

# CONSULTATION RESPONSE: A NEW DEAL FOR TENANTS

This response was submitted as part of the government's 2022 consultation on the draft [A New Deal for Tenants - rented sector strategy](#), which seeks to improve accessibility, affordability choices and standards across the whole rented sector in Scotland.

## ENSURING TENANTS' VOICES ARE HEARD WITH AN EQUALITIES LED APPROACH

### 1 What particular barriers do people with protected characteristics face in their experience of the rented sector?

Those with intersectional marginality are [over-represented in the homeless population](#). Those experiencing homelessness and on low incomes are less likely to be able to save for a deposit and advanced rental, may be less aware of their rights and responsibilities, and have decreased advocacy skills as a result. People with protected characteristics regularly face additional barriers in accessing rented sector.

We know from [research](#), and the individual cases of people whom we work with, that prejudice and discriminatory attitudes are still present in Scotland. People from Black, Asian and Minority Ethnic (BAME) groups are more likely to be living in poverty, but are known to be asked for additional evidence such as proof of income by landlords. Despite it being illegal to discriminate on the grounds of ethnicity, it is very difficult to challenge landlord discretion, and [these attitudes and barriers still exist](#), with the Right to Rent scheme [further exacerbating this](#). Brexit and the EU Settlement Scheme may also have made things worse for some people, with additional paperwork seen as a barrier by some landlords.

People who identify as LGBTQI+ also face [additional barriers to renting](#), as well as being over-represented in the homeless population. Disclosing their identity may make them feel more vulnerable.

People with disabilities face an additional cost of [£583 per month in living costs](#) but are twice as likely to be unemployed, and [more likely to have experienced homelessness](#), and may need adaptations to their housing, which could also be a barrier. This is also true of older people, who may struggle with online systems and may need additional support in accessing the PRS.

[Women are at higher risk of becoming homeless](#) due to prevalence of child-care and domestic responsibilities, income disparity, discrimination and higher levels of domestic abuse.

For the many Roma families who are accommodated in the private rented sector, their accommodation is often unaffordable, over-crowded and poor quality. This is combined with much confusion regarding the rights and entitlements to social housing and homelessness assistance amongst families but also within local authorities, exacerbated by Brexit.

We would recommend that an Equality Impact Assessment be undertaken (if it has not already) to ascertain if these proposals will adversely impact on particular groups.

**2. Do you have any suggestions for how we can better meaningfully embed tenant participation within the private rented sector, including for people with protected characteristics, in national and local policy/decision making?**

Work needs to be done to ensure that tenant forums are diversified, as they can accidentally exclude groups of people. Assertive outreach within communities may assist with this as would offering a variety of ways to contribute: online, in-person and paper-based. Consideration should also be given to offering childcare, interpreters, refreshments and reimbursement of any expenses incurred (which may include payment of time).

There should be more support for initiating community councils and development trusts. These have worked well in smaller villages by giving the community a voice and control over decision-making.

Working more closely with current tenants' unions and tenants/residents' associations. Councillors could attend these to answer questions and take forward proposals and ideas instigated by the community.

**3. What are your views on the future role tenants' unions could have in supporting tenants to actively participate in decision-making at a national and local level in Scotland?**

Tenants' unions have the potential to increase awareness of the rights and responsibilities of tenants. This needs to be done in a meaningful way to diversify attendance e.g. by offering childcare, interpreters, refreshments and reimbursement of any expenses incurred (which may include payment of time). There are already organisations doing impactful work in this area e.g. Living Rent. Again, a variety of ways to contribute should be open: online, in-person and paper-based.

**4. How best can we ensure people are aware of their rights and how to exercise them**

- Education in schools, colleges & universities
- Awareness-raising campaigning on an ongoing basis
- Funding of PRS access, mediation and information schemes with dedicated knowledgeable workers In-depth training to all frontline workers
- More support when moving into tenancies and ongoing, particularly when issues arise
- Training for landlords and encouraging good communication between them and their tenants

## ENHANCING RIGHTS WITHIN THE EXISTING TENANCY FRAMEWORK

**5. After 4 years of the Private Residential Tenancy being in place, how well do you think the 18 grounds for eviction are working? Is there anything that you would like to see changed?**

We have concerns that the length of time it may take to be evicted under ground 12. Rent arrears may negatively impact tenants in the PRS unless timely support is given to prevent situations escalating. Allowing rent arrears to accrue places tenants in more debt, which may affect their chances of securing a follow-on tenancy. Ideally, as soon as a tenant is in financial difficulties, they would receive support to rectify this. However, more support should be available in general once people are housed, not only when there is a risk of eviction. This is particularly true when tenants' visitors may put them at risk of eviction due to anti-social behaviour, so more support should be given where appropriate to help people "gatekeep" once they get a tenancy.

**[Q6 Not answered]**

**7. Do you have any views on our proposal to clarify the original policy intention in relation to the use of ground 6 for ending a tenancy ('Landlord intends to use for non-residential purpose') - to make clear that this eviction ground cannot be used to evict a tenant in order to use the property as a short term holiday let?**

The levels of short-term lets are extremely problematic in areas such as Edinburgh, where there is already a huge demand for housing. The new registration scheme may mitigate this to some extent, but further intervention is necessary to curtail this rise. We believe that ground 6 – landlord intends to use for non-residential purpose should be clarified so that landlords are unable to evict tenants to use the property for a more lucrative short-term let purpose.

**8. What further refinements could be made to either the private rented or social rented sector pre-action requirements in order to further protect and support tenants?**

We need to work against the "tenancy ready" culture. We have worked with people who have experienced long-term homelessness, who after gaining a tenancy are evicted, and then are bypassed for future housing. More support should be provided to people once they secure a tenancy to limit the risks of eviction.

Communication and good relationships with housing officers are key. Tenants need to feel that the landlords care and are not looking for an excuse to evict them.

We would welcome any protection for tenants from illegal or immoral evictions. When this has been the case, we would support landlords not being able to register the following year, and an extension of this should be that they can also not register for short-term lets.

**[Q9-13 not answered]**

**14. Should we introduce a similar ground to that in the social sector to enable private landlords to initiate eviction proceedings to end a perpetrator's interest in a joint tenancy and transfer the tenancy to a tenant who was subject to domestic abuse, allowing the victim/survivor to remain in the family home where they wish to do so?**

**Yes**

We would agree to change the PRS ground to be in-line with the social sector. This is notwithstanding that the victim may not want to remain in the family home, so there should be no unintended consequence of victims feeling obliged to remain in a property where they may not feel safe and secure.

**15. Unlike the social rented sector, private rented sector housing cases are heard by the Tribunal. What are your views on the Tribunal's role being expanded to consider transfer of tenancy in relation to cases of domestic abuse?**

Adequate training and support would need to be given if the Tribunal's role is extended, to ensure that victims are not further traumatised by the experience. This would include further support given to landlords. More funding should be provided to services supporting domestic abuse victims, along with training in any new legal procedures so that they are adequately equipped to support those who have experiences of domestic abuse.

**16. Should we streamline the eviction process (remove the discretion of the Tribunal), where there has been a criminal conviction punishable by imprisonment in the previous 12 months relating to abuse of another person living with them in the let property (joint tenant or co-habitee)?**

**Yes**

If a court has already made a decision to convict, then putting a victim through further scrutiny should not be necessary and would not be ethical, so we would support a streamlined process. That being said, it is crucial that the victim knows their rights during this process and does not feel under any pressure to remain in the tenancy if they are unhappy to do so.

**17. How can we help improve the immediate and longer term housing outcomes of domestic abuse victims living in the private rented sector?**

By offering more funding to services who are already doing great work in this area.

Offering ongoing support to those who have past experiences of domestic abuse, as there are life-long repercussions. Support should not be for a fixed time period.

**18. If unclaimed tenancy deposits were to be reinvested, do you agree that the period after which the funds would be available for reinvestment should be: i. after all avenues to reunite deposits with their tenants have been exhausted, and ii. after a period of 5 years?**

There should be a set period of time, perhaps not as long as 5 years. As the lengths that organisations may go to reunite deposits may vary, there needs to be safeguards in place. This may include a clear framework and criteria for attempts at contact.

At the point of lodging a deposit, the tenant could also be able to indicate where they would want the deposit to go to in such an event that they are uncontactable, such as a homeless charity supporting people into the private rented sector. It should be made clear the timeframe in which the deposits will be diverted.

## **GREATER FLEXIBILITY TO PERSONALISE A RENTED HOME**

**19. How could a right to keep pets be most effectively introduced for the private sector, for example by the introduction of a statutory right or by amendment to the Model Tenancy Agreement, and should exceptions be allowed?**

We agree that the Model Private Residential Tenancy Agreement should be amended to make keeping a pet the default position, with the landlord having to object in writing within a set time period.

Awareness-raising over the positive health and wellbeing effects of having a pet, which will in turn increase tenancy sustainment and satisfaction. Deposits are held in the event of deep-cleaning or maintenance work needing to be actioned at the end of a tenancy, so this should offset most damage that may be caused by pets.

Potentially some research into the cost and benefits of allowing pets versus not allowing may assist in this. An exception to this could be when title deeds dictate no pets in the property.

**[Q20 Not Answered]**

**21. How could the right to personalise a privately rented home be most effectively introduced for the sector and what is an acceptable definition of personalisation? For example, should the property be returned to the original state by the tenant where there is no explicit agreement between the tenant and landlord?**

For those living in the PRS, the property is their home, so we believe that tenants should be able to decorate. This will increase mental wellbeing as well as feelings of choice and control. The ability to personalise a tenancy may also make tenants take better care of the property as they will feel more ownership over it and not feel like they are living in someone else's home. Personalisation may well improve tenancy sustainment outcomes. People living in temporary supported accommodation can often personalise their rooms, but not have this choice when moving-on into the PRS.

More support provided to tenants could help them to advocate for changes to private lets to make them more personal. Landlord/tenant mediation services or a separate adjudicator could help with this. Putting some flexibility in tenancy agreements to allow for personalisation i.e. colour schemes that can be used, the ability to put pictures up if no damage is left behind etc.

The state of the property when tenant moves in should be considered i.e. if it has not been painted since the last tenant left and is looking worn, then the tenant should be able to update this. If a property is personalised to the extent that it will be difficult to re-let, then the tenant could agree to put it back to its original state.

**[Q22 Not Answered]**

**23. Is there a need to review how a private landlord can be protected against damage to their property caused by personalisation, above the current tenancy deposit limits, and who should resolve disputes?**

We believe that current limits will cover personalisation in most cases. Disputes could be overseen by the service holding the deposit or other independent arbitrator facility.

## REFORM TO THE EVICTION PROCESS

**24. Do you think additional protections against the ending of tenancies during the winter period are needed?**

We would support additional protections in general, but there are often more resources available to people in winter months e.g. the Welcome Centre in Edinburgh, and more support from the public so additional protection may be more necessary in summer months in some cases.

Extending the timeframe is irrelevant if individuals can only access services when in crisis. More support should be given to people after moving into tenancies and on an ongoing basis.

If households are in rent arrears, allowing this to build-up over the winter period will only push problems further down the line if no support is being provided to rectify the situation.

There should be more training and awareness raising to ensure that landlords are meeting their responsibilities.

**[Q25 not answered]**

**26. What other policies or interventions could be considered to prevent evictions during the winter period?**

More support availability all year-round, not only during the winter period (see answer 24)

**[Q27-33 not answered]**

## RENT GUARANTOR SCHEME

**34. What would be the key features of an effective rent guarantor scheme?**

- Flexibility and personal circumstance to be taken into account.
- Ability to have services/organisations to act as guarantor as well as individuals

**35. How could we support the development of rent guarantor schemes that meet the needs of those groups who could benefit from them?**

Extend beyond student population to those experiencing homelessness or other disadvantage Non-Standard Rented Accommodation

**36. What are the key issues and concerns relating to current pitch agreements for Gypsy/Travellers on public sector sites?**

Common issues/concerns on public sites include:

- Remote locations
- Poor access to public transport and services
- Limited or no facilities for people with a disability and/or the elderly and those requiring additional support or adaptations
- Poor sanitation and drainage
- Inadequate facilities, including outside toilets and limited hot water
- Poor locations i.e. next to refuse dumps, under electricity pylons, next to busy roads, etc
- Poor fire safety
- Facilities in poor state of repair
- High rents in comparison to council housing (even though you usually provide your own home (caravan))
- Limited tenancy rights
- Lack of communal spaces or play areas
- High electricity charges and lack of choice in provider (LA is the purchaser not the tenant and in the past sites have been charged at business rate not domestic)
- Poor consultation with local authority
- Sometimes a fear of speaking up about poor conditions in case you are evicted

Although good and bad practice varies between local authorities, concerns such as those listed above have been repeatedly raised by tenants over many years. The human rights issues relating to inadequate or poor accommodation, including high rents, limited tenancy rights, limited security of tenure, etc living conditions on public sites for Gypsy/Travellers have been highlighted through the 2013 Scottish Parliament Inquiry '[Where Gypsy/Travellers Live](#)', in which community members, organisations working with Gypsy/Travellers and both the SHRC and EHRC spoke of the poor living conditions for this group. The Inquiry found that tenancy agreements, where they even existed, were inconsistent across local authorities and, from a rights perspective, heavily weighted towards local authorities.

[The Scottish Government and COSLA's joint action plan in 2019](#) gave clear recommendations relating to accommodation on public sites including the release of funding in 2021 for immediate improvements to existing sites and the development of 'demonstration' projects for new model sites. This resulted in the Ministerial Working Group, established to oversee the delivery of the Action Plan.

In 2019, [29 public sites were said to exist](#) meaning the net number of pitches available on public sites has decreased, despite an increasing population. Four of these public sites (in 3 local authorities) [were found to still not meet the minimum standards](#).

Despite the reports and plan noted above, progress has been very slow. This is a serious concern which, understandably, leads to disillusionment, apathy and mistrust.

**[Q37-39 not answered]**

## AFFORDABLE RENTS

**40. What are the most important factors to be incorporated into a shared understanding of housing affordability (e.g. household size and composition, regional variations, housing standards, treatment of benefits)?**

[The OHCHR and CESCR highlight the importance of affordable housing](#) as pivotal to the right to protection against poverty and social exclusion. This is a very complex area, particularly for those people on low incomes who may have insecure, short-term employment and lack of clarity over welfare entitlement.

Key points from our point of view are:

**LHA rates should be in-line with market rents.**

In a recent survey 73% of frontline workers stated that they found it "very difficult" or "difficult" to find private landlords willing to let to LHA claimants, and 72% found it "very difficult" or "difficult" to find private rented accommodation generally. 67% were extremely concerned about the risks of their clients needing to choose between housing costs and other basic necessities (e.g. food).

(This finding is based on responses from frontline staff in Scotland to the Frontline Network's Frontline Worker Survey 2021. In total, 89 frontline staff based in Scotland participated in this survey. The full report containing more information about the methodology and findings will be published later in 2021, in the meantime you can [view a copy of the 2020 report here](#).)

**Housing affordability for those under 35 with no exemptions who are subject to the SAR.**

This can often completely exclude this group from accessing the PRS in high-demand areas such as Edinburgh.

**41. If we are successful in reaching a shared understanding of affordability in Scotland, how should it be used and evaluated?**

It should be evaluated by involving tenants at all stages and remain under review consistently.

**42. Do you think the data we are proposing to collect will provide all the necessary evidence to inform national and local rent control considerations?**

We should learn lessons on what has and has not worked in terms of rent controls in international contexts, and seek to build our evidence-base. Any measures should be reviewed consistently with both landlords and tenants.

**[Q43-46 not answered]**

**47. Do you agree with the proposal not to extend any national rent controls to the social rented sector?**

**Don't know**

Rents are generally more affordable in the social rented sector than private, but this should be kept under review as the landscape can change. The impacts in the rising cost of living and energy prices may have huge ramifications for those living in the social sector, not only in the private sector. There needs to be more evidence on the benefits of rent controls before implementation.

**48. Do you think the current safeguards for rent setting in the social rented sector are sufficient and, if not, how could they be strengthened?**

The consultation points to rents rising twice as fast in the social rented sector than in the private sector, so this should be taken into account during decision-making, with safeguards put in place to ensure that rents in the social sector cannot be increased unfairly.

**[Q49 not answered]**

**50. Do you agree with the vision and principles set out in the strategy in relation to a future model of rent controls for the private rented sector in Scotland?**

Whilst we support evidence-based approaches that help to keep rents down in the PRS, local contexts and pressures need to be taken into account, as well as looking beyond the first generation of those who receive the benefit. We need to build a more robust evidence base before implementing rent controls.

## SUPPLY OF RENTED HOMES

**[Q51-55 not answered]**

**56. What more can be done to support people with protected characteristics trying to access social rented homes?**

We see many examples of issues with social housing access in general, including an inflexibility in housing allocations, whereby prospective tenants have no choice in accepting housing that may not be suitable for their needs. This might be because repairs and adaptation need to be completed, which can take some time after moving in.

There is a real need for advocacy and tenancy support beyond the initial moving-in period, important as many have a lack of experience with the social housing system. This extends to difficulties accessing specialist services such as help with de-cluttering and hoarding, gardening, and even simple tasks like changing a lightbulb, which those with mobility issues may not be able to do. Other service providers are often left to plug these gaps.



There should be access to interpreters and people to assist with digital inclusion and literacy issues. Some groups are more vulnerable to exploitation and may be living in overcrowded premises, but may stay quiet for fear of losing the tenancy.

## RAISING STANDARDS

### 57. What is the best way to ensure that landlords undertake essential repairs in a timely fashion?

- Relationships between landlords and tenants are key.
- Having a single point of contact for tenants and landlords.
- Awareness-raising of rights and responsibilities, such as the responsibility of the tenant to let landlords know about repairs that need to be made, and the responsibility of the landlord to ensure that repairs are completed as quickly as possible.

[Q58 not answered]

### 59. What are the key challenges for landlords in meeting all the housing standard requirements and timescales and what support could be put in place to help landlords overcome barriers?

Landlords could volunteer to sign up to an accreditation scheme such as:

<https://www.tameside.gov.uk/housing/landlords/accreditation/codeofstandardsandform.pdf>.

Support should be given to landlords to meet their obligations under this scheme.

[Q60 not answered]

### 61. Do you consider the vision and principles for the private rented sector Regulator to be the right ones? Are there any additional principles that you think are important?

The views of those with lived and frontline experience of accessing the private rented sector should be paramount, and implementation of any Regulatory body should be sense-checked with diverse groups consistently.

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