

Alan Hunter
Assistant Clerk
Finance Committee
The Scottish Parliament
Edinburgh
EH99 1SP



18 November 2015

Dear Mr Hunter

When I gave evidence on the Private Housing (Tenancies) (Scotland) Bill on 11 November, Jacqui Baillie MSP asked if the Scottish Government had made an estimate of the costs to the Legal Aid budget that were likely to arise from the Bill's provisions, and whether these could be made available to the Committee. I advised the Committee that the Government had not yet made an estimate of these costs. I can now provide the Committee with further the information about the Government's position on this.

The Housing (Scotland) Act 2014 includes provisions to transfer private rented housing cases from the Courts to the Scottish Tribunals. As part of it work to implement these provisions, the Government is preparing for these cases, including cases relating to current tenancies in the private rented sector, to transfer to the Tribunals in late 2016. As part of a wider consultation about the detail of how these cases will be heard by the First-tier Tribunal, the Government intends to consult on proposals on the question of legal assistance for private rented housing cases. That consultation will include an estimate of any costs expected to fall on the Legal Aid budget, and will give interested parties the opportunity to comment on it.

When the Government introduced the Bill for the 2014 Act, it estimated that the cost of legal assistance for the 700 private rented housing cases each year that would transfer from the Courts to the Tribunals would be about £25,000 – comprising £14,000 for Advice and Assistance, and £11,000 for Civil Legal Aid. That was based on continuing the same form of legal assistance in the First-tier Tribunal as is currently available for these cases in the Courts. The Government noted if another form of legal assistance were to be provided, such as Assistance by way of Representation, that the cost could be less.

Subject to the Parliament approving the Bill, the Government expects the private residential tenancy to be introduced towards the end of 2017. Disputes over the new tenancy, which over time will replace current tenancies, will be heard by the Tribunal. The Government estimates that the number of such disputes will be between 845 and 1,100 each year. The impact that these cases will have on the Legal Aid budget will depend on the form of legal assistance that is to be provided in the First-tier Tribunal for private rented housing cases, and on the net increase in total cases being heard (given that cases relating to current tenancies



will reduce as the tenancies themselves come to an end and are replaced by the new tenancy). In view of these uncertainties, it is not possible at present to estimate the cost to the Legal Aid budget of the new tenancy. I hope, however, that the information I have been able to provide will give the Committee a reasonable indication of the costs that are likely to arise.

Kind regards

Barry Stalker

Team Leader

Private Housing (Tenancies) (Scotland) Bill