom tax arrears would become an ordinary debt and not relied upon for the purpose of seeking a decree for eviction.

A minority view was that amending the Act to this effect would threaten Registered Social Landlords (RSLs) and local authority landlords' improvement and services budgets. Respondents included within the housing organisations group were the least likely to support the Bill for this reason. However those who disagreed with the proposal to introduce a statutory no-evictions guarantee often emphasised their lack of agreement with the change. Indeed, the respondents were unanimous in their opposition to the bedroom tax as a policy and sometimes suggested alternative methods of protecting tenants.

One of the main arguments put forward by those who supported the proposals was that the bedroom tax was a flawed, unfair policy and the Scottish Parliament should do everything within its power to protect those affected by it. However, many of the Bill's proponents agreed that amending section 16 in the way suggested could have an impact on social landlords' budgets. A common argument among these supporters was that the legislation should be coupled with a funding pledge from the Scottish Government to cover the shortfall.

SECTION 3: RESPONSES TO CONSULTATION QUESTIONS

This section sets out an overview of responses to each question in the consultation document.

General aim of proposed Bill

Section 2 of the consultation document outlined the aim of the proposed Bill and what it would involve. Respondents were asked:

Question 1: Do you support the aims of the proposed Protection from Eviction (Bedroom Tax) (Scotland) Bill)? Please answer YES or NO or UNDECIDED. You are invited to give your reasoning for your response.

77 respondents (99% of the total) answered this question.

63 (82%) of those organisations and individuals that responded indicated support for the aims of the proposed Protection from Eviction (Bedroom Tax) (Scotland) Bill, while 11 respondents (14%) were opposed and 3 respondents (4%) were undecided or did not express a clear view on the proposed Bill itself.

In addition to these submissions, it is noted that the Govan Law Centre petition, which forms the basis of the Bill proposal attracted 4,755 signatures. Furthermore two Surveys were carried out, one by Neil Findlay MSP and Mary Fee MSP, and one by Mark Griffin MSP, and these attracted a further 24 (out of 27) and 454 (out of 484) people respectively in support of the Bill proposal. These numbers have not been included in the percentage calculations of the analysis of the views expressed about the Bill proposal.

The main reasons given for supporting the proposed Bill were

- Opposed in principle to the bedroom tax believing it to be unfair
- Recognition that there is a shortage of properties for tenants to downsize to
- Disproportionate impact on disabled people
- Detrimental to welfare of children, young people and families
- Important to take action now as abolition is not imminent
- Consistency across all social housing providers

The main reasons given for opposing the proposed Bill were

- Concern about increase in arrears and loss of revenue for housing associations
- Belief that eviction is a last resort but nevertheless a necessary tool in the collection of arrears
- There should be consistency in the treatment of arrears across all tenants

Other points mentioned were:

- The cost of mitigation

There is substantial overlap in the responses to questions one and two in the consultation. Where this is the case the detailed reasoning is given in the section with the most comment.

Reasons for supporting the Bill

1. Opposed in principle to the bedroom tax believing it to be unfair

The overwhelming majority of respondents, including those that do not support the Bill, commented on the unfairness of the bedroom tax.

The bedroom tax is a deeply inhumane aspect of the current UK governments approach to the benefit system; an approach which seems designed to increase poverty and inequality, and to undermine both the principles of the welfare state and the empathy people feel for one another. While the bedroom tax is by no means the only unfair aspect of the current welfare forms, it has quite rightly been highlighted as one of the most brutal.

Patrick Harvie MSP (1)

East Lothian Housing Association, whilst not supporting the aims of the bill had this to say about the bedroom tax:

The under-occupancy tax is entirely unfair and no-one should be evicted as a direct result of its introduction.

East Lothian Housing Association (6)

Many other respondents made the point that the bedroom tax was unfair as it targeted the poorest and most vulnerable in our society and was likely to lead to further poverty and inequality.

2. Shortage of properties to downsize to

Some respondents noted that the bedroom tax is a crude mechanism to deal with problems of housing supply and that the reality is that there is a shortage of one bedroom accommodation in Scotland. Others noted that there was little choice as tenants were unable to downsize.

The submission from Neil Findlay MSP in common with a number of others noted:

It is a failing way to try and deal with housing supply as there is insufficient properties available for tenants to downsize to and not enough social housing being built.

Neil Findlay MSP (32)

Renfrewshire Council gave details about the scale of the accommodation mismatch:

There is a significant mismatch between the size profile of existing social rented housing in Renfrewshire and the household profile of existing tenants and housing applicants. Only 29.3% of Council dwellings have one bedroom, with only limited availability. However 53% of existing Council tenants and 54.8% of housing applicants are single people. Demographic trends predict continued growth in the number of single-person households which will put further pressure on the demand for smaller social rented properties.

Renfrewshire Council (41)

3. Disproportionate impact on disabled people

Whilst respondents generally noted the adverse impact on some of the poorest and most vulnerable tenants, some noted the particular impact on disabled people.

We feel that the bedroom tax is an unjust restriction on the amount of housing benefit payable, and disproportionately impacts on disabled people, given that disabled adults are known to be living in 80% of the household affected by the bedroom tax.

People with a learning disability are particularly vulnerable to the negative impacts of the bedroom tax. They have a far greater reliance on the welfare state than the general population due to higher levels of unemployment than average.

Enable Scotland (48)

We are especially concerned at the apparent failure to take account of the particular needs of families with children with disabilities or other additional support needs including any siblings as there is no automatic right to exemption if a disabled child (or adult) requires a separate bedroom.

Children in Scotland (61)

4. Detrimental impact on children, young people and families

A number of respondents highlighted the likely increase in poverty and inequality that would arise as a consequence of the bedroom tax.

Children in Scotland made the most substantial contribution in further emphasising the potential impact on children and families:

Whilst acknowledging the pressure on limited social housing stock, forcing families to relocate from previously allocated housing for this reason can have negative consequences in terms of removing children

from their school, friends, and other support services and networks with attendant impacts on their quality of life and development.

Children in Scotland (61)

And in a later section gave the example of:

Separated families where the parent without main caring responsibilities requires a spare room for their children to visit or stay for part of the week. We are concerned that the net effect could be less parental contact for children in circumstances where it would be appropriate, or families being required to stay in cramped living conditions for part of the week.

Children in Scotland (61)

5. Important to take action now as abolition is not imminent

A few respondents recognised the commitment of both the Labour Party and the SNP to the abolition of the bedroom tax – in the case of the Labour Party, following a win at the general election in 2015 and in the case of the SNP, in 2016, following a yes vote in the independence referendum. There was a view that action should be taken now rather than simply waiting for either of these commitments to be delivered.

Patrick Harvie MSP who made clear his support for independence said of the Bill proposal:

However I agree strongly with her [Jackie Baillie's] words in the introduction to this legislation that "tenants should not have to wait for the votes to be counted in the referendum or the next general election". Supporting independence for Scotland, and seizing the opportunity to rebuild Scotland's welfare state, should be no barrier to taking action in the short term.

Patrick Harvie MSP (1)

Kezia Dugdale MSP said:

It [the bill] allows something to be done now, rather than waiting until 2015 or even 2016.

Kezia Dugdale MSP (39)

In addition Inverclyde Council said:

The council fully recognises that the two major political parties in Scotland have both pledged to repeal the bedroom tax legislation at the first available opportunity and therefore support for your proposal is a logical extension of those commitments.

Inverclyde Council (58)

6. Consistency across all social housing providers

A number of Councils outlined the proactive approach being taken in their area to assist tenants and many gave details about their no-eviction policies. That said, some pointed to the need for consistency across all social landlords.

The submission from North Ayrshire Council's Labour Group said:

However our proactive stance does not provide protection to housing association tenants affected by the bedroom tax and we believe all tenants should be protected from eviction.

North Ayrshire Council's Labour Group (59)

Other respondents made similar points which are covered in more detail in response to question 2 below.

Reasons for opposing the Bill

1. Concerns about increase in arrears and loss of revenue for housing associations

This is the main area of concern for many of the housing associations that responded. There is a fear that arrears will rise and the subsequent loss of revenue to housing repairs budgets would have a detrimental impact on investment programmes. More detail is given in the responses to Question 2 below.

2. Belief that eviction is a last resort but a necessary tool in the control of arrears.

Many of the respondents opposed to the Bill proposal noted that the threat of eviction was often useful in ensuring that tenants engaged with other arrears recovery mechanisms but the removal of this as a last resort would lead to an increase in arrears.

[...] over the last 5 years we have only evicted one tenant on the grounds of rent arrears, and like all RSL's eviction is only used as a last resort, however the fact that tenants know eviction is a sanction is clearly one of the reasons rent arrears are kept at a manageable level, removal of the sanction would result in an increase in arrears and some tenants would find themselves with debts that had become out of control.

Knowes Housing Association (2)

The Council for Mortgage Lenders agreed:

We believe that the removal of the ultimate deterrent of eviction for bedroom tax arrears would undermine Housing Associations' ability to

control their properties and their rental income thus potentially increasing arrears levels further. It will potentially send a message to tenants that it does not matter whether they pay their rent or not if arrears are caused by deduction in benefits due to bedroom tax.

Council of Mortgage Lenders (4)

The Scottish Federation of Housing Associations said:

It is never in the interests of a housing association or co-operative to evict a tenant without having pursued all other alternatives. Scotland's housing associations do not pursue eviction action lightly, but they are an absolute and necessary last resort.

The Scottish Federation of Housing Associations (47)

3. There should be consistency in the treatment of arrears across all tenants

A number of respondents noted that it would be inappropriate to single out tenants with arrears of rent arising from the bedroom tax as compared with tenants with general arrears of rent, some of which may have been caused by say, the loss of employment. Others noted the situation of private sector tenants affected by the bedroom tax, which is outwith the scope of the proposed Bill.

Chartered Institute of Housing Scotland and Clyde Valley Housing Association both said:

CIH Scotland/CVHA would also question why it would be appropriate to pick out this one group of tenants affected by the welfare reforms. It would seem disproportionate to legislate for one particular group of tenants but not for another, such as private tenants under the age of 35, who have been badly hit by much greater cuts to their housing benefit.

Chartered Institute of Housing Scotland (38)

Clyde Valley Housing Association (54)

North Ayrshire Council in their submission noted:

...the introduction of the Protection from Eviction (Bedroom Tax)(Scotland) bill would result in a two tier approach where some tenants can be evicted for standard rent arrears while tenants affected by the bedroom tax cannot be evicted.

North Ayrshire Council (50)

Other points mentioned

1. The cost of mitigation

Although the substance of this is dealt with further on in the analysis of responses, a number of respondents noted the requirement for additional resources to mitigate the impact of the bedroom tax.

The UK government has embarked on an austerity agenda and the full proposal of this bill could see the Scottish Government divert a significant amount of its constrained budget in an attempt to nullify the reduction in housing benefit incurred via the Bedroom Tax. It would be good to see this proposal work to the £20million emergency budget set aside from the Scottish Government to mitigate the effects of the Bedroom Tax.

Private Individual

It is imperative we change the law in order to protect tenants from the threat of eviction, but we should go further and demand that the money be found to cover the shortfall.

Private Individual

In the absence of repeal, although we are not opposed to temporary funding, we need a sustainable, long term solution to the rental shortfall, in order to protect the interests of current and future tenants. It is not simply about the lost revenue arising from rent arrears but also all of the associated on-costs being incurred by social landlords whilst seeking to support their tenants as far as they can.

Scottish Federation of Housing Associations (47)

The question of financial support was also raised by local authorities and is captured in the responses to Question 2 set out below.

Question 2: Do you support the principle of statutory guarantee of no eviction solely in relation to arrears accrued from the bedroom tax? Please answer YES or NO. You are invited to give your reasoning for your response.

61 (78% of the total) of respondents answered this question. Other responses may have indicated in other ways whether or not they supported the principle of a statutory guarantee of no eviction solely in relation to arrears accrued from the bedroom tax, but these have not been included in the following analysis.

45 (74%) of those organisations and individuals that responded indicated support for the principle of a statutory guarantee of no eviction solely in relation to arrears accrued from the bedroom tax, while 16 (26%) were opposed.

The main reasons given for supporting a statutory guarantee were:

- Protection of most vulnerable members of society
- Recognition that there is a financial, emotional and social cost to eviction
- Consistency of approach across all social landlords

The main reasons for opposing a statutory guarantee were:

- Concerns about increase in arrears and loss of revenue for housing associations
- Inconsistency of approach to tenants with general housing arrears and arrears arising solely from bedroom tax
- Belief that eviction is a last resort but nevertheless a necessary tool in the collection of arrears

Other points mentioned were:

- Tenants should not have a right to withhold payment without good reason
- Some Councils have no-eviction policies, provided that tenants engage with their landlord.
- Need broader consideration of law in relation to rent arrears and how these interact with the benefits system
- Concern about introduction of Universal Credit
- The consequences of homelessness as a result of eviction fall to the local authority
- The need for additional financial support for local authorities and housing associations to meet the shortfall in budget
- Reasons for supporting a statutory guarantee

1. Protection of most vulnerable members of society

Although this was expressed in different ways, the protection of the most vulnerable members of society was a common theme in response to the first question and second question. The information has been captured in responses noted above.

Govan Law Centre said that they supported the principle of a statutory guarantee of no eviction solely in relation to arrears of bedroom tax because:

[...] any arrears accrued are the fault of this unfair, unjust and immoral financial deduction. I have many many cases whereby tenants have accrued rent arrears for the first time ever - they have all tried to pay the shortfall created by the con-dem government but fail and then find themselves facing the threat of and eventually actual eviction.

Govan Law Centre (30)

2. Recognition that there is a financial, emotional and social cost to eviction

A number of respondents, on both sides of the debate, recognised that there was little to be gained from eviction and that the cost to tenants and to landlords of eviction were significant, never mind the wider costs to society.

For many of the people affected by the Bedroom Tax, it is impossible for them to mitigate their loss as there are simply no smaller properties for them to move to in their local communities. This lack of alternative properties, real terms cuts in benefit rates payable and an increasing cost of living are creating a perfect storm of stress, anxiety and reduced income for low income individuals and families, including people with learning disabilities and their family carers.

Eviction comes at a financial, emotional and social cost to tenants, a financial loss to landlords and a financial loss for society in general who must then fund costly health and social care services to pick up the pieces. We feel that it is unreasonable to evict tenants for a reduction in benefit that they are often unable to avoid or mitigate through no fault or active choice of their own.

Enable Scotland (48)

3. Consistency of approach across all social landlords

A number of respondents noted that the Bill proposal would apply equally to all social sector tenants, that is all Council and housing association tenants. There was support for that approach.

Renfrewshire Council noted:

We support the principle of having consistency for tenants in the social rented sector in terms of how rent arrears which are solely attributable to the under-occupancy charges are dealt with.

Renfrewshire Council (41)

North Ayrshire Council's Labour Group said:

We believe that all social housing tenants affected by the bedroom tax should be protected from eviction no matter who their landlord is.

North Ayrshire Council's Labour Group (59)

Reasons for opposing a statutory guarantee

1. Concerns about increase in arrears and loss of revenue for housing associations

This was the main and most consistent area of concern for a number of housing associations and others that responded. The suggestion was that the

increase in arrears would have a direct impact on the revenue position of housing associations.

The Council of Mortgage Lenders said:

In our view this proposed bill will have a negative impact on the risk judgments of existing and potential private investors in the housing association sector in Scotland. It is also possible that ratings agencies and financial regulators could take this into account in credit-worthiness and risk ratings for the sector in Scotland. Increased risk will be reflected in increased pricing. This could make it more difficult for housing associations in Scotland to raise the private finance they need for both the provision of much needed new supply affordable housing and improvement to existing stock.

Council of Mortgage Lenders (4)

Whiteinch & Scotstoun Housing Association said:

This will be impractical and potentially costly to apply, may well engender a culture of non-rent payment, is unfair on tenants on low and/or limited fixed incomes who also under-occupy, and will result in losses to housing associations to the detriment of other tenants.

Whiteinch & Scotstoun Housing Association (9)

Scottish Federation of Housing Associations said:

Without a steady, reliable and sustainable income stream, the valuable work of Scotland's housing associations would be placed at serious risk. There are already clear signs that the so-called bedroom tax is reducing the revenues available to manage and maintain existing social housing stock, to pay off loan repayments on existing stock and also to fund borrowing for the development of much-needed new affordable rented housing across Scotland.

Scottish Federation of Housing Associations (47)

They added:

It cannot be in the best interests of tenants to enact legislation which would impair the financial performance of social landlords, who are already absorbing increasing costs arising from welfare reform.

Scottish Federation of Housing Associations (47)

2. Inconsistency of approach to tenants with general housing arrears and arrears arising solely from the bedroom tax.

This was dealt with in some of the responses to the first question and has been touched on in the analysis above.

Scottish Federation of Housing Associations noted in their submission:

Rent arrears arising from restrictions on eligibility for housing benefit imposed on tenants by DWP should be treated no differently from the many other situations which trigger an arrear such as illness, or job loss.

Scottish Federation of Housing Associations (47)

North Ayrshire Council repeated the point made in an earlier question when they said:

A statutory guarantee would create a two tier recovery process and may lead to a situation where a tenant may be subject to eviction proceedings for a debt which is less than the arrears accrued by a tenant affected by under occupation and protected from eviction.

North Ayrshire Council (50)

East Ayrshire Council said:

It is difficult to ignore other reasons for tenants facing real hardship and confronted with arrears which may arise from, for example, a non-dependent charge or a housing benefit overpayment clawback [...] there is an inherent danger in singling out any group to be exempt from eviction, when the personal circumstances of other individuals may be equally or more financially challenging.

East Ayrshire Council (60)

3. Belief that eviction is a last resort but nevertheless a necessary tool in the collection of arrears.

The points made about the benefit of having eviction as a last resort were made in response to question one and have been repeated to a large extent in this section too.

Other points mentioned

1. Tenants should not have the right to withhold payment without a good reason

A private individual noted that:

Nobody should have the right not to pay without good reason and still not face eviction.

Private Individual

Other respondents believed that the Bill would encourage a culture of non-payment which would be unhelpful in managing the general level of arrears.

North Ayrshire Council:

A statutory guarantee of no eviction for arrears due to the bedroom tax may increase the risk of non-payment and non-engagement that in turn may lead to increased individual debt and the impact this has on those with increased indebtedness for example impact on health and increased administration costs for Councils.

North Ayrshire Council (50)

2. Some Councils have no-eviction policies, provided that tenants engage with their landlords.

A number of local authorities, on both sides of the debate, pointed to the work they are already undertaking to protect tenants from the worst aspects of welfare reform and the bedroom tax in particular. The approach in Renfrewshire is indicative of the approach adopted by a number of local authorities that responded to the consultation including West Dunbartonshire, North Lanarkshire, Fife and North Ayrshire. There is a no-evictions policy for arrears of bedroom tax and a pro-active approach taken in maximising support for tenants with discretionary housing payments and other forms of assistance. All make the point that it is essential for tenants to engage with the Council.

Renfrewshire Council said:

Renfrewshire Council's policy is that where tenants who are subject to the under-occupancy charge are actively engaging with the Council and are taking all reasonable steps to maintain a repayment arrangement, then the Council will continue to pursue rent due without resorting to eviction.

Renfrewshire Council (41)

In addition to discretionary payments provided by local authorities, the consultation noted that East Lothian Housing association had been proactive in setting up a scheme of assistance to help their worst-affected tenants.

3. Need broader consideration of the law in relation to rent arrears and how these interact with the benefit system.

This point was made primarily by one respondent with a professional background in housing that believed there would be benefit in reviewing the various legal and policy issues in advance such as establishing whether social landlords could be subject to judicial review if tenants were treated differently, or whether other parts of the legal framework relating to rent arrears recovery could be revised instead.

4. Concern about the introduction of universal credit

A number of respondents recognised that many of the welfare reforms still to come would have a profound effect on benefit recipients. In particular reference was made to the practical consequence of the introduction of Universal Credit, where the rent would be paid to the tenant and not the landlord. Specific concern was raised about whether the rent could be separately identified.

North Lanarkshire Council had this to say:

The introduction of Universal Credit will further complicate any consideration. While we currently know if a tenant has an element of bedroom tax arrears, the introduction of universal credit may well change this in future.

North Lanarkshire Council (35)

Practical concerns were raised by the Chartered Institute of Housing Scotland:

Tenants' rent accounts do not have an automatic mechanism for identifying bedroom tax arrears separately from general arrears. Whilst landlords are working to find ways of making the distinction, it will not be helpful to introduce legislation which deals exclusively with one type of arrears. On top of this is the prospect of it being all but impossible to make the distinction in the future under Universal Credit.

Chartered Institute of Housing (38)

5. The consequences of homelessness as a result of eviction fall to the local authority.

This point was emphasised by Renfrewshire Council who said:

Furthermore, councils have responsibility for dealing with homelessness and, as noted in the consultation paper, eviction which results in homelessness involves significant cost to the public purse. The potential impact of responding to the needs of households who are potentially made homeless as a result of eviction action for arrears due to under-occupancy charges is therefore a problem which local authorities specifically would need to address.

Renfrewshire Council (41)

6. The need for additional financial support for local authorities and housing associations to meet the shortfall in the budget.

This view was expressed by a substantial number of respondents, and one made the point that there would be little need for the Bill if the Scottish Government fully mitigated the costs of the bedroom tax. There was recognition of the challenges faced by all social landlords in ensuring that

revenue accounts were protected whilst still providing assistance to tenants on fixed and low incomes struggling to pay the bedroom tax.

Fife Council made a number of suggestions for consideration by both the UK and Scottish governments. Some of the suggestions made for the Scottish Government include the following:

investigate how it [the Scottish Government] can use its devolved powers under housing and social welfare legislation to establish a comprehensive fund able to provide direct payments to those facing hardship due to the direct or indirect consequences of welfare reform;

further supplement the Discretionary Housing Fund

consider and consult with Councils and registered social landlords on the establishment of a rent guarantee to offset the negative impacts of the move to payment of welfare benefits in arrears

Fife Council (55)

Children in Scotland also said:

In our recent budget briefing we welcomed the announcement of funds by the Scottish Government to help mitigate the impact of the bedroom tax, however we are concerned that, as the Scottish Government itself acknowledges, this will not cover the estimated required amount of £50million per year.

Children in Scotland (61)

Glasgow City Council's Labour Group made a wider point about funding for housing associations and the need to improve housing supply when they said:

Housing Associations have faced unprecedented obstacles to the construction of new housing; these restrictions continue. Therefore, one and two bedroom houses do not exist for those deemed to have a spare room to move to. Consequently the Labour Group believes that the Scottish Government should address the shortfall that is prohibiting RSLs from building new social housing stock.

Glasgow City Council's Labour Group (57)

Question 3: Do you support the proposal of requiring the tenant to provide evidence to the court in relation to establishing what proportion of rent arrears were accrued as a direct result of the bedroom tax? Please answer YES or NO. You are invited to give your reasoning for your response.

60 respondents (77% of the total) answered this question, including those who responded to the consultation in the form of a letter.

Reasons for supporting the Bill

A majority, 40 (67%) of those who answered the question agreed with the proposal that tenants should be required to provide evidence to the court in relation to establishing what proportion of rent arrears were accrued as a direct result of the bedroom tax.

The responses to this question varied in length and detail, with many replying simply 'yes', but the following points were highlighted by those who supported the proposal:

- Courts should always base their decisions on evidence

This is just common sense, how could a court make a decision without supporting evidence

Private Individual

- An obligation to provide evidence would ensure that the statutory guarantee is appropriately applied

This would be an appropriate way of ensuring the statutory guarantee would not be abused and would ensure that the legislation targets the relief it gives to those who are truly impacted on by the policy.

Kezia Dugdale MSP (39)

Additionally, many of the respondents who are in favour of the proposal raised the following points regarding its implementation:

- An obligation should be placed on Local Authorities and/or landlords to direct tenants to independent advocacy organisations and advice agencies so they can be provided with special support and advice in relation to court procedures.
- Guidelines needed to determine arrears resulting from the bedroom tax

The Scottish Government must enshrine in law a clear set of parameters which will be used to determine whether an individual's arrears are a result of the Bedroom Tax, or for other reasons

Glasgow City Council's Labour Group (57)

Reasons for opposing the Bill

18 (30%) of those who answered the question did not agree with the proposal.

The responses to this question varied in length and detail, with many replying simply 'no', but the following points were highlighted by those who oppose the proposal:

- Workload too high for courts

Sheriffs already struggle to deal with arrears cases involving benefit and this often results in multiple hearings and high legal costs for the landlord, the vast majority of which are irrecoverable.

East Lothian Housing Association (6)

- Tenants of working age fluctuate in and out of work. Their reliance upon benefits fluctuates accordingly

Tenants under pensionable age don't just qualify for benefit and stay that way – they go on/off, get back dated credits/debits and it is already becoming difficult for us to calculate exactly what proportion of our arrears are directly attributable to the bedroom tax.

East Lothian Housing Association (6)

- There appears to be a lack of clarity with Universal Credit in identifying the part of the payment which is provided to meet the rent costs
- It is difficult to assemble this information

Separating, quantifying and monitoring under occupation arrears from other arrears is not straightforward particularly when the tenant is on partial housing benefit and has other rent to pay or where the tenant is currently in rent arrears

North Ayrshire Council (50)

Question 4: Do you support amending s. 16 of the Housing (Scotland) 2001 Act so that bedroom arrears would become an ordinary debt and not relied upon for the purpose of seeking a decree for physical eviction from a tenant's home? Please answer YES or NO. You are invited to give your reasoning for your response.

61 respondents (78% of the total) answered this question, including those who responded to the consultation in the form of a letter

A significant majority, 44 (72%) of those who answered the question agreed with the proposal that bedroom tax arrears should be classed as an ordinary debt and not relied upon as grounds for seeking an eviction decree.

Reasons for supporting the Bill

The responses to this question varied in length and detail, with many replying simply 'yes', but the following points were highlighted by those who supported the proposal:

- Efficient and cost-effective way of implementing a no-evictions policy for bedroom tax arrears.
- The bedroom tax is an unfair policy and tenants should not therefore be evicted due to arrears accrued directly as a result of its introduction.
- Many respondents who were concerned about local authority and RSL budgets agreed with this proposal as landlords would still be able to recover debt by other means.

Yes, as we believe the Bedroom Tax to be flawed for the reasons set out above, we do not consider it fair for tenants, especially families with children, to be evicted purely due to arrears accrued because of it.

Children in Scotland (61)

Yes. The principal concern must always be the welfare of those living in social housing. As outlined in a previous response, the Glasgow Labour Group is sensitive to the concerns of smaller housing associations and local authorities with housing stock in relation to the recovery of housing debt.

Labour Group, Glasgow City Council (57)

Reasons for opposing the Bill

- A no-eviction guarantee would discourage tenants from paying their rent, leading to a rise in arrears.
- Landlords are already in a position to decide whether to use eviction or other methods of debt recovery and eviction is usually a last resort.

We believe that under current statutory provisions there are already a number of legal checks and balances in place to ensure that any action taken by landlords for breaches of tenancy is considered reasonable in the view of the sheriff.

Clyde Valley Housing Association (54)

It will potentially send a message to tenants that it does not matter whether they pay their rent or not if arrears are caused by reduction in benefits due to the bedroom tax. It could also be seen as rewarding those tenants who choose not to engage with their landlord.

Council of Mortgage Lenders (4)

Other points mentioned

Some respondents, while agreeing with the proposal, argued that additional funding would be required to offset the effect of the policy on local authority and RSL budgets:

Yes, but only if additional resources were guaranteed by the Scottish Government to ensure the integrity of HRA (Housing Revenue Accounts) and Housing Associations.

Councillor Martin Rooney, Leader of West Dunbartonshire Council
(49)

Yes. We agree in principle with the proposal to amend section 16 of the 2001 Act. This will pose a significant threat for social landlords' rental income and for the financial viability of a range of services which social landlords provide to tenants. There is therefore a need for action at a national level to mitigate this risk.

Renfrewshire Council (41)

Inability to pay the bedroom tax should not be grounds for eviction, however many RSLs are also finding it hard to balance the books and should not be required to shoulder the burden of not evicting.

Elaine Murray MSP (44)

The Scottish Independent Advocacy Alliance (33), which supported the proposal, also suggested that increasing levels of personal debt could have a negative impact on health and wellbeing.

Question 5: What is your assessment of the likely financial implications (if any) of the proposed Bill to you or your organisation? What (if any) other significant financial implications are likely to arise?

55 respondents (70% of the total) answered this question.

The responses to this question varied in length and detail. In order to ensure that all views are reflected the responses have been divided into five categories: Individual Politicians, Private Individuals, Housing Organisations, Representative Organisations and Public Sector Organisations.

1. Individual Politicians

In general, respondents agreed that the £20million already committed by the Scottish Government to mitigate the impact of the bedroom tax is unlikely to be sufficient.

While the current administration has made a financial commitment of £20m in the draft budget for 2014/15, this is certain to fall short of the total cost of the Bedroom Tax to RSLs and ultimately to tenants. It is

also, at the time of writing, a one-year commitment only. There should be debate during the scrutiny of the proposed Bill on the possibility of setting out duties on Ministers to make adequate funding available to prevent arrears accumulating year after year.

Patrick Harvie MSP (1)

Respondents also made reference to the £50million Shelter Scotland said it would cost to mitigate the impact of the bedroom tax

Cosla at its Leaders meeting of 27 September 2013, voted to support the consultation, back the proposed Bill, urge the SNP Government to find the £50 million to mitigate the bedroom tax.

Cllr Maureen McKay (52)

2. Private Individuals

Whilst some respondents said that the proposed Bill will not have any personal financial implications for them others stated that it would ease their household budget significantly:

It would mean a lot to me personally if the discretionary fund was topped up, as it is, I am finding it near impossible to budget for my utility bills, groceries etc., let alone find the extra money to pay this tax.

Private Individual

Additionally one respondent raised concerns that the money needed to mitigate the impact of the bedroom tax will be taken off other budgets.

3. Housing Associations

The following concerns were raised by housing associations:

- There are concerns that a reduction in income due to non-payment could lead to increased rents, reduced services and a restricted ability to deliver improvements to Council Housing and new building programmes which would, consequently, have a negative impact on other tenants
- The Bill proposal could create a culture of non-payment:

Such legislation would send the strongest message yet to tenants that it does not really matter whether they pay their rent or not. And it would effectively reward those tenants who persistently choose not to engage with their landlord.

Clyde Valley Housing Association (54)

However, North Ayrshire Council's Labour Group notes:

Any potential for the Bill leading to tenants believing they do not need to pay the bedroom tax could be managed through a proactive approach to continued engagement with tenants.

North Ayrshire Council's Labour Group (59)

- Additional staff costs in managing arrear systems and developing an IT system to cope

4. Representative Organisations

The following comments were raised:

- Concern that advocacy services and advice agencies would struggle to cope with a high increase in clients

Independent advocacy organisations do not have the capacity to cope with an ever increasing rate of referrals without some resources being made available.

Scottish Independent Advocacy Alliance (33)

[...] there may be secondary financial implications in case of evictions as people require additional support from various agencies.

Enable Scotland (48)

- The household income of tenants would be increased

[The Bill] will potentially be of benefit to many of the people we seek to represent

Children in Scotland (61)

- Eviction costs can be prevented by not evicting

Looking holistically, there may be savings if one looks at the alternatives. Local Authorities have an obligation to re-house families made homeless; not evicting for bedroom tax seems more sensible to prevent eviction costs [temp accommodation etc.]. It allows tenants to continue to pay something towards their rent arrears and allows contact to remain with the family who might benefit from other support and eventually help reduce the Housing Benefit costs by not moving into private rented sector as the rents are higher there.

Edinburgh Tenants Federation (42)

5. Public Sector Organisations

The following comments were made:

- There will be negative financial implications for all social landlords

The Bill could cause significant damage from increases in arrears
Chartered Institute of Housing (38)

We support the call made earlier in the year by Shelter for £50m to be made available to protect social landlords and the services provided to all tenants.

Renfrewshire Council (41)

- Negative impact on Housing Revenue Accounts

There is likely to be an impact on Local Authorities in respect of their Housing Revenue Accounts becoming less financially viable. The paper does not provide detail of any controls which may be available to assist Local Authorities and prevent them from becoming increasingly adversely affected if the option of eviction were removed.

Orkney Islands Council (37)

- The introduction of Universal Credit may increase the risk of non-payment as it may be more difficult to identify the housing cost related element of the benefit
- Increased cost of staff resources

There are also increased costs to the Council in staff resources for collecting rents and recovering arrears as the caseload increases.

North Ayrshire Council (50)

Question 6: Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?

53 respondents (68% of the total) answered this question, including those who responded to the consultation in the form of a letter

35 respondents (66%) believed the proposed bill would have a positive effect on equality, 14 (26%) said it would have a negative effect and 4 (8%) said it would have no effect on equality. The various arguments are summarised under these three headings below.

This question was interpreted in a number of ways. Some respondents addressed the impact of the proposed legislation on groups such as disabled people, women and low-income households. However other respondents, particularly those included in the housing organisations group, understood the question in terms of whether the proposals contained within the bill were 'fair' or 'unfair'.

Positive effect on equality

- 80% of households affected by the bedroom tax contain a disabled person so any legislation which mitigates the effects of the bedroom tax is positive for equality.
- The bedroom tax itself is unfair and a cause of inequality so removing the threat of eviction is welcome.
- The proposed legislation would have a positive effect on other groups disproportionately affected by the bedroom tax, such as women and children.

As the bedroom tax impacts disproportionately on disabled people, we feel that this Bill is likely to have a substantial impact on this section of society.

Enable Scotland (48)

Additionally, taken in the wider context of austerity, it is clear that women are also disproportionately affected by the savage cuts imposed by both Westminster and Holyrood. Therefore, as this bill addresses one particularly powerful arm of austerity measures, it would make a positive step in correcting some of the wider punishments welfare reform has inflicted on women.

Labour Group, Glasgow City Council (57)

The Bedroom Tax, by its very nature, is a policy which promotes inequality among tenants in the social sector. This proposed bill would mitigate the full effects of the bedroom tax for tenants thus removing the inequality that the bedroom tax has brought to tenants.

No 2 Bedroom Tax Campaign (11)

Negative effect on equality

- It could be viewed as unfair to treat tenants who receive housing benefit differently from those in receipt of other benefits, or none at all.
- Unfair for tenants affected by the bedroom tax who pay their full rent.
- Unfair for other tenants who may have to pay higher rents, or receive less services, if the proposal had an adverse impact on RSL and local authority budgets.

Issues arise as to how a tenant with arrears arguably as a result of the under-occupancy charge could be treated differently from those who were subject to arrears as a result of having a housing benefit overpayment for instance. Consideration needs to be given to whether it would be acceptable to consider eviction for one but not the other.

Orkney Islands Council (37)

We do think that the Bill is very unfair on the tenants who have paid their charge- should they be offered refunds since there is effectively no penalty for non payment?

East Lothian Housing Association (6)

No effect on equality

Four respondents believed that the proposal would have no effect on equality. The following points summarise the reasons given:

- The proposal would not have a significant effect on equality but it could prevent some vulnerable groups falling in to deeper poverty.
- The private housing sector is a much greater cause of inequality.
- The proposed legislation would not do anything to tackle other financial problems not related to the bedroom tax.

Other points mentioned

One private individual said there would be a substantial benefit to equality if the bedroom tax was abolished but welcomed a statutory no- eviction guarantee in the meantime.

Question 7: Are there any other comments you would wish to make relevant to this proposal?

36 respondents (46% of the total) answered this question.

Reasons for supporting the Bill

The following points were highlighted by those who supported the proposal:

- Full funding to mitigate the impact of the bedroom tax should be made available

We believe that in addition to this bill the Scottish Parliament should fund full mitigation of the effects of the bedroom tax. This will not only benefit the tenant but remove the cost burden of the bedroom tax away from social housing landlords and allow them to continue investing in improving existing stock and building a new generation of social housing.

North Ayrshire Council's Labour Group
(59)

- The Bill provides an opportunity to work on a cross-party basis

This Bill would be an opportunity for the Parliament to come together, put party politics to the side to help the victims of this policy in Scotland.

Elaine Smith MSP (53)

- The Bill is an opportunity for the Scottish Government to lift people out of poverty

The Scottish Government are playing politics with people's homes, health and happiness – by not amending s16 of the Housing (Scotland) act 2001 they deny people housing and human rights as well as pushing them into poverty, arrears and eviction.

Govan Law Centre (30)

I suggest that the Scottish government's underspend is used to pay social landlords deficit to maintain business, save jobs and alleviate pressure.

Private Individual

- The bedroom tax is regressive

We are going back 50 years whereby vulnerable people are expected to take in lodgers. People should feel safe and unthreatened in their own home so to expect people to share their homes with strangers to avoid the bedroom tax is unacceptable.

Elaine Smith MSP (53)

- There must be a guarantee for people not to be pushed into homelessness

Whilst I recognise the financial implications upon dwindling funds we cannot allow people to be made homeless as a result of this policy.

Private Individual

Affordable and decent housing is valued as the first element of a good life in the Oxfam Humankind Index analysis.

Private Individual

This proposed Bill is a comprehensive bill that will protect all stakeholders from the bedroom tax. It would give tenants peace of mind in regards to eviction, it would remove the unsustainable bedroom tax arrears from tenants, it would protect RSL and the good community work that they do while ensuring that their income revenues are protected.

No2BedroomTax Campaign (11)

Reasons for opposing the Bill

The following points were highlighted by those who oppose the proposal:

- Unfair to favour one group of tenants

The proposed Bill would create a two tier system where some tenants can be evicted for standard rent arrears while tenants affected by the “bedroom tax” cannot be evicted.

North Ayrshire Council (50)

- Mass eviction seems unlikely

We don't believe there will be mass evictions as majority of tenants are engaging with their landlords and are trying to find a way to pay.

Chartered Institute of Housing (38)

- Landlords need to be protected

We believe that the Bill is very well intentioned but not the answer. It cannot be in the best interests of tenants to exacerbate the impact landlords are already absorbing due to welfare reform and to create a climate where paying rent (however unfair the charge may be) becomes an optional item.

East Lothian Housing Association (6)

SECTION 4: MEMBER'S COMMENTARY

Jackie Baillie MSP has provided the following commentary on the results of the consultation, as summarised in sections 1-3 above.

I would firstly like to thank all those who took the time to respond to this consultation. As can be seen from the published responses, there was a wide and encouraging variety of contributions from organisations representing tenants, local authorities, housing associations and directly from individuals affected by the policy.

I would also like to thank Govan Law Centre for their assistance in drawing up the consultation document and Lisa Hauschel and Jonathan McAveety in my office for their work on analysing the responses. It has been a considerable effort by all concerned in a short space of time.

The Bill is intended to provide protection for people with Scottish secure tenancies from eviction due solely to arrears of bedroom tax. Even where contributions have only stated a preference for or against the Bill, they have been very useful in building a picture of the landscape of opinion on the Bill and surrounding issues.

I was very pleased to note the overwhelmingly positive response to the Bill proposal with 82% of respondents indicating their support. It would also be true to say that there was unanimity in the rejection of the bedroom tax as a policy from both the supporters and opponents of the Bill proposal.

Unsurprisingly I agree with many of the arguments presented in support of the Bill proposal. A number of responses rightly welcomed the commitment from both Labour and the SNP to abolish the bedroom tax but recognised that this could be some way off in the future. There was a clear need expressed for action to be taken now to protect tenants on low/fixed incomes from an unfair and unjust tax on their homes.

The main reason for objecting to the Bill proposal was the loss of revenue and impact on landlords, particularly housing associations. I recognise the difficulty that this would cause to investment and repair budgets and indeed the requirements placed on associations by their lenders. In my view the very practical and obvious solution, that would provide certainty for both landlords and tenants, would be for the Scottish Government to fully mitigate the impact of the bedroom tax.

The Scottish Government has the power to mitigate the bedroom tax and by working in partnership with local authorities and housing associations, they can remove the burden of the bedroom tax from some of the most vulnerable tenants in Scotland. If this was to be fully funded it would, at a stroke, sweep away the main areas of concern with the proposed Bill, and indeed there would be no need for the Bill to progress further.

If they persist in refusing to do so then I will work in partnership with the broad range of people and organisations that responded to the consultation to take forward the Bill proposal, reflecting on and, where possible, addressing the concerns raised.

ANNEXE

Consultation responses

Number	Name
1	Patrick Harvie MSP
2	Knowes Housing Association
3	John Jamieson
4	Council of Mortgage Lenders
5	Lee Martin
6	East Lothian Housing Association
7	Stuart Darling
8	Anne McAllister
9	Whiteinch & Scotstoun Housing Association
10	Ann Gee
11	No2Bedroom Tax Campaign
12	Gary Paterson
13	Sheila Crawford
14	Peter Saintmartin
15	Chris Snow
16	Dawn Edgar
17	Dorothy McHugh
18	Steve Hammill
19	Paul Marten
20	Robert Brenchley
21	Sandra Williams
22	Karen Fletcher
23	Christine Marno
24	Richard Neville
25	Christine Kabashi
26	Tina Clayton
27	Janice Stevenson
28	Ross Bradford
29	David Forbes
30	Govan Law Centre
31	Easterhouse Housing and Regeneration Alliance
32	Neil Findlay MSP
33	Scottish Independent Advocacy Alliance
34	Richard Simpson MSP
35	North Lanarkshire Council
36	Margaret McDougall MSP
37	Orkney Islands Council
38	Chartered Institute of Housing
39	Kezia Dugdale MSP
40	Quakers
41	Renfrewshire Council
42	Edinburgh Tenants Federation

43	Almond Housing Association
44	Elaine Murray MSP
45	West Dunbartonshire Council
46	The Church of Scotland
47	Scottish Federation of Housing Associations
48	Enable Scotland
49	Cllr Martin Rooney
50	North Ayrshire Council
51	Patricia Ferguson MSP
52	Cllr Maureen McKay
53	Elaine Smith MSP
54	Clyde Valley Housing Association
55	Fife Council
56	Dundee City Council's Labour Group
57	Glasgow City Council's Labour Group
58	Inverclyde Council
59	North Ayrshire Council's Labour Group
60	East Ayrshire Council
61	Children in Scotland
62	Legal Services Agency
63	Jean Devlin
64	David Ball
65	Liz Daniels
66	R McIlwraith
67	Robert Paterson
68	Margery David
69	Anonymous
70	Anthony Devlin
71	Anonymous
72	Brian Docherty
73	Alison Hamill
74	Yajun Deng
75	Paula Fummey
76	Allan Thomson
77	Abertay Housing Association
78	James Kelly MSP