

## Members debate on tenancy deposit schemes

18<sup>th</sup> June 2008

Citizens Advice Scotland believe that based on evidence from bureau clients, there is a strong case for the introduction of a statutory rent deposit scheme in the private rented sector.

- Landlords and letting agencies in Scotland are holding anything between £62 and £88 million in tenants' money<sup>1</sup>
- The only current means of redress for tenants is the small claims court. As well as having time and cost implications, this is not a suitable remedy for tenants returning abroad or moving far away.
- Around 20% of the cases handled by the Mediation Service at Edinburgh Sheriff Court relate to landlord-tenant disputes.

*An East of Scotland CAB reports of a male client who lives with his landlord and has a short assured tenancy for six months. The landlord is threatening to withhold his deposit because of "breakages". The client was advised to write to the landlord giving him two months notice of his intention to leave and to declare in the letter that he was alarmed by the threat to withhold his deposit and to ask for a breakdown of any 'costs' the landlord was planning to withhold from his deposit.*

*An East of Scotland CAB reports of a male client who rents a flat with five other people. Their landlords have declared that they are going to deduct an undisclosed amount of money from their £850 deposit to have the flat cleaned professionally. The client and his flatmates believe that the flat is now cleaner than when they took over the tenancy. The bureau advised the client to write to the landlords asking for details of the money to be deducted from the deposit and that the only option to pursue the issue is via the small claims court.*

In partnership with Shelter Scotland we successfully argued for an amendment to the 2006 Housing (Scotland) Act to legislate for a tenancy deposit scheme<sup>2</sup>. We have been a member of the stakeholder group that was then established to consider the need for such a scheme, although a scheme has yet to be introduced.

In England and Wales legislation in 2004 has led to the introduction of tenancy deposit schemes<sup>3</sup>. Tenants in Scotland are therefore currently disadvantaged, in terms of consumer protection, to those elsewhere in the United Kingdom. In the first year of operation of the legislation in England and Wales, one million deposits out of a total of 1.7 million have been protected - totalling nearly £1 billion in protected deposits.<sup>4</sup> There are three schemes in operation in England and Wales and CAB experience there suggests that it is important to have a single gateway, if not a single scheme to make it easier for tenants to know and access their rights.

Our case evidence shows that the main elements of this scheme would need to include the following to function successfully:

- A scheme where all deposits are held by an independent third party
- A clear definition of the amount a landlord can reasonably claim as costs for wear and tear and details of the supporting evidence required to make a deduction from a deposit
- Referral of any disputes to an independent alternative dispute resolution service
- A sanction for landlords who charge deposits but fail to pay them into the scheme.

**Citizens Advice Scotland is encouraged by the progress made but calls on politicians of all parties to join calls for a tenancy deposit scheme and ensure that tenants in Scotland are afforded similar protection to that enjoyed in other parts of the United Kingdom.**

<sup>1</sup> Figures based on a £500 deposit for 70% and 100% of the 177,000 private rented tenants in Scotland

<sup>2</sup> Part 4 of the Housing (Scotland) Act 2006

<sup>3</sup> Chapter 4, Housing Act 2004

<sup>4</sup> DCLG press release, 2 April 2008, <http://www.communities.gov.uk/news/corporate/736721>