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Local Government, Housing and Planning Committee

Housing (Scotland) Bill Stage 1 Report



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Local Government, Housing and Planning Committee

To consider and report on matters relating to local government and planning falling within the responsibility of the Cabinet Secretary for Finance and Local Government, matters relating to housing and tenants' rights within the responsibility of the Cabinet Secretary for Social Justice, and matters relating to local government boundaries, local governance review and democratic renewal.



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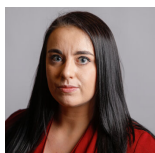
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Membership changes during Bill consideration

1. Emma Roddick replaced Stephanie Callaghan on 18 June 2024
Fulton MacGregor replaced Gordon MacDonald on 11 September 2024
Meghan Gallacher replaced Miles Briggs MSP on 9 October 2024
Alexander Stewart replaced Pam Gosal on 9 October 2024

Introduction

2. The Housing (Scotland) Bill ('the Bill') was introduced in the Parliament by the Cabinet Secretary for Social Justice on 26 March 2024. The Local Government, Housing and Planning Committee was designated as lead committee for scrutiny of the Bill at Stage 1, and the Social Justice Committee was designated as secondary committee to specifically examine those parts of the Bill relating to homelessness prevention (Part 5) and to fuel poverty (Part 6). The Bill and its accompanying documents are available at [Housing \(Scotland\) Bill – Bills \(proposed laws\) – Scottish Parliament | Scottish Parliament Website](#).
3. Under the Parliament's Standing Orders Rule 9.6.3(a), it is for the lead committee to report to the Parliament on the general principles of the Bill. In doing so, it must take account of views submitted to it by any other committee.
4. The lead committee is also required to report on the Policy Memorandum and the Financial Memorandum (FM), which accompany the Bill. The Finance and Public Administration gave scrutiny to the FM before reporting its conclusions to the Committee. The Committee also reflects on the Delegated Powers Memorandum and FM in the course of this report.
5. The Bill's [Policy Memorandum](#) states that 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 homeless." It goes on to explain the Bill contains a package of reforms which will help ensure people have a safe, secure, and affordable place to live, and 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. It also "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."
6. In his oral evidence to the Committee, the Minister for Housing explained:

” The package of reforms as set out in the Bill are... focused on helping to ensure that people have a safe, secure and affordable place to live. The measures in the Bill introduce changes that are positive for both tenants and responsible landlords.”ⁱ
7. Further information on the background to the Bill and the changes it seeks to implement can be found in the [SPICe Bill briefing](#).
8. During its scrutiny of the Bill, the Committee has in particular considered whether the Bill is likely to meet the Scottish Government's stated objectives, and how the success or otherwise of the Bill will be measured in the future.
9. A key driver for this Bill is the lack of affordable housing in the private rental sector. During the Committee's scrutiny of the Bill at Stage 1 concerns about the availability and affordability of housing in Scotland have escalated. In June 2023 Argyll and Bute Council declared a housing emergency and in recent months the number of councils declaring housing emergencies has significantly increased. At the time of

ⁱ [Meeting of the Parliament: LGHP/10/09/2024 | Scottish Parliament Website](#)

writing 12 local authorities have now declared housing emergencies.

10. Following local authority declarations, in May 2024 the Scottish Government supported an amended motion in the Scottish Parliament declaring a national housing emergency, in acknowledgement that there was a record number of people experiencing homelessness. Stakeholders have highlighted that this emergency has been precipitated by a variety of factors including:
 - a shortage of affordable housing
 - demand for social housing outstripping supply
 - increased rents in the private sector
 - high inflation
 - freeze of local government housing allowance rates
 - labour shortages linked to Brexit
 - cuts in Scotland's capital funding settlement from the UK Government.
11. The cost crisis and the wider factors listed above created an environment of uncertainty within the private rental sector, which was subsequently compounded by the introduction of the Bill itself, with its lack of specificity about how the rent cap will work.
12. During the Committee's consideration of the Bill at Stage 1, the Minister for Housing made it known that the Scottish Government intended to review the rent control aspects of the Bill in order to balance the need for continued investment in rental property while still providing protection for tenants. This created some uncertainty for the Committee in its scrutiny.
13. This lack of clarity on proposed changes to the Bill and on the rent cap in the Bill as introduced, as well as the drivers for the housing emergency as set out in paragraph 10 above, have combined to create a sense of uncertainty that has been detrimental to both tenants and landlords.
14. Following his appearance before the Committee on the Bill, the Committee [wrote to the Minister](#) seeking certainty on his plans for amending the Bill as well as timescales for doing so. In [his response](#) the Minister advised the Committee that the Scottish Government intends to "settle the Government's position on the policy relating to section 9(3)" of the Bill. Section 9(3) specifies that regulations which designate a rent control area must specify the maximum rent increases allowed, "which may include:
 - (a) a specified percentage (which may be 0%),
 - (b) an amount falling within a specified range,
 - (c) an amount calculated with reference to (i) one or more specified factors, or (ii) other specified criteria (including a formula)."
15. On 31 October 2024 the Minister for Housing made a [statement to the Scottish Parliament](#) clarifying that the Scottish Government intends to bring forward

amendments at Stage 2 which will cap rent increases in rent control areas to the Consumer Price Index (CPI) plus 1%, up to a maximum increase of 6%. However that detail was not provided in sufficient time before this report was finalised for the Committee to scrutinise the likely impact of those provisions, and the considerable volume of evidence which the Committee has gathered does not reflect those amendments. In addition, the Minister explained that the Scottish Government will carry out further consultation in Spring 2025 in order to determine whether certain types of property should be exempted from rent control and for rents to be increased above the level of the rent cap in some circumstances. This will build on consultation already undertaken in 2023. It seems that a decision on how exemptions will be applied may not be made until the Bill reaches Stage 3 at the earliest.

16. The mechanism by which rents will be capped is central to how the Bill will be implemented and has therefore been a key concern of witnesses throughout the Committee's scrutiny of the Bill. The Committee will therefore seek to hold additional evidence sessions with witnesses about the Scottish Government's intention to cap rent increases to CPI +1% prior to beginning consideration of amendments at Stage 2

17. The rental sector was described aptly to the Committee during its scrutiny of the Bill as a 'delicate eco-system'ⁱⁱⁱ. That system has been negatively affected by uncertainty, including about how key parts of the Bill will operate in practice, in particular the Scottish Government's plans to amend the provisions on rent controls. The Scottish Government has only provided some degree of clarity on those amendments at a very late in the Stage 1 process, and decisions on the exemption of properties from rent control will not be made until after Spring 2025. Going forward there must be an emphasis on clarity as the legislation continues to proceed through the Parliamentary process and during the development of the secondary legislation needed to bring much of the Bill into force.

18. With a view to certainty, the Committee would in particular bring to the Scottish Government's attention the scrutiny of the Bill by the Delegated Powers and Law Reform Committee which recommends that a number of powers are set out on the face of the Bill instead of in secondary legislation. These are discussed further in the sections of the report on Rent Controls (paragraphs 100-181), the right to own pets (paragraphs 230-242) and under Delegated Powers Provisions (paragraphs 263-265).

Pre-legislative scrutiny

19. In order to inform its consideration of the Housing (Scotland) Bill, the Committee established two lived experience panels prior to the Bill's introduction. One was made up of tenants in the private rental sector and the other of landlords in the private rental sector. Over the course of a series of meetings the panels agreed on [recommendations](#) to inform the Committee's scrutiny of the Bill, and then met with Committee members to discuss them.

ii [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

20. The Panels' involvement in the Parliament's scrutiny of the Bill provides the Committee with valuable insights about the housing system from the perspectives of people directly affected by the legislation. This report draws on their recommendations throughout.
21. The final reports of both panels are available on the [Bill's webpage](#). The Committee would like to put on record its sincere thanks to all members of both panels who gave up their valuable time to aid the Parliament's scrutiny of the Bill.

Call for Views

22. The Committee issued a joint call for written views with the Social Justice and Social Security Committee with responses being received from 317 individuals and organisations. These responses are available online and a [summary report](#) is available on the Bill webpage. The Committee would like to extend its thanks to everyone who took the time to respond to the call for views.

Committee consideration

23. The Committee took oral evidence from the following panels of witnesses:
 - 4th June 2024: Scottish Government officials
 - 11th June: Academics and researchers
 - 11th June: Organisations representing tenants
 - 18th June: Organisations representing landlords, investors and agents
 - 18th June: Local authorities
 - 25th June: Representatives of equalities groups, and of social landlords
 - 25th June: Pet charities
 - 3rd September: Convention of Scottish Local Authorities (Cosla), Association of Local Authority Chief Housing Officers (ALACHO), and the Chartered Institute of Housing (CIH)
 - 10th September: Scottish Government's Minister for Housing and officials.
24. Further information on the witnesses which the Committee took oral evidence from can be found in Annexe A which includes links to all meeting papers and official reports. The Committee is immensely grateful to all those who provided evidence on the Bill and enabled the Committee to apply detailed scrutiny to the Bill's provisions.
25. The Committee has focused its scrutiny on the main elements of the Bill, namely rent control, evictions, and new rights for tenants. It has also considered the provisions in the Bill for changing how joint tenancies are ended, and how

unclaimed tenancy deposits could be used. The Bill contains a number of other more minor provisions which are procedural rather than a significant change of policy direction and so the Committee has not specifically scrutinised those provisions.

26. The Scottish Parliament's Social Justice Committee examined the parts of the Bill which relate to homelessness prevention (Part 5) and to fuel poverty (Part 6) and has [published its conclusions](#).

Background

The rental sector

27. In the Policy Memorandum accompanying the Bill the Scottish Government highlights [statistics on housing](#) which estimate there are around 959,000 households in the rental sector, 341,000 of them in the private rented sector. (The major provisions in the Bill relate only to private rented tenancies.)
28. An increasing proportion of homes are now rented, and while for many this might be a matter of choice, for others it has become a necessity given the significant increase in property prices in recent years which has put home ownership far out of reach for many. But, as the Committee has frequently heard during its scrutiny of the Bill and in previous work, renting a home also presents enormous challenges, namely high prices and a shortage of suitable properties. These problems are greater in some parts of Scotland more than others, in particular urban areas such as Edinburgh and Glasgow, but also in rural and remote communities which face additional challenges precipitated by a scarcity of rental properties and affordable housing more generally.
29. Evidence provided to the Committee by local authorities illustrates how the rental market varies across different areas of Scotland:
- Edinburgh may have the highest average rent in the country, with a 2-bedroom property costing around £1,500, which is £400 higher than the national average. In November 2023 the council declared a housing emergency, with more than 5,000 homeless households in the city. Edinburgh has an estimated 60,000 private rented properties and around 43,000 landlords.ⁱⁱⁱ
 - Argyll & Bute has a mix of urban, rural and island properties and a shrinking private rented sector, with a 20% reduction in landlords in the past year. A lack of affordable properties is contributing to depopulation in rural areas.^{iv}
 - In contrast, in Aberdeenshire prices in the private rented sector have actually decreased in the past decade and have stabilised.^v
30. The high rents and property shortages experienced by cities such as Edinburgh and Glasgow are perhaps the most visible example of the challenges facing tenants, but a recurring theme in the evidence which the Committee has heard is the importance of recognising those challenges also exist within a rural context where they have different implications. Shortages of housing in rural areas have a significant impact on local economies by constraining business growth and making it difficult to sustain populations, particularly younger people who wish to remain but struggle to find a home. Kelly Fearn from Argyll and Bute Council told the Committee:

iii [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

iv [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

v [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

” The housing emergency and the severe lack of affordable options in rural areas are having a massive impact on depopulation and our ability to sustain and retain people in rural localities.”^{vi}

31. Across both rural and urban areas, people's lives are affected on a daily basis by the challenges of finding and keeping a home. During the course of its evidence gathering the Committee heard a strong reminder of this from many witnesses. Aoife Deery from Citizens Advice Scotland for example told us that:

” Research has consistently confirmed the foundational importance of a home to people's wellbeing, building communities, reducing inequalities, and... improving overall life chances.”^{vii}

32. Aoife Deery went on to say:

” Our evidence shows that rents in some areas are simply too high, so Government intervention is justified. Increasingly, people are struggling to access having their own homes, especially those who are on low incomes. We need to help them to access and remain in their homes by developing proportionate evidence-based policies to limit high rent increases. I would say that the bill seeks to do that in quite a careful way.”^{viii}

33. As noted earlier, in May 2024 the Scottish Parliament agreed a motion declaring a national 'housing emergency', acknowledging there was a record number of people experiencing homelessness.

34. Witnesses described to the Committee the complexities of the housing system in its entirety and the difficulties of addressing isolated parts of it effectively, as the Bill intends to do with the private rented sector. Tony Cain from the Association of Local Authority Chief Housing Officers (ALACHO) explained that a 'whole system' approach should be taken to tackle Scotland's housing emergency and so reduce homelessness:

” Our system is unbalanced, is not working well, and is not delivering in an even-handed way. Some people are disadvantaged by the system, and there are some who suffer significant disadvantages... Homelessness is a system outcome. The housing system creates situations in which people cannot manage their housing journeys effectively, so they present to local authorities. We have to change the system in order to manage such issues.”^{ix}

35. In its consideration of the Bill the Committee has examined whether the Bill will be a positive measure in responding to the complex challenges in the housing sector and whether it will improve the availability and affordability of private rented housing in turn impacting on the housing sector more generally. The Committee has been considering all aspects of the housing sector in the context

vi [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

vii [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

viii [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

ix [Meeting of the Parliament: LGHP/03/09/2024 | Scottish Parliament Website](#)

of a short inquiry into the housing emergency, the adequacy of the response to it, and how Scotland can move away from an emergency to a sustainable and effectively functioning housing sector for all.

Existing housing legislation

36. This is not the first time in recent years that the Scottish Government has legislated in relation to the private rented sector. Indeed, concerns have been expressed to the Committee about the uncertainty which the frequency of these changes has created.
37. Before turning to look in detail at the Bill, it is helpful first to look at the existing legislative picture and why this Bill is considered necessary.
38. The [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) ('the 2016 Act') introduced the private residential tenancy, replacing the short assured tenancy^x. The 2016 Act aimed to provide greater protections for tenants, limiting the frequency of rent increases and ending fixed term tenancies. The 2016 Act provided that landlords can only increase rents once in a 12 month period, and must give at least 3 months' notice. It also provided that tenants can challenge a rent increase by applying to [Rent Service Scotland](#) for them to make an assessment.
39. The 2016 Act also allowed for the creation of 'rent pressure zones' by local authorities in order to cap rents in those areas, however no such zones have been created. The Bill includes similar provisions for the creation of 'rent control areas', leading to a number of witnesses questioning whether these present a realistic solution to controlling rents given that existing powers to create rent pressure zones have never been used. (The section below on data collection by local authorities discusses the challenges that local authorities have experienced in obtaining sufficient data to create rent pressure zones.)
40. In response to the impact of the cost crisis that followed the Covid-19 pandemic and in recognition of the difficulties that many people face in renting a home, Scottish Ministers introduced emergency legislation in October 2022, the [Cost of Living \(Tenant Protection\) \(Scotland\) Act 2022](#). This sought to help stabilise housing costs for tenants through a temporary rent cap on existing tenancies. The cap was initially set at 0% with the potential for increases of up to 3% in specific circumstances. The Act also put in place a moratorium on the enforcement of evictions. In February 2023 the rent cap in the private sector was raised to 3%, and increases up to 6% in some circumstances were permitted for 2023-24.
41. Those measures expired in March 2024, at which point the Scottish Government introduced a temporary change to the rent adjudication process until April 2025. The Government described the intention of that change as being "to support the

^x Short assured tenancies are governed by the [Housing \(Scotland\) Act 1988](#), and always last a fixed length of time (at least six months). Only tenants that moved in before 1 December 2017 may still be on a short assured tenancy.

transition away from the rent cap, and protect tenants from excessively large rent increases which could be experienced if there is a sudden move to open market rent levels that have been suppressed."^{xi} Under the change, if a landlord intends to implement a rent increase and the tenant goes to Rent Service Scotland (RSS) for adjudication, RSS will determine the rent based on the lowest of 3 figures - the open market rent, the rent requested by the landlord, or a new taper that supports the transition away from the rent cap.^{xii}

42. The measures brought in under the Cost of Living (Tenant Protection) (Scotland) Act 2022, including the rent cap, have come in for significant criticism. It has been argued by stakeholders that rather than providing the intended stability, the effect has been to the contrary. It has been suggested that these measures have acted as a deterrent to investors in Scotland by creating uncertainty in the market, and may have inadvertently increased rents overall by changing landlords' behaviour, as Professor Kenneth Gibb explained to the Committee:

” The rent cap aimed to protect existing tenants, but there is definitely a sense that the consequences were not thought through, in that it almost created a mandate for landlords to raise rents when they had a new tenancy to let. The affordability consequences were pretty severe.”^{xiii}

43. In its written submission to the Committee, the City of Edinburgh Council also raised concerns about the impact of the emergency legislation:

” ...there has been considerable analysis by industry professionals into the impacts arising from the emergency legislation. This shows that there has been significant impact on investment flows which has resulted in a dramatic reduction in the supply of new housing. This has affected Council projects where there is a 'build to rent' component. There is also evidence that rent levels increased more in Scotland than elsewhere in the UK during this period. In moving forward with permanent legislation, care must be taken to avoid creating homelessness through the same legislation designed to prevent it.”^{xiv}

44. And Callum Chomczuk from the Chartered Institute for Housing raised similar concerns in his oral evidence to the Committee:

” ...despite the emergency rent cap legislation in the Cost of Living (Tenant Protection) Scotland Act 2022, we still saw rents increase quite substantially across Scotland. There is significant regional variation, but there have been double-digit increases in rent across Scotland during that period. We are building in an escalator for annual rent increases, which is absolutely not what the Bill intends.”^{xv}

45. Gerry Tierney from Ayr Housing Aid described the impact on landlords of the rent
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xi [Scottish Government, Rent Adjudication \(Temporary Modifications\) \(Scotland\) Regulations 2024 – Business and Regulatory Impact Assessment](#)

xii This [blog by the Scottish Parliament Information Centre \(SPICe\)](#) provides more information on how this complex process works.

xiii [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

xiv [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

xv [Meeting of the Parliament: LGHP/03/09/2024 | Scottish Parliament Website](#)

cap created by cost of living protections, saying:

” ...our sense of things is that private landlords are voting with their feet—a significant number of them are leaving the sector. That will create a serious issue down the line in that there will not be a mix of property types available for tenants. A number of the notices to leave that people have been served with post 1 April note that the landlord wishes to sell the property.”^{xvi}

46. In his oral evidence to the Committee, the Minister for Housing said that he wanted to see landlords returning to the sector, and that evidence suggested the number of properties available for rent may not be diminishing:

” The latest data shows that numbers have actually slightly increased. Anecdotally, having spoken to the councils in Edinburgh and Glasgow, I know that they have found that landlords who own single properties are selling up but that they are selling those properties to landlords who have a bigger portfolio, such as 5, 10 or 15 properties. The number of landlords is probably decreasing and the number of properties in the sector is slightly increasing.”^{xvii}

47. The introduction by the Scottish Government of temporary rent caps through emergency legislation sought to provide protections for tenants during the cost crisis. However, whilst these were well-intentioned and welcomed by tenants, the Committee heard they had unintended consequences for tenants and landlords in the private rental sector, ultimately resulting in many cases in rent increases for tenants. As discussed in more detail below in this report, witnesses told the Committee that this experience has eroded confidence amongst landlords and investors, resulting in some cases in landlords withdrawing from the sector. That said, evidence of withdrawal from the sector is thus far largely anecdotal due to the three-year time lag in landlord registrations, and the Committee is keen to obtain a more informed understanding of the extent of withdrawals from the sector.

48. There were concerns amongst investors that this Bill as introduced would have a further deleterious effect on the availability of properties in the private rental sector, which will negatively impact on affordability and availability of properties for tenants. It is conceivable that some of the unintended consequences of previous emergency legislation was due to the speed at which that was developed. This Bill is not subject to such an expedited process and the Scottish Government has had the opportunity to learn from those previous experiences. In its ongoing scrutiny of the Bill the Committee will seek reassurance that lessons have been learned from the experience of previous legislation and existing problems in the sector are not compounded.

49. Reflecting on the lessons of this previous legislation and experience of the housing sector more generally, a number of witnesses^{xviii} including Anna Evans from Indigo House, Deborah Hay from the Joseph Rowntree Foundation, and Aoife Deery from Citizens Advice Scotland described to the Committee the importance of careful and transparent design of the Bill in order to balance the

^{xvi} Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website

^{xvii} Meeting of the Parliament: LGHP/10/09/2024 | Scottish Parliament Website

rights of both tenants and landlords. The Minister for Housing made clear in his evidence to the Committee^{xix} that considerable engagement is ongoing with the full range of stakeholders to achieve this balance. While the Committee welcomes this extensive engagement it would have been much more helpful if this had taken place before introduction to enable firm policy decisions to be reached, avoiding the current levels of uncertainty which is being experienced by tenants, landlords and investors and enabling more informed and effective parliamentary scrutiny.

The challenges facing tenants

50. In order to enable the Committee to best understand the potential impact of this legislation and to decide whether to support the general principles, it is first necessary to understand the current challenges in the housing sector and then see if the measures proposed in the legislation meet those challenges.
51. As described above, a lack of supply of rental properties and high rents were key issues which came up repeatedly throughout the evidence provided to the Committee. Data produced by the property agents Rettie^{xx} shows about 20% of Scotland's population is in some form of acute housing need. Anna Evans from Indigo House^{xxi} explained that many tenants pay over a third of their income on housing costs, and more than a quarter pay over 40%. She said “high rents are now the norm, that has been normalised, and people believe that they must pay a lot of their income on rent.” She also described the impact of a shortage of affordable rented housing:
- ” ...the imbalance that currently exists with regard to supply and demand and decreasing affordability really challenges safety, security and affordability, because if tenants do not have choice and know that they cannot get something of the quality, size and type that they need at a similar rent, they will not raise a challenge.”^{xxii}
52. In the evidence which the Committee heard witnesses also make reference to an intrinsic imbalance of power between tenants and landlords in the rental system. Tony Cain from ALACHO described his concerns:
- ” You [Landlords] can make the life of a tenant very uncomfortable without breaking the law: you can regularly ask to look at the house; you can frequently ask questions about their behaviour; and you can restrict what they can do or make it clear to them that you are unhappy with this, that or the other.”^{xxiii}

^{xviii} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{xix} [Meeting of the Parliament: LGHP/10/09/2024 | Scottish Parliament Website](#)

^{xx} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{xxi} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{xxii} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

53. Anna Evans from Indigo House made a similar point in describing tenants' intrinsic disadvantage:
- ” If a dispute emerges and the tenant looks at the alternatives, they find that there are very few affordable alternatives, which creates a position of less power and less inclination to challenge, because they would not be able to afford the alternative—or the alternative is not there at all.”
54. The impact of housing pressures is particularly acute for some sections of society. Kate Thompson from the Children and Young People's Commissioner for Scotland told the Committee that there are a disproportionate number of families with children and single parent households in the private rented sector. Long waiting lists for social housing mean they are forced to move into private accommodation where rents are higher. She stressed the importance of the right of children and young people to have adequate housing, as set out under article 27 of the United Nations Convention on the Rights of the Child:
- ” Without fulfilling the right to adequate housing, we are failing to uphold rights to health. People's health is severely and detrimentally affected by a lack of proper housing. That also affects rights to education. We have to think about that in the context of the Bill's ability to work towards ending child poverty. In the private rented sector, there are disproportionate numbers of families with children - in particular, families with disabled children - and single-parent households, and there are very long social housing waiting lists.”^{xxiv}
55. Kate Thompson also explained why care-experienced young people can struggle in the private sector:
- ” ...care-experienced young people leaving care to go into their own housing which can sometimes end up being in the private rented sector. That group faces particular barriers and has complex needs; it is a vulnerable group of individuals, so specialist support has to be in place.”^{xxv}
56. Older people also face challenges. Age Scotland told the Committee that there are an increasing number of people aged over 50 moving into the private rented sector, 39% of whom are living in poverty:
- ” ...they are often stuck between a rock and a hard place, in the sense that they cannot afford to pay their rent, but because they think that it would be very difficult and complex to move elsewhere, they stay in housing that is unsuitable for their needs.”^{xxvi}
57. Lucy Hughes from Engender described to the Committee how women too experience severe inequalities in housing.

xxiii [Meeting of the Parliament: LGHP/03/09/2024 | Scottish Parliament Website](#)

xxiv [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

xxv [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

xxvi [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

” ...that situation [rent affordability] hits women the hardest because women experience income inequality compared with men, earn less than average, have lower levels of savings, are more likely to get into debt, spend a higher proportion of their income on rent, are much less likely to own property and, therefore, are much more likely to rent in the social sector or, now, in the private rented sector, based on the limited data that we have.”^{xxvii}

58. James Calder from MECOPP said that more work may be needed by the Scottish Government to understand how the Bill impacts on inequalities:

” I am concerned that, although the Bill has laudable and positive aims, a little bit more time needs to be taken to look at its equalities impact and to investigate how we can support people with protected characteristics, whether they are from minority ethnic communities or have other protected characteristics, in order to ensure that the Bill fulfils the equalities needs of the communities that we support.”^{xxviii}

59. Lucy Hughes from Engender had similar concerns in her oral evidence to the Committee, saying that the Bill does not fully address gaps in housing options for people with protected characteristics.

” We need to have an equalities led approach from the outset, as the Bill is being drafted. That will help us answer the following questions. What data do we have? What can we do with it? How robust is it? What else do we need to find out to shape regulations and parts of the Bill that will actively promote the equality that is enshrined in the Equality Act 2010?”^{xxix}

60. It is clear to the Committee that there is a need for more equity in the relationship between tenant and landlord. The current imbalance in the relationship cannot endure without further detriment to tenants and the Committee therefore welcomes the Scottish Government’s ambition to achieve balance in the relationship.

61. However, from the evidence the Committee received, that power imbalance is exacerbated by a number of inequalities. A range of equality impact assessments have been published by the Scottish Government during the course of Stage 1 of the Bill, however much of the implementation of the Bill will be determined by secondary legislation and it will be critical that the Scottish Government carefully models the impact of that on equalities. In its subsequent scrutiny of any secondary legislation the Committee will be looking to the Scottish Government to demonstrate it has identified and addressed all equalities issues arising.

62. However, the housing supply in the private rental and social sector needs to be addressed, thereby empowering tenants by way of giving them a choice of affordable alternative options.

^{xxvii} [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

^{xxviii} [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

^{xxix} [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

63. The Committee heard too about the difficulties that tenants face in exercising their existing rights, partly because awareness of those rights can often be low. When asked by the Committee about how a low take-up of the right to rent adjudication by Rent Service Scotland could be addressed, Anna Evans from Indigo House said:

” It is not just vulnerable tenants who do not know how to appeal. I think that the majority of tenants do not have that knowledge or know what the process is. From the rent officer data that the Scottish Government has provided us with, we know that only 227 cases have been raised since 2017. We estimate that to be less than 1% of all PRTs [private rented tenancies].”^{xxx}

64. In a similar vein, Joshua Davies from Nationwide told the Committee that their research has found that:

” ...of the 1,000 renters that were interviewed, only 10 individual renters had ever contacted their local authority enforcement teams. There is no access to those teams or even awareness that they exist. In addition, local authorities simply do not have the resources to enforce properly.”^{xxxi}

65. The point was made to the Committee that although the Bill's intention to improve tenants' rights is welcome, those rights are only of value if people are enabled and supported to exercise them. Anna Evans from Indigo House told the Committee that:

” ...although the PRT in particular brings enhanced rights for tenants, what is most important is ensuring that there is awareness of those rights and enabling tenants to assert those rights through enforcement. In other words, legislation in itself is not enough.”^{xxxii}

66. Gerry Tierney from Ayr Housing Aid told the Committee that tenants' access to advocacy and support is important but services are patchy across the country. He agreed that tenants' awareness of their rights is low:

” We think that people tend not to know what their rights are, and we are of the view that, certainly in the social sector and possibly in the private sector, there should be a way for a landlord to make an early referral if there is any indication that a tenant is getting into difficulties.”^{xxxiii}

67. Perhaps the starkest illustration of tenants' inability to exercise their right to a safe home is in the poor condition of some rental properties. Living Rent told the Committee that the Bill should seek to address that:

” It is disappointing to see that the Bill fails to include any measures to address the extensive disrepair and quality issues that tenants face, such as mould and damp, energy inefficiency and general disrepair.”^{xxxiv}

^{xxx} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{xxxi} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{xxxii} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{xxxiii} [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

^{xxxiv} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

68. The Committee finds these arguments persuasive and agrees that legislation alone is not sufficient to bring about improvements to tenants' rights. The Bill must be accompanied by awareness raising and support for tenants if the Bill is to achieve its objectives. It therefore requests that the Scottish Government provides an implementation plan which sets out in detail how it intends to redress the current lack of awareness and support for tenants to exercise their rights. This is an important issue which this report will return to below.

The challenges facing landlords

69. Unsurprisingly, the views of landlords on the Bill were often very different from those of tenants, as was reflected in responses to the Committee's call for written views which sometimes saw a polarisation of the two interests. In particular landlords suggested that many are leaving the sector due to a number of factors, and that the measures in the Bill such as rent control could exacerbate that.
70. John Blackwood from the Scottish Association of Landlords told the Committee:
- ” What we hear from our members is that they are actively selling up and leaving the sector, which is having an impact on supply and the rents that are being charged, as a result. We are concerned that, if we do not have investor confidence in the sector, investor landlords of all sizes, shapes and forms will leave, which will make it harder for renters to find a home in the future.”^{xxxv}
71. The Committee heard too that landlord demographics may also be a factor in them leaving the sector. Professor Ken Gibb believes there are probably a cohort of 'buy-to-let' landlords who are reaching retirement age and liquidating their assets, and who are not being replaced by younger people entering the sector.^{xxxvi}
72. There were suggestions made to the Committee by landlords that the Scottish Government does not understand the sector from their viewpoint, in particular the burdens on them. Timothy Douglas from Propertymark said:
- ” Propertymark would like the Scottish Government to commit in the Bill to reviewing all the costs and taxes that have been implemented on private landlords in recent years. That should be done within six months of the Bill passing... we do not feel that Scottish Government ministers have grasped the investment side of the sector... there should be a commitment to publishing an annual parliamentary update on the state of the sector, because I do not feel that there is that understanding.”^{xxxvii}
73. This perspective that landlords are disadvantaged by the range of legal requirements they are subject to was echoed by research carried out by Argyll & Bute Council into the private rented sector.

^{xxxv} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{xxxvi} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{xxxvii} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

” One of the main challenges that was reported was the legislative burden that landlords feel is already imposed on them. That included landlord registration, the introduction of the PRT [private rental tenancy] and EPCs [energy performance certificates].”^{xxxviii}

74. The report by the Landlords' Panel similarly described how they feel they are at a disadvantage:

” The panel highlights its strong concerns about the treatment of landlords by the Scottish Government. The panel feels that the Scottish Government's housing policies are skewed in favour of tenants and there needs to be a rebalancing of policy to prevent more landlords leaving the sector.”^{xxxix}

75. There were however some areas of consensus between the Landlords and Tenants Panels on measures that could be taken to retain properties within the private rented sector. The Landlords Panel made some specific recommendations to help incentivise landlords who need to sell to keep their properties in the sector. These included creating more incentives for buy-to-let mortgages as opposed to buying a second property and incentives to sell a property with a sitting tenant in place, for example by reducing the Additional Dwelling Supplement for landlords who want to buy a tenanted dwelling.^{xl}

76. The Tenants Housing Panel made similar recommendations, in recognition of the importance of the need to sustain the private rental sector. They said that private landlords should be incentivised to keep properties in the PRS instead of selling, that there should be more incentives for buy-to-let mortgages and for property sales with sitting tenants. The tax system could also be used to provide incentives to buy existing buy-to-lets with tenants in place through changes to land and buildings transaction tax or aid local authorities to use acquisition fund money to purchase properties. The Panel added that tenants should have right to stay in a property after a change of landlord.^{xli}

77. The Committee heard concerns from landlords, tenants and other stakeholders including local authorities that some landlords (both in the private and social rented sector) are exiting the market, which may impact on the supply of rental properties. A number of suggestions were made, as described above, about how this could be mitigated. The Committee looks forward to considering the amendments proposed by the Scottish Government and reflecting on whether they provide certainty and balance in the sector.

78. There are clearly a number of additional levers available to the Scottish Government which may help sustain the private rented sector. As described earlier in this report the private rental sector is one part of a complex housing

^{xxxviii} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{xxxix} [landlordsrecommendations.pdf \(parliament.scot\)](#)

^{xl} [landlordsrecommendations.pdf \(parliament.scot\)](#)

^{xli} [tenantsrecommendations.pdf \(parliament.scot\)](#)

system and the provisions in the Bill only impact on particular factors within that system. The Committee asks the Scottish Government to comment on what plans it has to utilise these levers to the benefit of tenants and landlords.

Student housing

79. The Bill does not cover purpose-built student accommodation (PBSA). The Committee heard concerns from Ellie Gomersall of the National Union of Students that that leaves students living in PBSA exposed:

” ...we have a real concern that, among the student population, a lot of students live not in the private rented sector but in purpose-built student accommodation, and the Bill does not touch on PBSA at all. The Bill will, therefore create a disparity between students and other tenants. Students are a population who desperately need support with housing and safe, secure and affordable places to live.”^{xlii}

80. Students can struggle to find accommodation, as Ellie explained:

” Research from NUS Scotland from the end of 2022 found that 12% of students in Scotland have been homeless at some point during their studies... In addition, 35% of students have been unable to pay their rent in full.”

81. Ellie went on to explain that the average rent for PBSA has increased by 34% from 2018-2021, and described the possibility for a large disparity to grow between PBSA and the private rented sector, particularly with the introduction of rent controls. A significant move of students away from PBSA into the private sector could destabilise the student housing sector.

82. Students will comprise a significant proportion of tenants in the private rented sector. Whereas those who live in purpose built student accommodation will not be covered by the Bill there are nonetheless challenges for students across all tenures (as described above) and the Committee asks the Scottish Government to comment on what action it will take to address these.

The wider housing sector

83. In gathering its evidence, the Committee sought to understand the wider factors that impact on the rental market. Professors Alex Marsh and Kenneth Gibb explained that there are market, social and cultural factors at play. These include issues which are not devolved to the Scottish Government such as the local housing allowance, and social security and tax systems. Professor Gibb said:

- ” ...rent control or rent regulation policies must be complemented by parallel policies that help, such as the provision of more affordable social housing.”^{xliii}
84. A number of witnesses made similar points about a lack of social housing which pushes people into the private rented sector which is not always appropriate for them, as Anna Evans from Indigo House described:
- ” There needs to be more affordable rented housing supply for people on low incomes and those who are vulnerable to harm for whom the private rented sector is not the best option.”^{xliv}
85. The Tenants Housing Panel report makes a similar point:
- ” ...the limited availability of social housing is compelling some people to live in the private rented sector, when they would not otherwise choose to do so. The panel recommends that there should be more choice in the housing market but to do that there must be an increase in the availability of social housing... there must be an increase in the building of social housing as well as a national acquisition strategy.”^{xlv}
86. The Committee also heard about wide variations in the provision of social housing across Scotland. Tony Cain from ALACHO said that:
- ” In Glasgow, the percentage of social housing is 33%; in Edinburgh it is 14%; and in East Renfrewshire it is 12% or 14%. Across many of our rural communities, there is no such housing; the private rented sector is the principal provider of rented homes in many parts of rural Scotland. It is imbalanced. It is not evenly spread and so, too, is the impact.”^{xlvi}
87. The Committee asked witnesses about how Scotland's housing system compares with other countries, but heard that it is difficult to make such comparisons, as each system sits within a context and culture unique to that society. In Berlin for example 83% of the population live in the private rented sector^{xlvii}, whereas in Vienna 60% of homes are effectively within the public sector^{xlviii}. Professor Gibb said:
- ” ...local markets and their context are really important in working out the effects of rent control... Taking a specific policy design, simply translating it and expecting the same effects needs to be filtered through such issues. That is not easy and it should make us a bit cautious.”^{xlix}
88. Some witnesses made the point that the Scottish Government needs to have a clear vision for the private housing sector which the Bill should sit within. Callum Chomczuk from the Chartered Institute for Housing said:

xliii [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

xliv [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

xlv [tenantsrecommendations.pdf \(parliament.scot\)](#)

xlvi [Meeting of the Parliament: LGHP/03/09/2024 | Scottish Parliament Website](#)

xlvii [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

xlviii [Meeting of the Parliament: LGHP/03/09/2024 | Scottish Parliament Website](#)

xlix [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

” ...there is a lack of vision for the private rented sector... We have taken an intermittent approach to the PRS over the years, and there is a lack of strategic vision about what shape and size the sector should be. The PRS is a hugely important, dynamic and accessible part of our housing system, and we know that there is an interplay with the rest of the housing system. When we make changes in one part of the system - the PRS in this instance - the owner-occupied sector and the social rented sector are affected.”¹

89. The private rented sector though is only one component of the housing system, and there are some critical questions for the Scottish Government about what it considers to be the best balance of social and private housing. Currently too many people are left struggling to find private rented accommodation because they are unable to access social housing more suitable to their needs. Whilst that is not an issue directly addressed by the Bill, it provides the important context within which the legislation sits.
90. The Bill seeks to achieve a balance of meeting tenants' rights with landlords' needs within the wider context of a cost crisis and the legacy of the Covid-19 pandemic and Brexit. In doing so it must navigate a complex landscape in which there is a risk of unintended harm, as evidenced by the impact of previous emergency legislation which in some cases led to increased rents. In isolation though the Bill will not provide a solution to addressing the current housing emergency. Whilst the Committee's scrutiny of the Bill has focused on its provisions, it has been mindful throughout that it sits within that wider context, and this is reflected throughout the rest of this report.

The Bill

91. Having examined the challenges facing the housing sector and issues arising from previous legislation, the report now considers the Bill itself and the extent to which its provisions meet those challenges.
92. The Bill makes provision in relation to the protection of tenants, the prevention of homelessness, and other housing matters. It has seven parts, described briefly below. More detailed exploration of each part of the Bill is available in the [SPICe Bill Briefing](#).
93. Part 1 deals with rent for private residential tenancies, and allows for the creation of rent control areas. In particular, it requires local authorities to undertake an assessment of rent conditions in their area (at least once every 5 years) and make a recommendation to the Scottish Ministers as to whether any part of the area should be designated a rental control area. The Scottish Ministers are given the power to designate areas as rent control areas and to impose, within those areas, restrictions on rent increases by landlords.
94. Part 2 relates to evictions. It places duties on the First-tier Tribunal and the courts to consider a delay to the enforcement of eviction orders in relation to both private and social tenants. It also changes how damages for unlawful eviction are to be calculated.
95. Part 3 contains additional rights for tenants. Both private and social tenants will be given the right to request to keep a pet. Private tenants will be allowed to make changes to their property (with or without the consent of the landlord depending on the nature of the change).
96. Part 4 makes provision for other matters relating to tenants including: allowing unclaimed tenancy deposits to be paid to the Scottish Ministers or another person, to be used to support all private tenants; minor modifications to the registration of letting agents; allowing a joint tenant to end a tenancy without the agreement of the other joint tenants, and giving the Scottish Ministers the power to convert assured tenancies into private residential tenancies.
97. Part 5 relates to homelessness prevention, and has been considered separately in a [report by the Scottish Parliament's Social Justice Committee](#) as homelessness falls within that Committee's remit. In particular, it introduces what is known as 'Ask and Act' – a duty on relevant public bodies (e.g. health boards and the police) to ask a person if they are homeless or threatened with homelessness and to take action if they are. Other provisions relating to homelessness include:
 - providing that a person will be considered as threatened with homelessness if they are likely to be homeless within 6 months (as opposed to 2 months under current law)
 - requiring social landlords to support tenants who have rent arrears in part due to domestic abuse, before taking any action to recover possession of the property
 - requiring social landlords to have a domestic abuse policy setting out how they

will support tenants at risk of homelessness due to domestic abuse.

98. Part 6 makes provision in relation to other housing matters including: changing the basis for uprating pitch fees for mobile homes from the Retail Price Index to the Consumer Price Index; changing the reporting and consultation requirements in the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 and removing some limits on the operating costs of the Scottish Fuel Poverty Advisory Panel; allowing the Scottish Public Services Ombudsman (SPSO) to share information with the New Homes Ombudsman (established via UK legislation). The section on fuel poverty has also been considered by the Social Justice Committee in its [report on the Bill](#).
99. Part 7 makes provision for the usual ancillary provision, commencement etc.

Part 1: Rent Control

100. Part 1 of the Bill introduces powers to create rent control areas and is at the core of the Scottish Government's objective to tackle unaffordable rents in the private rented sector. The issue of rent control has been the most contentious aspect of the Bill during the Committee's scrutiny, with issues raised about the potential impact on housing supply, the need to exempt some properties, and concerns about establishing sufficiently robust cases for rent control areas, based on currently limited data available on the rental market.
101. Part 1 of the Bill includes:
- A requirement for local authorities to assess rent conditions in their area, at least once every five years, and to report to Scottish Ministers on whether rent control areas are required in order to protect tenants.
 - Restrictions on rent increases in rent control areas for existing and new tenancies (with some exceptions made for new-to-market properties).
 - Powers for Scottish Ministers to designate rent control areas after consideration of local authorities' reports to them, if they consider that it is necessary and proportionate for the purpose of protecting the social and economic interests of tenants in the area, and is a necessary and proportionate control of landlords' use of their property in the area.
 - Limits on how often rent can increase during a tenancy both in and outside of rent control areas. Further details of how rent increases would be limited will be subject to further consultation and regulations.
 - Powers for local authorities to gather information on rents and other information about properties on the private landlord register.
102. Much of the detail about how rent control areas will operate is dependent on future subordinate legislation and so is not yet clear. Professor Gibb told the Committee in his oral evidence that:

” The rent control aspects [of the Bill] still feel underdeveloped, as there is not enough specific detail. Some of the subsequent regulations will need to do quite a lot of work to fill in the blanks...”ⁱⁱ

103. Similarly, a number of organisations responding to the call for written views suggested that they found it difficult to express an opinion on the rent controls proposed in the Bill due to the lack of detail about how they might work in practice. Shelter Scotland said:

” The way the proposals are set out means that many crucial aspects will be determined by regulations set out by Ministers, rather than on the face of the Bill itself. We cannot endorse a fundamental reform of the housing market, particularly during the current housing emergency, without being able to model the impact of the policy proposal and understand how it would operate in practice.”ⁱⁱⁱ

104. This uncertainty has been exacerbated by the Minister for Housing's acknowledgement that the Scottish Government would reconsider its policy position on the operation of rent controls, as discussed above. In his [statement to the Scottish Parliament](#) on 31 October 2024 the Minister for Housing outlined the Scottish Government's intention to bring forward amendments at Stage 2 which would cap rent increases at CPI + 1%. In doing so the Scottish Government hopes that this will provide certainty to the market, however it has provided some clarity on those amendments at a very late in the Stage 1 process.

105. In its [report on the Bill](#) as introduced, the Delegated Powers and Law Reform Committee is critical of the Scottish Government's use of secondary legislation in relation to rent control provisions. The Committee's report highlights that significant policy decisions may be implemented through regulations where it would be more appropriate to put more detail on the face of the Bill.

106. The powers to create rent control areas are central to the Bill's purpose to improve housing outcomes for those who rent their homes, and saw the most polarisation of views that the Committee heard. Tenants and their representatives were particularly supportive of the introduction of rent controls, seeing them as being key to making rents affordable. Eilidh Key from Living Rent told the Committee:

” The rent control provisions are really important, and we are very glad to see them. The ability to cover a whole local authority area as well as having those localised aspects is hugely important, too. After all, the entirety of Scotland is, as we know, in a housing emergency, but there are local specificities, particularly in the Highlands and Islands, Edinburgh and Glasgow.”ⁱⁱⁱⁱ

107. Respondents to the call for written views who supported rent control areas (56% of individuals, and 31% of organisations) particularly welcomed that the controls will relate to a property rather than a tenancy, preventing rents from rising disproportionately between tenancies. Inverclyde Council noted that:

ⁱⁱ [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

ⁱⁱⁱ [Response 742095741 to Housing \(Scotland\) Bill Call for Views - Scottish Parliament - Citizen Space](#)

ⁱⁱⁱⁱ [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

” The tying of rent to the property as opposed to tenancy is a vital addition to housing legislation to circumvent the frequent use of loopholes to rent increases.”^{liv}

108. Emma Saunders from Living Rent also welcomed the Bill's provision for rent control provisions to apply to rents in between tenancies, as well as during tenancies. She said:

” The important thing about the provision - this goes a long way towards addressing some of the loopholes that we have seen in the emergency protection measures - is the focus on rent increases in between tenancies. That is important in ensuring that we do not have the hikes in new market rents that we and our members have been experiencing, and in ensuring that there is no incentive - or, I should say, perverse incentive - to have evictions. One of the sad unintended consequences of having protections is that landlords try to evict you.”^{lv}

109. In contrast, Robin Blacklock from Dowbrae Limited told the Committee that although the Bill is workable, it must be amended by removing the provision for rent control to apply in between tenancies:

” ...that is a barrier to improvements and upgrades. It is also a constraint on investment and, therefore, a constraint on the delivery of more homes.”

110. The Tenants' Housing Panel were supportive of rent controls, and made a number of recommendations as to how they should operate:

- Rents and rent increases should be tied to tenants' income and rents should still be affordable to tenants earning the minimum wage.
- There should be more transparency about any increases in rent and they must be justified by the landlord to the tenant and reflected in the quality of the property.
- Rent control should be linked to the property rather than to the tenancy, and rent controls should apply between tenancies, not just within tenancies.
- Landlords should not be allowed to increase rent at any time within the first year of a tenancy.
- Landlords should not be allowed to increase rent for a set period if they have had an enforcement order granted against them (such as a repairing standard enforcement order or a wrongful termination order).^{lvi}

111. Professor Kenneth Gibb explained however in his oral evidence to the Committee that rent control may not be beneficial to all tenants, depending on their circumstances:

^{liv} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{lv} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{lvi} [tenantsrecommendations.pdf \(parliament.scot\)](#)

” People who are already in the system and benefit from rent control, depending on the design, may get advantages that future tenants may not get because there will be a shortage of property. The insiders would benefit relative to the outsiders. That might also restrict and reduce the mobility of the insiders, because they will have less incentive to leave.”^{lvii}

112. Tony Cain from ALACHO made a similar point about the creation of boundaries where rent control areas are created:

” I worry that rent control areas will have boundary impacts that will be difficult to manage. You may want to use those boundary impacts strategically - if you control rents in one area, it will drive investment into another - so you might regard that as a good thing.”^{lviii}

113. Whilst rent control is central to the Bill, both the principle and mechanics of using it are clearly both complex and contentious. Accordingly the Committee will hold further evidence sessions ahead of Stage 2 proceedings in order to scrutinise the implications of the Scottish Government’s proposed amendments to the rent control provisions, as set out in the Minister’s statement to the Scottish Parliament on the 31 October 2024. In the meantime this section of the Report considers the key issues described by witnesses and their suggestions for how rent control could best operate, however it should be noted that these views were provided on the Bill as introduced, before the Minister’s statement to Parliament.

Impact of rent control on supply

114. In contrast to tenants and their representatives, most landlords and organisations representing agents, developers or landlords typically did not support the introduction of rent control areas as proposed in the Bill. Many made the case that rent control may have unintended consequences that will disadvantage both landlords and tenants, particularly through landlords leaving the market and the rental supply diminishing as a result. John Blackwood from the Scottish Association of Landlords said:

” Rental control could give a degree of stabilisation...but, nevertheless, the direction of travel with rent control is always that rents will increase in the future. Our concern is about how sustainable that is for the overall sector. Many of our members say that the sector needs to be affordable for landlords too... One in 10 of the members who responded to our survey said that their rental properties are no longer financially viable for them.”^{lix}

115. The Landlords’ Housing Panel concluded that there should be a recognition of the ever-increasing costs on landlords in order to provide quality homes, and there should be a corresponding ability to increase rents at times including between tenancies. It does not support the introduction of rent controls, citing potential unintended consequences and that rent controls have not been effective in other

^{lvii} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{lviii} [Meeting of the Parliament: LGHP/03/09/2024 | Scottish Parliament Website](#)

^{lix} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

countries.^{ix}

116. Local authorities also expressed concerns about the potential for rent control areas to have a negative impact on the supply of rental properties, particularly given the increased pressure they are under from a duty to house homeless families and individuals. Lisa Mallon from City of Edinburgh told the Committee:

” A housing emergency has been declared. There are more than 5,000 homeless households in the city. We are concerned that the rent control provisions might potentially work against that and, with the compounding effect of other measures in the bill... they might increase homelessness and add pressure on the market.”^{ixi}

117. The Association of Local Authority Housing Officers (ALACHO) also raised concerns in its written submission:

” ...in policy terms, rent controls as proposed will not meet even the very vague objectives set for it, procedurally controls may be difficult to introduce without significant challenges and objections from private landlords and will “bake in” current problems of affordability and strategically, the overall approach isn’t part of a coherent strategy that includes clearly articulated role for the private rented sector in the wider housing system.”^{ixii}

118. However Joshua Davies from Nationwide told the Committee that the extent to which landlords might exit the market may not be as high as some suggest:

” ...the evidence strongly suggests that they have not left the market in anything like the numbers they said they would. Basically, there is a history of landlords overestimating their likelihood of leaving the sector following the introduction of legislation.”^{ixiii}

119. Cosla suggested that an alternative to rent controls would be to put tenants' rights at the heart of managing affordability, saying in their written evidence that:

” ...[it] would be better if rent controls were not needed and that private tenants had stronger and more effective rights to challenge unreasonable rent rises through the existing mechanism involving the Rent Officer. This would be more consistent with a consumer rights and trading standards based approach to the sector and considerably more cost effective from a public spending perspective.”^{ixiv}

120. The case was also made to the Committee that rent-caps may deter the significant investment in property which is needed to meet housing needs. Cedric Bucher from Hearthstone Investments said in his evidence to the Committee that:

^{ix} [landlordsrecommendations.pdf \(parliament.scot\)](#)
^{ixi} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)
^{ixii} [Meeting of the Parliament: LGHP/03/09/2024 | Scottish Parliament Website](#)
^{ixiii} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)
^{ixiv} [Response 621022480 to Housing \(Scotland\) Bill Call for Views - Scottish Parliament - Citizen Space](#)

” ...if we are faced with a system where we potentially have zero per cent rental growth, which is completely unpredictable, I cannot go out to investors to raise more capital to build more homes in Scotland. It is the end. There is nothing that we can do.”^{lxv}

121. And Dr Boyle from Rettie made a similar point about the build-to-rent sector:

” We need to do something about the supply, and a big win is to try to get the pension funds and the build-to-rent sector into providing housing in a big way in Scotland, as they do in parts of England, including in Manchester. They are looking for index-linked returns in order to pay the pension liabilities at the back end. Under the Bill, a potential scenario for a BTR [build to rent] investor is that rent fees will be zero percent in perpetuity in a particular area.... No one is going to invest on that basis.”^{lxvi}

122. When asked by the Committee about the importance of retaining inward investment into the housing sector, the Minister for Housing outlined the actions the Scottish Government is taking:

” We need investment in the sector, whether that is in the mid market rent or build to rent sectors. In the programme for government we talked about the commitment to growing investment fund MMR stock. About nine months ago I also set up a housing investment taskforce, which brought together investors, banks, local authorities and the likes of the Scottish National Investment Bank and the Scottish Futures Trust, to look at how we can get more money into the sector.”^{lxvii}

123. The Committee supports the principle of using rent controls to ensure rents are affordable, making it easier for people to find a suitable home.^{lxviii}

124. There is limited detail on the face of the Bill about the circumstances in which rent increases will be allowed within rent control areas because of the intention for there to be local flexibility. The Scottish Government has now confirmed that it intends to amend at Stage 2 the rent control provisions in the Bill in order to cap rents in rent control areas at CPI plus 1%. It also intends to carry out further consultation in order to determine in what circumstances it may be appropriate to exempt certain types of property or to apply a modified rent cap.

125. In order to mitigate potential unintended consequences of rent control the Scottish Government will need to ensure that it provides as much detail and clarity at the earliest possible stage. There is strong evidence that investment in the build-to-rent sector has stalled whilst it remains unclear how rent controls will operate. In the long-term this may be to the detriment of the supply of rental properties, exacerbating existing shortages. It is welcome that the Scottish Government provided some clarity on rent controls in the Minister for Housing's

^{lxv} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{lxvi} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{lxvii} [Meeting of the Parliament: LGHP/10/09/2024 | Scottish Parliament Website](#)

^{lxviii} Meghan Gallacher MSP and Alexander Stewart MSP dissented from this recommendation.

statement to the Parliament on 31 October 2024, but the Committee would highlight that the Scottish Government continues its consultation on policy decisions whilst the Bill is already being scrutinised by the Scottish Parliament, limiting the scrutiny which is able to be undertaken of the Bill.

126. The Committee notes the concerns raised by the Delegated Powers and Law Reform Committee about the use of secondary legislation instead of provisions being put on the face of the Bill. It recommends that to avoid continued market uncertainty and in order for there to be proper scrutiny of policy decisions the use of secondary legislation should be limited and appropriate amendments brought forward at Stage 2 of the Bill by the Scottish Government to address this.
127. Where secondary legislation is appropriate the Scottish Government should make draft secondary legislation available at the earliest opportunity during the Bill's progress through the Scottish Parliament.

Inflation linked rent increases

128. Some witnesses suggested that rent increases should be permitted in line with inflation, allowing landlords to cover their increasing costs. Cedric Bucher from Hearthstone Investments said:

” If landlords can increase their rents by inflation, it means that their maintenance fees, their cost of labour and their cost of debt on average also increase with inflation, and their position remains the same... This is a very delicate ecosystem, but if rent controls are implemented with that in mind, where they protect against inflation, the system works.”^{lxi}

129. And John Blackwood from the Scottish Association of Landlords said:

” ...costs and rents will go up but we need to make those rises more stable and predictable. Linking rent rises to inflation would be an ideal solution. It might not be the only solution, but it would certainly be the one that would be sensible and sustainable for the sector in the long term.”^{lxx}

130. Emma Saunders from Living Rent said that wage inflation could provide a cap for any rent increases:

” Capping rent in line with wage inflation or the consumer prices index, and having a maximum cap, is important for security.”^{lxxi}

131. Tony Cain from ALACHO made a similar point about the importance of linking rents to wages:

^{lxi} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{lxx} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{lxxi} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

” The Bill needs to go alongside measures to rebalance the system so that pricing in housing is more consistent, more even and more closely linked to inflation or wages. Prices should be linked to incomes but, at the moment, they are not.”^{lxxii}

132. As explained above, the Minister for Housing confirmed to the Scottish Parliament on 31 October 2024 that the Scottish Government intends to cap rents in rent control areas at CPI +1%, up to a maximum increase of 6%. He explained:

” This would mean that, where a rent control area is in place, in most cases rents would be able to increase by CPI + 1% of the existing rent. Where the relevant CPI figure exceeds 5% then the increase permitted would be capped at 6% of the existing rent. The rent cap will apply to rent increases both during the term of a tenancy and in between tenancies in the period where an area is designated for rent control.”

133. The Committee notes the support amongst stakeholders for linking rent increases to inflation in order to provide certainty to both tenants and landlords, and that it is the Scottish Government's hope that its very recent announcement in this regard will provide that certainty. However the Committee further notes the benefits particularly of this link being to wage inflation rather than general inflation as it is concerned that in periods of high inflation, as seen in recent years, tenants could see substantial and unaffordable increases to their rent. The Committee would welcome more information from the Scottish Government of whether it has taken this into account and how it will mitigate against unaffordable rent increases during periods of high inflation.^{lxxiii}

Exemptions

134. The Bill allows for exemptions to rent control to be created by Scottish Ministers, for example based on circumstances related to the landlord or tenant, or the type of property. These will be set out in future regulations, and are not described in the Bill.

135. Landlords and tenants again differed in their views on creating exemptions to rent increases. In her evidence to the Committee, Emma Saunders said that Living Rent has significant concerns:

” We are really concerned about having exemptions, because that will create loopholes. It will potentially distort the house-building market in favour of purpose-built student accommodation, which might not be the type of housing that we need in a city. It might also distort the existing PRS market, especially in the case of joint tenancies.”^{lxxiv}

^{lxxii} [Meeting of the Parliament: LGHP/03/09/2024 | Scottish Parliament Website](#)

^{lxxiii} Meghan Gallacher MSP and Alexander Stewart MSP dissented from this recommendation.

^{lxxiv} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

136. Ellie Gomersall from the NUS agreed that any exemptions would need a tight mechanism in place where landlords must prove to the Tribunal that an increase in rent is justified.^{lxxv}
137. Alternative views about how exemptions should work were made by Anna Gardiner from Scottish Land and Estates who said "Anything that is a material change to a property needs to be exempt and the property treated as new to market."^{lxxvi} Age Scotland's written submission made a related point, that there is an opportunity to use rent controls flexibly in order to incentivise landlords to make improvements to properties:
- ” When setting the limit on increases within a rent control area, it should be explicit that local authorities can set ‘flexible caps’ that consider quality and disrepair, including the energy efficiency of a property... For instance, a property with serious disrepair, an Energy Performance Certificate of D or below, or in future which has not installed appropriate fabric measures necessary, could be subject to a 0% cap, but properties with no outstanding repairs or of EPC C or above could be subject to a higher cap of 4%. This will allow local authorities to use rent control areas to incentivise quality improvements, encourage national uptake of energy efficiency measures to reduce emissions and tackle fuel poverty, while also penalising and potentially mitigating homes left in disrepair.”^{lxxvii}

138. The Committee is supportive of the principle within the Bill of allowing for exemptions to rent control to apply in some limited circumstances. However while there may be circumstances where a landlord's increased costs (for example to fund refurbishment of a property) could justify an increased rent, there should be a responsibility placed on landlords to provide sufficient evidence of the costs.

139. The Minister for Housing informed the Scottish Parliament on the 31 October 2024 that the Scottish Government intends to carry out consultation in Spring 2025 about where exemptions will allow for certain types of property to be exempted from rent control and for rents to be increased above the level of the rent cap in some circumstances. The Scottish Government intends to develop secondary legislation setting out the circumstances in which exemptions will be permitted and the process that landlords would have to follow to implement an increase in rent above a cap. Once again the Committee notes that there are implications for the housing sector of continued uncertainty around how rent controls will operate in practice. This risks deterring investment in the rented sector, improvements being made to properties, and may increase the risk of landlords leaving the sector. The Committee invites the Scottish Government to consider putting more detail on the face of the Bill about exemptions once its additional consultation process has concluded.

^{lxxv} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{lxxvi} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{lxxvii} [Response 75731710 to Housing \(Scotland\) Bill Call for Views - Scottish Parliament - Citizen Space](#)

Mid-market rental sector

140. The case was made to the Committee that the mid-market rental sector should be excluded from rent controls. Mid-market rent is aimed at assisting people on low and modest incomes to access affordable rented accommodation. It helps those who have difficulty accessing social rented housing, buying their own home or renting privately on the open market. Anna Evans from Indigo House explained that:

” Mid market rent is an important part of the system to supply good quality affordable rented housing. Obviously, it is more expensive than social rent, but it is in a more regulated sector and typically subsidiary of housing associations so it is, by its nature, more professional.”^{lxxviii}

141. A number of respondents to the call for views raised similar issues, including the Scottish Federation of Housing Associations, and the West of Scotland Housing Association which said:

” MMR rents are always lower than the market rent and controls do not seem appropriate in this respect. It may have the unintended consequence of detrimentally affecting investment in an area that is clearly addressing a gap in housing demand/need and assisting those that cannot afford to buy/privately rent, or will ever have priority for a social rented property.”^{lxxix}

142. The Tenants Housing Panel's report also highlights the importance of mid-market rent in improving choice in the housing market, and that its supply should be increased. The panel also concluded that eligibility criteria for mid-market rental properties should be changed to allow people with higher incomes access to them.^{lxxx}

143. The Scottish Government intends that its further consultation on the Bill during Spring 2025 will help it determine the circumstances in which types of properties might be exempt from rent controls. However the Committee notes there is an existing strong case for mid-market rent properties to be excluded from the rent control provisions in the Bill and recommends that the Scottish Government brings forward appropriate amendments at Stage 2. Once again, the Committee would reiterate the importance of providing certainty about the Bill's measures in order to mitigate negative consequences for the rental property sector, and ultimately tenants themselves. The Scottish Government should provide transparency about its policy decisions as soon as possible and not wait until Stage 2 or 3 of the Bill process.

Data collection by local authorities

144. Section 15 of the Bill proposes to give local authorities powers to request

^{lxxviii} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{lxxix} [Response 189647432 to Housing \(Scotland\) Bill Call for Views - Scottish Parliament - Citizen Space](#)

^{lxxx} [tenantsrecommendations.pdf \(parliament.scot\)](#)

information from landlords and tenants of homes on the private landlord register. This would enable local authorities to comply with their duty under Part 1 of the Bill to assess rent conditions in their area and then report to Scottish Ministers on whether rent control areas are needed. The Bill sets out the range of information that local authorities can request, which includes:

- the rent and details of the previous rent increase
- size of the house
- type of house, e.g. whether the property is a semi-detached, flat etc.

145. A number of witnesses expressed concern about the powers to collect data lying solely with local authorities, who may have insufficient resources to use those powers effectively. The Committee heard that existing powers under the 2016 Act for local authorities to create rental pressure zones have not been utilised due to the challenges in collecting sufficient data. Robin Blacklock from Dowbrae Ltd said:

” The reason why a rent pressure zone has never worked is because we have not collected the data. I have a real fear that we will be reviewing and amending the bill in 5 years’ time, because we do not have the data.”^{lxxxix}

146. Deborah Hay from the Joseph Rowntree Foundation told the Committee about the impact collecting this data will have on local authorities:

” ...local authority departments are under incredible pressure – that is related partly to the housing emergency and the homelessness statistics ... adding another duty to their long list of things to do will not make it happen.”^{lxxxix}

147. Lisa Mallon from Edinburgh City Council described some of the practical challenges facing local authorities:

” ...the data needs to be robust so that we are not challenged. We need to take a consistent view so that we can choose to hone in on a hotspot or to take a city-wide approach. We need to have that information, and that will require resourcing. We will need to ensure that we have the systems in place to collect, collate and analyse the data... I think the process for that should be nationalised.”^{lxxxix}

148. Dr John Boyle from Rettie told the Committee about the current lack of data available:

” We need data on actual rents... as well as on advertised rents and information on supply and availability. In any area of Scotland, including the whole of Scotland, we do not even know what the stock of supply is.”^{lxxxix}

149. The Landlords' Housing Panel noted that the rental market in rural areas is typically too small to provide enough comparators. Its concluding report said:

^{lxxxix} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)
^{lxxxix} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)
^{lxxxix} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)
^{lxxxix} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

” The panel is concerned about the absence of sufficient data to inform policy in the private rented sector. The panel notes that these challenges are particularly pronounced in rural areas where finding comparable properties is more challenging. There must be transparency about data used to make rent adjudication decisions and data needs to be improved. Moreover, the panel is concerned about the capacity of local authorities to assess rents.”^{lxxxv}

150. Professor Kenneth Gibb described how challenging it currently is to obtain accurate data about rents, explaining that advertised rents are not particularly representative of the market as whole, and that it will take time to find a mechanism to systematically collect all rental data. He said that the Landlord Register is the obvious solution but data will be needed on an annual basis, not the current three year cycle.^{lxxxvi}

151. Reflecting the general concerns about local authorities' capacity to obtain and assess sufficient rental data there was support amongst witnesses for data collection to instead be done at a national level to ensure consistency and quality control. Dr John Boyle from Rettie said:

” To try to ensure consistency and proper resourcing, it should be a national data set but one that is capable of getting inputs from local authority level as well as providing the ability to draw down the data at local authority level.”^{lxxxvii}

152. Anna Evans from Indigo House agreed with the need to shift the onus away from local authorities, telling the Committee:

” The key issue is the quality assurance around the data... it might be better to have a centralised approach because... there is variability of capacity, skills and resources in local government... The centre for housing market analysis might be a good conduit for that data collection and the quality assurance around it.”^{lxxxviii}

153. Callum Chomczuk from the Chartered Institute for Housing explained that a national approach would mitigate the risk of legal challenge if the data collected isn't sufficiently robust:

” The landlord registration system will be the most effective way to try to capture the data. We need a national data set. The idea of having 32 different systems with 32 different leads, complexities and inconsistencies is fraught with risk. Any determination for a rent control system would be subject to legal challenge, because we will see incomplete data across local authority boundaries. Therefore, we will require a national approach that can absolutely be complemented with local insight.”^{lxxxix}

154. The Minister for Housing was asked by the Committee about the issue of data, and he highlighted that work is already underway by the Scottish Government. His

^{lxxxv} [landlordsrecommendations.pdf \(parliament.scot\)](#)

^{lxxxvi} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{lxxxvii} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{lxxxviii} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{lxxxix} [Meeting of the Parliament: LGHP/03/09/2024 | Scottish Parliament Website](#)

official confirmed that:

” Work is under way on a data collection project to look at the best way to achieve that improvement. A lot of different options could come into play in terms of how best to deliver that in a robust way that gets data that is verifiable, that supports rent control development and that is cost-effective and feasible in a practical sense to deliver. Another project that was already going on is looking at how, in the future, we could improve data collection more generally. Those two projects are working in parallel.”^{xc}

155. The Minister also recognised the importance of local authorities having adequate resources for data collection, and said that an updated Financial Memorandum will provide more information:

” We cannot put additional pressures on local authorities without the resource. The discussions cover what resource is required to deliver the data that we are looking for. That has been raised by local authorities, and we are asking them to be more specific about that.”^{xcii}

156. The Bill's provisions mean that local data will be vital to determining whether rent control areas are required. The Scottish Government should therefore give consideration to whether landlords should be required to routinely provide data.

157. Comprehensive data collection at a local level will require resources which are already severely constrained in local authorities. It will also be important to ensure there is consistency of practice in order to help avoid legal challenge to rent control assessments. The Committee therefore recommends that there is a national approach to data collection, combined with local flexibility in how that data is used by local authorities in making their assessments of the local rental market.

Landlords' compliance with duties

158. In the [Policy Memorandum to the Bill](#), the Scottish Government says it is aware that local authorities are concerned whether the data available to them is sufficient to support an application to designate a rent pressure zone. To address this the Bill creates powers for them to require information from landlords to support their mandatory assessment of rent conditions.

159. If a landlord does not provide the requested information, the local authority can apply to the Tribunal, which could fine the landlord up to £1,000. It was suggested though that this level of financial penalty may be ineffective. Age Scotland said that a fine of £1,000 for landlords isn't high enough as "many landlords might see this as a risk worth taking", and suggested that the penalty for landlords who illegally evict tenants should instead be a ban from the landlord register.^{xcii}

^{xc} [Meeting of the Parliament: LGHP/10/09/2024 | Scottish Parliament Website](#)

^{xcii} [Meeting of the Parliament: LGHP/10/09/2024 | Scottish Parliament Website](#)

^{xcii} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

160. Jennifer Sheddan from Glasgow City Council said they have data showing that 5% of landlords in the city currently do not comply with legal requirements, and also suggested that when fines are applied they are typically low. Instead, letting agents might provide a mechanism for compliance, as Glasgow's data shows about half of rental properties there are let through an agent. Jennifer went on to suggest that as an alternative rent suspension orders could be used as an enforcement tool, which would take away the rent liability of the tenant.^{xciii}
161. Professor Alex Marsh said that some landlords will think they are compliant with requirements, when they are not.^{xciv} This was mirrored in the recommendations of the Landlords' Housing Panel which suggests more advice is needed for landlords so that they have a better understanding of existing rent provisions, and can readily access advice on what to do if the tenant is not paying rent.^{xcv}
162. Dr Boyle from Rettie described the importance of enforcing landlord compliance:
- ” ... [the landlord register] does not have enforcement powers. Local authorities do not tend to use it to enforce good landlord behaviours. Simply enabling the rent data to be monitored through landlord registration will be of limited benefit unless there are enforcement powers. It is with enforcement that you ensure compliance. We have to consider a model that is a bit like the Residential Tenancies Board in the Republic of Ireland. That is nationally funded. It has a monitoring purpose, an analytical purpose... and a compliance and enforcement function.”^{xcvi}
163. Tony Cain from ALACHO told the Committee that while most registered landlords meet their legal obligations there are some elements of fraud and illegal activity:
- ” I know that one local authority recently decided to more thoroughly back-check the veracity of some certificates and discovered substantial fraud in the provision of electrical safety and gas safety certificates. It discovered gas registrations that did not exist and inspections that had not been carried out... The private rented sector attracts a significant element of poor landlordism, but it also attracts criminal activity. The property sector is the primary focus for serious and organised crime in the United Kingdom.”^{xcvii}
164. Argyll and Bute Council said that local government needs additional resources to effectively monitor landlord compliance:
- ” A key issue is the lack of resources in local authorities; we are all struggling for resource. A dedicated mandatory post being used, along with landlord registration, to do random inspections of tenants and landlords... could be a control to be applied.”^{xcviii}
165. Tony Cain from ALACHO made a case for there to be increased professionalism of

^{xciii} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{xciv} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{xcv} [landlordsrecommendations.pdf \(parliament.scot\)](#)

^{xcvi} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{xcvii} [Meeting of the Parliament: LGHP/03/09/2024 | Scottish Parliament Website](#)

^{xcviii} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

the landlord sector:

” My view is that in the longer term we need to move the private rented sector into a much more professional investor framework so that it is not about individual amateur landlords renting out their own property but commercial institutions managing at scale that are able to price in risks about tenants' rights and take out the personal relationship.”^{xcix}

166. Age Scotland posed a question about the role of letting agents in compliance:

” ...there is little mention of third parties or letting agencies, which do the majority of the work for landlords who might have multiple properties. Where is the enforcement to ensure that they are giving out accurate information? What is the penalty?”^c

167. Any robust assessment of rental conditions will be dependent on access to sufficient data on property rentals, and under the Bill's current provisions landlords' compliance with requests from local authorities for data will be essential to that. Whilst the Committee recognises that the majority of landlords meet their legal requirements, it is clear that a not insignificant minority do not, either wilfully or perhaps through ignorance. As described above, the Committee recommends that the onus should be put on landlords by creating a requirement for them to routinely provide data rather than only respond to requests from local authorities.

168. It will be important for there to be effective penalties to act as a deterrent to those landlords who do not comply with the legislation. The Committee notes the concerns about whether a financial penalty is a sufficient deterrent, and therefore asks the Scottish Government to respond to the suggestion that in the event of non-compliance the removal of landlords from the landlord register would provide a more effective penalty than a fine. Similarly, the proposal that rent suspension orders could also be used may be effective, and again the Committee asks the Scottish Government to respond to that.^{ci}

169. To reduce inadvertent non-compliance by landlords the Scottish Government should also ensure that implementation of the Bill's provisions is accompanied by clear and accessible advice for landlords on their duties. The Committee recommends this is underpinned by a programme of awareness raising. Overall there is a need for improved levels of professionalism amongst landlords.

170. The Committee invites the Scottish Government to respond to the suggestion that Ireland's Tenancies Board provides a good model of oversight and enforcement and whether it has considered this approach.

^{xcix} [Meeting of the Parliament: LGHP/03/09/2024 | Scottish Parliament Website](#)

^c [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{ci} Meghan Gallacher MSP and Alexander Stewart MSP dissented from this recommendation.

Use of the landlord register for data collection

171. Witnesses believed that the Landlord Register would be a natural home for recording details about rental properties and tenancies and suggested particular types of additional information that might be collected and recorded in the Landlord Register. Kelly Ferns from Argyll & Bute Council for example said the register could include rent at a tenancy's start, any annual uplift, the size and type of property, details of any gardens, grounds, outbuildings, parking etc, the age of the building, its quality, and its energy efficiency.^{cii}
172. Scottish Land and Estates also recommended that the register could include information on Energy Performance Certificates (EPCs) and electrical safety certificates, and highlighted that rural properties may have additional information not relevant to urban properties.^{ciii} Similarly, the Landlords' Housing Panel recommended more effective use of the private landlord registration as an enforcement tool.^{civ}
173. There were a number of other suggestions for wider data collection, in order to build a robust picture of local circumstances;
- Age Scotland said that it could be widened to include context such as Scottish Index of Multiple Deprivation data, numbers of households receiving benefits, numbers of households in the private rented sector, average income, and average rent and mortgage costs in area.^{cv}
 - Derek McGowan from Edinburgh City Council suggested collecting average rent data at city level and in areas with more pressures, how often rent changed, and datasets such as bedroom size, starting rents, advertised and actual rents.^{cvi}
 - Eilidh Keay from Living Rent suggested other information could include numbers of food bank referrals, and information on wage stagnation.^{cvi}
174. Emma Saunders from Living Rent also highlighted that it will be important for tenants to be able to access the data, which could help empower them to exercise their rights.^{cvi} Both the Tenants and Landlords Panels echoed this sentiment, arguing for more transparency in information about rents and properties. One related idea that came out of the Nationwide research project described by Anna Evans^{cix}, and which was supported by witnesses from Edinburgh and Argyll & Bute councils, was for the creation of a 'home report' for private rented homes. This could give tenants assurance about the quality and safety of their home, as well as information about the history of rent levels. The Tenants' Housing Panel similarly highlighted that tenants should have access to information about the condition of their property, as well as information from landlords about their rights at the point of

cii [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

ciii [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

civ [landlordsrecommendations.pdf \(parliament.scot\)](#)

cv [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

cvi [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

cvi [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

signing their contract.^{cx}

175. The Committee agrees that the landlord register provides a natural repository for collating significantly more information about properties and tenancies. This would provide a rounded picture of the rental market within a local context and enable robust assessments to be carried out of the need to create rent control areas. It therefore requests that the Scottish Government responds to the proposals made by witnesses on the range of information that it would be valuable to record.
176. The Committee also recognises the importance of transparency in the data used to establish whether rent control areas should be created, and recommends that it should be made publicly available.
177. The Committee believes there is considerable merit in the proposal that a version of a 'home report' is made available for rental properties, to provide prospective tenants with full transparency about the condition of their home and its rental history. As witnesses proposed this could include information on energy performance, safety certificates, and maintenance undertaken by the landlord. The Committee asks the Scottish Government give this proposal further consideration.

Summary of views on Part 1

178. Rent control is at the heart of the Bill's objective to create a fair rental sector for tenants and for landlords. The previous use of temporary rent controls through emergency legislation has however thrown into sharp relief the potential pitfalls of emergency and temporary regulatory intervention in the rental market, and lessons must be learned from that experience. There are considerable risks to the market through inadvertently deterring investment and reducing the existing rental stock.^{cxii}
179. Whilst the Minister for Housing has recently outlined the Scottish Government's intended amendment at Stage 2 about how the rent cap will apply, it is regrettable that the Scottish Government is still deliberating how the legislation will operate and did not provide clarity at the outset about its intentions in order to mitigate the impact of uncertainty on the market. So that the Parliament properly scrutinises the operation of rent controls it will be necessary for the Committee to undertake further scrutiny ahead of Stage 2 about the Scottish Government's intention to cap rents at CPI + 1%.
180. During the course of its evidence gathering a number of proposals were made to the Committee, in particular the linkage of rents to wage inflation, and the exclusion of mid-market rental properties from the Bill's measures. The Committee considers

^{cviii} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{cix} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{cx} [tenantsrecommendations.pdf \(parliament.scot\)](#)

^{cxii} Meghan Gallacher MSP and Alexander Stewart MSP dissented from this paragraph.

that both options are sensible. Whilst clarification has now been provided about capping rent controls in line with the CPI, as yet it remains unclear about what properties may be exempt from rent controls, such as the MMR sector.

181. Under the Bill, local rent assessments underpin the creation of rent control areas, and those assessments are in turn dependent on the availability of robust data. Again, lessons need to be learned from previous experience - in particular the absence of any rent pressure zones under the 2016 Act. The Scottish Government's intention is that the Bill's creation of powers for local authorities to collect data will address that failure, however the Committee recommends that the Bill instead should require landlords to routinely provide data. In addition, challenges will remain in resourcing that data collection and in ensuring its analysis is sufficiently robust to withstand legal challenge. As described above, for this Bill to be effective there is a need for a robust process of data collection and, as highlighted above, the Committee recommends that this could be best achieved on a national basis.

Part 2: Evictions

182. This section of the report discusses the provisions in Part 2 of the Bill. In discussing evictions and enforcement a number of witnesses also raised issues about the operation of the Housing and Property Chamber of the first-tier Tribunal, and so this section also summarises the views the Committee heard about the Tribunal.
183. Part 2 of the Bill proposes that the court or first-tier Tribunal must consider whether it would be reasonable to delay the ending of a tenancy and consider if the absence of a delay would cause the tenant, the tenant's household or the landlord financial hardship or have certain other detrimental effects.
184. The aim is to give tenants more time to find accommodation and support and to reduce the negative impact of eviction during times of greater stress, causing financial hardship or affecting people's health. This could for example include delaying eviction during exam periods for children and students, periods of religious observance or traditional festive periods.
185. The Tribunal and courts already have discretion to delay the enforcement of an eviction. However the Bill would make this a statutory consideration.
186. The Bill also proposes to change how damages for unlawful eviction are calculated. Unlawful eviction is a criminal offence under the Housing (Scotland) Act 1988, and occupiers (including people that don't have a formal tenancy agreement) have the right to claim damages for unlawful eviction.
187. Under the Bill's provisions the court or the Tribunal may award damages of between three and 36 months' rent. The award may be less than three months' rent but only if the court or Tribunal considers it appropriate. The Bill would also place an additional requirement on the Tribunal to inform the relevant local authority and police where a private landlord has been found to have unlawfully evicted a tenant, or the Scottish Housing Regulator if a social landlord is involved instead.
188. The Bill does not change the existing grounds for evicting tenants.

Duty to consider delaying evictions

189. In his oral evidence to the Committee Gerry Tierney from Ayr Housing Aid explained that although the Tribunal already takes into account tenants' personal circumstances when considering applications to evict them, it is welcome that the Bill makes that a legal requirement:

” ...we are often asked to provide information on special needs, vulnerabilities or health issues that tenants or their families face. Tribunals take all such matters into account. However, it would be of benefit to enshrine that in legislation. The fact that it is already, for practical purposes, being taken into account would be reinforced if the bill underwrote those rights.”^{cxii}

190. The Committee also received evidence that people with a terminal illness and their families should be protected from eviction. Marie Curie's written submission states that 27,600 individuals in Scotland have to move home as a result of experience with dying, death and bereavement every year, often caused by loss of household income and increased costs associated with terminal illness. In response they are calling for terminally ill people and co-habitants to be made fully exempt from eviction, and for removal of the 12-month minimum residency for co-habiting partners, family members, and carers to provide the full succession of a tenancy.^{cxiii}

191. In his evidence to the Committee the Minister for Housing advised that Marie Curie's proposals were something that the Scottish Government could consider further.

192. The Committee finds the evidence provided about the risk of eviction for people who are terminally ill and their families very persuasive. The Committee recommends that the Scottish Government brings forward amendments at Stage 2 in order to provide sufficient protections.

193. Some witnesses raised concerns with the Committee about the implications for tenants and landlords of building up rent arrears, a point which was made by Scottish Land and Estates, City of Edinburgh Council, and Jon Turner from the Link Group who said:

” ...if the eviction process becomes too long, it becomes increasingly costly, because, by definition, rent arrears are building up. That provides a problem for the tenants who have the rent arrears and end up in greater debt, which is a bad thing for them. It is also a problem from our perspective when rent arrears are written off, because we are not private companies with private shareholders; we are a closed-loop company. Any losses that we take from individual tenants are paid for by all the other tenants, because that is the only way that they can be paid for, so arrears make the whole system more costly. That is an issue at the margins, however, because we do everything that we can to get inside that anyway.”^{cxiv}

cxii [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

cxiii [Response 608321651 to Housing \(Scotland\) Bill Call for Views - Scottish Parliament - Citizen Space](#)

cxiv [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

194. A concern was also raised about the impact on landlords of delayed evictions by Timothy Douglas from Propertymark:

” We need clarity to give certainty to the sector, if those periods are introduced, on how long they can be introduced for... Risks to landlords and agents of increased cases of rent arrears could place more landlords in financial hardship.”^{cxv}

195. The Committee invites the Scottish Government to confirm what consideration has been given to the implications of delayed evictions leading to tenants building up significant rent arrears, in particular what support will be provided to them and how the implications for landlords would be mitigated.

Damages for unlawful eviction

196. Unlawful eviction is a criminal offence and can give rise to a claim for damages under section 37 of Housing (Scotland) Act 1988. Those provisions have been rarely used however and the Bill therefore seeks to simplify the process and better empower tenants. Section 28 of the Bill would reform the 1988 Act's provisions on how damages for unlawful eviction would be calculated, with the court or the Tribunal being able to award damages of between three and 36 months' rent. The award may be less than three months' rent but only if the court or Tribunal considers it appropriate in all the circumstances.

197. The Bill would also place an additional requirement on the Tribunal to inform the relevant local authority and police where a private landlord has been found to have unlawfully evicted a tenant, and the Scottish Housing Regulator, where a social landlord is found to have unlawfully evicted a tenant

198. Aoife Deery from Citizens Advice Scotland told the Committee that they have extensive evidence of illegal evictions, for example through landlords fraudulently claiming they wish to sell the property.^{cxvi} Deborah Hay from the Joseph Rowntree Foundation highlighted that in 20% of cases where the landlord wanted to evict in order to sell, the property was not actually sold. And Living Rent described landlords carrying out 'revenge evictions', for example when tenants have made complaints.^{cxvii}

199. The Committee heard a number of suggestions about how tenants can be better protected from unlawful evictions. Deborah Hay from Joseph Rowntree Foundation recommended there should be increased evidential requirements on landlords to prove a property is being sold, and penalties could include prohibition from re-letting property for an extended period.^{cxviii} The Tenants Panel made a similar point about barring landlords from letting, and also suggested that the Code of Practice for Letting Agents should also apply to landlords.

^{cxv} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{cxvi} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{cxvii} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

200. In its written evidence COSLA was supportive of the proposed changes to the compensation for unlawful evictions but suggested that the courts should have the power to make awards above the maximum as well as below the minimum where the circumstances on the case merit it.^{cxix} Similarly, ALACHO was supportive, and would also welcome criminal sanctions being increased along with Police Scotland investigating any allegation notified to the courts by the First tier Tribunal.

201. The Committee welcomes the Bill's intention to make the process of claiming for damages for unlawful evictions easier and fairer for tenants.

202. There is evidence that a minority of landlords are willfully abusing their rights to evict tenants. The Committee believes there is therefore a case to be made for increasing the burden of proof on landlords and also for harsher penalties for willful misuse of grounds for eviction. It therefore invites the Scottish Government to set out what further measures it could take to protect tenants in this regard and to bring forward appropriate amendments to the Bill at Stage 2.

Grounds for eviction

203. The Tenants Panel and some witnesses, including Living Rent, expressed concern that the Bill does not amend the current grounds for eviction, with ALACHO in its written submission describing it as a missed opportunity. As an example, ALACHO believes it is unreasonable to allow a tenant to be evicted because their private landlord is no longer considered a "fit and proper person" for the purposes of registration or that a social housing tenant living in supported or adapted housing who no longer needs it should be evicted without a requirement to offer suitable alternative accommodation. It suggests that the eviction grounds in private and social sector tenancies should be reviewed from the perspective of both human rights and of basic fairness.^{cxx}

204. The Tenants Panel similarly recommends a review of the current grounds for eviction, and suggested there should be longer notice periods.^{cxxi} Generation Rent similarly said there should be a longer notice period if a landlord is evicting on the grounds of selling the property, and that landlords should register eviction notices on the landlord register.^{cxxii}

205. The Scottish Government has confirmed that there is an outstanding commitment to review the grounds for landlords' repossession of a property, and that a review

^{cxviii} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{cxix} [Response 621022480 to Housing \(Scotland\) Bill Call for Views - Scottish Parliament - Citizen Space](#)

^{cxx} [Response 41029257 to Housing \(Scotland\) Bill Call for Views - Scottish Parliament - Citizen Space](#)

^{cxxi} [tenantsrecommendations.pdf \(parliament.scot\)](#)

^{cxxii} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

will be carried out. The Committee welcomes this and asks that this is taken forward as soon as possible and that it is kept up to date with progress.

The Tribunal process

206. The Committee wrote to the Housing and Property Chamber of the First-tier Tribunal for Scotland about its operations and the likely impact of the Bill. A [response was provided](#) by the Judicial Office for Scotland. In the year 2023-2024 the Tribunal received 4,271 applications and disposed of 3,745 cases, and it is anticipated those numbers will continue to grow. The majority of activity within the Chamber relates to evictions, at around 63%. It is already seeking additional resources in order to manage its increasing caseload.
207. Witnesses told the Committee that there can be significant delays in the Tribunal processing cases, and expressed concerns that those will be exacerbated by the expected additional caseload arising out of the Bill's provisions. John Blackwood from the Scottish Association of Landlords said:
- ” We have serious concerns... about the length of time that it takes for cases to be heard by the tribunal. Will the proposal have an impact on the tribunal? We imagine that it will – of course it will. It is putting more pressure on a tribunal system that, quite frankly, needs more resources in order to be able to continue to function.”^{cxxiii}
208. The Landlords' Panel also described the Tribunal process as being time consuming and 'detrimental' to landlords particularly where rent arrears are involved.^{cxxiv} The Tenants' Panel made a similar point, suggesting that consideration should be given to speeding up the Tribunal system in relation to the use of conduct grounds, on the basis this might encourage landlords to stay in the sector. The panel suggested that there would be a corresponding need to tighten up the type of evidence gathered and checking that is done when landlords give notice on the basis of conduct grounds.^{cxxv}
209. The Committee also heard that it can often be challenging for tenants to engage with the Tribunal process. Gerry Tierney from Ayr Housing Aid said:
- ” My experience of dealing with tenants who face eviction is that it is a significant crisis in their lives... Many have chaotic lives in any event, and to be asked to go to a tribunal and represent themselves, when most of the landlords are represented by lawyers, causes anxiety.”^{cxxvi}
210. Joshua Davies from Nationwide similarly told the Committee that:

^{cxxiii} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{cxxiv} [landlordsrecommendations.pdf \(parliament.scot\)](#)

^{cxxv} [tenantsrecommendations.pdf \(parliament.scot\)](#)

^{cxxvi} [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

” Renters’ ability to access justice through the tribunal could be dramatically improved, as a lot of our research has shown that the tribunal is difficult to access for renters, and it is worth noting that landlords also find the tribunal difficult to deal with.”^{cxxvii}

211. Lyndsay Clelland from Age Scotland also raised the issue of accessibility to online support by older people:

” A lot of the information around what is an affordable rent, rights and how to get support is online, but the most recent Scottish housing condition survey found that around 24 per cent of over-60s have never used the internet. From our research, of those who use the internet, 30 per cent are not confident in using it for anything over and above sending an email or a social media message.”^{cxxviii}

212. The Tribunal is managing an increasing caseload and it is already taking steps to increase its resources accordingly which is welcome. With additional resources, efforts should be made to reduce the time it takes for the Tribunal hearings to take place. Reducing delays to the conclusion of cases will be to the benefit of both landlords and tenants.

213. It is clear however that there are barriers to many tenants exercising their rights by taking their cases to the Tribunal, suggesting a need for greater access to advice and support for them. The Scottish Government is seeking to improve the balance of tenants’ and landlords’ needs and so it will need to ensure there are corresponding improvements to enabling people to exercise those rights. The Committee therefore invites the Scottish Government to set out how it will achieve this.

Summary of views on Part 2

214. The Committee heard eviction being described as an ‘act of violence’ on a tenant^{cxxix}, and in considering Part 2 of the Bill it has been mindful of the importance of ensuring tenants have appropriate protections available, whether against criminality by landlords, or against difficult circumstances in which they find themselves. The Bill’s measures to ensure that evictions can be delayed accordingly are particularly welcome, though as discussed above it is important that increased protections are established for tenants in critical need as they or their loved ones cope with a terminal illness. Similarly a review of all existing grounds for eviction should be carried out by the Scottish Government to ensure that these are fair and in line with the Bill’s intention of creating a balance of tenants’ and landlords’ rights.

215. The Bill presents an opportunity too to further prevent illegal actions by landlords to remove people from their property, and the Committee heard suggestions about the

^{cxxvii} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{cxxviii} [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

^{cxxix} [Meeting of the Parliament: LGHP/03/09/2024 | Scottish Parliament Website](#)

impact which adding non-financial penalties on them might have. The enforcement regime however is dependent on the Tribunal being able to manage what may be an increased caseload to ensure that decisions are reached without delay, and in order that the Bill's measures are effective the Scottish Government must ensure it is resourced appropriately.

Part 3: Personalising homes and the right to own pets

216. Personalising homes

There are two key elements in Part 3: tenants' rights to personalise their homes and their right to own pets. Looking firstly at the provisions to allow for the personalisation of homes, the Bill aims to give private tenants greater discretion to personalise their home. Under these provisions tenants would be allowed to make minor modifications without the consent of the landlord (described as being in Category 1, including putting up pictures and posters) and also give them the right to request Category 2 modifications (such as painting walls) that a landlord could not unreasonably refuse after they have lived in the let property for 6 months or more. If a landlord refuses consent or unreasonable conditions are attached to consent tenants would be able to appeal against the landlord's decision to the Tribunal.

217. There was broad support in principle from witnesses to this aspect of the Bill, and recognition of the benefits that the right to make modifications will have for tenants. Timothy Douglas from Propertymark told the Committee that:

” ...the positive is that, often, tenants who make changes or make a property more their own tend to stay longer than those who do not make changes.”^{cxxx}

218. Lyndsay Clelland from Age Scotland highlighted the importance of people being able to make adaptations to a property, using the 'category 2' example of painting a wall as an example:

” Although that might seem more like a 'nice to have' personalisation factor, for many older people - in particular, those who live with sight impairment or dementia - it is a necessary thing to do in their homes, to help them to navigate safely and effectively and to prevent falls and injuries. The bill needs to have some provisions on landlords considering each tenant's personal circumstances on the question whether a request can be reasonably refused...the main concern is measures that will promote people's health and safety and their independence.”^{cxxxi}

219. There are some existing rights for private tenants to ask their landlord for consent to adapt their home to make it more suitable for a person with a disability. Under section 52(1) of the Housing (Scotland) Act 2006 the landlord has to decide within 1 month of the application. If it is refused the tenant can appeal to the Tribunal. The

Committee has not though taken evidence on the extent to which these rights are used.

220. The Landlords' Panel also supported the right for tenants to make changes but at the same time argued for there to be sufficient safeguards for landlords. The Panel noted that in many instances landlords already agree to requests, and so they questioned the need for legislation. The Panel members believe that there should not be undue financial pressure on landlords in terms of returning the property to good order after the tenant leaves, and so tenants should be required to leave the property in the same condition it was when they moved in, as is the requirement in Germany.^{cxxxii}

221. Similar concerns were raised by John Blackwood from the Scottish Association of Landlords about what could be put in place to ensure that a property is returned to its original condition, for example through increased tenant deposits:

” Landlords need to be reassured that there are enough mitigations in place to support them in situations where it goes wrong and damage has resulted in the property.”^{cxxxiii}

222. Under Part 3 of the Bill Scottish Ministers have powers to require tenants pay a supplementary deposit. Anna Gardiner from Scottish Land and Estates explained that some rural rents will typically be quite low and so the tenants' deposit will also be relatively low compared with urban areas. However the costs of any repairs that may be needed will not be lower in a rural location, making it difficult for landlords to recoup their costs from tenants' deposits. As a solution she requested that regional rental variances are taken into account.^{cxxxiv}

223. Callum Chomczuk from the Chartered Institute of Housing told the Committee that additional deposits should not be required as a matter of principle:

” I have concerns about asking for substantially greater deposits. There is a point to having the deposit system in the first place. Having pets and undertaking modest personalisation seems reasonable - those are reasonable adjustments. In our support for people to have pets and to undertake personalisation, I would not want to see an onerous expectation placed on tenants to put additional resources up front for that, because that undermines the whole principle of having pets and personalisation, which is about enabling people to create a home that is their home.”^{cxxxv}

224. In his oral evidence to the Committee James Calder from MECOPP (the Minority Ethnic Carers of People Project) told the Committee that traveller communities should have rights to make changes and adaptations to amenity blocks on travellers' sites:

^{cxxxii} [landlordsrecommendations.pdf \(parliament.scot\)](#)

^{cxxxiii} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{cxxxiv} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{cxxxv} [Meeting of the Parliament: LGHP/03/09/2024 | Scottish Parliament Website](#)

” Gypsy Traveller sites have things such as amenity blocks that the community can use for washing, toilet facilities and that kind of thing. In private and local authority sites, there can often be issues with making adaptations and changes to those blocks. I am not saying that this should be a substitute for making necessary adaptations to those blocks, particularly for those who might have disabilities, but there needs to be consideration of including amenity blocks in the bill.”^{cxxxvi}

225. The Committee recognises that many landlords are already amenable to tenants' requests to personalise their homes but supports the Bill's provisions for this to be put on a statutory footing. Rental properties are primarily people's homes, and it is reasonable to expect tenants to be allowed to make reasonable changes to their homes as a property owner would ordinarily do.

226. The Committee does, however, suggest that the requirement for tenants to live in a property for six months before requesting to make 'category 2' changes is a long time period which should be reconsidered by the Scottish Government. This is particularly important in respect of adaptations which are needed by older and disabled tenants.

227. If a landlord refuses consent or unreasonable conditions are attached to consent tenants would be able to appeal against the landlord's decision to the Tribunal. As described above though, tenants do find it challenging to engage with the Tribunal process. In that respect, the Committee's recommendation that the Scottish Government should make improvements to enabling people to exercise those rights is equally relevant here.

228. The Committee recognises the concerns raised by landlords that there need to be mitigations in place, such as an increased tenancy deposit. However, the Committee contends that a landlord should not necessarily require a property to be in exactly the same decorative condition as it was at the start of a tenancy. A tenant might, for example, redecorate in a different colour but do so to a high standard. The Bill makes provisions for secondary legislation to specify when it will be appropriate to amend the tenancy deposit requirements, for example by increasing them. The Committee will further scrutinise this issue once the secondary legislation is laid before Parliament, at which point other aspects of the provisions will be clearer (such as what actions will constitute category 1 or 2 changes to a rental property).

229. The Committee would welcome the Scottish Government's views on ensuring that amenity blocks at travellers' sites are incorporated into the Bill's provisions for making changes to properties.

230. **Keeping Pets**

Part 3 of the Bill also proposes to introduce a new right for tenants to request to keep a pet and for those requests not to be unreasonably refused by the landlord.

As with the new right to make or request modifications, there was broad support for this throughout the evidence which the Committee heard. John Blackwood from the Scottish Association of Landlords said:

” Most of us, as landlords, would support that. We want tenants to feel that it is their home and potentially to be living in our properties for long periods of time. That is absolutely fine. That is in everybody’s interests.”^{cxxxvii}

231. Witnesses highlighted the advantages to both tenants and landlords, with James Hickman from the Dogs Trust telling the Committee that tenants typically stay longer in a property if they are able to keep a pet:

” When we did our own research alongside Cats Protection back in 2021, we found that tenants with dogs reported being happier and—as was found in other research—were more likely to want to stay longer in a property. Indeed, a quarter of those whom we surveyed said that they would stay longer in a property if they were allowed to keep their pet with them. We therefore see the provision as a positive outcome for tenants and landlords, because it will provide more secure housing for tenants and their pets while reducing expensive void periods for landlords.”^{cxxxviii}

232. Similarly Becky Thwaites from Blue Cross highlighted in her oral evidence to the Committee that:

” ...landlords have longer tenures with tenants who have pets. According to research by the University of Huddersfield alongside the Battersea Dogs and Cats Home, there is a financial benefit to landlords who rent their properties out to tenants with pets. As an organisation, therefore, we see the policy as a win-win for everyone involved, and it will be really positive for pet owners.”^{cxxxix}

233. Witnesses described the importance of pet ownership to people. A survey by the Scottish SPCA in 2022 showed that 75% of tenants with pets said they had the pet for emotional and mental health support. A significant proportion though - 37% - had had to make a choice between pet or home, a difficult decision which can sometimes push people into homelessness.^{cxl} Becky Thwaites from Blue Cross told the Committee that:

” Many people consider their pet to be a family member and, when they are forced to make that choice, they decide to stay with their pet. They therefore can make themselves homeless or be forced to live in accommodation that is not really suitable for them.”^{cxli}

234. Other implications include pet owners struggling to leave a situation involving domestic abuse, as Gilly Mendes Ferreira from the Scottish SPCA explained:

^{cxxxvii} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{cxxxviii} [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

^{cxxxix} [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

^{cxl} [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

^{cxli} [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

” If someone who is looking to flee has a pet, it is 10 times harder for them to leave the property unless their pet can also be moved to safety.”^{cxlii}

235. The Bill allows landlords 42 days to consider a request to keep a pet, which some witnesses believed is too long. Tenants have the right to appeal to the Tribunal if their request is refused. Witnesses suggested to the Committee that shorter timescales would be reasonable, between 10 and 14 days up to a maximum of 28 days. Gilly Mendes Ferreira from the SSPCA said:

” 42 days is far too long. That would leave the person in limbo and, as we have established, it is really hard to find places where you can go with your pet. The SSPCA suggests 14 days, which would be 10 working days, so our approaches are very similar.”^{cxliii}

236. At the same time, the Committee also heard that there will be a need for mitigations to be in place in case things go wrong, such as a facility to charge greater deposits, or a requirement for tenants to have an insurance policy in place. Robin Blacklock from Dowbrae Ltd explained that build-to-rent developments typically allow pets, although thought needs to be given to other people in multi-occupancy buildings and to the types of pets that are appropriate.^{cxliiv} Becky Thwaites explained that guidance for landlords will be needed, and that the Dogs Trust have created a 'pet CV' which could be used:

” If landlords can ask for a pet CV, they can then really understand the requirements of the particular pet and whether they can be met in the home that the landlord is renting. It will come down to providing as much guidance for landlords as possible, so that they can make decisions quickly and effectively with the animal welfare knowledge that they will get from working with the sector.”^{cxlv}

237. Witnesses suggested that a landlord's concern about the risk of damage by a pet should not be reasonable grounds for refusal a request to keep a pet. James Hickman from the Dogs Trust cited a survey showing that only 21% of tenancies with a pet ended in any damage to the property.^{cxlvi} Becky Thwaites referred to research by Huddersfield University into pet damage:

” I think that the average was around £250 of damage from pet owners, compared with between £500 and £700 from people who are not pet owners. There is a fear among landlords, but when we look at the evidence, we see that pet-owning tenants potentially cause less damage than tenants who do not own pets.”^{cxlvii}

238. As with other provisions in the Bill, it was suggested that there should be a presumption in favour of tenants' rights. James Hickman from the Dogs Trust told

cxlii [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

cxliii [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

cxliv [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

cxlv [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

cxlvi [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

cxlvii [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

the Committee about a working example of this in Australia:

” ...the state of Victoria in Australia has recently put something into law through which a landlord cannot unreasonably refuse consent for someone to have a companion animal—that is similar to the provision in the bill—but the onus is on the landlord to apply to the tribunal within 14 days if they want to refuse on reasonable grounds”^{cxlviii}

239. The Committee supports the principle of tenants having a statutory right to request to keep a pet. The example provided above of there being an automatic right to have a pet, which landlords can appeal against, sits well with the idea that tenants should have similar rights to that of consumers. The Committee invites the Scottish Government to comment on whether it has considered that alternative approach.
240. The Committee recognises that Scottish Ministers will have powers to prescribe what constitute reasonable grounds for refusal or when it is reasonable to apply a condition to consent, and that it must consult with relevant bodies in developing those regulations. It notes however that the Delegated Powers and Law Reform Committee has concluded that it is essential there is more clarity on the face of the Bill, for example by providing illustrative lists. The Committee notes the views of the Delegated Powers and Law Reform Committee and recommends that the Scottish Government brings forward appropriate amendments to the Bill at Stage 2.
241. Further guidance will be required for landlords and tenants about which pets are suitable in particular instances (for example taking into account the size of a property) and the Committee recommends that the Scottish Government works closely with third sector organisations in developing this. In order to mitigate landlords' concerns there is merit in this guidance including the use of a 'pet CV' which provides detailed information about the particular animal.
242. The Committee heard strong arguments as to why the proposed 42 days timescale for a landlord's consideration of a request to have a pet is too long. Whilst it does not have a view on how much that timescale should be reduced, it would suggest that 2-4 weeks would appear to be sensible. It recommends that the Scottish Government reconsiders this and brings forward amendments at Stage 2 of the Bill accordingly.

Parts 4 and 6

Unclaimed deposits

243. Part 4 of the Bill proposes that any tenancy deposits lodged with an approved tenancy deposit scheme which have not been claimed after five years can be repaid to the Scottish Ministers or into another fund so that they can be used to provide support to private tenants. There are an estimated £4m of unclaimed deposits. The

Bill proposes that they could be used for the provision of:

- advice, information or assistance to private tenants in relation to their rights as tenants
- other services or facilities that promote or support the interests of such tenants
- preventing private tenants from becoming homeless
- reasonable administrative costs.

244. The Committee sought witnesses' views on how unclaimed deposits should be used, and on the whole there was general support for the principle of the funds being used to aid tenants. John Blackwood for example from the Scottish Association of Landlords suggested they could be invested in housing for those in need, or for their tenancy deposits.^{cxlix} Living Rent suggested using them to provide legal aid services^{cl}, and the Tenants Housing Panel similarly suggested they could fund a helpline providing support for tenants.^{cli}

245. At the same time, a number of concerns were raised with the Committee about the need to improve tenants' access to their deposits. Age Scotland pointed out that claims for deposits must be made online, which many older people can't access.^{clii} Generation Rent said they would like to see more responsibility on landlords to ensure deposits are returned and that they cannot exaggerate claims against the deposits:

” There is a real concern that tenants have a lack of understanding or awareness about their rights with regard to getting their deposits back. Some landlords do not make it easy.”^{cliii}

246. Living Rent explained that claiming deposits can be a lengthy process:

” If you are not equipped or, frankly, if you do not have the patience to meet letting agents and landlords and deal with their lethal jargon, you will not get much back. The process really disincentivises people from claiming their deposits back.”^{cliv}

247. The Tenants Panel agreed that there should be a requirement for the speedier return of deposits, support from local authorities and agencies with payment of deposits, and the capacity to bridge deposits between tenancies in different properties. The Panel also suggested that landlords should have to register the time taken to return deposits.^{clv}

cxlix [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

cl [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

cli [tenantsrecommendations.pdf \(parliament.scot\)](#)

clii [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

cliii [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

cliv [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

clv [tenantsrecommendations.pdf \(parliament.scot\)](#)

248. Callum Chomczuk from the Chartered Institute of Housing expressed concerns about the difficulties in returning deposits to international students, and suggested one solution would be for tenants to lodge their deposits directly with one of the tenancy deposit schemes, rather than via their landlord.

” I feel that a system in which the tenant was responsible for leaving their money with the deposit system would address a lot of the complications with return of deposits. To have their bank details and a system of communication direct with the tenant might not be seamless, but it would be much easier to return the money... I feel that the landlord having confirmation through the third-party tenancy deposit scheme would be a pragmatic and reasonable way to get around the matter.”^{clvi}

249. The Committee welcomes the Bill's provisions to allow unclaimed deposits to be used to improve support and advice for tenants. As described elsewhere in this report, there is a clear need for improved guidance and support for tenants so that they are empowered to exercise their rights. The current funds available in unclaimed deposits would provide a significant resource to develop and provide that guidance and support.

250. The Committee is concerned to hear that tenants sometimes struggle to reclaim and retrieve their deposits and would suggest that improvements are needed to the current system. From the evidence the Committee received it appears that it is often landlords and their agents that are the barriers to receiving deposits in a fair and timely manner, and therefore the Committee can see merit in the suggestion that the deposit system would best work if tenants deal directly with the deposit schemes. The Committee invites the Scottish Government to consider how the tenancy deposit scheme could be made both more efficient and fairer to tenants.

Joint tenancies

251. Part 4 of the Bill proposes to change how a joint private residential tenancy could be ended by allowing one tenant to end it without the agreement of all joint tenants. Under existing legislation all joint tenants must agree to give notice to end the tenancy, meaning that some tenants can become trapped in their tenancy. The Bill's provisions make changes to that situation, including that:

- one joint tenant can end their private rented tenancy by giving the landlord notice (the tenancy would not come to an end if the joint tenant's interest is instead assigned to another person)
- the departing joint tenant must give the other tenants a 'pre-notice' of their intention to end the tenancy at least two months in advance.

252. There was broad support for this measure amongst witnesses the Committee heard from and in the written call for views. The Scottish Property Federation's written submission says for example:

” ...we welcome the fact that this Part of the Bill would set a process for tenants ending a joint tenancy arrangement and also provide transparency to a landlord.”^{clvii}

253. Some complexities though were highlighted by witnesses. John Blackwood from the Scottish Association for Landlords proposed that tenants should make an application to the First-tier Tribunal if they want to be released from the tenancy, and said there is the risk of disadvantaging the remaining tenants:

” You could have a party of three who have gone into a joint tenancy - the three of them have entered into a joint contract - and one wants to leave. There could be an inadvertent or unintended consequence, in that the person could be allowed to walk away but that could unintentionally make the other two people homeless, because they might not be able to afford the rent to continue to stay in the property, and the landlord obviously cannot afford to reduce the rent to just have two people in a three-bedroom property. That could result in the whole tenancy breaking down and all three having to move out of the property, rather than just one.”^{clviii}

254. Living Rent made a similar point in its written submission:

” We welcome the improved rights for joint tenants to leave a tenancy with sufficient notice without having to wait for the approval of other joint tenants. This is crucial as we have supported many tenants who have been trapped in their tenancy by joint tenancy rules... However we are concerned that this law still doesn't provide greater protections for remaining tenants. Remaining tenants should have the right to propose another tenant to swap in and this request should not be unreasonably refused by the landlord if the suggested new tenant meets requirements.”^{clix}

255. There were concerns too about the implications in situations where domestic abuse is a factor, and the abuser takes advantage of the ability to end a tenancy. Gerry Tierney from Ayr Housing Aid said:

” ...if a violent partner is excluded from a tenancy, there should be a mechanism to prevent them from seeking to terminate the tenancy out of revenge.”^{clix}

256. More generally, Derek McGowan from the City of Edinburgh Council said that more information is needed about how the provision will work:

” The change is welcome in principle, but I would want to see more detail on how it might be implemented and what it might mean in practice... It would be good to see statutory guidance on it.”^{clxi}

257. Ellie Gomersall from the National Union of Students Scotland explained that

clvii [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

clviii [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

clix [Response 888675063 to Housing \(Scotland\) Bill Call for Views - Scottish Parliament - Citizen Space](#)

clx [Meeting of the Parliament: LGHP/03/09/2024 | Scottish Parliament Website](#)

clxi [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

students are disproportionately likely to be in joint tenancies, and that an additional complication is that if a student tenant is replaced by a non-student "that can impact on whether, for instance everyone in the property has to pay council tax."^{clxii} The Landlords Panel also noted that the problems associated with student lets is particularly marked, with some members advocating for fixed term student lets to redress this.^{clxiii}

258. The Committee supports the Bill's amendment to the means by which joint tenancies can be ended, and understands that this provision in the Bill was determined after extensive consultation by the Scottish Government. There are though some legitimate concerns with a number of aspects in how it will impact on remaining tenants, and how the measure could be weaponised by abusive partners. It therefore requests that the Scottish Government responds to those issues and explains how they will be mitigated.

Mobile home pitch fees

259. Part 6 of the Bill proposes to change the ways that pitch fee increases in residential mobile home sites are calculated, from a presumption that increases should no more than the Retail Price Index to instead linking them the Consumer Price Index (CPI).

260. Relatively few written submissions or witnesses had views on the Bill's proposed changes, and those that did were generally supportive. MECOPP welcomed the measures as they may benefit members of the gypsy and traveller communities. James Calder from MECOPP went on to say though that any increase for pitches should not exceed social housing increases in the interests of fairness:

” At the moment, many local authority sites already use the CPI for uplifts, but there also needs to be consideration of local authority social housing rent increases. In a local authority area, the percentage increase for pitches should not be higher than the increase for social housing. We should avoid inequality resulting from people who live on Gypsy Traveller sites ending up facing higher increases than those who live in social housing. Going with some pensions parlance, we suggest that there should be a double lock to ensure that pitch fee increases do not go above either the CPI or housing rent increases.”^{clxiv}

261. James Calder went on to express concerns that some local authority sites do not currently meet the Scottish Government's minimum standards.

” The other thing to note is that not all pitches have the same facilities. When considering fee structures, a priority should be addressing the fact that many local authority sites still do not quite meet the Scottish Government's minimum standards.”

clxii [Meeting of the Parliament: LGHP/11/06/2024 | Scottish Parliament Website](#)

clxiii [landlordsrecommendations.pdf \(parliament.scot\)](#)

clxiv [Meeting of the Parliament: LGHP/25/06/2024 | Scottish Parliament Website](#)

262. The Committee agrees that linking mobile home pitch fees to the CPI is a fairer option for mobile home owners. It asks the Scottish Government to respond to the suggestion that any increases should also be linked to the percentage increase in social housing rents locally.

Delegated powers provisions

263. As highlighted throughout this report, there are a number of key aspects of the Bill which are dependent on subordinate legislation.
264. The Bill confers 50 powers to make subordinate legislation on the Scottish Ministers. The Delegated Powers and Law Reform (DPLR) Committee was content with the majority of the delegated powers contained in the Bill but had queries in relation to 16 of them and wrote to the Scottish Government raising questions. The DPLR Committee [reported on the Bill's delegated powers provisions](#) on 4th September 2024 and notes in its report the responses received from the Scottish Government.
265. In this report the Local Government, Housing and Planning Committee has made a number of references to the uncertainties about the Bill arising out of matters being left to secondary legislation. It has stressed the importance of the Scottish Government providing as much clarity as possible in order to avoid any further harm to the private rented sector. The Committee notes the DPLR Committee's conclusion that in the interests of transparency more detail should be provided on the face of the Bill and less reliance placed on secondary legislation. The Committee urges the Scottish Government to revisit the recommendations made in the DPLR Committee's report and brings forward appropriate amendments at Stage 2.

Financial Memorandum and Business and Regulatory Impact Assessment (BRIA)

266. The Finance and Public Administration Committee (FPA Committee) undertook scrutiny of the Financial Memorandum (FM) for the Bill. As part of its scrutiny, the Committee ran a call for views on the FM between 3 May and 4 June 2024 and received 21 responses, which have been [published on the Committee's call for views page](#). The submissions received raised concerns regarding the financial impact of the Bill, particularly in relation to costs relating to rent control areas, which stakeholders state have been significantly underestimated.
267. The FPA Committee [wrote to the Scottish Government](#) seeking its response to a number of specific concerns, including:
- The increased workload and bureaucracy for local authorities to collect data from landlords have not been properly assessed in the FM. This includes the need for data to cover the whole local authority area rather than a 'hotspot' as set out in the FM, and that using only a sample of landlords as the FM suggests would not result in sufficiently robust data.
 - The FM cost modelling covers scenarios of a 2% to 10% rent cap, however, the Bill in its current format allows for rents to be frozen within rent control areas. The 0% increase scenario does not appear to have been costed in the FM.
 - Uncertainty regarding inflationary uplifts and any cost recovery that may be permitted to landlords as a result of upgrades and repairs etc and fluctuating mortgage rates.
 - Whether support will be provided to local authorities to enable them to undertake detailed assessments of the private rented sector for the purposes of designating and managing rent control areas.
 - Uncertainty caused by the prospect of rent control measures is leading to some landlords exiting the market and to potential loss of investment, which should be assessed as a potential cost of the Bill.
268. These issues mirror those which were highlighted to the Local Government, Housing and Planning Committee throughout its oral evidence, as described throughout this report. In particular the challenges of local authorities having responsibility for the data collection necessary to assess whether rent control areas are required, concerns raised by landlords about recovering the costs of improvements made to properties, and the uncertainty which the sector is currently experiencing which may cause landlords to sell their properties.
269. COSLA's representative Mike Callaghan described local authorities' concerns about how the FM was developed:

” we feel that the process for developing the financial memorandum and gathering local authority costs to inform it could have been better. We would have much preferred a longer engagement period to allow the local authorities to consider and provide robust and informed information. We are unclear as to how the local authority cost gathering has informed what is in the financial memorandum.

Specifically on rent controls, our view is that it involves significant time and that there will be a substantial resource requirement, but that has not been reflected in the financial memorandum.

There is a lack of clarity on some of the costs and how they were arrived at, and there is not enough detail to be able to assess accuracy. Also, some costs are missing, such as those relating to the local authority role in enforcement.”^{clxv}

270. In its written [response to the FPA Committee](#) the Scottish Government stressed that it is committed to working with local authorities on how best to deliver an effective system of rent controls and has established a local authority working group to support the development of the approach to conducting assessments of the local private rental sector. It acknowledged the challenges for rent control systems to achieve a balance and both stabilise rents whilst also minimising any unintended consequences, stressing the need to choose the 'optimal trade-off'.

271. In response to concerns that some landlords may be considering partially or completely divesting from the sector in response to proposed regulatory changes, the Scottish Government's letter to the FPA Committee states that:

” ...those who are motivated to engage with such research may be disproportionately likely to be concerned about the proposals. Furthermore, landlord concerns may also reflect factors beyond the specific proposals from the Scottish Government...the Scottish Government considers that caution should be exercised when assessing whether stated intentions in surveys will translate into action”

272. The Scottish Government's letter of 17 July 2024 also states that an assessment of the effect of rent controls and of the cumulative impact of reforms to the rental sector has been carried out as part of the Business and Regulatory Impact Assessment (BRIA). Unfortunately the BRIA was not published until 9 October 2024 after all Committees scrutinising the Bill had concluded their examination of the Bill at Stage 1 and there has not therefore been adequate opportunity to fully scrutinise the financial implications of the Bill.

273. The Convener of the FPA Committee wrote to the Committee on 7 October 2024 noting the absence of a BRIA and that in light of the evidence received and the remaining uncertainty concerning rent control measures in the Bill, the FPA Committee does not have a clear understanding of their associated costs. The letter also notes that the Scottish Government may be required to publish a revised FM if amendments to the Bill substantially alter the estimated costs and savings.

274. In his oral evidence to the Local Government, Housing and Planning Committee the Minister for Housing explained that the Scottish Government's discussions with local authorities about local assessments include consideration of the likely resources they will require. He advised that the Scottish Government intends to provide a revised Financial Memorandum at the end of Stage 2 consideration of the Bill:

” Our discussions with local authorities include asking what additional resources would be required, including for data collection, and discussions are on-going. The financial memorandum provides an estimate, and an updated memorandum will be provided at the end of stage 2.”^{clxvi}

275. In its [report on the Bill](#) the Social Justice and Social Security (SJSS) Committee outlines concerns raised with it about by witnesses about the FM, and recommends the Scottish Government consults with stakeholders again and updates the FM ahead of the Stage 1 debate on the Bill as appropriate. The SJSS Committee requests that the updated FM should be provided at least two weeks prior to the completion of Stage 1 – scheduled for 29 November 2024 - to inform Members' approach to the debate on the Bill.

276. The Committee notes the Social Justice and Social Security Committee's concerns and recommends that the updated FM is provided by the Scottish Government at least two weeks before the completion of Stage 1. It is disappointing that the Scottish Government has published the BRIA so late after introducing the Bill before Parliament. This has undermined the scrutiny which the Parliament's committees have been able to undertake, requiring Parliament to agree to the general principles of the Bill without fully understanding its cost. In addition, the Committee notes that due to the Scottish Government's intention to make amendments to the rent control provisions in the Bill (as outlined in the Minister for Housing's statement to the Scottish Parliament on 31 October 2024) the BRIA and FM may soon be out of date.

Post-legislative scrutiny

277. The Scottish Parliament has an important role in holding the Scottish Government to account for the delivery of its policies and legislation, and conducts 'post-legislative scrutiny' to assess whether Acts of the Parliament have succeeded in achieving their aims. Such scrutiny can also support the Scottish Government in ensuring that legislation remains effective and is responsive to changing circumstances.
278. If the Bill is passed the Scottish Government will need to regularly monitor its effectiveness. In the event that the Scottish Parliament does in the future carry out post-legislative scrutiny of the impact of the legislation, which the Committee would encourage its successor committees to do, it will draw on the available evidence from the Scottish Government and a wide range of stakeholders.
279. During the course of its scrutiny of the Bill, the Committee invited witnesses' views on how that impact should be measured, and whether the Scottish Government should be required to produce regular reports. Callum Chomczuk from the Chartered Institute of Housing said he would welcome transparency:

” It would be incredibly helpful to hear from the Government now on its sense of the Bill’s impact, and then there could be updates. If we do not meet those expectations, what steps will be taken? How will we take budgetary and financial decisions and focus on increasing the supply of affordable housing or on other issues that will help us to meet improved housing outcomes and minimise homelessness, as we all want?

The principle of reporting on the impacts would be incredibly welcome. It comes back to the point about greater transparency, which we talked about in relation to rents and other aspects. Ensuring transparency on the measures of success on homelessness and in the housing system would be really welcome.”^{clxvii}

280. When asked by the Committee what the indicators of success could be, Callum Chomczuk went on to say that "fundamentally, we should consider the levels of homelessness. The Bill is trying to drive affordability and address homelessness."
281. Timothy Douglas from PropertyMark told the Committee that "there should be a commitment to publishing an annual parliamentary update on the state of the sector."^{clxviii} Tony Cain from ALACHO agreed that the Bill's impacts should be monitored:
- ” The Scottish Government should set out what success for the Bill would look like, and it should be able to either demonstrate success or demonstrate how it will respond to insufficient success.”^{clxix}
282. The Committee is aware that there are currently limitations on the data which is

^{clxvii} [Meeting of the Parliament: LGHP/03/09/2024 | Scottish Parliament Website](#)

^{clxviii} [Meeting of the Parliament: LGHP/18/06/2024 | Scottish Parliament Website](#)

^{clxix} [Meeting of the Parliament: LGHP/03/09/2024 | Scottish Parliament Website](#)

available about the private rented sector. With the introduction of mandatory assessments by local authorities in order to determine whether rent control areas are required there should however be significant improvements in data collection. In the meantime there are nonetheless existing data-sets about homelessness which will arguably provide the ultimate measure of how well the housing sector is functioning.

283. The Scottish Government is also [revising the national outcomes](#) within its National Performance Framework, and for the first time is introducing a specific outcome about the provision of Housing, which is welcome. Ideally this should also lead to improved data gathering about the housing sector, including private tenancies.

284. This report has discussed the complexities of the housing sector, and how policy decisions affecting one component can have consequences elsewhere. It will be vital that the Scottish Government maintains a strong oversight of the impact of its measures within the Bill such as rent control so that its policies are responsive to a changing landscape and any appropriate legislative amendments are identified. Ongoing scrutiny will be important in ensuring that the Bill is effective in the long-term and therefore provides the certainty needed by landlords and tenants in how the sector operates. The Committee hopes that in re-visiting this legislation the Committee will see that it will have had a positive impact and it will not be necessary for the Scottish Government to introduce further significant legislative changes that could again unsettle the market. However, the Committee recognises that previous legislation in the private rented sector was introduced and operated on an emergency basis. It further interacted with unfavourable economic and monetary conditions across the UK.^{clxx}

285. The Committee considers that the Scottish Parliament will have an important role in holding the Scottish Government to account on the impact of the Bill, and therefore recommends that the Bill includes requirements for the Scottish Government to report to Parliament on the implementation of the first iteration of rent control areas, and at an appropriate later date (for example 5 years) on the impact of the legislation more broadly. Once a data collection system has been established the Scottish Government should also ensure that it publishes annual reports on the private rental sector.

^{clxx} Meghan Gallacher MSP and Alexander Stewart MSP dissented from this paragraph.

Conclusion

286. As has been emphasised throughout this report, we are currently in the midst of a housing emergency.
287. The Committee has been undertaking an inquiry looking at housing in the round, considering the response to the housing emergency and how we move beyond the emergency to a place where we have a housing sector that works for all.
288. The private rental sector must play a critical part in responding to the emergency as well as contributing to a more sustainable future housing sector. To move beyond the housing emergency there must be an increase in the supply of affordable private rental properties across Scotland and a greater equity in the relationship between tenants and landlords.
289. This Bill provides an opportunity to help shape the private rented sector for the better and this opportunity must not be missed.
290. There is a risk that the Bill as introduced could repeat some of the past challenges including those experienced by stakeholders in the private rented sector in the wake of the previous emergency legislation during the pandemic. Therefore the Committee notes the Scottish Government's proposed amendments at Stage 2 in relation to the rental cap, as set out in the Minister for Housing's statement to the Scottish Parliament on 31 October 2024.
291. The Committee will need to apply detailed scrutiny to this revised approach and expects to take oral evidence ahead of Stage 2 on the Scottish Government's proposed changes to the rent control provisions in the Bill.
292. Any approach must, insofar as possible, provide long-term certainty to tenants, landlords and investors. The absence of long-term certainty has significantly undermined the effectiveness of the private rental sector and it is essential that this Bill provides long-term certainty. For that reason the Committee urges the Scottish Government to also re-visit the recommendations of the DPLR Committee and ensure that more detail is included on the face of the Bill.
293. While the Committee welcomes the Government's review of its approach, it is disappointing that it is only happening at this juncture, and that it intends to carry out further consultation next year before determining what exemptions may apply to rent control measures. Legislation should be brought to Parliament in a final form. The Scottish Government should not still be consulting on proposals during the course of Parliamentary scrutiny.
294. However, given the Scottish Government has reviewed its approach in relation to the rent cap the Committee also asks that the Scottish Government carefully considers how data is collected. Rent pressure zones under the 2016 Act were unachievable largely because of the lack of data and this Bill must not suffer the same fate. The Committee notes the strong support from stakeholders for collection to take place at a national level and the Committee strongly recommends that the Scottish Government bring forward amendments to give effect to this approach.
295. As noted in the report the Committee did not consider all of the Bill's provisions. In

particular, the Committee left scrutiny of Parts 5 and 6 to the Social Justice and Social Security Committee. That Committee expressed concern about the lack of detail on the face of the Bill about the homelessness provisions. Nonetheless the Committee is supportive of the provisions it scrutinised, recognising the opportunity they provide to move away from crisis management to prevention.

296. Likewise, while this Committee has concerns about the Bill as introduced, it provides an opportunity to shape the private rental sector for the better and the Committee would not want to see that opportunity lost. Accordingly, the Committee supports the general principles of the Bill and looks forward to scrutinising the Scottish Government's revised approach to rent control measures ahead of Stage 2 proceedings.^{clxxi}

^{clxxi} Meghan Gallacher MSP and Alexander Stewart MSP dissented from supporting the general principles of the Bill.

Annex A: Official Reports of relevant meetings of the Local Government, Housing and Planning Committee

4th June 2024: Scottish Government officials

Catriona MacKean, Deputy Director of Better Homes

Craig McGuffie, Solicitor

Charlotte McHaffie, Private Rented Housing Team Leader

Yvette Sheppard, Head of Housing Legislation and Reform Unit

Christopher Donaldson, Head of Rent Service Scotland

[Local Government, Housing and Planning Committee 18th Meeting, 2024 | Scottish Parliament Website](#)

11th June 2024: Academics and researchers

Joshua Davies, Programme Manager, Nationwide Foundation

Anna Evans, Director, The Indigo Housing Group

Deborah Hay, Senior Policy Adviser, Joseph Rowntree Foundation

Professor Kenneth Gibb, Director, UK Collaborative Centre for Housing Evidence, University of Glasgow

Professor Alex Marsh, Professor of Public Policy, University of Bristol

[Local Government, Housing and Planning Committee 19th Meeting, 2024 | Scottish Parliament Website](#)

11th June 2024: Organisations representing tenants

Lyndsay Clelland, Policy Officer, Age Scotland

Dan Wilson Craw, Deputy Chief Executive, Generation Rent

Aoife Deery, Senior Social Justice Policy Officer, Citizens Advice Scotland

Ellie Gomersall, President, National Union of Students Scotland

Eilidh Keay, Tenant of a rented property

Emma Saunders, National Organiser, Living Rent

[Local Government, Housing and Planning Committee 19th Meeting, 2024 | Scottish Parliament Website](#)

18th June 2024: Organisations representing landlords, investors and agents

Robin Blacklock, Managing Director, Dowbrae Limited

John Blackwood, Chief Executive, Scottish Association of Landlords

Dr John Boyle, Director of Research and Strategy, Retties

Cedric Bucher, Chief Executive, Hearthstone Investments

Timothy Douglas, Head of Policy and Campaigns, Propertymark

Anna Gardiner, Policy Adviser (Rural Property), Scottish Land and Estates

[Local Government, Housing and Planning Committee 20th Meeting, 2024 | Scottish Parliament Website](#)

18th June 2024: Local authorities

Kelly Ferns, Research and Development Officer, Argyll and Bute Council

Ally Macleod, Head of Housing and Building Standards, Aberdeenshire Council

Lisa Mallon, Housing Manager, City of Edinburgh Council

Derek McGowan, Service Director for Housing and Homelessness, City of Edinburgh Council

Jennifer Sheddan, Head of Housing, Glasgow City Council

[Local Government, Housing and Planning Committee 20th Meeting, 2024 | Scottish Parliament Website](#)

25th June 2024: Representatives of equalities groups, and of social landlords

James Calder, National Policy and Engagement Officer, MECOPP

Lucy Hughes, Policy and Parliamentary Manager, Engender

Kate Thompson, Policy Officer, Children and Young People's Commissioner Scotland

Gerry Tierney, Housing Advice Team Leader, Ayr Housing Aid Centre

Jon Turner, Chief Executive, Link Group

[Local Government, Housing and Planning Committee 21st Meeting, 2024 | Scottish Parliament Website](#)

25th June 2024: Pet charities

Becky Thwaites, Head of Public Affairs, Blue Cross

Gilly Mendes-Ferreira, Director of Innovation and Strategic Relations, Scottish SPCA

James Hickman, Head of Outreach Projects, Dogs Trust

Local Government, Housing and Planning Committee 21st Meeting, 2024 | Scottish Parliament Website

3rd September 2024: Convention of Scottish Local Authorities (Cosla), Association of Local Authority Chief Housing Officers (ALACHO), and the Chartered Institute of Housing (CIH)

Tony Cain, Policy Manager, Association of Local Authority Chief Housing Officers (ALACHO)

Mike Callaghan, Policy Manager, COSLA

Callum Chomczuk, National Director, Chartered Institute of Housing Scotland

Local Government, Housing and Planning Committee 22nd Meeting, 2024 | Scottish Parliament Website

10th September 2024: Scottish Government's Minister for Housing and officials.

Paul McLennan, Minister for Housing

Catriona MacKean, Deputy Director of Better Homes

Craig McGuffie, Solicitor

Charlotte McHaffie, Private Rented Housing Team Leader

Yvette Sheppard, Head of Housing Legislation and Reform Unit

Local Government, Housing and Planning Committee 23rd Meeting, 2024 | Scottish Parliament Website

