



SHELTER SCOTLAND WRITTEN SUBMISSION: HOUSING (SCOTLAND) BILL, LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE STAGE 1 CALL FOR VIEWS

Shelter Scotland exists to defend the right to a safe home and fight the devastating impact the housing emergency has on people and society. We work in communities to understand the problem and change the system. We run national campaigns to fight for home.

We are grateful to have the opportunity to respond to the Committee's call for views on the government's proposed Housing Bill. We have previously noted our concerns with certain areas of the proposals and welcome the chance to expand on these concerns through this call for views.

Key messages

- **We are in a housing emergency, and that requires an emergency response from government.**
- **At a time when 10 local authorities are experiencing or at heightened risk of systemic failure in their homelessness services action is needed now, not in a few years' time.**
- **That action should prioritise lifting children and households out of temporary accommodation and into a permanent home.**
- **We are concerned that some elements of this bill risk deepening the housing emergency and placing further strain on local authorities already facing systemic failure.**
- **The legislation does not address the need to increase the supply of much-needed social homes across Scotland and ignores the 10,000 children already trapped in temporary accommodation.**
- **We hope that the bill can be strengthened to include vital policies such as Compulsory Sale Orders and Compulsory Rental Orders, and that local authorities are fully funded to deliver rent controls and other new duties, rather than being set-up to fail once again.**
- **We believe further detail is needed to assess the impact of proposed rent controls.**

Scotland's Housing Emergency

Scotland is in the grip of a devastating housing emergency which damages lives every single day.

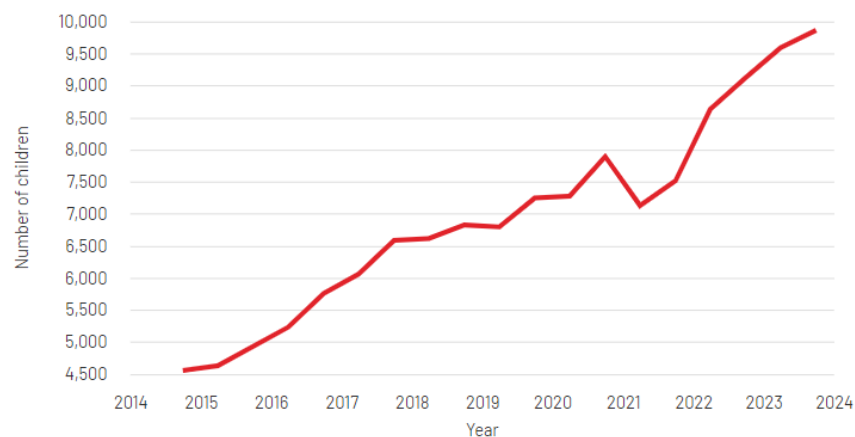
- **A record 9,860 children trapped in temporary accommodation** – up 137% since 2014.
- **45 children become homeless every day.**
- **A household becomes homeless every 16 minutes.**
- **A 10% increase** in households becoming homeless compared to last year.
- **Couples with children spend just under a year trapped in temporary accommodation, on average¹**
- **Routine failure by local authorities** to uphold housing rights, including a 1400% increase in failures to provide temporary accommodation.

¹ Scottish Government (2023), [Homelessness in Scotland 2022/23](#).

- A **failure to deliver the social homes** we urgently need and a significant slowdown in new social housing developments in the last year.
- Emergency legislation **failing to keep down private sector rents**.
- **Systemic failure** becoming a risk or a reality in 10 local authorities across Scotland, according to the Scottish Housing Regulator.

This is an emergency that damages health, wellbeing, education and the economy, and leaves tens of thousands of people without anywhere to call home. It is **a national scandal**.

Number of children in temporary accommodation in Scotland 2014 – 2023



Key

— Children in temporary accommodation

Rented sector reforms.

We broadly welcome the private rented sector reforms announced as part of the housing bill, though do retain a number of reservations over how these proposals will work in practice. We also contest the idea that these reforms themselves will solve Scotland’s housing emergency.

Addressing affordability in the PRS and strengthening the rights of private tenants undoubtedly have a role to play in fixing the broken housing system. However, these reforms won’t help the almost 10,000 children currently stuck in temporary accommodation right now and they won’t offer anything for the unprecedented number of people already trapped in the homelessness system. We need a significantly larger social housing sector, and in turn a smaller private rented sector, to allow people to access the secure and affordable social homes they need.

Tenants’ rights:

The extension of tenants’ rights is something that Shelter Scotland has long supported, and we continue to do so. People should have the same rights, and same access to those rights, no matter what tenure they are living in, and the proposals contained in the bill have the potential to bring the private rented sector closer in line with the social sector.

We have been consistent in our belief that there should be stronger protections against eviction all year, not only over the winter months. The bill can be stronger in the penalties it proposes for landlords who breach proposed new protections, including landlords who seek to circumvent the rent control provisions.

We also welcome the increased damages for unlawful evictions which are set out in the bill and recognise that these could serve as a useful deterrent for landlords carrying out these types of evictions. However, this increased penalty will not be effective if the awareness among tenants of their rights surrounding unlawful evictions is not improved. Making tenants aware of their rights and ensuring that they will be supported by Police Scotland to challenge illegal evictions if they occur will empower tenants to use this new proposed system to claim damages.

Rent controls:

On the substantive issue of rent controls, this is a core area of the bill and much of the success of the bill will hinge on whether the rent controls proposals are workable or not. We have seen previous attempts to deliver rent controls via the Rent Pressure Zones fail to be implemented due to the inability of local authorities to collect the data they need to implement these. The same issues must not be repeated in the latest proposals.

Many renters in the PRS are facing increasingly unaffordable rents, and so we welcome efforts to address this issue. Scottish Government homelessness statistics have shown that since the emergency Cost of Living Act protections have been in place, which included a rent cap, fewer people have become homeless from a PRS tenancy. That is something to be welcomed, however, questions remain over how the rent control proposals in this bill will work in practice.

The way the proposals are set out means many crucial aspects will be determined through regulations set out by Ministers, rather than on the face of the bill itself.

Without this detail we cannot assess the likelihood of success for this proposal. 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.

Several questions which remain unanswered by the proposals:

- What form will the rent controls take? For example, would they be specified percentage increase or calculated using a formula, and what are the thresholds that must be met before rent controls are implemented?
- Will local authorities once again be set-up to fail by not being adequately resourced to collect the data necessary to implement the rent controls policy?
- Will there be a mechanism in the bill to drive down rents which are already unaffordable, or only the ability to slow down the pace at which rents rise?
- What role should the cost of providing private rented accommodation play in assessing a fair rent? For instance, should a landlord with no mortgage, therefore able to make pure profit out of people's rent, be able to increase rents at the same rate as a landlord who must keep up with mortgage repayments – which we have seen the volatility of in recent years?

We alone don't have the answers to these questions, but the bill process provides an opportunity to have that debate on what the PRS is for and what it should look like.

We welcome the provision which prevents the landlord from increasing the rent in between tenancies if it has already been increased in the last 12 months. Failure to include this protection within the emergency Cost of Living legislation resulted in steep rent rises being felt across the private rented sector by many tenants. This experience shows why it is important that this provision is included in the bill.

Wider impact of rent controls

We recognise that a well-functioning system of rent controls can help mitigate future unfair rent rises. They can, however, only address the symptoms of the housing emergency. They do not provide a structural solution to our broken and biased housing system.

Ultimately, the long-term solution to an overheated private rental market is to reduce demand by making genuinely affordable social housing a realistic option for significantly larger numbers of people. Far too many people in Scotland are stuck at the mercy of private landlords when they should have the opportunity to live in a social home which meets their needs and doesn't divert huge sums of public money into the pockets of private landlords through the housing benefit system.

A recent report from IPPR Scotland, Save the Children and the Joseph Rowntree Foundation showed that there was £500m worth of 'failure spend' in housing in Scotland², related to low incomes, a broken welfare system and homelessness. This kind of public expenditure, too much of which is for private profit, is simply not sustainable.

A substantial increase in social housing is what the Scottish Government should be prioritising, which is why we remain angered at the significant cuts to the Affordable Housing Supply Programme in the last two Scottish Budgets.

None of this is to take away from the importance of rent controls to those stuck in the private rented sector right now, but it remains our view that the devastating consequences of the housing emergency cannot be legislated away; they can only be addressed with resources and funding – not least to ensure local authorities are able to implement these rent control proposals – and ultimately many more social homes.

Other organisations such as Living Rent possess a significantly stronger evidence base on PRS issues than us, and we would urge the committee and elected members to listen to the voices of private tenants who are struggling with the consequences of our broken and biased housing system as the bill progresses. They deserve to have their views heard, and their expertise will be vital in ensuring that the bill is as strong as it can be.

'Prevention Duties'

As we have made clear throughout the discussion around this bill, we have concerns about the approach to legislating for so called 'prevention duties' within this bill. Crucially that this part of the bill will place new responsibilities on local authorities and public bodies. New duties without significant additional resource to underpin them will add to the pressure already on local authorities. At a time when the Scottish Housing Regulator is clear that they do not have levers left to enforce existing homelessness duties, a poorly resourced or implemented plan may make an already dire situation worse.

Duties in other areas of public policy are enforceable by individuals through a suitable system of redress. It is not clear how an individual whose right to have their homelessness prevented would challenge failure by the public body to uphold their 'duty' and what scope regulators would have to enforce such redress.

As a rights-based advice organisation, Shelter Scotland's work involves supporting 'rights bearers' (our clients experiencing homelessness) to seek redress when a 'duty holder' (local authority or public body) fails to act lawfully. The 'prevention duties' do not offer such individual

² IPPR Scotland, Joseph Rowntree Foundation, Save the Children (2023) [Tipping the Scales: The Social and Economic Harm of Poverty in Scotland](#).

protection and we would not therefore consider the proposal to offer rights or duties in the normal sense.

We wholeheartedly agree that prevention is better than cure, and investment in preventative work is vital if we are to get out of the housing emergency, we are currently in.

That applies to both the Scottish and UK governments. We know that poverty is a key driver of homelessness, and UK government austerity policies and choices on welfare and benefits are a key driver of poverty. This is why we are calling on all parties to ensure benefits keep pace with inflation and Local Housing Allowance is permanently unfrozen and maintained equal to at least the cheapest third of rents.

We are also calling on the UK government to scrap the bedroom tax and benefit cap, and to end the two-child limit and so-called rape clause. Actions such as these will help to tackle poverty and prevent homelessness from happening in the first place. Coupled with increased investment from the Scottish Government in more social housing – which would reduce the cost of housing for people across Scotland – we could begin to see a real difference in the numbers of people facing homelessness.

On the specific proposals, we are concerned that ‘Ask and Act’ will in practice become ‘Ask and Refer’. Overstretched public bodies in areas like education or health must act to intervene where they identify a risk of homelessness without passing the responsibility and cost onto local authority departments.

The resourcing issue is perhaps the central one. The bill itself does not clearly state the cost implications of these proposals, with the Financial Memorandum being incomplete, according to conversations we have had with civil servants. This is a concern given the large amount of financial resource that will be required to make these proposals workable in any form. If the government fails to adequately fund all public bodies named in the bill to deliver the prevention duties, then they will simply be set up to fail once again.

Domestic violence and equalities proposals

We welcome the proposals within the bill which seek to strengthen the rights of survivors of domestic violence and prevent them from losing their home. Domestic abuse is a highly distressing experience, it should not also result in a survivor losing their home and all the additional disruption which comes with that.

The introduction of a pre-action requirement to consider whether domestic abuse is a factor in social rent arrears, as well as provisions around ensuring every RSL has a domestic abuse policy, will make an important and positive difference for many people across the country if they are properly implemented. It is important that staff are given the resources, support and training they need to make this a reality.

Where there is a gap, however, is that the proposals on a pre-action requirement to consider whether domestic violence has played a role in the accruing of rent arrears only apply to the social rented sector. This means survivors in the private rented sector will have weaker rights than those in social homes. Given the existence of Pre-Action Protocols within the private rented sector, it may be possible to extend the provisions to apply to private tenants too. This will strengthen the rights of all tenants and increase parity between the sectors.

Consideration may also be given to including anti-racism responsibilities within this bill. Whether anti-racist policies being a requirement of social and private landlords, or as part of pre-action requirements before eviction, are a matter for legislation or guidance is for the

government and parliament to decide, but we would welcome consideration to proposals which help to tackle racism across Scotland's housing sectors.³

Compulsory Sale and Rental Orders

We believe that this bill presented an opportunity for the Scottish Government to legislate for compulsory sale and compulsory rental orders. These are long-awaited policies which have the potential to unlock more homes for those who need them across the country.

It is unclear, however, if the bill as published has sufficient room to include CSOs and CROs. It is already a very wide-ranging bill and given the wide-ranging nature, it is disappointing that the government did not choose to include CSOs and CROs in the initial drafting of the legislation. Despite this omission, we believe it is important that CSO and CRO legislation is passed quickly to boost housing supply – something that this bill currently does not do – and as such call on government and MSPs to look at amending the bill to include CSO and CRO legislation during the parliamentary process.

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³ For further information on this area, please see Menezes, Netto and Hasan (2023), [Minoritised ethnic access to social housing in Scotland at key transition points](#).