

CAS Response to the Consultation on the Draft Rented Sector Strategy

April 2022

Key Points

- Scotland's Citizens Advice Network is an essential community service that empowers people through our local bureaux and national services by providing free, confidential, and independent advice. We use people's real-life experiences to influence policy and drive positive change. We are on the side of people in Scotland who need help, and we change lives for the better.
- CAS welcomes this consultation, a once in a generation opportunity to look at the rented sector in the round and address longstanding issues which prevent people being able to enjoy a safe, warm and affordable home.
- Housing advice as a proportion of all advice given by bureaux increased in 2020-21 compared to the previous year. As Q4 of 2020-21 came to a close, housing advice remained higher than pre-pandemic levels, peaking at 5.8% of all advice in Q2 of 2020/21, up from 4.5% in the same quarter the previous year.¹
- Throughout our response, we have included "Citizens Alerts" which are real case examples provided by the network of Citizens Advice Bureaux throughout Scotland.
- In early 2022, the Argyll and Bute CAB carried out a local research project focused on the experiences of private renters and those who wanted to rent in the area. We have shared early insights from this work throughout the paper.

¹ CAS (2021) [Annual housing data briefing](#)

Response to Questions

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

There is no doubt that many people with protected characteristics face different and additional difficulties in their experience of the rented sector. Our evidence indicates that the Citizens Advice network primarily has experience of giving advice to people who are struggling to find homes (in both the social and private rented sector) which are suitable for their needs, particularly with adaptations for physically disabled people. This can lead to extremely long waiting times in inappropriate accommodation, severely limiting the person's ability to carry on with their life. Analysis of CAS demographic data² indicates that people with a health condition are more likely to present with a problem relating to access and provision of accommodation than those without (or who did not specify) a health condition. Families containing children also make up nearly 50% of queries relating to access to accommodation, suggesting that families are finding it difficult to find suitable housing.

Citizens Alert: A North of Scotland CAB reports of a client with mental and physical disabilities living in a local authority home in poor conditions and without the adaptations necessary to support the client living there. The local authority had advised it was not cost-effective to install the adaptations, but despite knowing about the condition of the home for many years, have not intervened. This means that the client must now apply for and move to a new property, incurring costs to both her and the local authority.

Citizens Alert: A West of Scotland CAB reports of a family of 6, including a baby, living in a two-bedroom flat. The client has been bidding on housing association properties and has been on waiting lists for a long time but has been unsuccessful so far due to the short supply of larger homes.

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?

The private rented sector is not homogenous and is made up of lots of different household compositions, with differing needs. While we support the intention to better embed tenant participation in the private rented sector, it needs to be clearer what this means, and support has to be put in place to allow everyone to participate in ways that work for them (such as financial reimbursement and childcare). Adequate resourcing is needed to provide a supportive infrastructure for tenant groups and independent advocacy to enable them. It must also be noted that there are barriers to participation in

² N.B. CAS collects demographic data from clients on a voluntary basis, unless that information is essential to the advice being provided. The scope of demographic data collected varies, with it being most commonly recorded for factors such as age group and gender and least common for protected characteristics such as ethnicity. However, although the demographic data cannot be considered fully representative of all CAB clients, sample sizes are nevertheless large enough for certain inferences to be drawn.

the ways that national and local policy- and decision-making is set up, including digital access to complete online consultations and the use of jargon and technical and formal language. We look to the Tenant Participation Advisory Service (TPAS) and the Tenant Information Service (TIS) for examples of good practice in the social rented sector which could be developed in the private rented sector.

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?

CAS regard tenants' unions positively and consider that tenants will be more likely to participate in decision-making if they feel supported by others and can learn from others' experiences. Tenants' unions can also help overcome some of the barriers in policymaking by guiding people as to how to take part in consultations and related activities or offering to gather views of union members and submit a response on behalf of the group. There is much work to do to ensure all tenants are able to join a tenants' union with competent representation and this will require support and resource to achieve, potentially funded through long-term unclaimed deposits or landlord fines. See also our response to Question 2.

4. How best can we ensure people are aware of their rights and how to exercise them in:
 - A. The private rented sector?
 - B. The social rented sector?

CAS believes that rights awareness is too low among tenants in the private and social rented sector, although we have more evidence of rights awareness being a particular problem in the private rented sector.

The Private Residential Tenancy regime has now been in place for nearly five years. With it came significant changes and new rights and responsibilities for tenants and landlords, and CAS consider it to have gone some way in improving the sector. Despite this, CAS believes that there is still an unacceptably low level of awareness of rights in the private sector, particularly amongst tenants, and this is leaving poor and often unlawful practice to go unchallenged, often resulting in homelessness. This is reflected in recent research funded by Nationwide³ which found that "most tenants are not aware of their rights, and with this lack of knowledge comes lack of empowerment, regardless of the justice system." Multiple bodies must therefore be involved in promoting rights awareness, including Scottish Government, local authorities, bodies which come into frequent contact with tenants such as tenancy deposit schemes, as well as independent advice organisations such as the Citizens Advice network. This should be joined up centrally and clear, consistent information should be provided to all tenants.

³ Indigo House (2020) [RentBetter Wave 1 Baseline Report](#)

For several years, CAS has been calling for housing education to be embedded into the education curriculum, ensuring that young people are aware of how the housing system works and their rights in regard to it before they take on a tenancy of their own. Funding needs to be provided to allow for this necessary work to take place.

Our evidence tells us that even when tenants are aware of their rights, many are afraid to exercise them for fear of repercussions. This frequently relates to the right to get repairs done, and manifests in urgent repairs not being completed in a timely way, which often results in tenants being left without important amenities or living in circumstances which pose a risk to their health.

Citizens Alert: An East of Scotland CAB reports of a client who had a flat share with his friend. The client noticed significant dampness on the roof and reported this several times to the landlord, who did not respond or send anyone out to inspect the issue. The landlord then raised the rent on the property by £300 per month but the tenants withheld rent until the repairs were done. The repairs still did not happen, and the client eventually moved out for fear of the ceiling collapsing.

The failure of bodies such as landlord registration to act in circumstances such as these dent the confidence of tenants to exercise their rights. Proper enforcement which effectively deters landlords from poor practice is badly needed. CAS also does not believe that tenants are able to make full use of bodies such as the Tribunal to challenge poor practice, due in part to the lack of support to assist them through the process. This can be remedied in part by funding for specialist housing advice and lay representation.

5. After 4 years of use, how well do you think these grounds are working? Is there anything that you would like to see changed? Please explain your answer with reference to the relevant ground(s).

CAS believes that now is a useful opportunity to revisit the 18 grounds for eviction to ensure that the private rented sector protects both tenants and landlords, and that people are not evicted into homelessness. The PRS can and should provide high quality, safe homes for people to live in as well as being assets for landlords. As it stands, we believe it would be beneficial to review the utility of a number of the existing grounds for eviction and tighten up the process for eviction to ensure that spurious evictions do not take place. We must also stop allowing people to be evicted when they are considered to be behaving in "inappropriate" ways by the landlord, except in serious situations. This form of moral policing does not apply to people who own their homes, and only serves to suggest that tenants are a lesser group.

Landlords who choose to enter the private rented market to rent out properties should not seek to end tenancies unless it is absolutely unavoidable. There are already significant checks allowed to be in place (such as credit checks and the requirement for references) before a tenant enters a

tenancy. Statistics from the First Tier Tribunal found that there were 767 applications for evictions in 2020-21⁴. The report notes that this represents a 56% reduction on the year before and attributes this to the pandemic and the additional protections introduced by the Scottish Government against eviction. Considering that nearly 800 applications were still made, this number (and pre-pandemic numbers) for the number of people risking losing their rented home is very high. Indeed, in 94% of cases, the order for eviction was granted. Adding to this are CAS' own statistics that advice on possession action (not for arrears) is the network's second biggest area of private sector housing advice, amounting to hundreds of cases every quarter. These actions have a direct impact on local authorities: Scottish Government statistics show that for 2020-21, 11% of homeless applicants (about 3700 households) lived in the PRS before applying as homeless, and this rose to 14% between April and September 2021. There is no doubt that eviction into homelessness happens on a frequent basis in Scotland and we anticipate that this will worsen if action isn't taken.

Where a tenancy truly cannot be sustained, landlords should be working closely with local authorities and other bodies to arrange alternative accommodation and have a greater role to play in ensuring that tenants are not evicted into homelessness. This can be aided by a strong pre-action protocol. CAS strongly believes that making all grounds for eviction discretionary is also an important step to ensuring the pre-action protocol is followed and both tenants and landlords are protected.

Turning to the specific grounds for eviction, CAS has strong evidence of providing advice to people who are facing homelessness due to their landlord selling the property. This is evidenced by CAS' own statistics that advice on possession action (not for arrears) is the network's second biggest area of private sector housing advice, amounting to hundreds of cases every quarter. While many landlords do try to give their tenants ample notice, CAS would like to see measures introduced to incentivise landlords to sell with a sitting tenant. Indeed, the presence of a tenant and immediate rental income without having to engage in the process and cost of finding a new tenant may be attractive to some buyers. We therefore recommend that Grounds 1 and 2 are reviewed on this basis.

Citizens Alert: An East of Scotland CAB reports of a client who is retired and living in private rented property. The tenancy is ending because the landlord is seeking to sell. They have been assessed by LA, but their priority is presently low because landlord has not yet taken Tribunal action. The landlord is supportive and neither party wishes action to be raised.

Similarly, Grounds 4 and 5 (landlord intends to refurbish and family member intends to live in the property) should be reviewed. We recommend amending these to promote temporarily decanting a tenant into alternative accommodation if they consent to this for the duration of the refurbishment, and this should only be necessary if the refurbishment limits access to necessary cooking and washing facilities or will cause unreasonable disruption

⁴ Housing and Property Chamber (2021) [Summary of Work of the Housing and Property Chamber](#)

to the tenant. In terms of Ground 5, we recognise that landlords may be in many different circumstances and do not wish to remove their right to allow their family member to live there but propose an extended notice period if there is no other issue with the tenancy. Our thinking in relation to Ground 6 is covered in our response to Question 7.

Ground 11 (breach of tenancy agreement) should be considered for removal as while it is a discretionary ground, it still allows landlords to threaten eviction for small breaches of the tenancy agreement. The only breaches of a tenancy agreement which should lead to the risk of eviction are non-payment of rent or serious anti-social or criminal behaviour. These breaches are covered sufficiently by Grounds 12 and 13. On Ground 13 however, we urge this to be considered for review, as the criminal justice system has responsibility for addressing criminality, and it should not necessarily be the right of landlords to punish further by removing a home. We say this as the lack of secure accommodation on release has been shown to increase the likelihood of recidivism⁵, and can necessitate the use of temporary accommodation, thereby putting additional pressure on the local authority. Similarly, Ground 15 "association with person who has relevant conviction" should come under consideration for the same reason.

Grounds 16, 17 and 18 should also be considered for removal as they are not the fault of the tenant, and we suggest that a better solution is that the tenancy is taken over and managed in the interim by a local authority or housing association while the situation is resolved, rather than ending the tenancy unnecessarily.

6. Are there any additional specific grounds for ending a tenancy that you think should be added?
- Yes
 - No
 - Don't know

Please explain your answer.

CAS does not believe that it would be beneficial to add any additional grounds for ending a tenancy.

7. Do you have any views on our proposal to take forward a clarification in relation to the use of ground 6 – 'Landlord intends to use for non-residential purpose'?

CAS agrees with the proposal to clarify the policy intention to make clear that Ground 6 may not be used to evict someone in order to use the property as a short term let. Queries relating to access to and provision of accommodation amounts to over 10% of all housing queries, indicating problems with the lack

⁵ Shelter Scotland (2015) [Preventing Homelessness and Reducing Reoffending - Insights from service users of the Supporting Prisoners; Advice Network Scotland](#)

of supply of homes, and as such, CAS would like to see landlords being encouraged and incentivised to use their properties for long term rent.

We believe this will particularly benefit areas popular with tourists such as Edinburgh and rural and island areas, which severely suffer from a lack of affordable accommodation options for people living there. Evidence from Argyll and Bute CAB's research shows that many people who responded struggled to find affordable accommodation but cited dozens of local properties in each area used as short-term holiday lets but which lay empty for most of the year. In their experience and opinion, this had a direct impact on local employment, with businesses struggling to recruit, and even keyworkers such as nurses having to reject job offers as they cannot find affordable housing in the area.

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?

CAS believes that pre-action requirements are a valuable addition to the private rented sector and should be made permanent. However, the requirements have only been in place in the private rented sector since October 2020 and they must be given time to bed into the sector, and we believe additional training and support is needed to raise further awareness of them among landlords and tenants. We do not believe it would be particularly helpful to introduce further significant changes until they have had a chance to bed in and been fully evaluated.

For the social rented sector on the other hand, PARs have been in place since mid-2012. Looking at Scottish Government homelessness statistics over time⁶, we can observe a marked decrease in evictions for arrears from LA and RSL tenancies before and after the introduction of these requirements. Of course other factors will have an influence on these figures, but this suggests that PARs can help to reduce eviction levels through early intervention.

However, analysis of CAB evidence shows that there are still landlords (including social landlords) operating in Scotland who do not follow pre-action requirements and other tenant protections and attempt to carry out illegal evictions. We would therefore welcome any strengthening of these provisions, for example, by imposing a presumption against eviction where the pre-action requirements have not been complied with. It is important that the First Tier Tribunal (FTT) and sheriff courts play a strong role in actively interrogating and enforcing the fulfilment of pre-action requirements, otherwise they will become nothing more than a superficial tick-box exercise.

Citizens Alert: An East of Scotland CAB reports of a young male client who was living in an HMO, and the landlord wants to evict him because he is getting Universal Credit, even though there was a signed agreement between them that the landlord would accept UC. The client has been given 28 days'

⁶ Scottish Government (2021) [Homelessness in Scotland: 2020 to 2021](#)

notice to be out by the beginning of May, despite the extended notice periods in place at the time. The adviser does not believe there are any lawful grounds for eviction and does not consider this to be a case that has a 28-day notice period, such as criminal behaviour. In relation to arrears, the client cannot be seriously behind with his rent, as he has been there only 5 weeks. It is unclear whether there is a tenancy agreement in place.

9. Can you provide any examples/case studies of where the pre-action requirements have worked well in practice?

As alluded to in Question 8, CABs mainly deal with cases where pre-action requirements have not been adhered to and unfortunately have limited evidence of where they have worked well in practice. Looking at statistics from the First Tier Tribunal, we can see that applications for eviction dropped by over 50% in 2020-21 compared the previous year. While much of this may be due to other protections against eviction introduced during the pandemic, we anticipate that the introduction of pre-action requirements helped some tenants and landlords to preserve tenancies which may otherwise have been ended.

Again, as outlined in Question 8, we believe that there is still work to be done in terms of awareness raising amongst tenants and landlords about pre-action requirements, and the First Tier Tribunal and sheriff courts have a significant role to play in ensuring they are fulfilled properly.

10. What measures could be implemented to support people involved in sex work, including women subject to commercial sexual exploitation in the rented sector?

CAS unfortunately does not hold sufficient evidence on this issue to provide an answer.

11. Do you agree with our proposal to amend the 2016 Act to ensure that all joint tenants can terminate their interest in a private residential tenancy without the agreement of other joint tenant(s)?

Yes

No

Don't know

Please explain your answer.

CAS has limited evidence on this issue but fears this proposal may have unintended consequences if not carefully considered, in that the remaining joint tenants may risk losing the tenancy if the landlord is not in agreement. However, in principle, tenants should be able to leave if the living situation does not meet their needs and should not be trapped in a tenancy if other tenants are not willing to come to an agreement.

12. In the social rented sector, the notice period required for a joint tenant to end their interest is four weeks.

A. Should a similar 4 weeks' notice period apply for a joint tenant in the private rented sector to give to their landlord and other joint tenant(s) to end their interest in the tenancy?

Yes

No

Don't know

Please explain your answer.

CAS is generally in favour of bringing the private sector and social sector rules into alignment where it is appropriate and reasonable to do so and, on this basis, agree that four weeks is reasonable, however this is predicated upon the assumption that the landlord cannot end the tenancy for the other tenants as long as rent continues to be paid.

B. Should there be longer notice periods where there are more than two joint tenants to reflect the greater prevalence of multiple joint tenancies in the private rented sector, for example in student households?

Yes

No

Don't know

13. Should this proposal be taken forward, are there any additional safeguards that should be put in place for remaining joint tenants in the private rented sector?

Yes

No

Don't know

Please explain your answer.

As outlined in our response to Question 12, we believe that there should be protections for the other tenants to prevent the tenancy coming to an end for the remaining joint tenants as long as rent continues to be paid.

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

No

Don't know

Please explain your answer.

CAS agrees with this proposal in principle where it is safe and appropriate for this to happen although we look to organisations such as Scottish Women's Aid and Rape Crisis Scotland for their expertise in the detail of this.

Citizens Alert: A North of Scotland CAB reports of a client who rang bureau stating that her partner had thrown her out of the house that came with his job. The client said that prior to their split her partner had been emotionally abusive towards her and that he had thrown her out of the house as he had found out that they had accumulated debts including a car loan and credit card debts. The client said her partner had not been physically abusive and that she was not worried about her safety now that she had left the property. The client was currently staying in her sister's two-bedroom flat with her child. The client and her child were sleeping on the couch. The client stated that she wanted to get back to the place where her child goes to primary school. When the client phoned the local authority for assistance, instead of being transferred to the homeless team, the client was told to fill out a housing application form online.

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?

If the Tribunal is to be expanded to consider these cases, they must be provided with guidance and appropriate training by relevant organisations such as Scottish Women's Aid and Rape Crisis Scotland. Additional resourcing must also be provided to ensure that the Tribunal can deal with the increased caseload.

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

Yes

No

Don't know

Please explain your answer.

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

As with Question 14, CAS has limited evidence relevant to this question, but we believe in principle that there is more that could be done for domestic abuse survivors in terms of their housing options to provide them with good quality, safe, affordable accommodation that meets their needs in the areas they want to live and feel safe in.

18. If unclaimed 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?
- Yes
 No
 Don't know

Please explain your answer.

CAS agrees with this proposal in principle as this could help to provide some resource to support the improvement of the private rented sector.

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?

In principle, we mostly agree with the proposal that all tenants should be allowed to keep pets, where it is reasonable to do so. Various research has shown the mental and physical benefits of owning a pet, and a person's tenure should not arbitrarily pose a barrier to them owning a pet.

However, we do recognise the problems such as noise that may arise if a tenant is not a responsible pet owner and have had several examples of the impacts of this reported through the network of bureaux. This seems to particularly be the case in flatted accommodation. In these instances we suggest that a requirement to obtain permission from majority of residents in block could be a possible solution. As such we advocate for an amendment to the Model Tenancy Agreement which gives rise to a system which outlines that pet ownership is welcome, with the caveat that permission must be sought from neighbours if the tenant lives or is to live in flatted accommodation. In summary, the solution should encourage responsible pet ownership and balance this with the right to peaceful enjoyment of a home.

Citizens Alert: A South of Scotland CAB reports of a client living with her partner and pet dog in private accommodation. The client states that her landlord is becoming aggressive regarding dampness in property after client gave notice that she would be leaving in 6 weeks' time. She has lived at the property for two years and during that time there have been issues regarding damp and black mould. She had discussed this with the landlord and agreed last summer that the costs of a dehumidifier would be shared. At that time the landlord was told that client would be looking to move, a property has been found and client has given 6 weeks' notice. However, now the landlord says that the client is responsible for the damp and that damage to carpeting on stairs has been caused by the client's pet dog. The landlord wants the client to replace carpeting throughout and other repairs.

Citizens Alert: A North of Scotland CAB reports of a client who was at risk of eviction as her landlords had been made redundant due to COVID. The client

stated that she lived at the property with her husband, and two primary school aged children. The client stated that prior to her current accommodation the family had almost been made homeless as the council had offered them B&B accommodation without their dogs. The client stated that she was very worried as she wouldn't be able to find affordable housing in the area for private rent and would allow her to keep dogs on the property. The client said her dogs were like family and she was not going to give them up as her business also involved dogs.

20. Should the right to keep pets also be introduced as a right in the social sector?

Yes

No

Don't know

Please explain your answer.

CAS believes that social sector tenants should enjoy the same pet ownership rights as those in the private rented sector, for reasons outlined in our response to Question 19.

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?

In principle, CAS supports tenants being able to reasonably personalise a property (i.e. amend fixtures and fittings and decorate, but not make structural changes), as the rented property is a tenant's home and they should be allowed to make it comfortable. However, the property does ultimately belong to the landlord, who may not wish for tenants to make changes which are hard to rectify. It seems reasonable that tenants should be able to decorate their homes with the permission of landlords, or alternatively be required to return the property to the state it was originally in. If permission is not sought and alterations are not removed, landlords should be able to deduct reasonable costs from the tenant's deposit. If the landlord gave permission for decorations and alterations to be made but did not specify that they wanted the flat returned to its original state, then no deductions from the deposit should be made. Overall, the focus should be on enabling the tenants to decorate, rather than preventing it.

22. Should different consideration be given where a property is furnished or unfurnished?

Yes

No

Don't know

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?

CAS has limited evidence relating to this issue, but more evidence pertaining to landlords not allowing tenants to personalise at all. Please see our response to Question 21 for more information.

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

For example, some or all of the following:

- Restricting the service of notices during the winter period;
- Pausing or extending notice periods so that notices do not expire during the winter period;
- Pausing or extending the period (following expiry of the notice period) during which eviction proceedings can be raised; and/or
- Restricting the ability of landlords to raise eviction proceedings (following expiry of the notice period) during the winter period.

Yes

No

Don't know

Please explain your answer.

CAS understands the intention of this is to reduce the number of evictions during months where there is often increased financial pressure and colder weather, however we emphasise that the focus should be on reducing evictions regardless of the time of year.

This proposal is further complicated by the inconsistent timelines of evictions and the Tribunal, especially if the case is complex. This may lead to confusion among landlords and tenants as to their relevant rights during the process. This may result in an increased number of illegal evictions, which are already very difficult to enforce. Introducing winter evictions is likely to complicate an already complex process and should be avoided, despite their positive intentions.

25. If measures to restrict the ability of landlords to commence eviction proceedings during the winter period were introduced, what do you think is a reasonable 'winter period' timeframe?

Please see the response to Question 24.

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

Please see the response to Question 24.

27. Should we introduce a specific requirement for the Tribunal and Sheriff Court to consider delaying the enforcement of eviction orders and decrees during the winter period?

Yes

No

Don't know

Please explain your answer.

Please see the response to Question 24.

28. Do you agree the current calculation for unlawful eviction should be reformed and simplified, as proposed?

Yes

No

Don't know

Please explain your answer.

CAS strongly supports simplifying the calculation of damages for unlawful eviction. Unlawful or illegal evictions are a blight on the rented sector and CAS' evidence from across the network shows that they occur frequently and continued during the pandemic, despite the protections put in place in line with public health messaging. Only 1-3% of rented sector queries which came to the Citizens Advice network last year concerned illegal eviction, however this amounts to dozens every quarter.

Research by LSA in 2020⁷ complements the Citizens Advice network's evidence that illegal evictions are rarely prosecuted or enforced against. This may be due to a multitude of factors, including a lack of awareness of rights or confidence to exercise them, but also will not be helped by the current complex process of calculating damages. Therefore, there must also be increased investment to facilitate quicker and effective enforcement against landlord who are engaging in poor and illegal practice, as well as simplification of the damages system. We also recommend looking to the Welsh system of mandatory education⁸ for landlords to become licensed, as well as moving to a similar licensing system as opposed to the current landlord registration system. We believe this will drive up professionalism in the sector. While anecdotal evidence indicates that the majority of illegal evictions to be caused by unregistered landlords, illegal evictions by registered landlords can and do occur due to landlords not being appropriately aware of the law. Ignorance of the law can no longer be an excuse.

Citizens Alert: An East of Scotland CAB reports of a client living in the private rented sector. The client was never given a written tenancy agreement by landlord, and now the landlord is trying to evict the client for no clear reason

⁷ Legal Services Agency (LSA) 2020 [Briefing on reform of the law on damages for unlawful eviction](#)

⁸ Welsh Government (no date) [Landlord registration](#)

and is giving only 4 weeks' notice. This is not in line with the coronavirus legislation in place at the time.

Citizens Alert: A North of Scotland CAB reports of a client living in the private rented sector. The client reports of incidents where their landlord was shouting and punching and kicking the tenant's door, threatened that they were going to get people to make him leave and also threatened to tell the police that the client was dealing drugs from the property to get him out. The client stated that this was the first time his landlady had behaved like this toward him and that he was scared and wondered if he could get some money just to leave so that he could afford to live somewhere else as he was frightened by her threats. The client was given a notice to quit but the notice period was incorrect under current coronavirus legislation. Client stated he was not carrying out illegal activities at the property. The client was advised that eviction orders had to go to the First Tier Tribunal and that if he was illegally evicted, he could claim compensation via the tribunal. It was agreed that the client would ring Living Rent Scotland for further advice and also consider phoning the Police to report harassment. The client was also provided with details of his local homeless team for support both in office hours and out of office hours should client find himself homeless due to illegal eviction.

29. If the current system for calculating damages was reformed in this way, what do you think would be the appropriate minimum and maximum level of multiplication that the First-Tier Tribunal for Scotland (Housing and Property Chamber) could apply?

CAS does not underestimate the impact that illegal evictions can have on tenants: at best they can cause undue worry, stress and financial issues and at worst can lead to homelessness. As outlined in previous questions, eviction should be avoided unless absolutely necessary, and taking someone's home away is a serious breach of their human right to housing. As such we are in favour of establishing clearer and more generous compensation levels. The minimum level appears appropriate however we are wary of possible unintended consequences of setting a maximum level which is too high: on one hand, an extremely high maximum level could serve to effectively deter landlords from illegally evicting but may also be less likely to be fully paid. Much more resource, especially in the form of specialist representation, is needed to support tenants to pursue damages at the First Tier Tribunal and in the Citizens Advice network, our experience of tenants being willing to bring these cases is rare. Coupled with this is our previous point of concern around low tenant awareness, which must be addressed in order that tenants know that their rights have been breached.

30. What other ways can we make it easier and more attractive for victims of illegal eviction to seek redress and exercise their rights?

As in our response to Questions 28 and 29, we believe that victims of illegal eviction are often not aware of their rights, or if they are, not confident in

exercising them. Tenants must be more aware of their rights and must be confident that a system is in place to help them pursue justice if their rights are breached. As it stands, the system is far too slow to act when people's housing rights are breached, and the slow process of getting bad landlords removed from the landlord's register is one example of this. The Citizens Advice network in Scotland frequently advises on cases of poor standards and repairs not being carried out by landlords, which goes some way to illuminating why many tenants are not willing to pursue landlords for bigger issues when it is so difficult to get even small issues resolved.

Citizens Alert: A West of Scotland CAB reports of a client who contacted the Bureau because her property was in a state of disrepair and despite several requests to have repairs done, the letting agent had not provided any repairs. The client advised that her tenancy agreement was a private residential tenancy. They had moved in in March 2018. The client advises that a few weeks after they moved in, they had a "slug infestation", which they were expected to fix themselves as the agent informed them that it was after the first 2 weeks of moving in and must therefore be something they had caused themselves. She advises that they are unable to open the window in the bathroom as it just falls out if it is opened. As a result they have mould growing in their bathroom. The living room window is also loose and cannot be opened for fear of falling out. The bedroom window double glazed unit is burst and full of condensation, among other issues. The client advises that she has sent several emails and photos of the disrepair. The agent sent out an external assessor in March, but the client has not received any report or update since then.

31. In the event of a criminal prosecution not taking place, how best can we ensure that a tenant is compensated, where evidence exists of an unlawful action?

In order for this to happen, it must be clear what the process would be and what body would be responsible for making decisions and compensating victims. Although not directly relating to illegal evictions, we are aware of a small number of tenants successfully pursuing their landlord for various poor practices, but then struggling to actually access the compensation, especially if the landlord lives in another country. We anticipate that this situation may also frequently experienced by victims of illegal eviction.

Citizens Alert: A North of Scotland CAB reports of a client who was having difficulty getting her deposit back after moving out of a property. The Landlord was registered, with an address in Estonia and no leasing agent was included in the registration. The case went to the Tribunal in March 2020 but was not concluded until nine months later. In their conclusion the Tribunal found that the Landlord was "taking repeated and deliberate steps to frustrate the (Tribunal) process by which he was found liable". The client was awarded three times her security deposit, but without any local address has no way of getting this. The CAB raised this issue with Council, but they said there was no requirement for a local address in the regulations.

32. Should students living in Purpose Built Student Accommodation be offered similar rights to students who rent from a private landlord? If so, how can we best achieve this without impacting on the supply of Purpose Built Student Accommodation?

Yes

No

Don't know

Please explain your answer.

CAS unfortunately does not hold sufficient evidence on this issue to provide an answer.

33. Are there any particular aspects of the Private Residential Tenancy that are not working for the student market and what, if any changes/amendments, would help to address these or to encourage landlords to rent more to students?

Yes

No

Don't know

Please explain your answer.

Students generally make up a small proportion of CAB clients, but it's important to recognise that students are not a homogenous group and are in a variety of different circumstances, and particularly those who have sought advice from CAB tend not to fit the stereotypical image of a student aged 17 to 21 who are away from home for the first time. The biggest challenge facing students that CAS can observe from our evidence is affordability of the private rental sector and often being ineligible for benefits depending on their student status. The latter point came to the fore particularly during the pandemic and affected students who were working part-time alongside their studies and put many into significant rent arrears. Better access to benefits and other funds would be helpful to students in this regard.

Citizens Alert: A West of Scotland CAB reports of a client who is full-time student, aged under 25 who was working part-time in hospitality before being furloughed. The client has no access to means-tested benefits due to being a student so cannot claim LHA to cover £690pm rent. The client applied to University's Coronavirus Discretionary Fund in June. Rent arrears were £665 prior to COVID and £2195 in July. The client received £700 from the University's Discretionary Fund and told to reapply again when next SAAS payment is processed in September. The client feels landlord is likely to evict her. The client was advised that she could apply to the Scottish Welfare Fund as it doesn't exclude student applications, but SWF won't award a grant to pay off rent arrears.

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

CAS unfortunately does not hold sufficient evidence on this issue to provide an answer.

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

CAS unfortunately does not hold sufficient evidence on this issue to provide an answer.

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

CAS has limited information relevant to this question, but we have recently been made aware through the network of CABs that there is currently a lack of clarity around whether caravan rental costs are eligible for the Universal Credit housing costs element. If they are not, this is potentially discriminatory towards the gypsy/traveller community.

37. If you rent or let a residential mobile home as a main residence, what type of tenancy do you have and what are the common problems you experience?

CAS has limited evidence of people living in caravans and residential mobile homes but as part of a research project carried out by the Argyll and Bute CAB in early 2022, we learned more about the experiences of people in this situation through focus groups. We learned that these arrangements are often informal, without a proper tenancy and as such, people are unclear as to their rights. This can lead to repairs not being completed when needed and insecurity over the security of tenure.

38. What do you believe are the key housing issues facing people with:
1. A tenant farm or a rented croft house?
 2. Tied accommodation as part of their employment?

CAS does not hold much evidence on this area however we can see from our limited evidence that tied accommodation can be extremely precarious. This was highlighted especially during the pandemic when many workers lost their jobs and their accommodation, despite the mandate from government to stay at home.

Citizens Alert: An East of Scotland CAB reports of a client who has been living in tied accommodation at the hotel he was working at. He was dismissed because of the Covid-19 pandemic which caused the hotel to close. The employer did not put the staff on furlough. With the pressure from various organisations it was agreed that staff could stay at the hotel. Other workers have now left, and the client is the last person still residing at the premises and is worried that he will be asked to leave over the Christmas 2020 period.

39. What can we do to improve the outcomes for those people with a tied house for their employment who are approaching retirement and may face losing their home?

CAS unfortunately does not hold sufficient evidence on this issue to provide an answer.

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)?

CAS believes that all of the factors mentioned should be incorporated into a shared understanding of housing affordability. We also believe that average local incomes need to be taken into account when developing this understanding.

Evidence from bureaux across Scotland emphasises the need to take local circumstances into account; incomes vary considerably and as a consequence this will influence what is affordable in those areas. We also know that external factors such as the presence of a high number of short term lets also significantly inflate rental prices in the local area, making it difficult for residents to find and stay in reasonably priced accommodation.

When considering a definition of affordability, we must consider different levels of affordability and particularly how it interweaves with the benefits system. Analysis of the holistic advice offering of the Citizens Advice network in Scotland last year showed that 40% of clients who received advice relating to the rented sector also received benefits advice during the year, demonstrating the common interdependence between housing and benefits. The private rented sector ostensibly exists to offer a flexible choice of accommodation but due to a lack of social sector supply often ends up being the tenure of last resort for households for whom it isn't designed. As such, we need to significantly reform the private rented sector, as well as hugely expand the social rented sector.

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

A shared understanding of affordability should provide a benchmark to assess how well the rented sector is functioning and providing affordable accommodation. However, it depends on continued high quality, consistent and robust data collection about how the private sector operates in practice. We imagine it will be of significant use to local authorities in their assessments of local housing need and area plans. As it must also be closely linked with benefits rates, it must be reviewed as benefits rates change.

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?

Yes

No

Don't know

Please explain your answer.

The data that the Scottish Government is proposing to collect is undoubtedly a positive first foray into a better understanding of the private rented sector and we welcome it. It would be useful to further define the rental amount as being the actual rental amount, for the current year. We welcome the idea that the tenancy type should be included, and view this as a further opportunity to encourage landlords to move their tenants onto a PRT where they are on an old short assured tenancy. The intention of the fourth proposed metric around type of let is not quite clear to us, and what its utility is. We assume that it relates to understanding frequency of tenancy changes or how many tenants have lived in the property, and we would be interested to see more detail on this proposal.

CAS believes that extremely valuable information can be gained by putting these proposals into practice and will give an insight into existing properties. This will also be useful to the Scottish Government for the purposes of the affordable housebuilding programme e.g. if the data shows a lack of larger properties in the private rented sector, these may be prioritised by the programme. We caution however that we know some local authorities' landlord registration teams to be running without sufficient resource, and sometimes without IT systems that can manage all of this data. We therefore emphasise that these must be properly resourced and supported to enable the data to be collected and used in a robust way.

43. What can we do to ensure that landlords and agents provide accurate rental data (and other relevant property information) as soon as any changes are made?

The Scottish Government and local authorities must make it as easy as possible for landlords to provide this information and this should be subsumed into the usual landlord registration process as much as possible. It is the case that in order to get good quality, up to date data, it will be necessary for landlords to provide more data, more frequently. Landlords must therefore see the benefit of such an exercise, and CAS believes that they also stand to gain by becoming more informed about the market in which they operate.

44. What is your view on making rental and property information publicly available for tenants and others to view?

CAS supports the proposal to make rental and property information publicly available. As consumers, tenants must be able to make a fully informed decision when considering renting a property and being able to access and

understand more about the market will be of benefit to them. We understand that there is some uncertainty about exactly what information will be made public, and for clarity state that we don't believe that a landlord's address or the current tenants' details should be made available to the public. Otherwise, we don't believe publishing factual information about the property and tenancy type would be a breach of privacy, but rather would give transparency to the sector to the benefit of both tenants and landlords.

45. What is your view on enabling Rent Penalty notices to be issued where a landlord fails to provide up to date registration, rent data and property details?

CAS supports the proposal to issue rent penalty notices where landlords fail to provide up to date registration. We understand that landlords are sent reminder letters and emails, and believe they have a reasonable duty as responsible landlords to upkeep their records. We do not believe the provision of additional data will be an unreasonable task, and for many, this data will not change year to year, and will simply require confirmation that the details are the same. The Citizens Advice network in Scotland does not have any evidence of landlords struggling to comply with registration requirements but does have a significant amount of evidence relating to un-registered landlords, whose poor and often criminal practice is rarely challenged. This again points to the under-resourcing of landlord registration teams, or the unwillingness to challenge poor practice. Landlords should be supported to provide this additional information but if they choose not to comply, we believe proportionate rent penalty notices are an appropriate measure.

46. Do you agree that the rent adjudication process should only result in rents being decreased or maintained?

Yes

No

Don't know

Please explain your answer.

Yes, CAS agrees that rent adjudications should only result in rents being decreased or maintained. Rents are already too high in many parts of Scotland and being able to challenge rents is a key part of the empowerment of tenants. We do not believe that tenants bring unreasonable cases to be adjudicated, and if anything, this process is under-used, and allowing for rents to be raised is likely to put tenants off using it.

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

Yes

No

Don't know

Please explain your answer.

CAS does not agree with the proposal not to extend rent controls to the social rented sector, as there does need to be a suitable mechanism in place to ensure that rents in the social rented sector remain affordable. According to the Scottish Government's statistics, rents in the social rented sector have risen by about 24% over the past 13 years, broadly in line with private sector rents. While average social rents do remain lower than private rents, the incomes of those living in the social sector tend to be lower than households in the PRS, and the statistics suggest that SRS tenants are likely to be spending more of their income on rent. While some may claim that there is a greater use of housing benefit or Universal Credit to cover housing costs in the social sector, this is complicated by the impact of the bedroom tax and benefit cap, which reduces the housing element to almost nothing for some families. Coupled with the failure to uprate benefits and the recent £20 cut to Universal Credit, this is likely to cause affordability problems for many. In CAS' experience, this puts households at risk of losing their home due to rent arrears, which is unacceptable. We also understand that stock-owning local authorities and housing associations are much more likely to implement a rent rise every year (with recent exceptions due to the rising cost of living⁹), compared to the private rented sector. These frequent rent rises often cause further difficulties for people using housing benefit or Universal Credit, as the systems do not speak to each other in a timely way and artificial rent arrears accrue for the tenant, causing them undue worry.

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?

Yes

No

Don't know

Please explain your answer.

Whilst the safeguards described in the consultation paper appear to be extensive, CAS is aware of circumstances where social tenants have opposed rent rises and it does not appear to have been heeded by the housing provider. We are therefore unclear whether the consultation processes with tenants truly take their views into account, or whether they are simply tokenistic. This may be helped by increased tenant union presence and involvement. As above, we believe that some tenants may be struggling with the affordability of social rents for various reasons, and there should be closer scrutiny of arrears and evictions in the social rented sector, as well as a better understanding of the impact of rent rises on tenants. For working but low-income households, their incomes are likely to have been squeezed by the pandemic, and like many other low-income households will be disproportionately impacted by the cost of living crisis.

⁹ Inside Housing (2022) [Revealed: Scottish councils set out rent-setting plans for year ahead](#)

49. Are there elements of the existing Rent Pressure Zone system that could be built upon when designing a new system of rent controls?

Yes

No

Don't know

Please explain your answer.

CAS believes that valuable lessons can be learned from the existing Rent Pressure Zone system, with a view to replacing it with a more appropriate form of rent control. The localised aspect of RPZs is correct, as we believe that any form of rent control needs to be cognisant of and work for local housing markets, and what will work in Edinburgh will not necessarily work in Ayrshire. There is a lack of clarity in the requirements for an RPZ, such as the necessity to provide evidence that high rents cause undue hardship for tenants. The burden of evidence needs to be lower and must not require any information excess to what is proposed to be collected by local authorities (as per Question 42). Again, we emphasise that much better data collection is needed to enable any form of rent controls to function.

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

Yes

No

Don't know

Please explain your answer.

CAS agrees with the vision and principles set out in the strategy for a future model of rent controls, particularly the inclusion of mechanisms to introduce local measures. We emphasise that rent controls must address both between and during tenancy rent increases. Again, we state the importance of greatly expanded and robust data collection about the private rented sector to the development of appropriate rent control measures. We also recommend that rent controls must have cognisance of Local Housing Allowance levels, knowing as we do that many low-income households live in the private rented sector, due in part to lack of supply of social rented homes, and often struggle to find accommodation that they can afford using LHA.

Citizens Alert: A North of Scotland reports of a client, their partner and two young children who are currently living and sleeping in one room in their private rented accommodation due to damp and mould. This situation is affecting health of the family. The landlord is having to sell property as he has had financial difficulties and the client has been issued with a 3 month notice to leave. The client has applied to their local authority for housing as they are struggling to find alternative affordable accommodation in the area.

51. How do we ensure that we are achieving the right balance between building new properties and acquiring existing properties through the Affordable Housing Supply Programme?

CAS unfortunately does not hold sufficient evidence on this issue to provide an answer.

52. Where has the acquisition of existing stock for the Affordable Housing Supply programme worked well and are there other opportunities to engage with owners/landlords to allow first refusal to those delivering the Affordable Housing Supply Programme?

CAS unfortunately does not hold sufficient evidence on this issue to provide an answer.

53. Beyond the routes already available to deliver MMR homes how could new, additional investment in this be supported?

CAS unfortunately does not hold sufficient evidence on this issue to provide an answer.

54. What measures can we put in place to help encourage BtR developments in Scotland?

CAS unfortunately does not hold sufficient evidence on this issue to provide an answer.

55. Is the approach to allocations achieving the right balance between supporting existing social tenants and those who are seeking a home within the social sector?

Yes

No

Don't know

Please explain your answer.

CAS unfortunately does not hold sufficient evidence on this issue to provide an answer.

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

CAS unfortunately does not hold sufficient evidence on this issue to provide an answer.

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

CAS believes that improved support for landlords, followed where necessary by appropriate enforcement and penalties are key to ensuring landlords undertake professional repairs. Landlords have a duty to ensure minimum conditions for their tenants, but we have evidence of this duty being undermined by both private and social landlords. CABs most often deal with serious cases of repairs, and we do not feel that current enforcement mechanisms are sufficient to deal with these, nor are local authorities resourced to enforce in a timely and appropriate way. Essential repairs are deemed as such as they are essential for living, and people cannot reasonably go without these, yet the Citizens Advice network regularly reports of clients who wait long periods of time with no access to essential facilities, with little to no consequence for the landlord. If accessing money to finance a repair is the issue, particularly for private landlords, we suggest a joint insurance scheme is set up if there isn't already one in place. Landlords should not be operating in the market or letting out properties with known issues such as old boilers if they have not got the money to repair them, and enforcement is needed to ensure that landlords in this circumstance cannot continue to collect rent where they are not providing decent accommodation and facilities.

Citizens Alert: A West of Scotland CAB reports of a client who has a 3-year-old son and is pregnant. Her heating has been switched off and there is no hot water. The local authority is saying it could be one month before the heating is fixed.

58. What do you think are the strengths and weaknesses of the current registration systems and what could be improved to help drive up standards of management?

CAS' experience is that the current system is not effective in driving up standards through pursuing bad or unregistered landlords and taking them off the register or giving out effective penalties, although we do recognise pockets of good practice. As a result we believe that effort needs to be placed into ensuring the system functions better and protects tenants and good landlords. This may be through additional resources and/or a re-design of the system. We believe there is some good practice such as links with landlord membership bodies, a valuable source of information and support for landlords, which should be replicated where possible, in order to keep landlords informed of their rights and responsibilities, as well as changes to legislation. We would also look to drive up membership of these landlord bodies for this reason. We also look to the Welsh system of landlord licensing and consider this a better standard to aspire to, as it requires landlords to attend mandatory training, which will help to drive up practice.

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?

Please see our response to Question 58.

60. What is your personal experience in securing necessary adaptations – either for yourself, or for your tenants – in rented accommodation?

The network of Citizens Advice bureaux in Scotland frequently advocates for disabled people who require adaptations, and who often meet resistance or significant delays in both the private and social rented sector. Cost and value for money are most frequently cited as reasons for the resistance, which is unacceptable. We often find that if adaptations are not installed, tenants face significant waits to find alternative suitable housing, or to be re-housed. This causes undue stress, worry and often financial hardship to tenants who are being denied the right to enjoy their home peacefully and safely.

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?

Yes

No

Don't know

Please explain your answer.

The vision for the private rented sector regulator is a constructive start but in CAS' view needs to be strengthened into a more ambitious vision for the whole rented sector which protects, guarantees and progresses the rights of all tenants. The success of a regulator for the private rented sector will depend on the partnership working between the regulator and other bodies tasked with delivering a high-quality rented sector. The role of the regulator must be clearly defined amongst these existing bodies, and it must be clear how tenants can interact to the regulator i.e. in what cases will the regulator intervene, as opposed to a local authority. We also recognise the potential difficulty for a new regulator in exercising its powers in a private market as opposed to the social rented sector where landlords are public bodies and have clearer duties towards their tenants. CAS is keen to consider proposed details for the regulator as they develop.

For more information, please contact:

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