

## **Scotland's New Deal for Tenants: Grand Designs, with Shoogly Foundations.<sup>1</sup>**

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### ***A New Deal and Rental Sector Strategy***

I was privileged to chair the four sessions of the 2022 Annual CACHE/Policy Scotland Scottish Housing Policy Conference, which focussed on the Scottish Government's proposed 'New Deal for Tenants'. The Minister for Tenants' Rights, Patrick Harvie, outlined the core aims of the strategy as bringing together the rights and provisions for tenants across all the different segments of Scotland's housing system, embracing private and social sectors. The Minister emphasised that the 'New Deal for Tenants' (NDT) was the first step towards the 2040 goals. The Government will soon reveal plans for a Rental Sector Regulator and develop a national system of rent controls by 2025.

This short paper is a personal commentary on the discussions that arose in the sessions. Although it indicates issues where there was wide agreement amongst the participants, the wider views expressed are my own and not a summary of what participants said.

### ***Approved Aims, Delivery Doubts***

There was not a word of dissent regarding the ambitious integration proposals and the strategic policy aim of achieving a fairer and more flexible Scottish rental sector by 2040. Nor was there disagreement with the core goals of improving tenants' security and undertaking measures to improve the quality, energy standards and affordability of homes, particularly for lower income tenants. Non-Scottish participants noted that, by international standards, the Scottish Government (SG) had maintained a progressive discussion regarding housing policy change, maintained investment levels in affordable housing and had now set out ambitious housing strategy aims to 2040.

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<sup>1</sup> These are my Key Conclusions drawn from the Scottish Housing Policy Conference hosted by Policy Scotland (PS) and CACHE that I chaired in February 2022. The webinar based conference, through four sessions, discussed the Scottish Government's 'New Deal for Tenants' consultation paper. Scottish and other UK practitioners and academics made important contributions and PS/CACHE are also grateful to Steve Malpezzi (USA), Steve Pomeroy (Canada) and Michael Lennon (Australia) for contributing international perspectives on rent controls and to Christine Whitehead (LSE) for bringing insight and wisdom from her recurrent work on European rental systems.

<sup>2</sup> My comments are based upon four decades of researching the economics of housing systems, especially in Scotland, and a decade spent as a senior policymaker in Scotland, Australia and Canada. I should also state that since returning to Scotland in 2008 I was a private rental sector tenant (high-income, mobile) for 7 years and that I intend to let out my flat in Edinburgh during the Edinburgh Festival. I have tried to separate professional, personal and political considerations in this note.

There was throughout the discussions a widespread sense that the NDT needed to spell out more than agreeable strategic aims. Participants wanted to know how the Government would match aims and rights with required resources, and where, when and by whom. No clear forward missions were set out in NDT, and delivery plans to reshape laws and institutions for the new sector were undeveloped. With that lack of clarity about the route map for change there was then quite significant debate about the appropriate directions for change, and disagreements about what participants believed the Scottish Government intended to do.

It is my view that the Scottish Government needs to end uncertainties about key measures and institutions as current omissions and ambiguities are complicating thinking and action for the sector, and it may already be discouraging long term investment in rental housing in Scotland.

### **A Changing, Diverse, Difficult Context.**

The Scottish private rental sector (PRS) has grown in scale since the start of the 1990's. Then the PRS was a residual rump of long term lets (that had declined from 90 percent of provision a century earlier), plus a small, still-growing furnished, short-term letting sector, that comprised 6 percent of Scottish homes. Since 1991, the overall sector has more than doubled its share, reported as 14 percent in 2018-19, and houses just over 370, 000 households. There is some suggestion that after rental tenure security legislation in 2016 (or perhaps in the wake of COVID-19, or tax changes, or anticipation of future rent controls: the causes are unclear), the sector has reportedly contracted since 2018 (by around 30,000 units).

I believe that the uncertainty regarding the scale and causes of change in the sector maintains a long neglect of the use of evidence in shaping policy change for the private rental market<sup>3</sup>. My view, having started my research career assessing the impacts of the 1974 Rent Act on Glasgow's 'furnished' rental market, is that parading 'ideological credentials' has been more important than accurately understanding 'the good, the bad and the ugly' housing the sector generates. Recurrent missing data for this complex sector means that market trends derived by analysts use intermittent, ad hoc surveys. The scattered evidence available suggests that, after 2016, some landlords shifted from long-term to (less-controlled) short-term letting, not least as demands in the short-term sector (including Air BnB) were sharply increasing. Seminar participants noted this was a particular issue in rural Scotland where the sector had been stagnating until increased tourism raised short-run demands. Market analysts and agents involved in the main Scottish cities reported, in the webinars, that there is a lower flow of longer term lets on the market than in the past. Since recent proposed changes to short-term letting and Air BnB there is not only a reduced vacancy flow but indications of landlords quitting the market. The Scottish Government should monitor the operation of Edinburgh's short-term letting market through summer 2022 to get a sense of the impacts of recent policy changes.

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<sup>3</sup> *Aside from the efforts of Scottish Homes in the 1990's.*

Presenters highlighted, as had the Scottish Government, that the sector houses primarily single and small adult households. Research contributions and government comments (in the NDC) noted the diversity of the sector. They then ignored it and focussed on the significant group of low income tenants who often live in the worst quality PRS. A survey of low income households in 2021 reported that 40 percent paid more than 30 percent of their incomes on rent and 8 percent more than half. Other evidence suggest that middle income tenants are also increasingly facing rental burdens more than 30 percent. The affordability crises in the PRS (with 30 percent rent to net income taken as an upper limit to acceptable housing costs) have become more acute over the last thirty years and the unaffordability crisis now involves middle as well as lower income households.

In crafting an effective, as well as fair rental housing system, the Scottish Government, needs to pay more attention to diversity (of both landlords and tenants) and what had driven growth in shaping the NDT and the rental sector strategy to 2040. Research has long shown that the PRS, in Scotland and elsewhere, is a diverse mosaic of varied rental housing meeting the effective demands of different consumer groups.

### **Who are the Consumers?**

Typically, the major groups within a PRS are (permanently) lower income households. That includes families with children, who have been unable to access non-market, social housing; and middle (temporarily) and upper income younger households prior to career and relationship formation. The former group typically heads to social housing and the latter to home-ownership. However, in this millennium, the number of households in housing need has increased faster than the stock and flow of social housing. At the same time the growth of entry level house prices, and the deposits required to enter home ownership, has seen a growing number of potential owners living longer in the PRS.

*It is important to be clear that it is the failure of mainstream housing policies that has primarily driven private rental sector growth in this millenium.* The strategic housing policy choice, working towards 2040, is whether the Scottish Government wishes to control, and inevitably change, the PRS and tackle the symptoms rather than the causes of housing shortages and problematic affordability shaped in the wider housing system. The difficulty with the rental sector strategy is that may be opting to address symptoms rather than causes and that is a failure of strategic thinking for the 2040's.

That said, other consumer groups in the sector, usually those with demands for short duration tenancies, had all increased in scale since the 1990's. These include substantial rises in numbers of students living away from home, expanding tourist and business related demands. Therein lies the problem in shaping 'unitary' legislation based on supplier/ownership status (private landlords) rather than on consumer requirements and 'products-services' offered. The PRS, defined by ownership status, meets the different and usually conflicting roles of housing, long-term low income households with stability and security needs, and, in contrast, better-off consumers who are seeking fast-access, short term flexibility. The current discussion on NDT needs to take a longer harder look at how these diverse groups can best be provided for and whether ownership status (private

landlord) rather than housing system function of particular let's should be driving 'flexible and fair policy'.

There is a bias in the retail politics of Scottish governments, at local and Scottish levels, to solving affordability problems by using sector wide rent controls. I share these affordability concerns but believe it is important to recognise that high rents are a reflection of the failures of housing policies to contain rising housing costs and to provide more affordable housing for households in need. I have argued, elsewhere, that non-profit investment in Scotland needs to double over the next decade to address that issue. Put bluntly, the intolerable high housing cost burdens, low quality and insecurity problems of Scotland's poor are not the same housing system problems as for middle-income and mobile, upper-income renters. If these differences in rental sector roles are not understood by policymakers, then a crude 'one-size-fits-all' rental sector policy will be neither flexible nor fair. The NDT and other sector policy measures need to reflect sector diversity and be designed and implemented by government with nuance rather than fervour. On this issue, the Scottish Government needs to be sent homewards, to think again.

As of now the data and research foundations for assessing outcomes for diverse groups in the sector, and their economic as well as social consequences, is simply not in place,

### **What About the Providers?**

The mosaic of rental demands (and needs) mesh with a patchwork of supply. NDT adopts a less than neutral perspective on the nature of landlords. Overall sector quality averages for quality and amenity are consistently described, by the authors of the NDT, as being the worst tenure of provision. Yet, in the Scottish House Condition Survey for 2018, outcome scores for some attributes are worse in the council sector than the PRS. Often the scores for home-owners and the PRS seem to overlap significantly. Again, diversity needs to be revealed and the awful conditions of the poorest properties contrasted with, for example, the extremely high quality of short-term lets in central Edinburgh. The provision quality-rent-consumer-landlord type interfaces really need to be revealed for policy to be well designed. Yet there is next to no published research on the supply side of the PRS in Scotland.

It is widely asserted, by sector commentators, that it is 'mum and dad' investors that have underpinned sector growth. In Glasgow, for instance, there are around 30,000 landlords. Agents in Edinburgh suggest a similarly dispersed ownership structure. Research in similar countries suggest that these investors exist because real house price increases, sustained by core fiscal policies and low interest rate monetary policies, offer many households (with some equity) access to capital accumulation and returns not available to them in the wider spectrum of financial assets. Often it is only capital uplift, rather than rental incomes and efficient costs that encourage such investment. Where is the evidence on landlord returns in different sectors of the market and by different investor types? What security of tenure, energy efficiency and other standard uplifts, and rent or rent limitation policies, will encourage or discourage landlord investment? Absence of knowledge is the real Achilles Heel in Scottish government thinking for the rental sector.

## **Shaping a Wider Discourse.**

The Scottish Government is sensibly committed to dialogue with tenants as the NDT moves forward. They also, I believe, need to change the tone of the discussion with potential landlords, explore conditions for stable investment by efficient landlords and have tri-partite discussions with tenants and landlords. On the supply side urgent collaborative conversation with landlords, the financial and the construction sector are badly needed.

The exploration of overseas experiences was particularly helpful in relation to the use and design of rent controls. It made clear that well-designed rent controls can reduce affordability pressures and maintain supply. But European and Canadian experience demonstrated how governments need to carefully assess the costs and benefits of introducing rent controls, and not simply wave them around as a panacea for affordability that has no costs, in the short-run, to government. Scottish observers, familiar with the costs of renewal (after 1974) by housing associations of Glasgow's Below Tolerable Standard tenements, mostly formerly owned by private landlords under strict rent controls after 1915, will understand the long-term risks and costs of mis-designed controls.

Where are the intended impact statements for rental sector policy in Scotland? What are the limits to the efficacy of controls? Well-designed (second and third generation) rent controls can fashion stable rental sectors that contain affordability surges (though not forever) and maintain investor interest at reasonable rates of return. Commentators noted that the development of build-to-rent had been sluggish in Scotland (compared to other UK regions) and that more non-profits could usefully contribute middle-market rental housing. And, the Scottish Government should pay attention to European strategies, that do not extend strict controls to the short term letting sector but let it operate with required flexibility. With recent legislation for short-term lets and rent controls now on the horizon the Scottish Government need to be careful not to kill-off the key flexibility roles that short-lettings play. More broadly, we now have the New Deal for Tenants. Where is the New Deal for Landlords, and will their outcomes mesh effectively.

## **New Regulator.**

Participants praised the proposal to create a regulator for the PRS and recognised that the Scottish Government are reflecting on different approaches. If the core aim of NDT is creating a more unitary rental sector for Scotland then there is a strong case for strengthening the existing Scottish Housing Regulator to extend its work across the whole sector. It would have the professional and cross-sectional expertise to inform and shape future policy decisions. It should also be required to report not just on individual landlord performance, and require performance improvement where it was poor, but it should provide regular reports on overall rental system performance within local housing market areas.

## **Devilled Detail or Devilish Mess?**

Whether discussing rent controls, standards, or regulation, it is clear that ‘the devil is in the detail’. For now, the Scottish Government have given us ‘aims and principles’ notions of strategy’ rather than detailed missions for change. The aims in relation to sector integration, better regulation, higher standards of homes and fairer access are unexceptionable. A better balanced rental sector is essential for Scotland. But a better balanced debate, with a much better evidenced understanding of consumer outcomes and producer intentions is required. The NDT embraces grand designs for the rental sector, and Ministers are to be lauded for that, but the empirical and analytical foundations on which they are based are indeed shoogly.

We need real rights to decent homes for all, with standards backed by real resource commitments. Rhetorical rights are pointless. And we require real and well-maintained homes to supply the housing required. We won’t have that, given scarce government resources, if there is no secure return for efficient investors. It’s not impossible, but hard, and the devil is in working through the detail of the mutual interests, and conflicts, of different kinds of tenants and landlords. As for government, it needs to take the long view with housing, a stewardship approach, just as it would to environmental issues. It needs to work through the ecology of real housing systems rather than the often old ideology of party systems. We want what works for the long term and addresses problem causes rather than only symptoms.

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