

Housing (Scotland) Bill: analysis of the call for views

Introduction

The Local Government, Housing and Planning Committee and the Social Justice and Social Security Committee, launched a joint [call for views](#) on the [Housing \(Scotland\) Bill](#) on 19 April 2024. It closed on 24 May.

The Committees received over 300 submissions to the call for views. Of these submissions, around 40% were from organisations, with the rest from individuals. The [submissions are published online](#).

It should be noted that the submission from Living Rent was accompanied by the names of 2,332 people who expressed support for its submission. Those names have been published online, but the percentage figures below that inform this summary do not take into account the number of supporters for Living Rent's submission. The percentage figures are based on the responses that used citizens space to complete their submission. However, submissions received in all formats have all been read to inform the key themes set out below.

This paper summarises the key issues raised in the responses to the call for views. It should be noted that as respondents are self-selecting, they are not necessarily reflective of the population as a whole. Any quantitative data used in this summary should be read with this in mind. The intention of this paper is not to be exhaustive, rather it is to provide an overview of the main issues raised in the submissions.

Overview

The first question in the call for views asked respondents to what extent they agreed that the measures in the Bill meet the Scottish Government's stated policy objectives. Of those who answered this question, 36% of the respondents agreed that the Bill met the stated policy objectives, with a further 6% strongly agreeing. On the other hand, 22% of the respondents strongly disagreed that the Bill met the stated objectives, with a further 15% disagreeing.

This polarisation of views among the respondents to the call for views was reflected in their comments on the main reasons for their views. Among those who answered that they either 'agree' or 'strongly agree' that the Bill meets the Scottish Government's stated policy objectives, there was a general consensus that the Bill includes necessary protections for tenants. This included support for the provisions related to rent control, evictions, the rights of tenants and homelessness. Living Rent noted that:

"...we believe that many of the proposals in the proposed Housing Bill will deliver the Scottish Government's policy objectives to provide greater protections for tenants. We believe that this is an absolutely necessary Bill

given the rising homelessness and housing crises that most local authorities face in Scotland. Living Rent welcomes the Bill's serious attempt at addressing the rising costs of renting faced by private tenants."

Citizens Advice Scotland reflected many of the comments when it stated that the organisation:

"...welcomes the introduction of the Bill and believe it goes some way towards improving housing outcomes for renters, while trying to strike the difficult balance of delivering increased tenant rights and protections and protecting the interests of landlords."

Most of these respondents, however, had reservations that the Bill either did not go far enough in including protections for tenants, or that the practical delivery of the policies would be difficult. There were a wide range of suggestions on where the Bill needed to be strengthened.

The submission from Scottish Borders Council reflected this view, noting that:

"We welcome the Bill and, on the whole, the measures in the Bill meet SG's stated policy objectives... However, there are some considerations in terms of practical delivery of the measures (including resourcing) and whether the measures are ambitious enough to meet the current pressures faced in the housing sector."

The views of those who either disagreed or strongly disagreed that the Bill meets the Scottish Government's stated policy objectives reflected three general points. The topic most frequently raised by this group of respondents was the concern that the Bill did not strike an appropriate balance between the needs of tenants and landlords. The Church of Scotland, for example, noted that:

"...we do not think that it achieves the stated policy of objective of safeguarding the proportionate use of a landlord's property for rental purposes, or of delivering a fair balance between protection for tenants and the rights of landlords. The proposals are not proportionate: they are weighted heavily in favour of tenants and do not, therefore, achieve the desired fair balance."

Many of the submissions suggested that the policies in the Bill would lead to a dramatic reduction in available private rented sector properties as landlords would leave the sector. The submission from Hearthstone Investments reflected this view, stating:

"The proposed new framework for rent controls poses considerable difficulties and risks for long term investors in residential property in Scotland. This is likely to deter investment in much-needed new housing at a time of widespread shortages, which runs counter to the Scottish government's objective to secure sufficient and affordable housing."

Other comments focussed on the fact that the Bill does not provide for additional housing, and that the stated objectives cannot be met without an increase in

available property. For example, Castlemilk and Corrie Estates expressed the view that:

“The bill does nothing to address the fundamental supply and demand problem which is the cause of rising rents and a major cause of increased homelessness in Scotland. The spike in rental prices in the wake of COLA legislation demonstrates that government interference in the market does more harm than good, so this increased legislative burden on landlords will just make things worse.”

The Association of Local Authority Chief Housing Officers (ALACHO) was unclear on whether the Bill’s proposals met the stated policy objective stating:

“The bill lacks an overall coherence or a clear strategic narrative and it is unclear whether the measures set out in the bill will sufficient to achieve the objectives set for it.”

Designation of rent control areas

The call for views initially asked respondents whether or not they supported the proposals in Part 1 of the Bill, before asking for further comments. The respondents were divided over this part of the Bill, with 45% supporting the proposals and 37% not supporting them. The remaining respondents either selected ‘don’t know’ or did not answer the question.

When only the views of organisations are taken into account, only 31% supported the proposals, and 36% did not support them. Individuals who responded to the call for views were more supportive of the proposals with 56% supporting them and 38% not supportive.

Of those who were supportive of the proposals, some provisions were particularly welcomed. One of those provisions was that in rent control areas, the controls will relate to a property rather than to a tenancy, preventing rents from rising disproportionately between tenancies. Inverclyde Council noted that:

“The tying of rent to the property as opposed to tenancy is a vital addition to housing legislation to circumvent the frequent use of loopholes to rent increases.”

Living Rent also highlighted this provision as one of those they supported in this part of the Bill. They summarised some of the other areas that respondents had highlighted in their comments:

“Five of the proposals in this section are extremely welcome:

- 1) the ability for councils to designate entire local authority areas as rent control areas,
- 2) the ability for caps to be as low as 0% in those areas,
- 3) the statutory duty for all local authorities to assess whether or not rent are increasing in a local authority,
- 4) the fact that landlords need to advertise the previous rent, and

5) and the carrying over of rent control measures from tenancy to tenancy. This final aspect, in particular, is vital to avoiding negative unintended consequences that we saw during the emergency legislation, where landlords were effectively incentivised to increase rents in between tenancies or to evict their tenants to increase rents. This will go a long way into ensuring more stable homes for people.”

A number of the comments from organisations suggested that they found it difficult to express an opinion on the rent controls proposed in the Bill due to a lack of detail regarding how rent control areas might work in practice. Shelter Scotland, for example, suggested that:

“The way the proposals are set out means many crucial aspects will be determined through regulations set out by Ministers, rather than on the face of the bill itself. Without this detail we cannot assess the likelihood of success for this proposal. We cannot endorse a fundamental reform of the housing market, particularly during the current housing emergency, without being able to model the impact of the policy proposal and understand how it would operate in practice.”

A similar view was expressed by Crisis who noted that the organisation:

“...does not feel able to comment on whether we support the proposals in Part 1 of the Bill. The lack of detail, and the complexity of the housing market mean that the proposals could have unintended consequences which severely impact on people who are facing difficulties accessing housing.”

Consequences

The submissions, both those in favour of the proposals, and those who did not support them, included comments on proposals in Part 1 that caused them concern. Many of the responses focussed on the potential unintended consequences of the proposed rent control areas. One repeated concern raised within the submissions was that rent control areas may encourage landlords to leave the sector, put off new investment, and lead to fewer properties being available to rent. Moray Council for example noted that:

“Any action which will lead the local private rented sector to contract further than it already has will be counter productive, will increase homelessness, and could stifle local economic aspirations which require temporary workforce housing where access to the private rented sector is key.”

Aberdeen City Health & Social Partnership raised the concern that rent control areas would add pressure to a private rental market that is already struggling:

“If rent controls are enforced, this may result in uncertainty and confusion for landlords, potentially causing a decline in the overall number of landlords in the private sector... The property market here is already experiencing pressure... Huge increases in interest rates and constantly

tightening Scottish Government legislation re new regulations for landlords, second home property tax and removal of tax allowances for landlords makes Aberdeen a very unattractive proposition for buy to let investors. All of the above is resulting in less properties becoming available for private let and landlords leaving the marketplace, which only serves to restrict the supply of property and whilst increasing the pressure on social housing provision”

Scottish Land and Estates referred to the differing nature of private rented housing in rural areas and stated:

“Overall, it is felt that the provisions in general would disproportionately impact the Private Rented Sector (PRS) in rural and island locations due to the typically higher running costs, lower rents and lower rental inflation. We do not feel that this is adequately recognised in the Financial Memorandum.”

Other respondents highlighted the previous emergency legislation as an example of an attempt at rent control that had negative consequences. The City of Edinburgh Council noted in its submission that:

“...there has been considerable analysis by industry professionals into the impacts arising from the emergency legislation. This shows that there has been significant impact on investment flows which has resulted in a dramatic reduction in the supply of new housing. This has affected Council projects where there is a 'build to rent' component. There is also evidence that rent levels increased more in Scotland than elsewhere in the UK during this period. In moving forward with permanent legislation, care must be taken to avoid creating homelessness through the same legislation designed to prevent it.”

The Nationwide Foundation discussed Wave 3 of their RentBetter study where:

“The emerging findings suggest that legislative intervention to date on rents in Scotland has not served to increase the overall affordability of the sector. Advertised rents for new tenancies have risen in line with other nations of the UK, and there is some evidence to suggest that the frequency of rent increases for existing tenancies has increased. Therefore, any further steps to limit rent rises need to reflect the learning from previous interventions, and be carefully considered in the wider context of the housing system as a whole.”

Mid-market rents

Another topic that was raised by a number of respondents was the impact of the proposed rent control areas on mid-market rents. The consensus across these submissions was that mid-market rents needed to be excluded from the proposed rent control areas. The Scottish Federation of Housing Associations stated that:

“...we strongly believe that Mid-Market Rent properties funded by the AHSP, including properties owned by Registered Social Landlords and their subsidiaries should be exempt from rent controls intended for the private sector. There are significant differences between the private rented sector (PRS) and MMR, with real protections for MMR tenants - including already being effectively rent controlled through grant conditions and links to Local Housing Allowance (LHA)/Broad Rental Market Areas (BRMA).”

The West of Scotland Housing Association submission was in general agreement with this view, noting that:

“MMR rents are always lower than the market rent and controls do not seem appropriate in this respect. It may have the unintended consequence of detrimentally affecting investment in an area that is clearly addressing a gap in housing demand/need and assisting those that cannot afford to buy/privately rent, or will ever have priority for a social rented property.”

Data

A reoccurring theme within the submissions that provided a view on rent control areas was a concern about how appropriate data would be collected in order to evidence the need for the creation of a rent control area. Public Health Scotland chose to highlight this, stating that:

“While we welcome local authorities having the power to apply for rent control areas the 2024 Housing Bill does not appear to address how local authorities can obtain the required data needed for them to apply for a rent pressure zone. In addition, guidance is still to be drafted on the methodology for local authorities evidencing the need for a full or partial rent control area. It is also not clear what rent controls would comprise under the Housing Bill, for instance would controls be implemented using local or national criteria, for determining the level rents could increase by or be set at.”

Other submissions suggested that a national approach to the collection of information was needed. Falkirk Council, Housing and Communities, for example suggested:

“We believe there may be more merit in adopting a national approach to the collection/ collation of rental information: this would introduce consistency across Scotland and would share information relevant to each local authority area. We anticipate that to collect the required information at a local authority level for a credible report, would be a significant task which is likely to require additional resources.”

Scottish Land & Estates brought up the concern that requesting additional information from property owners would not be appropriate in all situations. It noted that:

“...there is a built in assumption that the property owner is also the landlord. Not all landlords are the property owner, and this is particularly the case with agricultural holdings where many tenant farmers let out surplus worker’s cottages in the PRS. These properties are registered by their owner, as the Reform of the Antisocial Behaviour etc (Scotland) Act 2004 requires, but it would not be appropriate to compel the owner to provide information when they are not party to a tenancy agreement between tenant farmer and PRS tenant. Either the legislation needs to be reformed to compel the relevant landlord to register, or adapted so that the owner of such property is absolved of the duty to provide that data if they are not the relevant landlord.”

Resources

A number of the local authorities that responded to the call for views raised a concern about the level of resource that would be required to meet the obligations set out in Part 1 of the Bill. Highland Council stated that:

“Highland is not opposed to the principle of rent control areas. However, there are concerns:

- how the local authorities will be resourced to deal with this extra obligation
- what level of engagement there has been and will be with the private rented sector
- how much impact the areas will have given that existing legislation around rent pressure zones has failed because of the challenges to collating accurate information and the process before areas come into enforcement.”

In its submission Glasgow City Council suggested that:

“...key detail is lacking regarding identifying potential area boundaries and scale. There is an underestimation of the likely need for continuous monitoring due to the nature and functions of Private Rented Sector within dynamic and complex urban housing systems. The conditions under which the Scottish Ministers may direct the local authority to carry out an interim assessment are also unclear.

We would consider the proposed date for the first report by each local authority to be submitted by no later than 30 November 2026 to be extremely challenging, given that guidance is still to be designed. This work will not be possible within existing resources, and while the supporting financial memorandum outlines potential funding for local authorities, this requires to be tested. Consequently, we would welcome further engagement, including involvement in a pathfinder to establish realistic and costed processes.”

There were also concerns raised about the additional work that may be caused by the non-compliance of landlords in data gathering, for both local authorities and the First Tier Tribunal (FTT). Fife Council noted that:

“A duty on local authorities to assess rent conditions in their area, at least once every 5 years will be resource intensive for local authorities where the volume of private landlords is extensive. Even with a response rate of 90%, which may be optimistic, then this will leave larger authorities with significant work to do to take further actions against landlords through the FFT and will require additional funding. For Fife this could equate to over 2000 cases. This would presumably have a big impact on the workload of the FFT and could create issues about how this work is prioritised.”

Other rent measures

There was relatively limited comment about the other issues relating to rent in the Bill.

Citizens Advice Scotland, for example, welcomed the proposed change to the rent adjudication process to disallow Rent Service Scotland from being able to set a higher rent than the landlord requests, stating it was a “small but important step”. But it also pointed out wider changes needed to the rent adjudication system, “including the time limit of 21 days in which a person must submit an application, as it is currently too short and poses a barrier for people needing redress”.

Evictions

The call for views next asked respondents for their views on Part 2 of the Bill, which contains provisions relating to evictions. The responses were again polarised. Comments either highlighted a perceived disparity between protections for tenants at the expense of the rights of landlords or suggested that the protections for tenants within the Bill did not go far enough.

Additional tenant protections

Many of the respondents mentioned the submission from Living Rent in their comments, noting that they supported Living Rent’s suggestions for additional tenant protections Part 2 of the Bill. Living rent suggested the following:

- “1) The Bill should provide minimum delays to an eviction order, such as three Months...
- 2) The Bill should take forward the review of the grounds for eviction started in the new deal for tenants consultation in 2022, and remove or amend existing grounds for eviction...
- 3) The Bill should review the regulations around misuse of eviction grounds, as it has done with unlawful evictions...
- 4) Landlords who have been found to have illegally evicted their tenants should also face consequences regarding the landlord register, for

instance being unable to operate for two years after having illegally evicted a tenant.

5) Lastly, the Housing Bill is an opportunity to ensure all tenants have the same rights by introducing a standard three months notice period for tenants, regardless of whether they are joint tenants or not and how long they have been in the property for.”

Eviction order delays

Living Rent was not the only organisation to discuss the need for clarity on the potential length and detail of any eviction delays imposed by a tribunal. While Living Rent was suggesting a minimum delay period be added to the Bill, Share requested the opposite:

“If a provision to extend an eviction is to be introduced landlords would require to know a maximum period that could possibly be imposed on them. A delay stating a maximum 2 months should be considered. It would have to be made clear in the legislation the tenants are still obligated to pay rent during the period of any delay.”

The need for clear guidance on the issue of eviction delays was highlighted by a number of respondents. Argyll and Bute Council suggested that:

“...there needs to be clear guidance on what would be deemed ‘reasonable’ delays to the eviction process that takes into account both the tenants and landlords situations.”

Other submissions felt that additional thought was needed on the grounds for delaying an eviction as set out in the Bill. For example, Families Outside raised the issue that:

“...the duty to consider delaying an eviction does not apply in circumstances where the only grounds established for the eviction order are that the tenant has a ‘relevant conviction’, or has engaged in ‘relevant anti-social behaviour’. We would like to express a key concern in this regard in relation to members of the tenant’s household, that is to say the children and families, impacted by these provisions. Whilst we understand the fundamental need to ensure that the rights of tenants are appropriately balanced against the rights of landlords, we would strongly assert that it is vital that that the circumstances of any family members impacted by the ‘relevant conviction’ or ‘relevant anti-social behaviour’ of a tenant are considered in their own right.”

Damages for unlawful eviction

There were relatively few comments about the proposal in the Bill that would change how damages for unlawful eviction are calculated. In general, those that commented were supportive. For example, Shelter Scotland welcomed this provision but stated that it “would not be effective if the awareness of among tenants of their rights surrounding unlawful evictions is not improved.”

Similarly, Citizens Advice Scotland supported the provision although argued that damages less than three months rent should not be awarded. It also made the point that there needs to be better enforcement of unlawful evictions.

Eviction grounds

Another section of Living Rent's suggestions to increase protections for tenants in the Bill that was supported by a range of other stakeholders, was the perceived need to review the grounds for evictions currently set out in legislation. This was a point particularly mentioned by individuals who responded to the call for views, as well as some organisations. The submission from UNISON Scotland was an example of these, suggesting that:

“While the bill addresses the issues around illegal evictions, we would like it to similarly act upon the evidence around the misuse of eviction grounds. A thorough review of the regulations around this is needed, as a prevention of homelessness measure, to help reduce the incidence of people presenting as homeless from the private rented sector.”

Impact on landlords

Many of the negative comments on Part 2 of the Bill were similar to those about Part 1. Respondents again highlighted a concern about the impact of the measures on landlords. Inverclyde Council noted that finding a balance between the needs of tenants and landlords when it comes to evictions is difficult:

“While the provisions are designed to protect tenants, there is a potential that some might exploit these new requirements to delay evictions, even in cases where they have violated the terms of their rental agreements significantly. This could lead to situations where landlords are unable to efficiently manage their properties or address issues that legitimately warrant eviction. Increased regulations and the risk of hefty penalties might discourage private landlords from renting out their properties, which could exacerbate housing shortages, particularly in areas with already limited rental markets. The question remains how will we ensure that these new eviction provisions protect tenants without unduly burdening landlords?”

Other organisations went further, and expressed views that Part 2 of the Bill was too strongly in favour of tenants. Rough Country Holdings Ltd noted that:

“Fundamentally if a tenant deliberately stops paying rent they are in breach of contract and the lease. It should not take forever to get them out and the proposed legislation looks to give so much protection to tenants that a likely outcome is that problem tenants will be able to deliberately hide behind the law whilst not paying rent and the landlord is the only party picking up the cost and risk of this. Many landlords will prefer to sell up and leave the sector rather than face this potential financial risk.”

The need to financially support landlords that find themselves in this situation was also raised by Lettings Edinburgh:

“...if the government wants to protect tenants, and expect landlords to suffer and tolerate the stress of getting no income for months with little hope of ever recouping this whilst having the banks on their backs, then the government needs to reimburse the landlord for this legislation. It is unviable for landlords.”

Operation of the tribunal

Another apprehension about Part 2 of the Bill highlighted by the submissions was the potential additional pressure placed on the tribunal system by the measures. The Scottish Association of Landlords stated that:

“We would be less concerned about this proposal if the introduction of the tribunal had reduced eviction timescales as we were assured it would when it took over from the sheriff courts in dealing with evictions. However, eviction cases are currently taking on average 5.5 months* to progress through the tribunal from the point of application to the point of a decision being made about the case. This is on top of the notice period, appeal period and enforcement period which would typically add a further 4.5 months to the timeframe for eviction, leading to a total eviction timescale of around 10 months. To add an indefinite period to this timescale will put unfair strain on landlords who need to regain possession of their property. *Figure is based on SAL’s analysis of published tribunal cases where decisions were made in the period 1 January – 31 March 2024 and the application date is given in the write up.”

Scottish Land & Estates agreed with this view, noting that:

“There is a concern that this provision will place administrative pressure on a system which is already overburdened. Resourcing of the FTT is a known issue and the target time of issuing a decision within 21 days is not realistic.”

An individual with experience of the tribunal system raised a concern that the individuals who sit on the tribunal, and who in eviction cases make decisions based on an assessment of "reasonableness," are not always perceived to be neutral arbitrators. The example given involved a case where one member of the tribunal who provided legal services to landlords. The individual went on to state that:

“...when landlords apply to evict on conduct grounds then these cases should be speedier and prioritised by the tribunal as current costs and timescales are putting off landlords remaining in the sector and investors from entering the sector. We need a strong PRS that works for both parties if homelessness is to be reduced.”

Keeping pets and making changes to let property

The respondents to the call for views were initially asked if they supported the proposals for keeping pets and making changes to let property in Part 3 of the Bill, before being asked if they had any comments on the proposals. Of those who answered the initial question, 60% said that they agreed with the proposals, and 22% did not support the proposals. These figures were similar among both individual respondents and the organisations who submitted views.

Some respondents referred to the positive impact on tenant's health and well-being of personalising their homes.

The Dogs Trust also referred to the benefits for landlords of allowing tenants to keep pets:

“Research conducted by Dogs Trust and Cats Protection in 2021 highlighted that not only do tenants with dogs report being happier, but that they are more likely to want to stay in a property for longer. More than a quarter of those surveyed said that they would stay longer in a property if they were allowed to keep a pet. This represents a positive outcome for both tenants and landlords. It reduces expensive void periods for landlords and provides more secure housing for tenants and their pets.”

Although there was support for this proposal to allow tenants to request to keep a pet there were some concerns about the drafting of the detail. For example, the response period for landlords to respond to a request for pet is 42 days. Age Scotland said that, “Many people looking for housing do not have 42 days to wait on a response, and we feel it is unfair on tenants to wait this length of time when no response after this would be considered a refusal, yet with no reasonable justifications given.”

ALACHO argued that the:

“...qualified right to keep a pet or carry out limited personalisation of a private rented home falls a long way short of representing a "new deal" for tenants. Tenants are still left with a requirement to ask permission to do things that most other households take for granted whilst other limits on their enjoyment of their home remain unaddressed.”

It suggests a recasting of the tenancy regime in terms of consumer rights and trading standards protections and set in the context of a modern understanding or the human right to adequate housing and a home life.

Some of the respondents said they found it difficult to comment on the proposals due to the fact that some key details were yet to be decided and would be subject to secondary legislation. The Scottish Association of Landlords, for example, stated that:

“We cannot support these proposals as so much of the detail on how they will operate and what safeguards will be in place for landlords is reserved for secondary legislation. Without this level of detail we can't be certain that sufficient protections will be in place for landlords who find that their property has been damaged by tenants' pets or personalisation work. We

also can't be certain that adequate safeguards will be in place to ensure that landlords can refuse permission where the pet/personalisation work isn't appropriate/suitable for the property."

Other submissions suggested that their support of the proposals was based on the assumption that certain details would be included in the secondary legislation. Dowbrae Limited noted that:

"The general principle is supported providing that there are some qualifications on the size and nature of the pets relative to the properties, and providing that consideration is given to the nature of proposed 'changes'. In both cases, there needs to be a test of reasonableness."

Additional tenancy deposits

The area of Part 3 that garnered the most comment from respondents was the potential need for additional deposits if pets were allowed in rental properties or if substantial changes were made to property. Many landlords highlighted their experiences with previous tenants whose pets or decorative choices had left more damage than their deposits would cover. Other comments focused on the fact that requiring additional deposits would prevent many tenants from using these rights as they would not be able to afford to make them.

One organisation, Rough Country Holdings Ltd, brought up the concerns of landlords that provisions in Part 3 of the Bill would lead to additional costs. They said:

"Standard tenant deposits in no way reflect the real costs of redecoration and repairing of damage that can be caused by pets. If this legislation comes in, then firstly deposits need to be allowable up to 3 months rent, and there needs to be a process whereby additional costs beyond that can be recovered from the tenant after they have departed the property. Beyond that, another solution might be that when a tenant asks to redecorate, a sum equivalent to the cost of restoring the property to its earlier state, is additionally attached to the deposit."

This view was supported by Let Us, whose submission suggested that:

"Yes, long term tenants should be allowed to make changes, keep pets etc. However, the current system is already incapable of fairly compensating Landlords for expenses caused/left by tenants. My experience of deposit dispute processes is that they are weighted towards tenants, and wholly unrealistic in evaluating the cost of putting issues right (e.g. cleaning, re-decorating etc). Therefore this bill is likely to only exacerbate that issue."

Other respondents used their submissions to highlight concerns that if additional deposits were required to exercise these rights, many tenants would not be able to afford them. Citizens Advice Scotland stated that:

“We also caution that higher deposits may be requested by landlords as a protection against damage and it should be considered how to prevent this becoming a barrier to people being able to access accommodation.”

Crisis also raised a similar concern:

“many people we engage with already struggle to afford the deposit at the beginning of a tenancy. These changes may have an effect on the size of deposit required, pricing some people out unless additional support is put in place such - as widening access to rent deposit schemes. Consideration needs to be given to how this will work in practice, particularly where there are pressures in the market and competition for tenancies, and where there is a considerable imbalance of power between the tenant and landlord / letting agent.”

In its submission, Living Rent went further, suggesting that:

“There should be no financial consequences for tenants improving the home, such as a rent increase. Equally there should be no financial loss for ‘betterment’. For example, if a tenant makes improvements to the home beyond superficial decoration, e.g. an improvement which moves the home into an improved EPC rating, there must be a mechanism to account for this if and when the tenant vacates.”

Pet requests

Some of the respondents who were supportive of the provisions in Part 3 of the Bill suggested ways in which they felt that the Bill could be improved in relation to requests to keep a pet. Several organisations felt that the time limits set out in the legislation were too long. Battersea Dogs & Cats Home noted that:

“Housing issues are the second most common reason that animals are relinquished to Battersea... We believe that the proposed 42-day deadline for landlords to respond to tenants’ pet requests is too long. Requests to a landlord can only be made once the tenant is in-situ, therefore tenants may need to arrange an alternative for looking after their pet away from home. Battersea would propose a 28-day time limit, in line with other requirements made of landlords such as the obligation to provide a Tenancy Information Notice to a tenant within 28 days of a tenancy starting. This would be reasonable for both landlord and renter, while respecting the welfare needs of the pets involved. We would also suggest that if the landlord fails to respond to the request, acceptance should be presumed.”

The Dogs Trust raised a similar issue in their submission, stating that:

“The Bill allows landlords 42 days to respond to a request for a pet. We believe this time limit for a response should be significantly reduced, ideally to 14 days, but as a minimum we support a reduction to 28 days.

This would allow tenants to better plan for pet ownership, reduce any kennelling expenses and lessen the significant stress of not knowing if they will be able to keep their pet in their rented property. From the landlord's point of view, this would still afford a reasonable timeframe within which to consider the request."

Other organisations were concerned that the Bill did not seem to consider the rights of prospective tenants who already owned a pet. This view was expressed by Blue Cross which noted:

"It is also unclear in the Bill whether prospective tenants will be given the same rights to request a pet. There is no reason the request should not cover the period after the lease has been signed but before the tenancy itself has begun. Blue Cross believes the Bill should be clear that the right to request applies to prospective tenants as this would better protect those who already have a pet and are looking to move."

Tribunal

The issue of the potential additional pressures on the tribunal as a result of the provisions in Part 3 of the Bill were raised by some respondents. East Lothian Council suggested that:

"Reliance on First-tier Tribunals (FTT) for appeal decisions also fails to take into account current pressures and wait-times that currently exist. The current provisions in the Bills, specifically taking 'no response' as refusing consent, and without clear additional guidance risks an increased number of appeals. FTT services must be appropriately resourced or provisions for an alternate appeals process. Without this, it risks additional critical pressures to FTT."

Joint tenancies

There were fewer comments on this part of the call for views than on the topics discussed above. The majority of the comments were generally in favour of the provisions as laid out in the Bill. The Scottish Property Federation stated that:

"...we welcome the fact that this Part of the Bill would set a process for tenants ending a joint tenancy arrangement and also provide transparency to a landlord."

The submissions that raised concerns mainly centred on the impact of the provisions on the remaining tenants at a property. For example, Living Rent commented:

"We welcome the improved rights for joint tenants to leave a tenancy with sufficient notice without having to wait for the approval of other joint

tenants. This is crucial as we have supported many tenants who have been trapped in their tenancy by joint tenancy rules... However, we are concerned that this law still doesn't provide greater protections for remaining tenants. Remaining tenants should have the right to propose another tenant to swap in and this request should not be unreasonably refused by the landlord if the suggested new tenant meets requirements."

This perspective was echoed by Citizens Advice Scotland who noted that:

"The measures should be strengthened to ensure that replacement tenants should be accepted if the other tenants agree to it."

Other comments focused on the possible financial ramifications on the remaining tenants. Inverclyde Council expressed the view that:

"While the process is more structured, remaining tenants may still face a period where they are responsible for the full rent if the departing tenant stops contributing financially. This can be financially straining until the tenancy is formally restructured or ended"

Ayr Housing Aid Centre SCIO suggested:

"There should be provision for when one joint tenant leaves and there is no way of serving notice on them and also how any arrears are apportioned at the date they leave."

The time frame provided for in the Bill was questioned by some of the respondents. In their submission Let Us expressed that:

"I do not agree that 2 months notice is sufficient. You are proposing that several individuals can be evicted with two months notice, at no fault of their own, because one of their flatmates has had a change of circumstances. Why is 84 days a minimum notice period in all other circumstances where tenants face involuntary eviction, but only 60 days is acceptable in this case?"

The Scottish Association of Landlords also raised concerns regarding potential cases of eviction after one tenant has given notice. It raised the scenario that:

"If the landlord and remaining tenant are unable to agree on new tenancy terms and the tenant doesn't move out, they will become an unlawful occupant in the property when the tenancy ends. The landlord can apply to for an eviction order and the tenant isn't afforded the protection of the discretionary element of a standard eviction (standard eviction grounds don't apply because tenancy has already been ended by the exiting tenant). This means that if this new process is introduced the remaining joint tenants could be made inadvertently homeless."

Additional protections for all tenants were also suggested by Glasgow City Council, whose submission suggested a change in the language of the Bill:

“The ‘Private residential tenancies: ending a joint tenancy’ amendment to Section 48 of the 2016 Act, new section (3A) applies only where the landlord agrees to the request. To counter the risk that the landlord may refuse the request and force a new contract, we would suggest this be subject to a condition where agreement is not unreasonably withheld.”

There were a number of respondents who were concerned that the provisions may unintentionally make the situations of those in abuse situations more difficult. The submission from The City of Edinburgh Council noted that:

“The two-month joint tenancy pre-notice period would provide time for remaining tenants to seek assistance around their housing options, if required. However, there is a risk that this notice period and process could negatively affect those who need to leave a tenancy in certain circumstances (such as domestic abuse or commercial sexual exploitation). Further consideration should be given to this with input and expertise from the relevant agencies.”

Unclaimed tenancy deposits

There was relatively little comment made about that Bill’s proposals to allow unclaimed tenancy deposits to be returned to Scottish Ministers with the aim of using this to support tenants in private rented housing. Where a view was provided it was generally supportive. Crisis, for example, stated:

“...the transfer of unclaimed deposits to support tenants in the PRS and prevent people becoming homeless. Crisis strongly welcomes this proposal as it will aid the success of homelessness prevention measures, duties of which are set out in Part 5 of the bill.”

An individual respondent felt that elaboration of the type of support offered to tenants funded by unclaimed tenancy deposits, arguing that there should be a specific service for private rented tenants that including representation at the Tribunal. They stated, “There needs to be a service that is offers everything under one roof. Time and time again I hear from tenants who are fed up from being passed from one service to another only to hit a brick wall when it comes to tribunal rep stage.”

Homelessness prevention

The call for views asked, “overall do you support the Bill’s proposals in Part 5 of the Bill that deals with homelessness prevention?”

Of the 248 that responded to this question, 72% (178) said that they supported the proposals, 8% (21) said they did not support the proposals and 22% (49) said that they did not know. Of those that did not support the proposals 4 were from organisations including Shelter and Engender.

‘Ask and Act duty’

Respondents were asked “what are your views on the “ask and act” duty for relevant bodies in relation to preventing homelessness in Part 5 of the Bill.” A total of 198 responses were made.

Many respondents made short comments and did not elaborate in any detail. Some respondents just stated their support stating it would be a positive step.

The benefits of prevention at an earlier stage and the involvement of other bodies was highlighted. For example, Ayr Housing Aid said:

“...too often we see people turn to us as an advice agency in a crisis situation. Had they been referred to us earlier we could often have prevented or delayed their homelessness so long as there is a social housing solution available where they cannot remain in the Private rented sector.... For each person we prevent from having to go into homelessness accommodation and through the process it saves the public purse around £10,000 in housing benefit costs and £30,000 return on social investment.”

Crisis stated that:

“...if implemented well, these duties should provide much better outcomes for people with unstable housing. This should include a reduction of homelessness and housing crisis, a more efficient system, a more dignified, less traumatic and less stigmatising experience for people, and stronger protections for people in vulnerable housing situations. “

The main issues raised with the ‘Ask and Act’ duty was around a **lack of clarity and detail on some issues and the resourcing and implementation of the proposed new duties**. It was also noted that there was a need to ensure that relevant bodies did not just default to referring cases to the local authority.

In terms of clarity. Citizens’ Advice Scotland, for example, stated,

“Whilst we give out a large amount of homelessness advice, we also regularly signpost to more specialist homelessness organisations, with whom we have been working to understand the impacts of the proposed homelessness prevention measures. In this vein, we would reflect some of the concerns highlighted by these organisations including:

- There is a lack of clarity on actions for public bodies for people threatened with homelessness. Could this lead to them just referring to the local authority?
- How will wider public bodies decide that there is a risk of homelessness, and that they have mitigated this?
- When does the assessment of potential homelessness happen, by who, and will they have experience or expertise in this?

- Is the assessment of homelessness and assessment of threat of homelessness the same process?
- How do we ensure quality of advice provision to protect people from receiving poor information? How do we ensure that this high quality advice, such as that provided by the network of Citizens Advice bureaux across Scotland, is resourced properly to deliver this advice?"

Crisis also highlighted areas where clarity could be improved. It also pointed out that the "current Bill only places the "act" duty on bodies where the individual is threatened with homelessness, not if they have already become homeless. This seems a missed opportunity to support a more holistic approach for people who are homeless."

Many comments were made about the potential impact in terms of resourcing and implementation. As an individual respondent said:

"This will require increased resources at local authority level who already overstretched— therefore this is unlikely to happen and so there will be no meaningful impact on homelessness."

Inverclyde Council noted the need for "data sharing arrangements and system reviews to be conducted and strengthened for services to be able to act on an individual's behalf effectively. "

The Association of Local Authority Chief Housing Officers (ALACHO) supported the prevention duties but qualified its support by saying that "the resources required to make them fully effective are simply not available." Falkirk Council stated:

"In general, the proposals have the potential to increase the extreme pressures already being faced by local authorities, without the required funding, training and explicit guidance provided by Scottish Government, to make this a success. Homelessness services have been under extreme strain for some time, often because of changes in other policy areas which may have protected other services, but may lead to people then presenting to us and requiring accommodation. While we support prevention work, we need to ensure that homelessness services are provided with everything they need to make this a success, particularly when we are so stretched for accommodation and resources... "

Cyrenians stated that for the prevention duties to work, "it's imperative that we not reinvent the wheel." Instead, current models that have proven to work should be scaled up. Its submission gave examples of models.

Some respondents mentioned the need for **training for those working in relevant bodies**, sometimes in particular areas. For example, Families Outside, said that its "direct work with families suggests there can be a lack of awareness of families affected by imprisonment across the public sector workforce." Its

submission, along with others, also mentioned that the role of the third sector should not be overlooked supporting implementation of the Bill.

Ayrshire and Arran Health Board response stated:

“In order for ‘ask and act’ to be successful, person centred skills such as motivational interviewing will be needed in order to engage effectively, understand and recognise the risk factors for housing insecurity and homelessness. Having some awareness of how to support and advocate for those at risk to understand and exercise their housing rights will also be necessary across public sector agencies.

In order to successfully focus more on earlier intervention, support and training for staff will be required to recognise varying degrees of risk of homelessness which also incorporate housing insecurity and have the knowledge and confidence to support the person to take action”

Aff the Streets noted the need for **training on trauma informed practice and display empathy and compassion** when asking:

“The vast majority of young people we spoke to said this would be a positive change, with over 4/5ths of them saying that if this had been in place when they were faced with homelessness then it likely would have resulted in their homelessness being prevented.

However, those 'asking' need to be trained on trauma informed practice and display empathy and compassion when asking or it is likely to be more of a detriment than a help. One young person pointed out that if they were asked in the wrong way, they would simply lie and then be far less willing to open up about their circumstances again in future. Another young person said that being asked about personal circumstances in the wrong way would dissuade them from interacting with services again in the future.”

The need for **better data sharing** was also mentioned by a couple of respondents. Public Health Scotland said that it was working to develop the routine linkage of homelessness data with health and social care data and aims to understand how this data can be used to support better planning and decision making.

The Centre for Homelessness Impact said that in developing a core dataset or framework to measure the impact of the new duties, it is important to include data, including linked data for the relevant bodies in this framework and would welcome detailed guidance from the Scottish Government.

Responses from Living Rent members highlighted the **need to prevent homelessness from the private rented sector** and pointed to the need to introduce greater protections against eviction and making private rented accommodation affordable.

Some comments were made about **how the duty would be monitored and enforced**. Turning Point Scotland for example, referred to the lack of detail in the Bill and said “it would want to know how performance will be measured and who will be accountable for their performance”. Shelter Scotland said that it was not clear how an individual would challenge a relevant body who had failed to uphold their duty. Aberdeen City Council said:

“It is unclear what systems will be implemented to monitor actions taken by relevant bodies and how this would connect with an subsequent homelessness application. Which body will monitor and measure the activity of all the different public bodies that the duty is being placed on? How will this monitoring take place, who will challenge if the duty is not being met, how would this even be identified in the first place? It is clear that the intention is for the Scottish Housing Regulator to assess the local authority landlord compliance with the duties, but more widely than this it is not clear if there is the scope for each of the regulatory bodies to update their framework to monitor and then feed into an overarching body or if compliance will sit across each individual area, which would defeat the purpose of understanding the value and one of the overarching aims of creating the shared public responsibility and co-ordinated service delivery”

Less positive comments included that other **action was needed to solve homelessness problems, such as building more affordable homes**.

Scottish Women’s Aid did not support the Ask and Act duty as it was detailed in the Bill. It approached 33 local women’s aid services about the ask and act proposals, its response stated that, “there was a unanimous view that it was **essential to ‘fix the existing homelessness system first to make it work for women, before adding to the process’ and that duty on public bodies would create another layer of a system that generates exactly that – a referral to a system that consistently fails women and their children**.

Shelter Scotland did not support the proposals, primarily due to the resourcing issue.

“This is a concern given the large amount of financial resource that will be required to make these proposals workable in any form. If the government fails to adequately fund all public bodies named in the bill to deliver the prevention duties, then they will simply be set up to fail once again.”

In terms of the **relevant bodies specified in the Bill a couple of respondents raised issued about some potential omissions**. The Centre for Homelessness Impact acknowledged that GPs were not in the list but would welcome guidance including examples of how GPs can ask and act about homelessness. Aberdeen City Council also questioned why GPs were not included in the list noting the connections between health and housing and that people’s use of health services peaks just before they make their first homeless application. The

council also said that there was a lack of clarity regarding the expectations around public bodies that have not been mentioned eg DWP, Home Office, colleges and third sector organisations.

Acting sooner to prevent homelessness by taking ‘reasonable steps’.

The Bill proposes to extend the time which someone is considered threatened with homelessness from 2 months to 6 months. Councils must take reasonable steps to prevent homelessness which will be outlined in regulations.

Question 11 of the call for views asked. “What are your views on the requirement on councils to act sooner to prevent homelessness by taking reasonable steps in Part 5 of the Bill.”

In general, **those who commented on this proposal were supportive but again issues around resources and potential pressures on local authorities were raised.**

Crisis, for example, welcomed the requirement to act sooner noting that opportunities to intervene earlier will help as situations are often easier to resolve earlier.

Respondents highlighted the need for further **clarity in some areas, practical issues with the proposal and the need for resourcing and input from other services.** Turning Point Scotland, for example, said that:

“We spoke with people we support about what their lives looked like around six months before they became homeless. Nobody talked about housing or housing support need at this stage, instead they talked about losing their job and entering the benefits system for the first time, about mental ill-health, domestic violence, problematic alcohol and other drug use or involvement in the criminal justice system. The early intervention to prevent homelessness has to be led by the departments and organisations agencies working in these areas.”

Similarly, All in for change stated that **many young people mentioned they wouldn’t know if they were six months away from homelessness or** what proof of this a local authority might require before they offered assistance. It also stated that the” current two months is not being followed and people end up waiting until crisis point anyway” and that there is a need to “work on current legislative requirements being met in the interim before implementation of new duties.”

East Lothian Council also referred to the need for **additional staffing**, “avoiding loss of contact while dealing with cases has also been challenging and further support would be required to ensure efforts to support people are not lost.”

Therefore, extending duties should be effectively resourced from the Scottish Government.

Crisis said that **more clarity was needed on the definition of threatened with homelessness** to ensure that people are not turned away and to prevent variation in support around the country.

Engender said:

“...that the change to the assessment period does not address the lack of targeted action by local authorities and the Scottish Government to prevent homelessness for women. **Current provisions in Scotland are on the whole failing to cater to the needs of women and seldom delivered using a gender-sensitive approach.**”

The Bill also provides that local authorities should **assess housing support needs** and availability of services as part of their local housing strategy. The Housing Support Enabling Unit supported this duty. However, it said that it was unclear how this assessment would be linked in with the ask and act duty or provision of services. It also said that the proposed assessments should be linked with other relevant strategies and should be linked with strategic housing investment plans.

Other point on homelessness

Other points made included the need to **recognise and address the gendered differences in experiences of housing and homelessness**. Engender, for example, stated that legislation and policy on housing and homelessness have “been developed without proper acknowledgement of the impact of women’s social and economic inequality”. It argues that “**policies that seek to prevent women’s homelessness must take a broader approach to address gender and intersecting inequalities**”. For example, lack of access to employment opportunities and women’s higher likelihood of financial insecurity amongst other issues all have particular impacts on women’s risk and experiences of homelessness.

Crisis’s response noted that the Prevention Review Group made some specific recommendations to **strengthen the role of health and social care in homelessness work**. For example, to create a mechanism for co-ordinating support for people with complex needs requiring multiple services to avoid gaps or duplication in provision. It would welcome discussion as to the role of health and social care in supporting homelessness prevention beyond the ask and act duties.

Domestic abuse

Q12 asked “What are your views on the provisions in Part 5 of the Bill that relate to domestic abuse?”

In general, of those who commented, the proposals were welcomed. Some respondents mentioned that existing legislation, in particular the Domestic Abuse (Protection) Scotland Act 2021, must be implemented to make a difference too. In addition, other measures that could be undertaken were referred to. Both Scottish Women's Aid and the Scottish Women's Convention recommended that both Committees revisit the actions in the "Improving Housing Outcomes for Women and Children Experiencing Domestic Abuse" report.

Social landlords domestic abuse policy

The Bill proposes that social landlords must have a domestic abuse policy. Some comments from social landlords reflected the fact they already had policies in place or were reviewing them. Cats Protection recommends including a commitment in domestic abuse policies to offer them housing that allows them to keep their pets.

The Equality Network pointed out that, "It is essential that service providers are able to recognise domestic abuse in LGBTQIA+ relationships. While domestic abuse is faced disproportionately by women at the hands of men, thought needs to be given to the different ways it can manifest in the LGBTQIA+ community."

Pre-action requirements

The Bill proposes the introduction of a pre-action requirement to consider whether domestic abuse is a factor in social sector rent arrears cases.

Scottish Women's Aid welcomed this outlining the huge part that both financial and economic abuse play in terms of domestic abuse. It did suggest that, "The wording both in terms of landlords understanding what domestic abuse is and acting upon this, with knowledge and expertise, whilst avoiding risk, needs further work."

Shelter Scotland welcomed this provision, but suggested extending this to the private rented sector to strengthen the rights of all tenants and increase parity between the sectors. The Scottish Women's Convention also recommended that private landlords should be encouraged to take part in training, provided by local authorities, which includes spotting signs of domestic abuse and how to effectively support private tenants.

Mobile homes

There were relatively few responses to the proposals to change the assumption for pitch fee increases for mobile home sites by the CPI, rather than the RPI. Those who commented were generally supportive although not all respondents provided further information for their views. Scottish Borders Council, for example, said that this made 'logical sense'.

MEECOP also welcomed the measures hoping it would benefit members of the Gypsy/Traveller community but also stated:

“In terms of sites run by local authorities, we would also request that any uprating of mobile home pitch fees also does not exceed the percentage increase of council housing.

It should also be noted that not all pitches have the same available facilities. This should be considered as a priority before looking at fee structures as often these are below the Scottish Government’s minimum standards.”

ALACHO also stated:

“Whilst we are generally supportive of these provisions in relation to private sector sites we are concerned that the legislation hasn't fully kept pace with changes in the way public sector services for Gypsy/Travellers are provided.

In particular we note that a number of Councils now manage their Gypsy/Traveller housing services within the Housing Revenue Account and as part of the wider service offer for tenants. Placing a separate cap on rents for this community is at odds with the wider arrangements for rent setting in the social sector.

Rather than maintain separate provisions for this community our view is that it would be more appropriate to extend the consultation and engagement obligations that social landlords have towards those on a Scottish Secure Tenancy to include Gypsy/Travellers resident on a council or RSL owned site.”

Fuel poverty

One of the final questions in the call for views asked respondents for their views on the provisions in Part 6 of the Bill relating to fuel poverty. There were far fewer comments in response to this question than for some of the earlier questions in the call for views. The majority of those who responded shared the opinion of The City of Edinburgh Council, who noted that:

“The provisions in the Bill relating to fuel poverty appear to be relatively minor revisions that, as the Policy Memorandum sets out, do not represent a change in policy or direction.”

East Lothian Council’s submission was also broadly supportive of the proposals, stating that they:

“support the need for additional consultation if this improves outcomes and does not result in further delays. We are also supportive of the removal of the limit on financial resources Scottish Ministers may provide for the Scottish Fuel Poverty Advisory Panel.”

Other respondents were concerned that the Bill was a missed opportunity to address issues surrounding fuel poverty. Highland Council suggested that:

“The Bill fails to address existing fuel poverty issues and perhaps a separate focus is required to give this topic the attention it deserves.”

Living Rent expressed a similar view in its submission, commenting that:

“The Bill is a missed opportunity to address some of the structural causes of fuel poverty, specifically the poor energy efficiency of homes in Scotland and the ongoing lack of repairs, notably regarding mould and damp.”

Other comments on this part of the Bill focussed on the modification of section 7 of the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019, suggesting additional groups should be included as appropriate to consult when reviewing fuel poverty strategy:

“...we believe that direct mention of women would assist in creating an accurate picture of fuel poverty in Scotland. Women are often ‘shock-absorbers’ of poverty, actively struggling to ensure better outcomes for their children and families, regardless of their own personal wellbeing... Therefore, if child poverty targets are to be met, full consideration of women’s persistent burden must be made throughout poverty-related legislation.” (The Scottish Women's Convention)

“SLE feels that the list should also expressly include rural landlords who are key housing providers, particularly given the shortage of social sector housing.” (Scottish Land & Estates)

“We would argue that any change in the reporting and consultation requirements when it comes to fuel poverty look at the impacts faced by those from BME communities. For instance, many living on Gypsy/Traveller sites are not on mains gas supplies which can lead to increased fuel costs. This combined with lower incomes means members of the community are more likely to face fuel poverty.” (MECOPP)

Other issues

Respondents were finally asked for any additional comments.

Many respondents mentioned issues that they thought the Bill could or should deal with. Some of the more commonly mentioned issues included:

Enforcement/ access to justice issues: issues mentioned included:

- The need for advice and support for tenants to enforce their rights.
- Better enforcement by councils and others of existing legislation.
- The need for an independent regulator for private rented housing
- One respondent also mentioned the ‘biased’ Tribunal set up in cases that purely come down to “reasonableness” arguing

that it is unfair that a legal member (who may be a landlord themselves or have landlord clients) is tasked with deciding “reasonableness”. They suggested that it would be good idea to have another tribunal member whom has a background in ethics present during hearings and involved in decision making

Measures to improve housing quality in private rented homes. For example, Independent Age referred to a survey it carried out. It found that “almost 4 in 10 older people living in the private rented sector were not satisfied with the standard or quality of their home...damp, heating and energy efficiency problems were frequently mentioned by the older people who responded to our survey. Living Rent members suggested that: “Given the growing awareness of the consequences of some lack of repairs on tenants’ health (e.g. mould and damp), it is crucial that there are clear timeframes for repairs to be done”.

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