

Response to the LGHP and SJSS Committees' Call for Views on the Housing Bill

May 2024

Section 1: General

The Scottish Government describe the policy objective of the Bill as:

“The Bill is ambitious in responding to the need to improve the housing outcomes in Scotland for people who live mainly in rented accommodation or face homelessness. At the same time, it continues to safeguard the proportionate use of a landlord’s property for rental purposes, seeking to deliver a fair balance between protection for tenants and the rights of landlords.

The Bill contains a package of reforms which will help ensure people have a safe, secure, and affordable place to live. It also helps to deliver the Scottish Government’s ‘New Deal for Tenants’ and some aspects of ‘Housing to 2040’, while contributing to the ambition to end homelessness in Scotland.”

Q1. To what extent do you agree that the measures in the Bill meet the Scottish Government’s stated policy objectives?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree



Q2. What are your main reasons for your views on Q1? (please note we have asked more detailed questions on the Bill later in this survey) We are proposing that the following provision be included in the Disability Assistance for Working Age People (Scotland) Regulations 2022:-

Citizens Advice Scotland 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. The foundational importance of a safe, secure and sustainable home cannot be overstated, given its impact on almost every aspect of our lives, and we welcome all action that will help citizens across Scotland to access and sustain a home. The private rented sector has grown substantially in recent years and is now home to more people than ever before, partly due to the lack of available social housing. It is therefore imperative that we understand more about the private rented sector so that the best possible policymaking can be done, and in this vein, we welcome the powers included in the Bill to allow for the collection of better data.

The network of Citizens Advice bureaux in Scotland provides advice and support to both tenants and landlords so we are uniquely mindful of the careful approach that must be taken to ensure tenants are able to live in safe, affordable homes. We must also ensure that the responsibilities placed on landlords are reasonable, achievable and proportionate, and there is sufficient education and training to ensure all landlords are equipped and confident to fulfil these.

However, action must be taken as we know that the impacts of the Cost of Living and energy crises are still being felt and the affordability of housing is a key driver within this: in Q4 of 2023/2024, the network saw a 23% increase in people seeking Cost of Living related housing advice, and single non-pensioner households were more likely than any other demographic to seek Cost of Living (CoL) advice (32% of this demographic sought CoL advice compared to 22% of all other clients). People seeking housing advice also frequently required additional advice, most commonly advice about benefits, debt and utilities.

There is also a strong need to strengthen enforcement and improve practice in some parts of the sector: we see particular substantial detriment to tenants due to poor practice in the private rented sector which urgently needs to be addressed, including failure to complete repairs and illegal eviction. In order to address existing and future issues in the PRS, additional resource will be needed for enforcement by local authorities. Lastly, we were disappointed to see new measures on repairs and standards removed from the bill and urge that action is needed in this area.

Section 2: Rent

Part 1 of the Bill makes provision about rent for private rented tenancies. It requires councils to undertake an assessment of rent conditions in their area and submit this to the Scottish Government along with a recommendation about whether a rent control area should be designated.

The Scottish Government can designate a rent control area with the approval of the Scottish Parliament.

Within a rent control area, restrictions on rent increases will apply both within and between tenancies. Further detail on the way rents increases can be restricted and any exceptions, will be set out in regulations.

The Bill also:

- > provides powers for local authorities to ask tenants and landlords information about the property such as size and rent
- > modifies the frequency with which rent for a private residential tenancy can be increased. Rents will not be able to increase during the first 12 months of the tenancy.
- > Amends the rent adjudication process so that the Rent Officer or Tribunal cannot be set higher than the rent proposed by the landlord in the rent increase notice

Q3. Do you support the proposals in Part 1 of the Bill allowing rent control areas to be designated?

- Yes
- No
- Don't know



Q4. Do you have any further comments to make on Part 1 of the Bill dealing with rent for private tenants?

Evidence from the Citizens Advice network indicates that action does need to be taken on rents, but it must be in a fair way that is affordable for both tenants and landlords. Our evidence shows that advice on rents makes up on average 10% of all PRS advice, and advice on homelessness due to rent levels/increases rose by 35% in Q4 of 2023/24 compared to the same period last year. This indicates that many people struggle to afford their rent, and many risk becoming homeless. Scottish Government PRS stats also show that rent has risen by 14% on average over the past year, out of kilter with average incomes.

On the other hand, we also provide a smaller but still notable amount of advice to landlords who are struggling to meet their mortgage obligations, which is not necessarily linked to the tenants' ability to pay, but rather their mortgage costs rising faster than the amount they are charging in rent. We know of several who have needed to sell their rental property as a result, which is evidenced by advice on possession action (not for arrears) in the private sector rising by 10% in Q4 of 2023/24 compared to Q4 of 2022/23. Again, this has led to homelessness for some tenants (demand for advice on possession action as a reason for threatened homelessness rose by 25% between Q4 2022/23 and Q4 2023/24), and we predict this may contribute to a depletion of available properties to rent.

! Citizens ALERT

CAB in the East of Scotland has been working with a client Sarah* who has recently had a substantial rent increase notice due to the landlord's mortgage increasing. Sarah lives with her partner and two school-age children, and also provides care for her elderly parents. She cannot afford this increase and the landlord has decided to issue a Notice to Quit. Sarah has been looking around unsuccessfully for other privately rented accommodation for the family, but the cost and level of deposits is proving a real barrier. Sarah has also been in touch with housing associations and has a meeting with the council planned. The family - who are working - can manage to pay their monthly rent and just about cope with the current high costs of living but are not able to afford the high level of deposits currently required for other private rentals.

(*client names have been changed to protect confidentiality)

As before, we believe measures to introduce powers to collect better information are critical to moving towards a more transparent and fair system of renting, and particularly welcome this part of the Bill. We know that renting can be unpredictable and measures to regulate the frequency of rent increases should help provide certainty and financial stability for tenants. While we have evidence that many landlords do not regularly increase the rent, we know that some landlords do raise rents significantly and often, without using the proper notice period or paperwork, and we saw this especially during the recent Cost of Living crisis and despite the emergency protections. Other evidence revealed landlords illegally evicting tenants, including in instances where the tenant challenged a high rent increase. As a result, we know that many tenants do not want to risk losing their home if they challenge a rent increase, and often do not want to use routes of redress such as rent adjudication without specialist advice and support, such as that provided by the network of bureaux. More thought must be given as to how to prevent poor and illegal practice around rents. We will provide more specific evidence and views about illegal eviction and proposals for damages in the next section.

Amending the rent adjudication process to disallow Rent Service Scotland from being able to set a higher rent than the landlord requests is a small but important step. However, there are 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 to access redress. Going further, the proposals to introduce a system of rent controls is welcome, particularly for renters in areas where rents have been rising sharply, but it must be recognised that this places new responsibilities and obligations on local authorities and will require significant resourcing to implement and deliver this.

**! Citizens
ALERT**

A CAB in the West of Scotland recently worked with a client Amanda* who received a 15% rent increase notice. She attempted to apply to the rent officer online on the 20th day after the Notice was received, having been delayed while waiting for advice and support from the local authority. Something went wrong and her application was not submitted even though she thought that it was. We know this is the case because she did not receive an acknowledgement of her application. She did not immediately know that anything had gone wrong. The Rent Officer's position is that Amanda's re-application is out of time, and it follows that the excessive rent increase will now stand.

Section 3: Evictions

Part 2 of the Bill deals with evictions. It places a duty on the First-tier Tribunal and the courts to consider delays to carrying out an eviction for tenants living in private rented and social housing, except in limited circumstances. These measures are designed to provide greater protection for tenants. The Bill also deals with how damages for unlawful eviction are calculated.

Q5. What are your views on Part 2 of the Bill that deals with evictions?

CAS gave out over 1,300 pieces of advice last year on possession action and provided further lay representation and specialist support to many of these clients facing eviction. CAS welcomes the spirit in which the measure to delay evictions is intended, in that it may allow greater time for the household to find alternative accommodation or access advice and support for their circumstances and local authorities to respond to these. We also recognise the importance of tribunals having greater discretion based on individual circumstances. However, we caution that further guidance will be needed, as introducing delays to eviction may cause confusion among parties and there may be difficulty in enforcing this.

CAS strongly supports introducing increased damages for unlawful eviction: advice on this area has grown over the last three years and the network gave out more than 400 pieces of advice on unlawful eviction in 2023/24. Our recent research into illegal eviction gave an insight into tenant experiences of illegal eviction and its impact, with many experiencing this due to reporting a repair or challenging a rent increase. Many clients had their physical safety threatened and a substantial number became homeless as a result. [Link: <https://www.cas.org.uk/publications/illegal-eviction-experiences-cab-clients-scotland>] Such practice must be robustly deterred against, and we do not believe there should be provision for damages to be less than three months' worth of rent, as is currently proposed in the Bill. This is also an area which needs stronger enforcement, as we found that many perpetrators of illegal eviction were not registered as landlords, and local authorities need more resource to effectively combat this part of the sector.

Section 4: Keeping pets and making changes to let property

Part 3 of the Bill introduces new rights:

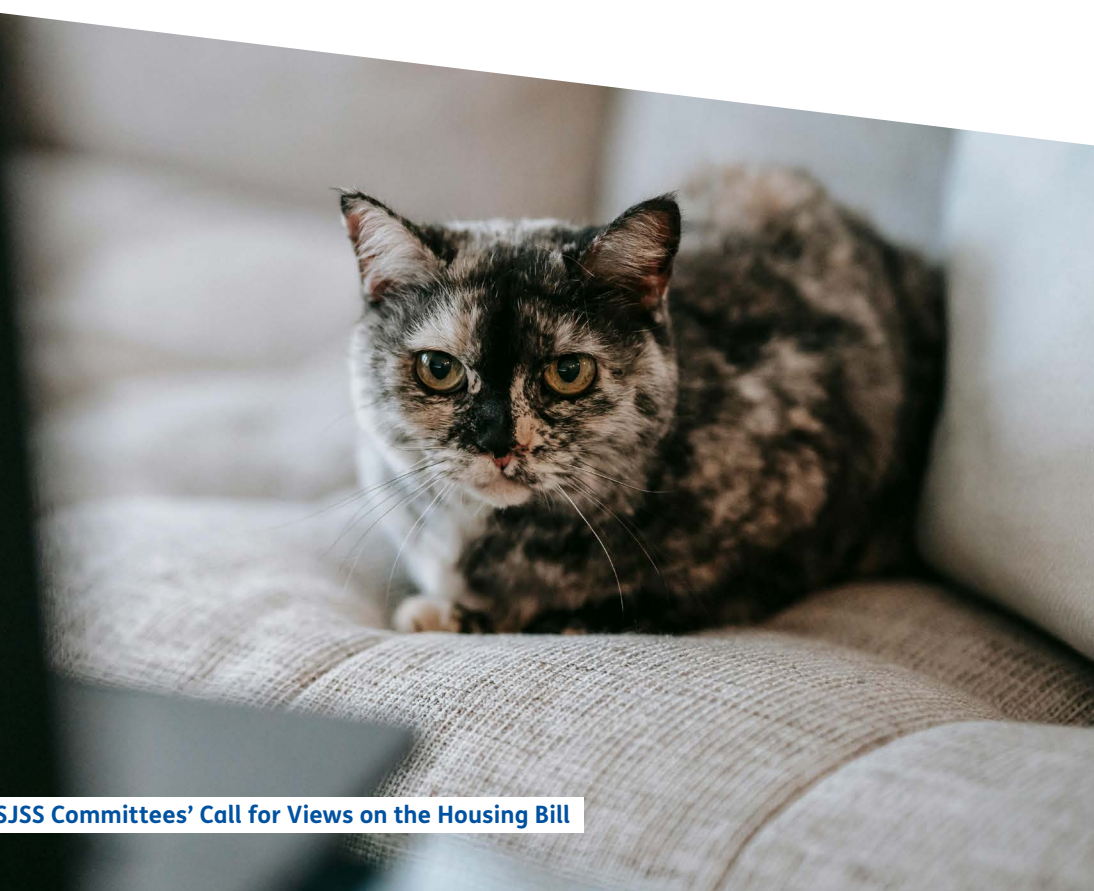
- > for private and social housing tenants to request to keep a pet and for tenants' requests to not be unreasonably refused by the landlord
- > for tenants with a private residential tenancy to make changes to the property they are renting.
- > Tenants can make certain minor changes e.g. putting up pictures without the landlord's consent. Tenants can also request other changes e.g. painting walls. Landlords cannot unreasonably refuse after they have lived in the let property for 6 months or more.

Q6. Do you support the proposals in Part 3 of the Bill to strengthen the rights of tenants to keep pets and make changes to let property?"

- Yes
- No
- Don't know

Q7. Do you have any further comments to make on Part 3 of the Bill dealing with keeping pets and making changes to let property?

CAS is broadly content with the measures proposed in Part 3 of the Bill and believe it will help tenants to feel at home in their property, as well as promoting increased wellbeing through being able to own a pet. In shared residential buildings, these rights must be balanced with the needs of other residents, especially around responsible ownership of pets. 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.



Section 5: Joint tenancies

Part 4 of the Bill changes how a joint private residential tenancy can end. It enables one joint tenant to end the tenancy for all the tenants where there is no mutual agreement between joint tenants to end the tenancy. The tenant seeking to end the tenancy would first need to give the other joint tenants appropriate notice.

This is intended to ensure that no joint tenant can be indefinitely held to a rental contract against their wishes and ensure a fair process for all joint tenants where one joint tenant wishes to leave the property.

Q8. What are your views on Part 4 of the Bill that deals with how joint private residential tenancies can be ended?

CAS welcomes this measure to deal with joint tenancies ending: the network has given advice on a low but growing number of joint tenancies where both the exiting tenant and remaining tenants have been unfairly disadvantaged. This includes instances of remaining tenants facing steep rent increases as the tenancy has had to end with the departure of one tenant, as well as tenants being unable to leave joint tenancy arrangements if they cannot secure the agreement of the other tenants, or if their replacement is deemed unsuitable. The measures should be strengthened to ensure that replacement tenants should be accepted if the other tenants agree to it.

! Citizens ALERT

One of our CABs in the East of Scotland has recently worked with a client Joe* who is a recent graduate and a joint private tenant with another graduate. As Joe has completed his studies and wishes to return to his own country, he gave his notice to the landlord and recommended a replacement tenant. The landlord is not accepting the replacement tenant, and as such, Joe's tenancy is continuing as before with the client obligated to pay rent despite no longer requiring the accommodation.



Section 6: Homelessness prevention

Part 5 of the Bill relates to homelessness prevention. The Bill Policy Memorandum states that, “the overarching policy objective is to shift the focus away from crisis intervention and towards prevention activity which can eliminate the need for a household to go through the trauma of homelessness in the first place, without diluting the existing rights of people who are assessed as homeless”.

The Bill gives relevant bodies such as health boards and the police, an “ask and act” duty. These bodies are required to ask if an individual is homeless or at risk of homelessness and to act if they are.

The Bill requires local authorities to act sooner to prevent homelessness by taking reasonable steps. An assessment can be made of whether a household is threatened with homelessness up to six months before homelessness is imminent – this is an increase from the two months required by current legislation.

Q9. Overall, do you support the Bill’s proposals in Part 5 of the Bill that deal with homelessness prevention?

- Yes
- No
- Don’t know

Q10. What are your views on the ‘ask and act duty’ for relevant bodies in relation to preventing homelessness in Part 5 of the Bill?

CAS agrees in principle with the “ask and act duty” as responsibility for preventing homelessness cannot solely fall to local authorities, and individuals at risk of homelessness come into contact with other professionals who could help, before eventually approaching their local authority. The network is increasingly giving out more advice on homelessness: in Q4 23/24, advice on threatened homelessness rose by 23% as a proportion of all housing advice, compared to the same period the year before. 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?

Q11. 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?

Again, we welcome the intention of this measure, and our experience tells us that many people only approach their local authority for homelessness advice when they are at crisis point, rather than seeking early advice that could sustain their current tenancy if it is otherwise sustainable for them. However, we caution that significant resources will be needed to support local authorities to deliver on this, including training.

Section 7: Domestic abuse

The Bill makes changes to update the definition of domestic abuse as it applies within homelessness legislation. It also requires social landlords to put in place support for tenants if they are overdue on rent due to domestic abuse and requires social landlords to have a policy which sets out how they will support domestic abuse.

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

CAS supports the provisions in principle as a means of better supporting tenants who have experienced domestic abuse and this has affected their housing circumstances, however we defer to specialist domestic abuse organisations to provide information on whether the provisions go far enough.

Section 8: Mobile Homes

The Bill makes changes to legislation setting out how pitch fees for mobile homes are updated. This means there will be a presumption that pitch fees will increase in line with the consumer price index rather than the retail price index. The intention is to ensure that increases remain fair, appropriate, and in line with the development of statistical measures of inflation.

Q13. What are your views on the provisions in the Part 5 of the Bill relating to mobile homes pitch fees uprating?

No answer.

Section 9: Fuel poverty

The Bill makes changes to the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019. The Bill aims to strengthen and improve the Scottish Ministers' duties to consult and report under the 2019 Act and to remove budgetary limitations on the Scottish Fuel Poverty Advisory Panel. There is no change to policy.

Q14. What are your views on the provisions in Part 6 of the Bill relating to fuel poverty?

CAS broadly supports the provisions in Part 6 of the Bill relating to fuel poverty.

Section 10: Other provisions in the bill and other comments

The Bill also makes a range of other changes including:

- > Allowing unclaimed tenancy deposits to be paid to the Scottish Ministers or into another fund so that they can be used to provide support to private tenants
- > Giving Scottish Ministers the power to convert assured tenancies into private residential tenancies
- > Technical changes to the registration of letting agents scheme
- > Converting assured tenancies into private residential tenancies

Q15. Do you have any additional comments on the other measures the Bill deals with or any other general comments?

CAS generally supports the measures set out, particularly around the ending of the assured tenancy regime, which currently creates a two-tier system for private renters, and increases the complexity of providing accurate housing advice. We also particularly welcome the proposals around using unclaimed tenancy deposits for supporting private tenants. Amongst other proposals made as to the use of these funds, we suggest that these funds could also be used for local authorities to provide mandatory training for landlords.

For more information please contact:

Aoife Deery, Senior Social Justice Policy Officer, Aoife.deery@cas.org.uk

www.cas.org.uk



@CitAdviceScot



CitizensAdviceScotland

The Scottish Association of Citizens Advice Bureaux - Citizens Advice Scotland.
Scottish charity (SC016637) and company limited by guarantee (89892)