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# SIPHER Consortium Response

## Title of consultation

Housing (Scotland) Bill Call for Views

**Name of the consulting body**

The Local Government, Housing and Planning Committee and Social Justice and Social Security Committee, Scottish Parliament

## Link to consultation

[**https://yourviews.parliament.scot/lghp/housing-scotland-bill-call-for-views**](https://yourviews.parliament.scot/lghp/housing-scotland-bill-call-for-views/?utm_source=twitter&utm_medium=sp_localgov&utm_term=&utm_content=717ccf40-e28a-49fa-b563-29a473d448f5&utm_campaign=ongoing)

## Contributor to our response

Our response to this consultation has been prepared by our Housing policy expert, Dr Lisa Garnham, University of Strathclyde.

**Date of submission**

23 May 2024

## Our consultation response

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

Agree

*Q2. What are your main reasons for your views on Q1? (please note we have asked more detailed questions on the Bill later in this survey)*

The ways in which this Bill supports tenants to have a stable, secure tenancy, over which they have some genuine control, will be central to whether or not it meets the government’s policy objectives. We believe this Bill has the potential to significantly shape the broader housing experience, particularly for lower income households. This would, in turn, impact positively on health and wellbeing and health inequalities. However, it will be essential to ensure that power is meaningfully vested with tenants as part of the implementation of this Bill, in order to achieve this.

We have made recommendations on the ‘Rent’ and ‘Homelessness Prevention and Domestic Abuse’ sections that take the wider housing system into account, in order to support the Scottish Government in meeting these aims.

### Rent

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

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

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

*The Bill also:*

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

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

Yes

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

Key points:

The potential impacts of this section of the Bill need to be assessed in relation to the wider system in which they will be implemented. Specifically, we recommend that:

1. The restrictions on rent increases between and within tenancies should be identical, in both the scale of the rent increases allowable and the mechanisms through which they are enforced.
2. Rent increases should be the responsibility of landlords to request, rather than the responsibility of tenants to oppose.
3. These recommendations would necessitate the gathering of a significantly greater quantity and quality of information about landlords, tenants and tenancies, via the landlord and property registration process.

Detailed recommendations:

There is strong research evidence that demonstrates the negative impact of poverty, low disposable income and income insecurity on health and wellbeing. As housing costs impact directly on disposable income, and on the stability and security of that income, rent controls should support improved health and wellbeing among tenants. However, the impact of housing affordability on health outcomes is complexly intertwined with other aspects of housing, including housing quality and condition, housing stability and the quality of the wider neighbourhood in which housing is located ([Swope and Hernandez, 2009](https://doi.org/10.1016/j.socscimed.2019.112571)). The potential impacts of this Bill therefore need to be assessed in relation to the wider system in which they will be implemented.

Our research brings together insights from existing academic and community perspectives. We find that tenancy security is central to people’s housing experiences. This is true not only in relation to the objective housing stability it can provide but also the subjective sense of control over living circumstances that a secure housing situation can supply.

Specifically, tenants’ report that their fear of reprisals from landlords (e.g. following requests for maintenance, repairs or adaptation) not only results in lower quality housing but also in fear, uncertainty and a lack of a sense of control of housing circumstances. Tenants often report feeling powerless in these situations, either to improve the quality of their living conditions or to exert some control over housing costs, given the tangible threat of homelessness. This is in spite of the fact that the ‘no fault’ grounds for eviction were removed in 2017 and is underlain by a fundamental lack of trust in (most) private sector landlords to act in ways perceived as fair and reasonable. These experiences, as an undercurrent to daily life, have the potential to impact deeply on mental health.

These findings from our work within SIPHER align with that of other research on this topic undertaken with tenants in Scotland (e.g. [Garnham et al 2021](https://doi.org/10.1007/s10901-021-09852-x), [Rolfe et al 2020](https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-020-09224-0)), including work carried out by the UK Collaborative Centre for Housing Evidence (e.g. [Living in Scotland’s private rented sector (2022)](https://housingevidence.ac.uk/wp-content/uploads/2022/09/Living_in_scotland_PRS_survey_report_sept_2022.pdf), [Housing challenges faced by low-income and other vulnerable privately renting households (2022),](https://gla.sharepoint.com/sites/SIPHER/Shared%20Documents/Communication%20and%20Engagement/Publications/Consultation%20Responses/:%20https:/housingevidence.ac.uk/publications/housing-challenges-faced-by-low-income-and-other-vulnerable-privately-renting-households)and [Health and wellbeing in the UK private rented sector: enhancing capabilities (2021)](https://housingevidence.ac.uk/wp-content/uploads/2024/02/CaCHE-Wellbeing-in-the-PRS.-Report-2.pdf)).

As such, the detail of how rent controls are determined and, particularly, how they are enforced, will be central to maximising the beneficial impacts of the Bill. It is, therefore, our view that, in setting out the legislative mechanisms through which this Bill is implemented, the following actions are required to take due account of the wider system in which these changes sit and maximise the prospect of generating positive health and wellbeing impacts for tenants:

1. The restrictions on rent increases between and within tenancies should be identical, in both the scale of the rent increases allowable and the mechanisms through which they are enforced. This should reduce the likelihood of eviction of tenants in order to take advantage of less stringent controls in force between tenancies. This should, in turn, improve tenancy stability and reduce homelessness presentations, as well as broadly reducing the precarity experienced by many tenants in the private rented sector.
2. Rent increases should be the responsibility of landlords to request, rather than the responsibility of tenants to oppose. Tenants struggle to exercise the rights they already have with regard to housing standards, deposit return, rights of access and adaptations, due to fear of reprisals (whether real or perceived). If the responsibility to instigate enforcement of rent controls (e.g. by raising a complaint against a landlord) sits with tenants, legislation to control rents is unlikely to be as effective, either in controlling housing costs or in improving stability and security for tenants. More effective would be a system through which the responsibility would sit with landlords to request a rent increase from the local authority, within limits set by rent controls. This would require dedicated, additional resource to be effectively delivered by local authorities.
3. These recommendations would necessitate the gathering of a significantly greater quantity and quality of information about landlords, tenants and tenancies, via the landlord and property registration process. This data is, in our view, essential to being able to track the impact of the Bill on rents and housing conditions generally, across Scotland. A severe and significant lack of (particularly, nationwide) data routinely hampers quantitative housing research, including modelling of the impacts of housing on health outcomes. A more thorough and robust collection of data on private rented sector landlords and tenants would significantly improve the capacity of researchers to anticipate the impacts of future housing policy (including on health outcomes). It would also underpin more robust processes of accountability in the landlord-tenant relationship. Our view is that those variables currently listed in the Bill are the bare minimum that would be required for successful implementation. Property EPC rating could usefully be added to this list, as could information on property quality, condition and need for repairs determined at move-in and periodic inspection.

These recommendations focus predominantly on the role of this part of the Bill in reducing the experiences of powerlessness, precarity and lack of control felt by low-income tenants in the private rented sector. We have left views on how to calculate or set actual levels of rent to those with expertise in housing economics.

### Homelessness prevention

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

*The Bill also deals with how damages for unlawful eviction are calculated.*

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

Yes

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

We broadly welcome the expansion of homelessness duties to bodies beyond Local Authorities, recognising that homelessness prevention needs to be driven by a broader system of advice, guidance and support for those threatened with or experiencing homelessness. Homelessness prevention offers significant advantages over rehousing, both in terms of impacts on the health of homeless people and on the public purse. However, this must be underpinned by a more stable and secure private rented sector, so that the additional requests for support that this duty will generate can have the effect of preventing homelessness, rather than facilitating rehousing. It also requires a substantial resource investment at the local government level, to enable key individuals to receive training and to ensure appropriate interventions are available for people to refer those deemed at risk of homelessness to. Without these, there is a risk that this duty could end up being viewed as little more than a ‘tick-box’ exercise, whilst also placing additional pressure on already heavily burdened services.

*Q11. What are your views on the requirement on councils to act sooner to prevent homelessness by taking reasonable steps in Part 5 of the Bill?*

This is a welcome extension of the time period during which individuals and households can be considered at risk of homelessness and will, in theory, facilitate earlier intervention. For early intervention to be plausible, however, the period of notice that those at risk of eviction are given also needs to be lengthened. As legislation currently stands, tenants themselves are unlikely to be aware that they may be at risk of homelessness up to six months in advance. This legislative change would be more likely to have a greater and more beneficial impact on tenants’ stability and security if concomitant changes to eviction notice periods were also made. This would improve the capacity for this legislative change to implement greater degrees of early intervention that could prevent homelessness and protect health outcomes.

## Who to contact about this response

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ENDS