

# **Rented Sector Reform: Landlord and Tenant Engagement**

## **Analysis of email responses**

**Analysis report**

**March 2024**

This short report presents an analysis of the 123 email submissions sent to the Scottish Government in connection with the [Landlord and Tenant Engagement Questionnaire](#) on rented sector reform.

## Summary of themes raised

Key themes to emerge from the analysis were that:

- There were concerns that the Landlord and Tenant Engagement Questionnaire had not allowed respondents to provide further argument or information or to express disagreement with an overall policy direction.
- Many of those commenting, including most of those who identified themselves as private landlords, noted their opposition to the introduction of rent controls. This tended to be connected to private landlords choosing to leave the sector and to shortages exacerbating rent inflation.
- The proposals on ending joint tenancies were seen as positive in helping to sustain tenancies. However, there was a concern that there is no consideration for remaining tenants, notably regarding the right to swap tenants in.
- Most of those commenting on personalising a home supported the overall direction of the proposals, but saw it as unnecessary to put the right to request changes into law.

In relation to greater protections during the eviction process, points made included that such measures are not necessary as the Tribunal already can, and does, delay evictions when they consider it necessary. An alternative perspective was that any measures that create greater breathing space for tenants are a good first step, alongside measures to help people sustain their tenancies.

## Landlord and Tenant Engagement Questionnaire

The Scottish Government's Landlord and Tenant Questionnaire opened on 29 September and closed on 27 October. It asked 36 closed questions, seeking respondents' views on a range of issues, including rent controls, ending joint tenancies, flexibility to personalise a home, keeping pets and greater protections during the evictions process. A total of 6,650 responses were available for analysis. The Scottish Government also held two discussion groups, one with the PRS Stakeholder Engagement Group<sup>1</sup> and the other with members of Propertymark (a membership body for property agents).

The [Landlord and Tenant Engagement Questionnaire analysis report](#) sets out a question-by-question analysis of responses to the questionnaire, which asked closed questions only. This was raised as a concern by some of those attending the stakeholder discussion groups and was also raised in a number of the email submissions received.

---

<sup>1</sup> This group includes representatives from the PRS, tenant unions, the housing sector and the third sector.

## Source of email submissions

Although the Scottish Government did not issue a general public invitation to provide further comments, a number of respondents used the email address connected to the questionnaire to make a written submission. Some of these respondents had made an enquiry of the Scottish Government and had been directed to the relevant email address, others had not made prior contact. Some of the emails addressed specific questions from the questionnaire, but most made general observations or addressed one of the issues covered (generally rent control).

A total of 123 email submissions have been analysed and summary findings are set out below. It is important to note, however, that the submissions received cannot in any way be taken as representative of a broader position or a particular group but are the views of those who made a direct submission to the Scottish Government through this route. Please note also that, in the absence of completed Respondent Information Forms of the type usually used for public consultations, all responses have been treated as confidential.

The submissions varied in structure in length, from relatively brief single statements through to sometimes detailed comments at many of the questions set out in the questionnaire. While a summary analysis is presented here, all comments are available to the relevant policy team at the Scottish Government.

The remainder of this report sets out a profile of respondents and summarises views on the format of the main Landlord and Tenants Engagement questionnaire. It then moves on to cover rent control and finally a range of other themes covered in the questionnaire (Ending assured and short assured tenancies, ending joint tenancies, personalising a home, keeping pets etc).

## Profile of email respondents

As noted above, 123 respondents emailed the Scottish Government with comments connected to the proposals covered in the questionnaire. Of these, 41 respondents reported that they had also completed the questionnaire via Citizen Space i.e. had also answered the closed questions. The remaining respondents either noted that they were not completing the questionnaire, or it is not known if they completed the questionnaire. A small number of those making a submission noted that they had attended one or other of the two stakeholder discussion groups held (see the [Landlord and Tenant Engagement Questionnaire analysis report](#)).

A number of the email respondents (around 30) referenced that the comments were submitted on behalf of an organisation. They included private landlords, letting agents and property managers, representative bodies for the private rented sector or the wider housing sector, third sector organisations, campaign groups, unions and local authorities. The remaining responses appeared to come primarily from individual members of the public.

Around 55 email respondents (some of whom referred to being an organisation and some of whom did not) noted that they are a private landlord and/or a letting agent or property manager for private landlords.

As noted above, given that there was no formal request for comment from the Scottish Government, and that only a small number of submissions were received (overall and from any particular type of respondent), the views expressed cannot be taken as representative of any group.

## **Views on the format of the questionnaire**

Concerns were raised about the structure of the questionnaire and, in particular, about the use of closed questions only. They included that the approach did not allow respondents to:

- Explain their reasoning or provide further argument or information in support of their position.
- Reject or express disagreement with an overall policy direction.
- Challenge the arguments and information set out in the paper accompanying the questionnaire.

The last two points were sometimes connected to a view that the paper, questions and/or the overall policy direction are biased against private landlords.

## **Views on rent control**

In terms of a particular policy area, respondents were most likely to comment on rent controls, with around 3 in 5 raising the issue. The considerable majority of those (around 9 in 10), including most of those who identified themselves as private landlords, noted their opposition to the introduction of rent controls. Among the more frequently expressed views:

- Respondents felt the introduction of rent controls was already leading to landlords exiting the sector, and that this trend will continue. Some of those making this point reported that they themselves are planning to divest themselves of private rental properties and cease operating as a private landlord.
- Respondents stated that since rent caps have been introduced, private rents in Scotland have risen faster than anywhere else in the UK; it was felt that the decision to pursue a policy of rent control fails to address the shortage of rental housing, and that this shortage is exacerbating rent inflation.

Other less frequently raised concerns included that there will be very little incentive to improve properties if the rent cannot be significantly increased. There was also reference to stifling investment in new, better quality, more efficient rental housing and in renovating and decarbonising existing rental housing.

In addition, it was argued that there has been no consultation on the type and nature of any controls, or any examination of the options available, and it was suggested that there is a dearth of information on how rent controls would work in practice. For example, it was observed that the questionnaire asks respondents to select a preference for local or national rent control, yet no information is provided as to the data on which Scottish Ministers or Local Authorities would be basing their decisions.

Issues raised about Mid Market Rent (MMR) properties included concerns related to capturing this tenure type within a PRS rent control framework given the funding mechanisms in place for these properties, the existing rent protection mechanisms, and the social good that these properties provide in the areas in which they have been built. There was also a suggestion that if MMR is not exempt from rent control measures, then a specific approach/ formula will need to be devised for these properties.

In terms of how any future rent control policy (were it to go ahead) should be framed, suggestions included that:

- Any new legislation should enable an initial re-setting of an appropriate rental baseline from which to control rent increases in the future.
- There needs to be some way of setting the rent on a new-to-market property; one option that exists in England, albeit it is rarely used, is to give the tenant the ability to challenge the initial rent, which the Private Rented Housing Tribunal can assess in comparison with similar properties nearby.
- There should be a national limit on in-tenancy rises and local control over between-tenancy rises.
- There could be an exception where a landlord has made significant improvements to a property between leases, or where a landlord and sitting tenant have agreed on making an improvement during a lease on the understanding that it will lead to a greater rental increase.

While the considerable majority of those commenting on rent controls clearly noted their opposition to the proposals, other email respondents expressed support for the general policy direction or made general observations. These observations included that we need a universal system, with the twin aims of improving quality and affordability, but that there should be local aspects in order to reflect local conditions and realities.

However, there were concerns about the amount of work that will fall to local authorities, for example in applying to become a rent control area and then implementing the approach and ensuring that tenants know a rent control area is in place. On a similar theme, it was suggested that additional local authority resources will be required where a decision is made to proceed with an assessment of their area and if there is a mandatory requirement to re-assess rent conditions on a regular basis.

Other points made included that:

- The Cost of Living (Tenant Protection) (Scotland) Act 2022 (CoLA) temporary rent cap measures allowed for unfortunate loopholes that have left a significant proportion of tenants facing rent increases higher than the cap set. This needs to be tightened.
- An accurate picture of rent inflation/deflation or affordability will be needed to implement any form of rent control effectively and to monitor the impact.

There was also a concern that the period between the end of the CoLA rent cap and the introduction of rent control could lead to a wave of evictions and rent increases. There were associated calls for the rent adjudication system to be reformed, including for rent

increases to be measured in terms of inflation, or a set number linked to government inflation targets, rather than in relation to open market rent.

## **Views on other themes covered in the questionnaire**

### **Ending assured and short assured tenancies**

Comments in support of phasing out Assured and Short Assured tenancies generally focused on a lack of clarity and it not making sense for tenants to have different legal rights, putting some at a disadvantage. If these tenancies are being ended, it was suggested that:

- The Scottish Government should review the scope and flexibility of the Private Rented Tenancy (PRT) in order to support certain employment practices.
- Special consideration must be given to any changes to contracts in terms of rent and that, with respect to of rent levels, a change to a PRT should not be classed as a new tenancy.

However, there was also a view that, even if it is possible to phase out Assured and Short Assured tenancies, this appears to be an unnecessary proposal and designed purely to sweep up tenancy agreements that have terms that might exempt them from the forthcoming legislation.

### **Ending a joint tenancy**

Reasons given for being broadly supportive of the proposed changes included that they are positive steps towards helping support tenants and sustain tenancies. For example, it was reported that, from a homeless prevention perspective, two-months notice would allow services time to assist the remaining tenant to stay in the home.

However, there was a concern that there is no consideration for remaining tenants, notably regarding the right to swap tenants in. It was suggested that remaining tenants should have a 'first right' to swap in a tenant with landlords having to accept it, unless they can justify why. There were also some concerns about whether the proposed two-month period would be practical; an example given was that a joint tenant wishing to leave to relocate for employment purposes may not have the funds to pay for a move while continuing to pay rent in their existing tenancy if their joint tenant(s) do not agree to the termination of the joint tenancy.

An alternative perspective was that, rather than a set notice period, the timescales should be negotiated by all parties before the commencement of the tenancy in order to strike the right balance between flexibility and security of tenure for all. Other suggestions included that tenancies where all occupiers are students should be on a fixed term lease.

Finally, concern was noted that the questionnaire and paper do not refer to the proposals from the initial New Deal for Tenants consultation regarding protections for tenants experiencing domestic abuse in the PRS; it was hoped that measures are to be included but are simply not being consulted on at this time. It was stressed that specific consideration must be given for those who need to flee a tenancy due to domestic abuse or commercial sexual exploitation reasons; this should apply to both the notice period and rent liability.

## **Greater flexibility to personalise a home**

In addition to some general comments that the proposals seem reasonable, email respondents made a number of suggestions as to how any changes could be taken forward. These included that:

- There will need to be clear guidance on different categories of changes and what “reasonable” changes would and should not require consent.
- Any penalties should be proportionate to the cost of remedial works.
- Given that they tend to be for different timeframes, the approach should differentiate between furnished and unfurnished lettings.

Concerns or queries raised included that there may be issues in applying a greater deposit as suggested if, for example, the landlord had already required the maximum two months’ deposit allowed; it is not clear whether an additional deposit would be separate and therefore require an update to legislation.

Although most of those commenting on personalisation supported the overall direction of the proposals, they generally saw it as unnecessary to put this right of request into law; it was reported that tenants can already ask to make changes and undertake them with the landlord’s consent, which is usually granted on the basis that the property is returned to its original condition at the end of the tenancy, notwithstanding fair wear and tear.

## **Keeping a pet**

It was noted that the Model Scottish Secure Tenancy, which sets out the rights and responsibilities for social rented tenants, includes a clause on keeping pets; it was suggested that an aligned approach would seem reasonable. Other comments included that any proposals should take account of the type of pet, its welfare, the location of the property, the nature and occupancy of neighbouring dwellings and the nature of businesses operating around the subject property. Other suggestions included that:

- Definitions of “pet” and the relevant guidance must be clear.
- Any provision should give landlords appropriate recourse in the event that the pet is causing nuisance or damage.
- The Scottish Government should work with the insurance industry to deliver policies that cover the most common forms of pet damage at affordable prices.

There was also a query about how any measures would be enforced and what the resource implications would be.

## **Greater protections during the eviction process**

Points made by those noting they did not agree with greater protections being introduced for the PRS included that they are not necessary as the Tribunal already can and does delay evictions when they consider it necessary in a particular case. It was also noted that existing protections are in place within the social rented sector to ensure court/eviction action is used as a last resort, with the focus very much being on prevention.

An alternative perspective was that any measures that create greater breathing space for tenants are a good first step, alongside measures to help people sustain their tenancies and avoid becoming homeless. There was a call for such measures to be further supported by reviewing eviction grounds and by providing greater support and better rules for tenants to contest the abuse of grounds for evictions.

### **Pre-action requirements in the Social Rented Sector**

This proposal was described as a simple step to reduce the enormous stress and anxiety that victims of domestic violence are already facing.

However, there was also a concern that that proposals to consider financial abuse in pre-action protocols may increase risk to victim/survivors; it was suggested that such cases need a sensitive and trauma informed approach, including support from specialist agencies such as Women's Aid, to ensure that victims/survivors are not put in further risk. There was a view that a new or specific pre-action requirement relating to domestic abuse is not needed, as there are already robust processes in place for social rented landlords dealing with rent arrears.

### **Other issues raised**

**Equalities:** It was reported that members of the LGBTI+ community disproportionately live in rented accommodation and, as a result, are disproportionately affected by issues such as high and ever-increasing rents, poor quality of housing, and the uncertainty and instability of tenancy. Given the heightened risks that LGBTI+ people face, it was seen as imperative that measures are enacted to protect the community.

**Purpose-Built Student Accommodation (PBSA):** In connection with PBSA, it was noted that the 'A New Deal for Tenants: Draft Rented Sector Strategy' consultation sought views on whether students living in PBSA should be offered similar rights to students who rent from a private landlord and have a PRT. There was a concern that no certainty has been provided that PBSA will continue to be exempted from the PRT (as is currently the case). Reasons given for supporting a continued exemption included that there is a significant undersupply of student accommodation and that introducing extra controls, including rent controls, will discourage additional PBSA development in Scotland as operators will seek locations elsewhere where there are fewer restrictions.





© Crown copyright 2024



This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [www.gov.scot](http://www.gov.scot)

Any enquiries regarding this publication should be sent to us at

The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-83601-002-9 (web only)

Published by The Scottish Government, March 2024

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS1424854 (03/24)

W W W . g o v . s c o t