

# Living Rent submission

Housing to 2040 plan aims to provide a vision to the Scottish Government and Parliament's direction of travel regarding providing safe, secure, quality and affordable housing for everyone in Scotland. Key tenants of this vision are to ensure tenure-blind outcomes, that is, people regardless of their tenure have a right to a home, with decreasing levels of homelessness and housing insecurity across Scotland.

**We are concerned that the scale and severity of Scotland's housing crisis has failed to be recognised. Moreover, the measures suggested in Houis fail to properly address this and will do little to set Scotland's housing on the right path.**

With three council declaring local housing emergencies, and with this number set to grow, with rising homelessness in Scotland, with the government planning reporter overturning local decisions regarding planning, with tenants facing average new market rents for a 1-bed that are 55% to 68% of minimum wage in Glasgow and Edinburgh, and most of Scotland's housing stock is still to be retrofitted, high level intentions such as the Heat and Building Bill or insufficient proposals such as the New Deal for Tenants are just simply not good enough.

This review provides an opportunity to understand the scale of the crisis and to tighten the mechanisms to deliver the Housing to 2040 strategy. We hope that the Housing Committee and subsequently the Scottish Government can reflect on this feedback to improve their proposed measures and properly tackle Scotland's housing crisis.

## Key messages:

- **The government needs to use both greater regulations and greater supply of housing to tackle Scotland's housing emergency.**
- In terms of regulations, the government should introduce robust rent controls, which deliver genuinely affordable rents and good quality homes, as well as greater protections against evictions. The government must empower local authorities to deliver the housing that their residents want and need, whether that be through curbing short-term lets, reducing the number of second homes and ensuring that local developments genuinely reflect the needs of local residents. **This should be remedied by a new planning bill.**
- Despite evidence of the housing crisis facing Scotland, the government is proposing to cut the Affordable Housing Supply Programme (AHSP) budget by £196m, a reduction of 26% in the current Budget. This follows a 16% cut in the previous budget. The proposed reductions in the AHSP budget should be reversed and clear funding streams should be provided to build more social and council homes and buy back existing stock.
- There should be a greater emphasis on the delivery of this vision through municipal companies, such as creating local municipal retrofit companies, public owned energy companies or publicly owned transport companies.

## 1. Are we building enough homes or bringing enough homes back into use to meet Scotland's current and future housing needs?

Right now, Living Rent believes that there are not enough of the right homes being built and that local authorities and housing associations are not exercising their full powers and capacity to bring back homes into social/council housing stock. The Scottish Government is failing to deliver on its commitment that everyone has “access to a home that is affordable, and choices about where they live.” More specifically, we are extremely concerned by the cut to the funding for the provision of new social housing considered by the Scottish Government in 2024. This comes after another cut in 2023, and simply means that the overall target of 100 000 affordable homes **will not be achieved**.

As a reminder of the situation:

- A new poll has revealed 80% of adults in Scotland say the country is currently experiencing a housing crisis<sup>1</sup>
- **Private rents are simply unaffordable and private rented housing does not provide the type of housing people need.**
- Rents for a two bed increased 14.3% scotland-wide in the year to end September 2023, to reach an average of £841 per month<sup>2</sup> when the November 2023 inflation figures according to ONS) is 4.2%.<sup>3</sup>
  - In Lothian, rents rose by 18.4% to average £1192 per month.
  - In Greater Glasgow, rents rose by 22.3% to average £1050 per month
- Rents have increased above inflation across Scotland since 2010<sup>4</sup>, **with rent increases in particular areas being even more acute**, for instance in Greater Glasgow, rent increased by 86.2% and in Lothian, rents increased by 79.3%
- **The situation is even worse for new rents, or ‘open market rents’**
  - City-lets report (Q4 2023) shows that: In Edinburgh, rents rose by 82.8% on average (all properties), In Glasgow, rents rose by 91.7% on average (all properties). Two bed properties increased by 95.7%.<sup>5</sup>
- On average private tenants spend over 26% of their income on rent, though for poorer tenants (the 20% poorest tenants), this increases to almost 50%.<sup>6</sup>

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<sup>1</sup> Scottish Housing News, 08/02/2024

<https://www.scottishhousingnews.com/articles/eight-out-of-ten-scots-say-country-has-a-housing-crisis-sfha-poll-finds>

<sup>2</sup> Scot Gov 2023 publication

<https://www.gov.scot/publications/private-sector-rent-statistics-scotland-2010-to-2023/pages/1-bedroom-properties/>

<sup>3</sup> ONS, 2023 <https://www.ons.gov.uk/economy/inflationandpriceindices>

<sup>4</sup> Scot Gov 2023 publication

<https://www.gov.scot/publications/private-sector-rent-statistics-scotland-2010-to-2023/pages/1-bedroom-properties/>

<sup>5</sup> <https://www.citylets.co.uk/research/reports/pdf/Citylets-Quarterly-Report-Q4-2023.pdf>

<sup>6</sup> <https://www.gov.scot/publications/new-deal-tenants-draft-strategy-consultation-paper/pages/7/>

- Research by Admiral showed that more than two-thirds (67.5%) of people's budgets are too low to afford the average rental, i.e. the average rent for a single room in Scotland is £20 more than the average person's budget.<sup>7</sup>
- Research by the Chartered Institute for Housing found that up to 92% of the private rented sector in Scotland is unaffordable for those using Local Housing Allowance to pay rent.<sup>8</sup>
- The quality of homes is stagnating:
  - *In private rented housing:*
    - Repairs: 50% disrepair to critical elements (in 2019), 24% urgent disrepair<sup>9</sup>,
    - Energy efficiency: approx 60% EPC D or lower
    - Energy consumption from households is responsible for 16-20% of Scotland's Co2 emissions.
  - *In social housing:*
    - *Mould/damp issues* : higher than average condensation rates in Angus (16%), Dundee City (16%), East Lothian (15%) and Perth and Kinross (13%). The Sunday Post outlined that figures obtained from 22 councils detail 14,451 reports of mould or dampness in 2021-22 compared with 12,099 in 2020-2021, an increase of 19%.<sup>10</sup>
    - Scotland's largest social landlord, the Wheatley group estimates that 10-50% of homes are affected by damp, with this being more prevalent in social housing and low-income communities.
- Living Rent survey of tenants (500 responses) showed that:
  - 65% of respondent were worried about potentially being evicted post April 2024, highlighting that this worry had an impact on their mental health and how concerned they were regarding homelessness and their personal finances would they be evicted
  - 94% of respondents feared a rent increase, and 50% of respondents said the fear of a rent increase had a huge impact on their mental health
  - 60% of respondents said there were outstanding repairs in their home

Furthermore, we are concerned about the **growing reliance on private funding** to deliver housing. In our experience, private funding has concentrated on developing new Build-to-Rent and Purpose-Built-Student-Accommodation, which are not an affordable form of tenure, do not provide long term quality homes, and prevent the building of affordable housing development in prime locations for people to settle for the long term. These developments are mostly rejected by the local community and threaten people's ability to continue calling their neighbourhoods home.

Furthermore, **there needs to be more opportunities for local authorities and housing associations to buy housing stock back**, notably poor quality PRS housing, in order to increase its

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<sup>7</sup> Admiral: <https://www.admiral.com/home-insurance/rental-requirements#home>

<sup>8</sup> Chartered Institute of Housing

<https://housingevidence.ac.uk/news/92-of-scotlands-prs-now-unaffordable-for-people-claiming-benefits-study-finds/>

<sup>9</sup> <https://www.gov.scot/publications/scottish-house-condition-survey-2019-key-findings/pages/8/>

<sup>10</sup> <https://www.gov.scot/publications/scottish-house-condition-survey-2019-key-findings/pages/8/>

provision of social and council housing. This is also crucial in light of the retrofit challenges facing Scotland, to enable local authorities to implement a whole block retrofit approach. **Greater powers for RSLs to buy properties with sitting tenants should be considered and adequately funded by the Scottish Government.**

**Local authorities and housing associations should also be supported to repair and retrofit their existing stock.** For instance, in Edinburgh our members found that 1500 council properties lay empty, because Edinburgh City Council did not prioritise bringing these homes back into use.<sup>11</sup>

Finally, while there have been some welcome improvements regarding councils being able to raise council taxes on empty homes/second homes as well as greater regulation of short-term lets in the hope that such regulations would bring back more housing stock into long term use, we are concerned that such efforts do not go far enough. In the case of short-term lets, they fail to appropriately empower local authorities to reduce the number of short term lets, where needed. While giving the effort to allow local authorities to become a control zone, all this does is simply cap the number of existing short-term lets, and does not reduce the number where needed. **Due consideration should be given to the STL scheme to allow authorities greater powers, via reforms to the national planning system to reduce the number of STLs.**

In the case of tax on second homes, the proposed reviewed tax should be more clearly allocated to support the building of social housing in an area. Furthermore, short-term let landlords are still eligible for rate reliefs, a tax exemption that was meant for small businesses, not landlords who directly contribute to reducing the supply of homes. This tax relief scheme should be reviewed to stop incentivising short-term let landlords at the expense of long term homes. Overall, local revenue and its efficacy directly contributes to housing supply, and the government should review both NDRs and Council Tax.

## **2. Are we building homes with a focus on placemaking?**

Our members' experience is that the ambition of 'place-making' is not being achieved, because of the failure of the current planning framework to take into account the concerns and needs of local residents and a focus on developing unaffordable private rented housing.

Despite our members and local residents' attempts to be involved in the local development of their neighbourhoods (see case studies below), the government reporter has not listened to residents' considered objections. This has led to the approval of housing developments that bear little consideration on local amenities (GP practices, parking, shops, schools), do not provide the type of housing desired by local residents (affordable housing) and provide little compensation to local authorities to mitigate their negative impact, notably in terms of affordable housing.

### **Case study: The rise of PBSA: Save Jock's Lodge campaign and Tynecastle High School**

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<https://www.edinburghnews.scotsman.com/news/politics/council/edinburgh-council-homes-1500-vacant-council-homes-labelled-a-scandal-of-neglect-as-campaigners-protest-outside-city-chambers-4248323>

PBSA as a class of expensive housing that does not alleviate the student housing crisis we have seen starkly in Scottish cities over the past few years. It does not promote integration of students into communities and is unaffordable for the majority of students. The high density nature of these developments provides more strain on local services which are already stretched.

In Edinburgh, we have seen countless new PBSA developments over the last five years. And still, last autumn there was extremely difficult competition for student housing - showing that although there are more PBSA accommodation blocks, most students cannot afford their high prices and ultimately leaves them and other residents with fewer options. The status of PBSA as exempt from other rent measures such as the rent freeze or subsequent cap mean that developers profit while students are trapped in exploitative contracts and not protected by other rent measures compared to those in residential housing.

We have seen from our campaigns around the former Tynecastle High School in Edinburgh and Save Jock Lodge's campaign that even when communities voice considerable opposition to developments, the lack of community right to appeal means that developers are always favoured in comparison to local residents.

#### **Case study: Tynecastle High School**

After initial community consultation, the public made 233 objections leading to the council rejecting the proposed redevelopment of the landmark building into PBSA due to community feeling about the development, the large amount of PBSA nearby and environmental concerns. However this was then overturned by the government reporter, who stated that This was a good use of the historic building and they had not received other suitable applications for the land and failed to mention PBSA over saturation in the response. This shows the clear prioritisation of developers' profits, and until the reporter makes decisions that disincentive such applications they will continue, regardless of communities' engagement, feedback and needs.

#### **Case study: The Jock's Lodge Campaign and Outcome.**

After the initial community consultation with the developer for the site at Jock's Lodge to be demolished and replaced with a 198-bedroom PBSA, the Jock's Lodge Community Campaign identified eleven objection points in accordance with the LDP, which was sent out to a mailing list and utilised social media to engage with the wider community. The campaign group held two well attended local meetings to discuss the planning process and inform local residents how to engage with local planning policy in a meaningful way. Due to the work of the campaign, the initial application received over one thousand objections and a request for a Planning hearing was submitted by a local councillor.

A sub-committee hearing was accepted by City of Edinburgh Council Planning sub-committee and the campaign decided to focus on three key points to address at the hearing; the height of the building (policy Des 1 & 4), Impact on the character of Junction (Hou 3) and the issue of the local centre (Policy Ret 10 & Ret 5). Of the three points raised, the designation of the site in the LDP as a designated local centre was persuasive enough to see several questions raised by the sub-committee regarding the loss of 6 commercial properties to be replaced with one commercial

unit and a student common room area which the developer argued constituted “active frontage” as an adequate replacement for 6 units which would support local business trade. The campaign was also supported by three of the local councillors who all rejected the plans. The sub-committee decided to reject the proposal with a majority of seven to three and made a number of recommendations as to why the proposal should be rejected, which included the issue of the loss of the designated local centre as set out in LDP Policy Ret 5 (local centres).

The application was then submitted to the DPEA for appeal. The decision notice by the Reporter gave seventy-seven points in which they had come to the conclusion that the development should be granted. Many of which referred to the NPF4 which was used to supersede the LDP, in points of contention. The use of the NPF4 to supersede the LDP often runs counter to the NPF4s own rhetoric which claims to support and empower local communities and place significance on the importance of LDPs and LLPs in planning considerations. In particular with reference to the issue of the loss of a designated local centre, the Reporter acknowledges both the community and council objections to the conflict found in policy Ret 5. However, though the Reporter acknowledges that this loss is ‘clearly regrettable’ and that it is a ‘negative aspect’ of the proposal, it concludes that a ‘purpose built’ unit has the potential to have a positive impact’ and suggests that a suitable replacement for the local centre is ‘a public piece of art.’ While the piece of art proposed is in-keeping with the history of the area, the assessment that one retail unit and a piece of art is an appropriate substitute for a designated local centre can be seen as a highly subjective interpretation of both the LDP and the NPF4.

The campaign, local counsellors and the sub-committee all utilised the LDP as required to address the community concerns around this development. However, these concerns were superseded by the use of the NPF4 which in itself is highly open to interpretation and contains no guidance on appeals.

### **Solution: Review of NPF4 regarding the appeal process**

The NPF4 states that ‘we want our future places to work for everyone. Rather than compromise or trade-offs between environmental, social, and economic objectives, this is an integrated strategy to bring together cross-cutting priorities and achieve sustainable development.’<sup>12</sup> Furthermore, the NPF4 repeatedly recognises that ‘everyone must have the opportunity to help shape their local neighbourhoods’ and that the plan should ensure that communities are ‘inclusive, empowered, resilient, and safe.’ One of the ways in which the NPF4 reports it will achieve these measures is by continuing ‘to work to broaden involvement in the planning system as a whole’ and recognises that ‘people can find it more challenging to engage with planning.’ However, while the NPF4 references these concerns within communities regarding planning, the document falls short of specifically addressing any of these issues directly in the document or in any of the annexes attached. **In practice, communities are not able to shape their local neighbourhood despite their best efforts.**

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<sup>12</sup> All NPF4 quotes taken from <https://www.gov.scot/publications/national-planning-framework-4/pages/2/>

The Scottish Government commissioned an Independent Review of the Scottish Planning System in 2016 which highlighted a number of issues relating specifically to ‘Collaboration rather than Conflict – Inclusion and Empowerment.’<sup>13</sup> Beveridge, Biberbach, and Hamilton acknowledged several issues with regards to the role of the Reporter in the appeals process,<sup>14</sup> as well as highlighting significant concerns regarding community trust in the planning system itself.<sup>15</sup>

The document recommends that ‘a working group should be established to identify barriers to greater involvement in planning taking account of measures contained in the Community Empowerment Act and the Land Reform Act.’<sup>16</sup> However, the NPF4 makes no reference within the policy to address any of the concerns raised within the consultation around inclusion and empowerment in communities despite it making several references to community inclusion throughout the document.

Though it may be argued that this is not a concern at Government level and that community engagement should be empowered at a local level through engagement with LDPs and LLPs, the fact that the Reporter is able to interpret LDPs in-line with the NPF4 framework and *still* over-turn local Council planning decisions suggests that any future NFP must contain a framework addressing the concerns raised in the independent review around the role of the Reporter and community engagement. As Tahl Kaminer has shown, ‘Reporters can question, contradict, and in effect, bypass the policies of local government’, thus while local authorities are operating within the scope of the LDP, the Reporter is able to ‘adapt policies in accordance with their findings, argumentations, and verdicts.’<sup>17</sup> It is due to this fact that the current NPF4 does not go far enough to support community empowerment in planning and why any future NPF must address the issues raised in the independent review especially around the issue of the appeals process.

### **3. Are we creating and sustaining a mix of housing that is financially and physically accessible to all?**

As shared above, we see most cities in Scotland give the go ahead to new developments that are profit based and do not respond to the needs of local residents.

As said above, the NPF4 framework does not provide sufficient power to local residents. Furthermore, not all local authorities are not applying NPF4. For instance, Glasgow City Council doesn't have a minimum 25% affordable housing policy for new builds, despite this being in NPF4 and this technically needing to override the council's LDP. If the Scottish Government is serious

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<sup>13</sup> Crawford Beveridge, Petra Biberbach and John Hamilton, “Empowering planning to deliver great places”, *Independent Review of the Scottish Planning system* (2016), 2.1.6.

<https://www.gov.scot/publications/empowering-planning-to-deliver-great-places/>

<sup>14</sup> *Ibid*, 3.10, 11, and 12.

<sup>15</sup> *Ibid*, section 8.

<sup>16</sup> *Ibid*, recommendation 47.

<sup>17</sup> Tahl Kaminer, “Democracy and informal policy making: Planning Appeals in Scotland”, *Town Planning Review* 90 (2019), 81-98, at 95.

about creating a mix of housing, then local authorities should abide by the minimum percentage requirements to ensure new builds provide social and council housing.

**Alongside a view to the supply of new housing, the Housing to 2040 ambition of ‘creating and sustaining a mix of housing that is financially and physically accessible to all’ needs to rely on stronger regulation of existing housing, notably through rent controls, greater security of tenure and greater rights for tenants, as well as better standards of housing quality.**

Regarding regulation, our submission examines both the interim changes suggested to rent adjudication as well as the longer term plans regarding rent controls.

### ***Interim rent adjudication changes***

Regarding the proposed measures to transition away from the rent cap, we believe that the proposed measures will not provide sufficient protections for three main reasons. Firstly because they enshrine unaffordable open market rent as the goal and do not tackle in-between tenancy rent increases. Secondly, they do not link rent to housing quality. Thirdly they fail to protect tenants from evictions during the process.

Specifically, we believe that:

- Rent adjudication, as currently suggested, does not tackle the security questions and the end of the eviction ban. Tenants need to feel confident to contest rent increases without fearing evictions. We have seen a rise in the number of tenants coming to the union with stories of having ‘accepted’ an eviction only to see their previous home back on the market within one or two months at an increased rent.
- Rent adjudication as suggested relies on open market rents, which are widely inflated (see above) and beyond what people can afford. Open market rents further are vulnerable to ‘brokering actors’, notably letting agents which are increasingly in control of the rental market in large cities and can push rents to higher levels. Furthermore open market rents are by nature higher than existing rents and a focus on open market rents will put an inflationary pressure on rents.
- Rent adjudication requires an understanding of open market rent determination for which there is no public and unbiased record. There is broad consensus for the need for a rigorous database of rent levels since 2015. Yet, this database has still failed to materialise.
- The process does not penalise landlords for ‘chancing’ unaffordable and technically not allowed rent increases, which means that the burden of process, proof and conflict fall on tenants, the weaker party.
- The rent adjudication system as suggested does not have an element of discretion to understand and account for the various situations that people are in such as family circumstances, changing benefits etc.
- The rent adjudication process suggested does not take into account quality, meaning that rent increases do not reflect potential improvements in the quality of the home. This means that landlords can continue to increase rents despite the property failing energy requirements (EPC D or below).

- The rent adjudication process requires a high level of tenants' awareness and support to go through a process that is stressful and can feel onerous in terms of the unequal relationship with their landlords. There seems to be few support mechanisms for tenants to understand their rights and know how to exercise them through Rent Service Scotland.
- The time limit to apply for rent adjudication is very short, given the potential impact on tenants. Tenants should have at least 1 month notice, and ability to refer to rent adjudication. In order for tenants to know that they can refer a rent increase to a rent officer there should be mandatory guidance that landlords be required to provide their tenants. Failure to provide this guidance should render a rent increase void and landlords should be penalised for failing to respect the process.

**The below case studies shows some instances of how rent increases have handled already and highlight our concern that this will become worse:**

One PRS tenant, Dundee: 'I was harassed by the landlord for declining an illegal rent increase. I was served notice to leave 4 months after standing up.'

Three PRS tenants, Edinburgh: A notice to leave was served to the tenants in March 2023 stating the landlord's intent to move into the property. However the property was re-listed and leased with a rent increase of 40%. The notice to quit forced the tenants to move out. This sudden move necessitated moving into a more expensive property to avoid homelessness.

One PRS tenant, Edinburgh: A PRS tenant, a 29-year-old student, was told by their landlord that they were planning to sell. The tenant was at the same time 'offered' a £300-a-month increase. The landlord has since not agreed to speak to the tenant, and continued to pressure these two options. "She's called 10 times in the past 24 hours but she won't answer on email because she knows what she's doing is a bit sketchy. It's just really stressful."

***Permanent rent controls and long term legislation***

**We are concerned that current plans for rent controls don't go far enough.**

We are pleased to see that the proposals are considering rent controls to cover both within and between tenancy controls. However, we are concerned that they do not take quality into consideration when setting the rent. We strongly believe that the proposal of rent controls should cover all types of tenure, notably PBSA and BtR, in order to ensure that these forms of development are not favoured at the expense of more affordable and needed forms of private housing. Regarding other sections of the new housing Bill, we are concerned that there is little consideration to improving tenants' rights regarding eviction and security of tenure, notably for joint tenants and regarding the grounds for eviction. We are keen to discuss this more with the Parliament committee as this Bill is proposed and progresses through Parliament.

**4. Are we building homes and retrofitting existing homes to provide for affordable warmth and zero emissions?**

Regarding the building of new homes, we do not have enough experience regarding this.

Regarding the retrofitting of existing homes, **we believe that retrofits should prioritise a fabric first approach** instead of a tick box one based notably on decarbonised heating. Furthermore, we are concerned that this aspect of the Housing to 2040 is being delayed and provides little practical implementation routes, that is even when tenants or homeowners are keen to implement retrofits.

Regarding retrofit schemes, in our experience:

- Area based schemes are under utilised. An investigation showed that half of the funding provided has yet to be used. Furthermore when they are used, they can lead to complex trade offs in mixed tenure blocks. Councils should be empowered to support homeowners and private tenants in the block to stay in their home, notably through zero interest loans and buying properties with sitting tenants.
- Social landlords are struggling to access the funding for retrofit<sup>18</sup> and instead, our members fear that they will resort to imposing unaffordable rent increases on their tenants.
- Private landlords might resort to 'renoevictions' to retrofit the properties they own and then increase rent levels. Such practice should be stopped by providing greater protections against eviction.

We will provide greater case studies to the committee on this on the day.

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<sup>18</sup> <https://www.ciob.org/news/new-report-on-social-housing-retrofit-in-scotland>