



RentBetter

Wave 1 Baseline Report

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Indigo House in association with IBP Strategy and Research

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Foreword

Across the UK, the private rented sector has historically been characterised by poor security of tenure, poor property conditions, and serious affordability issues. It remains a sector that is characterised by a lack of consumer power, particularly for tenants at the bottom end of the market.

In 2017, reforms to the private rented sector in Scotland sought to improve security of tenure and access to justice by providing open-ended tenancies and an end to no-fault evictions, among a raft of other reforms. The Nationwide Foundation believes it is imperative that we understand and learn from the reforms in Scotland, primarily through the lens of tenant and landlord experiences, and that's why we were pleased to have funded the Rent Better research by Indigo House.

This baseline report shows that most tenants in Scotland feel secure in their properties, particularly when they have a good relationship with their landlord and feel able to pay their rent. This said, we must not forget that where deprivation and lack of financial power is an issue, tenants in Scotland still feel a sense of precarity. However, what is clear is that most tenants are not aware of their rights, and with this lack of knowledge comes lack of empowerment, regardless of the justice system.

For landlords, it is relatively early to have experienced the full impacts of reform in Scotland, but contrary to what might have been expected, there was general lack of concern around the removal of the 'no-fault' ground. There are some other areas which may merit refinement in the legislation from landlord's perspective, but most landlords stated they wished to continue with their landlord business going forward. This data should give reassurance and guidance to policymakers in other areas of the UK, as they consider similar changes to their private rented markets.

The report acts as a helpful point of reflection almost three years after the reforms by the Scottish Government. We look forward to the next phase of this research in 2021.

Bridget Young

Programme Manager, The Nationwide Foundation

Executive Summary

Background

In 2013, the Scottish Government published its strategy for private renting – ‘A Place to Stay – A Place to Call Home’. This strategy resulted in new legislation including the Private Housing (Tenancies) (Scotland) Act 2016 which introduced Private Residential Tenancies (PRT) and replaced the assured tenancy regime for new private lets from December 31st, 2017.

The key features of the PRT are that it is open-ended and has no fixed term; tenants’ notice periods have been standardised to 28 days; eviction proceedings have been simplified to 18 grounds and there is no ‘no-fault’ ground; landlords must provide 84 days’ notice to leave for tenants who have lived in the property for six months or longer; rent can only be increased once every 12 months with three months’ notice, and tenants are able to challenge unfair rent increases to a rent officer. The 2016 Act also gave local authority powers to implement rent caps in designated areas called ‘Rent Pressure Zones (RPZs)’ where rent increases were deemed to be ‘excessive’. This legislation was the most recent element of a series of reforms in the private rented sector (PRS) in Scotland over the last 15 years.

These regulatory reforms in the PRS in Scotland should also be seen in the context of other legislation and regulation which affects the PRS including: the extended role of the First Tier Tribunal (Housing and Property Chamber); changes in Mortgage Interest Tax Relief for private landlords (MITR); the Additional Dwelling Supplement (ADS) and proposed energy efficiency standards required in PRS properties as part of the Scottish Government’s wider objectives on climate change.

Aims of the research

The Nationwide Foundation commissioned this three-year study to learn from the experiences of households living in, and landlords providing, private rental properties in Scotland. The Foundation’s key aim for this research is to understand the impacts of change that have been made, and from this learning to help shape any further changes that may be needed in Scotland. The Foundation also wants to share lessons learned for the benefit of private tenants and landlords across the UK. It wants to understand the impact of change of the PRT and other recent legislative change in the PRS on security of tenure; access to justice; affordability; landlord and tenant conduct; and the impacts of these changes on tenants on a low income and/or in housing need.

The baseline report sets out the current position in 2019/20 from which any change in the sector as a result of the PRT will be measured across the course of the three-year study to 2021/22. The research in Wave 1 (2019/20) has involved two large-scale surveys of tenants and landlords/letting agents, secondary data analysis and qualitative research with tenants, landlords/letting agents and wider stakeholders.

Profile of the private rented sector in Scotland

The PRS in Scotland has grown considerably over the last 20 years from 5% to 14% of all households in 2018 (reaching 25% in Edinburgh), although over the past two years there are signs of a levelling off in growth across Scotland as a whole. While there are concentrations in the cities, the PRS is also an important tenure in some rural areas. Growth has been particularly marked amongst younger households with over a third of households aged 16-34 years now renting in the PRS in Scotland.

It is clear that the PRS in Scotland is extremely diverse. While most private renters work full-time, there is a large range of household incomes with a quarter of private renters claiming either Housing Benefit or Universal Credit (housing costs element). This proportion varies considerably by geography from 11% of private renters in the Shetland Islands claiming housing allowances, compared with 85% of private renters in North Ayrshire. Rents also vary considerably across different geographic markets with an average of £809 per month in 2019 (Citylets data), with the lowest in line with social rent levels in Ayrshire and highest an average of £1,100 in Edinburgh.

Landlords mainly have small portfolios of less than five properties, whereas letting agents have large portfolios of over 100 properties.

Choice and access to the private rented sector

Private renters can be broadly grouped as those private renting in advance of their preferred tenure whether social renting or ownership, and a lower proportion of those who are enthusiastic about private renting as their ideal, long term option – these renters tend to be older. Those on lower incomes, claiming housing benefit, tenants with disabilities and single parents most commonly highlighted their long wait for social housing while living in the PRS.

In terms of tenants' experiences of finding a home, most find it easy to get a private rental, but a significant minority have difficulties. Difficulty securing a private rental is disproportionately experienced in urban and pressured markets, by single people, single parents, those on lower incomes, disabled people, those claiming some form of housing allowance, black and minority ethnic tenants and more recent renters. The most common reason for difficulty in finding a suitable private rental is affordability, and high demand/lack of supply in the areas where people want to live. At this Baseline report stage, there is insufficient evidence to conclude whether these market imbalances have been helped or hindered by the PRT.

The tenancy regime and impact of reform

There is a clear lack of awareness amongst tenants about exactly what their current tenancy is, or their tenancy rights. More work is needed, led by Scottish Government and involving wider advisory stakeholders, to raise awareness of rights as a starting point to empower tenants and increase their access to justice.

However, there is a high level of confidence amongst tenants to be able to stay in their tenancy. It is clear most tenants feel secure in their home to the extent that they need and want, regardless of the type of their tenancy or their knowledge of rights. The most important

aspects of security from tenants' perspectives are affordability, trust in the landlord and secure employment. The minority that feel less secure are those with less financial power – those living in deprived areas, on lower incomes and housing benefit.

In terms of the PRTs impact on landlords and letting agents, at this stage most are indicating 'no impact'. The 'no impact' may reflect the fact that Short Assured Tenancies (SATs) are still in use, and it appears that the opinions of some landlords are based on their perception as heard through the market, rather than their actual experience of the PRT. This suggests the impacts of the PRT are yet to be fully experienced by landlords and letting agents. There is significant negative opinion about two specific aspects of the PRT – the open-ended aspect and the reduced 28-day notice period for tenants. These two combined are strongly argued to cause problems of 'churn' – increased turnover and voids which seem to be more acute in student and more seasonal markets. There is little concern about the loss of the 'no-fault' ground. There appears to be significant problems for landlords and discontent around the eviction Ground 12 - relating to rent arrears and the increased length of time it takes to achieve eviction for rent arrears, resulting in considerable loss of earnings. There are also concerns relating to the way in which joint tenancies are dealt with in the PRT.

Rents and affordability

Data on actual rents across the whole of the PRS housing stock in Scotland is not publicly available. The research has therefore relied on analysis of secondary data on advertised rents and self-reported rents from the Rent Better tenants survey. This is a limitation for any study of rents and affordability. However, based on the information available, PRS rents have increased significantly in some areas over recent years. So far, the legislative mechanisms for adjudicating rent increases appear to have had little impact, although it is difficult to isolate policy impact from varying market factors, and broader fiscal reforms. In particular, the Rent Pressure Zones mechanism appears to have failed in the policy objective of limiting excessive rent increases, which is likely due to its evidential data requirements. In addition, there is some evidence to suggest that the PRT may be encouraging landlords to raise rents more frequently than they would have done under the assured and short-assured tenancy regime, due to the annual rent review process now built into the PRT.

Despite the limitations on published rent data, the evidence from tenants shows that rent affordability is a key factor in limiting access to private renting for low-income households, tenants from ethnic minorities and single parents in particular. Many tenants say they pay a significant proportion of their income in rent, and just over one in ten tenants described their rent as difficult to afford. Although this may indicate a general acceptance of high rents relative to income, single people and single parents in particular spoke of experiencing significant financial difficulties. Disabled tenants also had difficulties accessing renting, often citing being on benefits as a barrier.

The prevalence of landlords letting to private tenants who are claiming benefits is largely driven by the type of market. In higher demand/more pressured markets, access to private renting for those on benefits appears particularly difficult. In lower demand areas, landlords are more pragmatic and accepting of the need to rent to those on benefits, but nevertheless many landlords are still reluctant to risk renting to tenants on Housing Benefit. For many

landlords there is limited awareness of the benefits system, and the scope to receive direct payments to landlords as a means of limiting the risk of rent arrears. This indicates more work is required, led by the Scottish Government in collaboration with landlord representative bodies, to raise awareness on how to navigate the benefits system to support lower income households living in the PRS.

Experience of living and letting in the private rented sector

The tenants survey showed that tenants are generally satisfied with their property and the service received in the PRS. A more nuanced picture emerged through interviews with a minority of tenants experiencing poor service around repairs, and uncommon but illegal practice of unauthorised access to properties, both of which was distressing for tenants. There was no discernible or statistically significant difference in tenants' experiences between PRT and SAT tenancies so far.

Likewise, landlord and letting agents appeared generally satisfied with their experience of letting, with most challenges experienced around damage to property and rent arrears. There are clear signs that landlords who were proactive and nurtured good, close tenant/landlord relationships reaped rewards for both the tenant and landlord.

Access to justice

The stated intention of moving to the Tribunal system in the PRS was to increase access to justice and to make it more accessible. The Tribunal is by design more inquisitorial or investigative rather than the traditional adversarial approach of the Sheriff Courts with a sifting process to reject erroneous cases before hearings.

Tenants' awareness of rights is low, but most tenants say they are confident in raising disputes with their landlord/letting agent. Those that are less confident are again those with less financial power – often those on lower incomes and in part-time work, or the inexperienced – younger people, those in full-time education and those with shorter tenancies. While awareness of rights is low, there is also a general assumption that the landlord, and the 'system' as a whole would 'do right' by tenants. Tenants that complain tend to try to resolve the issue directly with the landlord or letting agent first or seek legal advice. Help through advice agencies is much less common.

The importance of maintaining positive, trusting relationships with the landlord was a strong theme from tenants, and appears to be a key driver in there being little appetite from many tenants for lodging formal legal complaints. The importance of proactive, person-centred landlord approaches, most often provided by one property or small portfolio landlords, is also emphasised. There may be a gap in provision between informal and formal dispute resolution which might better meet tenants' needs including wider access to mediation services, rather than having to go to Tribunal when less formal routes fail.

There appears to be an asymmetry of access to justice through the Tribunal between tenants and landlords. Awareness of the Tribunal amongst tenants is extremely low, but greater for landlords and letting agents, and the majority of cases are initiated by landlords and agents.

From a small number of tenants interviewed with experience of the Tribunal, they did not find the process accessible, although it was more so for those with professional advice. Landlords' and letting agents' experiences appeared to be smoother than for tenants and evidence suggests they have greater reliance on professional advisors than tenants, and have carried over this approach from the Sheriff Courts to the Tribunal.

Landlord and letting agents' complaints about the Tribunal appeared to be mainly related to complaints about the law, rather than the Tribunal process itself (although initial delays and backlogs were highlighted). This is specifically about Ground 12 and the impact of longer periods in the PRT compared to the assured tenancy regime for raising applications for eviction for rent arrears.

Future of the sector

Landlords and letting agents' opinion about the future of the PRS appears to be broadly equally positive and negative. The single most unpopular intervention in recent years has been the change in tax relief regime. This, when combined with the wider changes in regulation in Scotland, was considered to be too much for some to stay in the sector - just under a quarter indicated they were considering selling all their properties and leaving the sector and were most likely landlords with between 2 and 5 properties. However, the highest proportion stated that they planned no change for the future of their landlord business.

Taking the range of risk or 'push' factors into account, participants pointed to the cumulative impact of changes in the sector having a more negative impact on smaller 'cottage industry' landlords, many of whom are seen as quality providers by tenants who provide a more person centred service, compared to larger, more institutional landlords.

Recommendations

For Scottish Government and other wider stakeholders in Scotland, the following recommendations are put forward at Baseline stage:

- More work is needed, led by Scottish Government and involving wider advisory stakeholders, to raise awareness of tenancy rights as a starting point to empower tenants and increase their access to justice. This may include some targeted work for those private tenants with less financial power - those on lower incomes and housing benefit - who feel less security of tenure than private tenants generally.
- Scottish Government may wish to consider the early findings on the combined negative impact of the open-ended tenancy and the reduced 28-day notice period which is argued by landlords and letting agents to be causing increased turnover. Other negative impacts that merit early consideration are the Ground 12 timescales, and the difficulties around the joint tenancy aspects of the PRT.
- While not a focus of this research, challenges reported by landlords around the practical implications of the PRT in the student market should be explored further by the Scottish Government.

- There are challenges relating to rent data to enable accurate assessment of rent increases and affordability. However, given overall findings so far, the Scottish Government should consider commissioning further work to fully explore the limitations of the Rent Pressure Zones mechanism, and how this can be improved to tackle excessive rent increases where these occur in specific markets.
- There is scope for the Scottish Government, with training and advisory bodies, to support landlords and letting agents to better understand and navigate the benefits system. This could help support more lower income tenants in the PRS, and help landlords mitigate any real, or perceived financial risks in this part of the market.
- Scottish Government and the Scottish Courts and Tribunal Service, alongside advisory agencies and local authorities should work together to raise awareness amongst tenants about the Tribunal system as a formal route to justice. In addition, there should be consideration from these stakeholders on the development of mediation services to fill a gap between informal and formal tenant landlord dispute resolution, which might better meet tenants' needs compared to the formal Tribunal route.

Wider stakeholders interested in PRS reform elsewhere in the UK:

- Should consider the early lessons learned at Baseline stage and recommendations listed above. In particular, stakeholders should note the lack of concern (so far) in the loss of the 'no-fault' ground amongst the majority of landlords/letting agents participating in this research.

Next steps

Wave 1 of the research has provided a baseline of the context and key issues experienced by tenants, landlords and letting agents. It has also enabled the identification of a set of hypotheses or initial propositions for further investigation in the future waves of research on the experiences and impact of the PRT, and other elements of PRS reform, for both tenants and landlords. Key hypotheses to be explored are the extent to which access to private renting, security and awareness of rights has improved over time among tenants generally and lower income tenants in particular. For landlords, perceptions of the new tenancy arrangements and risk would be examined again, in particular around impact on turnover and the impact of Ground 12. Have their concerns evidenced in Wave 1 (some of which was based on conjecture in the industry) worked out in reality? To what extent has the pool of landlords changed, has landlord behaviour changed?

The report also sets out methodological considerations for future waves of the research including overcoming challenges of the lack of secondary data that is readily available, specifically in relation to PRT tenancies.

Covid-19 is likely to have impacts on the sector for the foreseeable future and clearly needs to form part of the interpretation of the secondary data and the design of the qualitative research to reflect on pre- and post-Covid renting experiences. It would therefore be beneficial to leave some time between the qualitative interviewing waves, with the aim of conducting the next wave of qualitative fieldwork in Spring or Summer of 2021.

It is also proposed that qualitative interviews with tenants will focus greater attention on lower income households and those in housing need to explore their experiences in greater depth. Issues relating to equalities should be explored more fully to unpick issues of access, affordability and whether landlord/letting agents' approach to risk results in systematic discrimination for some groups of tenants. The First Tier Tribunal data may also have more PRT cases by Wave 2 to provide more data on access to justice.

For the landlord qualitative work in Wave 2, following up some of the potential 'leavers' and 'stayers' from the Wave 1 qualitative work may also be beneficial to provide some longitudinal insights. The research should also explore further the experiences around the open-ended aspect of PRT combined with the 28-day notice issue identified in Wave 1. The research will also aim to target landlords and letting agents who have a mix of PRT/SAT and those with only PRT to compare and contrast these experiences.

Of particular interest in the qualitative interviews with both tenants and landlords in Wave 2 will be how the relationship between tenant and landlord affects tenants' experiences of security of tenure, and if the smaller '*cottage industry*' landlord is more likely to provide a better service than other larger landlords/letting agents. Included in this discussion would be exploration of whether these landlords potentially providing high quality services are those that are most likely negatively impacted by reform.

1. Background and research aims

Background

In 2013, the Scottish Government published its strategy for private renting – ‘A Place to Stay – A Place to Call Home’. In developing the strategy, some stakeholders called for greater tenant protection and control over rents, while landlord interests called for an overhaul to evictions processes and sought assurances from the Scottish Parliament that rent control would not be introduced. This strategy resulted in three separate Acts¹ including the Private Housing (Tenancies) (Scotland) Act 2016 which introduced Private Residential Tenancies (PRT) and replaced the assured tenancy regime for new private lets from December 31st, 2017.

The key features of the PRT are that it is:

- Open-ended and has no fixed term
- Tenants’ notice period has been standardised to 28 days
- Eviction proceedings have been simplified to 18 grounds and there is no ‘no- fault’ ground
- For tenants who have lived in the property for six months or longer landlords must provide 84 days’ notice to leave
- Rent can only be increased once every 12 months with three months’ notice and tenants are able to challenge unfair rent increases to a rent officer², and
- The Scottish Government has also published a model Private Residential Tenancy (PRT) which can be signed electronically.

The 2016 Act also gave local authorities powers to implement rent caps in designated areas called ‘Rent Pressure Zones (RPZs)’ where rent increases were deemed to be ‘excessive’.

This legislation was the most recent element of a series of reforms in the private rented sector (PRS) in Scotland over the last 15 years which has included:

- Private landlord registration – introduced in 2006, and later refined in 2011, which placed a duty on local authorities to maintain a public register of private landlords and made operating as an unregistered landlord a criminal offence.
- Repairing Standard – introduced in 2006 covering obligations for private landlords to ensure that a private rented property meets the minimum Repairing Standard.
- Tenancy Deposit Scheme – introduced in 2011, which required every landlord or letting agent that receives a deposit in Scotland to join a tenancy deposit scheme.
- Letting Agency regulation – a regulatory framework for letting agents was introduced in 2014 which included a register, code of practice with minimum standards and how letting

¹ Private Rented (Scotland) Act 2011, Housing (Scotland) Act 2014 and the Private Housing (Tenancies) (Scotland) Act 2016.

² Any appeals are considered by the First Tier Tribunal (Housing and Property Chamber). The ability to challenge unfair rent increases is unchanged from previous types of tenancies.

agents handle tenant monies (charges levied on tenants were abolished in 1988 but these were reinstated in 2012) and their requirements for professional indemnity.

These regulatory reforms in the PRS in Scotland should also be seen in the context of other legislation and regulation, which affects the PRS including:

- First Tier Tribunal (Housing and Property Chamber) - from December 2017 its role was extended to deal with most legal applications about private sector tenancies rather than the Sherriff Court, and has replaced the previous Private Rented Housing Panel (PRHP).
- Changes in Mortgage Interest Tax Relief for private landlords (MITR) – between April 2017 and April 2020, HM Revenue and Customs phased in changes so that income tax relief on residential property finance costs is restricted to the basic rate of tax.
- Additional Dwelling Supplement (ADS) – introduced from April 2016 by the Scottish Government, the ADS is a tax (over and above the normal Land and Buildings Transaction Tax - LBTT) on additional residential properties of £40,000 or more bought in Scotland. This change was introduced in response to the equivalent UK tax change introduced in April 2016.
- Energy efficiency of private rented properties – as part of the Scottish Government's wider objectives on climate change and fuel poverty, the Energy Efficient Scotland Route Map³ sets out that private rental properties (with some exceptions) must have an Energy Performance Certificate (EPC) of 'E' by 2022, and EPC of 'D' by 2025. However, due to the Coronavirus pandemic, the launch of these regulations was delayed.

Aims of the research

The Nationwide Foundation commissioned this three-year study to learn from the experiences of households living in, and landlords providing, private rental properties in Scotland. The Foundation's key aim for this research is to understand the impacts of change that have been made to help shape any further changes that may be needed in Scotland, and to share lessons learned for the benefit of private tenants and landlords across the UK.

The Foundation wants to understand the impact of change on security of tenure; access to justice; affordability; landlord and tenant conduct; and the impacts of these changes on tenants on a low income and/or in housing need.

The specific aims of the research are to:

- Understand if and how the changes to the tenancy regime in Scotland are achieving the aims of creating security of tenure, protecting against excessive rent increases and empowering tenants.
- Explore and compare tenants' experiences of living in the PRS under the previous regulations and under the new changes.

³ [Energy Efficient Scotland route-map](#)

- Understand the perspectives of landlords, local authorities and support/advice agencies on how the new regulations are working.

Structure of the Baseline Report

This is a baseline report – it sets out the current position in 2019/20 from which any change in the sector will be measured across the course of the three-year study to 2021/22. The report is structured to align to the stated research aims, as follows:

- Chapter 2 - Summary of the research methodology including limitations which are included in the appendices and in more detail in separate survey reports.
- Chapter 3 - Profile of the PRS; provides a baseline at the beginning of the study, and important context to the rest of the findings set out in this report.
- Chapter 4 - Choice and access to the PRS; considers tenants' experiences of accessing the PRS, identifying any key differences for those tenants on a low income, or in housing need.
- Chapter 5 - Tenancy regime and impact of reform; explores whether the changes to the tenancy regime in Scotland are achieving security of tenure, and empowering tenants.
- Chapter 6 - Rents and affordability; examines rent levels, change over time, affordability and whether the legislation has had an impact to date on preventing excessive rent increases.
- Chapter 7 - Experience of letting and living in the private rented sector in Scotland; explores landlord and tenant conduct, and experiences for tenants living in the PRS and examining whether there are any discernable differences between SAT or PRT tenancies.
- Chapter 8 – Access to justice; considers experience of disputes and procedures, specifically access to justice and experiences of the First Tier Tribunal (Housing and Property Chamber).
- Chapter 9 - Future of the sector; examines opinion from landlords and wider stakeholders on confidence of sustainability of the PRS.
- Chapter 10 – Conclusions and recommendations for future waves of the research.

2. Research methodology

Summary of the methodology

The Indigo House Group (Indigo House) was commissioned in August 2019 to undertake the research over 3 years, completing in 2022. The research design is as follows:

- 2019-2020 – Wave 1: secondary data analysis, primary quantitative and qualitative research with PRS tenants, landlords/agents and wider stakeholders.
- 2020-2021 – Wave 2: secondary data analysis, and qualitative research with tenants and landlords/agents drilling down on the key issues identified from Wave 1 – this Wave excludes the large quantitative surveys undertaken in Wave 1.
- 2021-2022 – Wave 3: quantitative and qualitative research with PRS tenants, landlords/agents, and wider stakeholders plus secondary data analysis; repeating the approach in Wave 1.

The Wave 1 methodology has involved:

Secondary data analysis - this was undertaken to consider the context of the PRS in Scotland, using a range of published and unpublished secondary data including: the Scottish Household Survey (SHS); the Scottish House Condition Survey (SHCS); Scottish Government datasets on rents and homelessness; industry datasets on rents; Landlord Registration data; First Tier Tribunal data and data from intermediaries.

Landlord/Letting Agent Survey – a large-scale survey of landlords and letting agents was undertaken between October and December 2019. The survey was designed to build a profile of landlord/letting agents; understand the tenancy arrangements they had in place and their awareness and perceived impact/satisfaction with the PRT. It explored experiences of tenant conduct, challenges faced as landlords, and access to justice including awareness of the First Tier Tribunal. The survey was undertaken online and was recruited through a range of stakeholders. A total of 539 individual survey responses were achieved, of which 447 were from individual landlords and 92 from letting agents. Indicatively, this represents a confidence interval of approximately +/- 4.22%, based on a 50% answer and 95% confidence level on the known profile of the PRS across Scotland. Full details of the methodology, limitations and findings are included in the separate Landlords/Letting Agents Survey (LLA) Report.

Rent Better Tenants Survey - a large scale survey of tenants was undertaken between December 2019 and March 2020 designed to explore a wide range of tenant experiences and perceptions including security of tenure, their awareness of tenancy status and rights, and their experiences of different types of tenancy. It examined experiences of landlord/letting agent conduct, experience of rent increases, disputes and access to justice including awareness of the First Tier Tribunal. The survey was conducted mainly through face-to-face interviews, with telephone interviews used for rural and remote areas. A total of 980 interviews were achieved (against a target of 1,000) giving confidence intervals of +/-3%. Full details of the methodology, limitations and findings are included in the separate Rent Better Tenants Survey Report.

Qualitative research with landlord and tenants – there were follow up in-depth interviews with landlord/letting agents and tenants from those respondents who indicated an interest from the surveys. These explored the issues identified in the surveys in more depth, particularly around the understanding of rights and responsibilities, affordability, and access to justice. Private tenants were also recruited from recent Tribunal⁴ cases in order to gain deeper insight of their experience of justice. A total of 29 in-depth interviews were achieved with landlords/letting agents and 36 interviews with tenants. Findings from these interviews are blended into the other findings included in this report.

Qualitative research with wider stakeholders – research was undertaken with a range of stakeholders from representative bodies, advisory agencies, national policy-makers, local authorities and a legal expert specialising in housing law. These nine interviews provided important insight from different perspectives on the original objectives of reform and opinions on the impact of these to date. Findings from this consultation is blended into the other findings included in this report.

Separate research reports are available for the Tenant and Landlord/Letting Agent Surveys available at the [RentBetter website - Findings](#)⁵.

Limitations and quality assurance

Appendix 1 summarises the research limitations, which are discussed in full in the separate survey reports. Appendix 1 also sets out the quality assurance processes used throughout the research.

Timing of the study

Proximity to tenancy regime change

The timing of the study, with surveys undertaken between December 2019 and mid-March 2020, meant that we were asking tenants about their experiences just over two years after the tenancy regime change (in December 2017). Inevitably, only those tenants moving within the last two years would be expected to have a new Private Rented Tenancy (PRT). Many continuing tenants ‘roll over’ their existing leases (whether Assured or Short Assured Tenancies), so it may be a number of years before the majority of tenants lease their property through a PRT. The landlords/letting agents suggested in the survey that 44% have SATs (although higher for letting agents) and the tenants suggested in the survey that 23% were on SATs, 36% were on PRTs, but 40% were not sure. This confirms that a significant proportion of tenancies are still SATs as at March 2020.

Covid-19 pandemic

The quantitative survey fieldwork ended shortly before the UK lock-down in response to the Covid-19 pandemic in late March 2020. This meant none of the survey fieldwork was impacted

⁴ First Tier Tribunal (Housing and Property Chamber) cases are publicly available with names and addresses. Tenants were approached to ask whether they would be interested in the research through an opt-in process.

⁵ <https://rentbetter.indigohousegroup.com/findings/>

by the pandemic. However, the qualitative interviews started in February and continued to April 2020. A large proportion of the landlord interviews were undertaken pre-lock down, but many of the tenant interviews were undertaken during the lock-down period. The interviews purposefully did not explore how the Covid-19 crisis may have impacted on respondents since their renting experiences pre-crisis were sufficiently close to allow them to reflect on their 'normal' experience of private renting. While this was possible, a few people did provide some examples of relationships with their landlord in the Covid-19 context and this has been recorded. However, if the private renters were experiencing negative impacts due to the crisis, interviews were not undertaken, with interviewers instead directing tenants to advice and support agencies as appropriate. In fact, the numbers falling into this category were very small (four).

The disruption due to the pandemic will inevitably impact on the PRS over the short and medium term. For example, tenants and landlords in Waves 2 and 3 may still be recovering from the impact on the wider labour market. Some tenants may still be repaying debts built up during the Covid-19 pandemic, and the supply of private renting may change as landlords and institutional investors make decisions about their portfolio of rented property, as well as short-term and holiday lets in a post-Covid-19 travel and tourism market.

On 7th April 2020 during the latter part of the Wave 1 field-work, the Scottish Parliament passed emergency legislation to protect tenants and landlords in the wake of the Covid-19 pandemic legislation. For tenants (across the social and private rented sectors) this relief served to provide greater security of tenure, extending the notice period required to be given to tenants before starting legal action for eviction. There were different notice periods put in place for different grounds, but all grounds for eviction were also made discretionary with the Tribunal given the role to determine reasonableness to request an eviction order. These new rules were put in place in the first instance until 20 September 2020 but could be extended for up to a maximum of 18 months after that. In addition, the First Tier Tribunal (Housing and Property Chamber) announced that all hearings and case management would be postponed during the lockdown, which meant that in practice there would be no new eviction orders granted for private rented tenancies until 9th July 2020 at the earliest. For landlords, the Scottish Government opened applications for a zero-interest loan fund on 5th May 2020 to support landlords with five or fewer rental properties to cover up to 100% of lost rental income.

All the practical and legislative impacts of the Covid-19 pandemic will all require careful consideration against the original research objectives as the research moves to Wave 2 and later Wave 3.

3. Profile of the private rented sector in Scotland

This chapter sets out the profile of the PRS in Scotland, examining the scale of the sector, household characteristics, property characteristics and landlord and letting agent profile. The data provided in this chapter provides a baseline profile of the sector at the beginning of the study in 2019/20, and offers important context for the rest of the findings set out in this report.

Household tenure

3.1 Scale of the private rented sector in Scotland

According to the National Records of Scotland and the Scottish Household Survey (SHS), the PRS accounts for 352,322 households, or 14% of all households in Scotland. This varies considerably by area, ranging from a low of 3% in East Renfrewshire to the highest in Edinburgh at 25%. Other larger cities including Aberdeen, Dundee and Glasgow also have high levels of PRS properties, but it is not an exclusively urban phenomenon, with higher rates of PRS also seen in rural areas such as Moray, Angus and Perth and Kinross (Appendix 2, Figure A2:1).

Fluidity in the PRS makes estimates of stock size difficult, since this is changing all the time as stock is sold, and there are changes of ownership and use, including shifts from long-term to short-term lets. Recent work on short-term lets (STLs) by Indigo House⁶ found that as of May 2019 (based on Inside Airbnb data) across Scotland as a whole there were 31,884 active Airbnb listings with 69.2% being an entire property. This was only 1% of the stock overall, but they were disproportionately found in Edinburgh and the Highlands, accounting for over 50% of all Airbnb listings in Scotland, and seven local authority areas accounted for 75% of all listings. The Covid-19 pandemic is likely to have had a significant impact on the short-term let market, at least for the short term, with lock-down restrictions and limits on travel and tourism cutting off the usual markets for short-term lets.

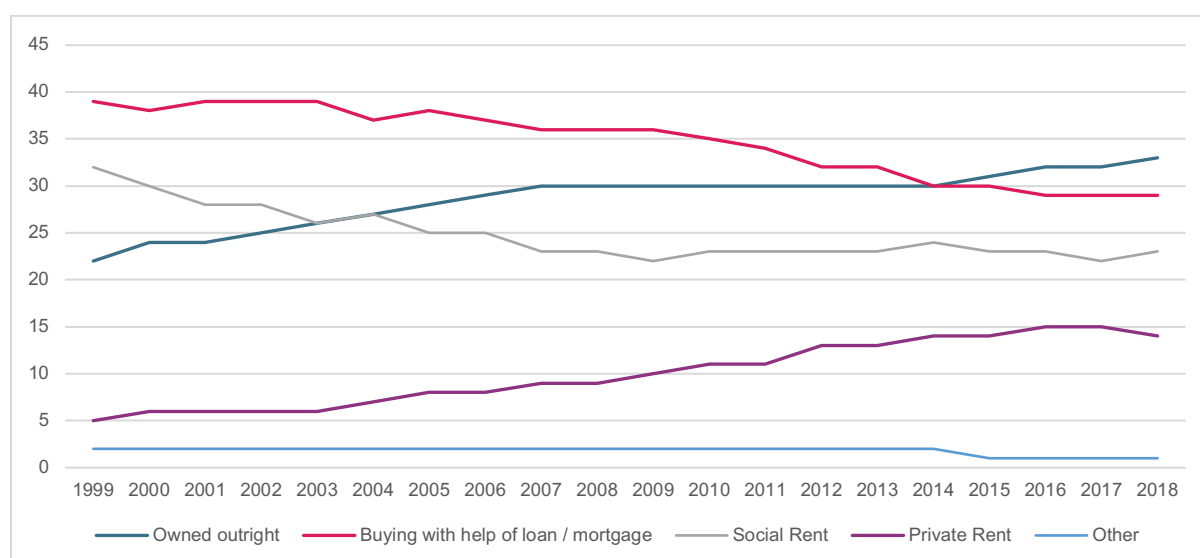
3.2 Growth of the private rented sector

Figure 1 below shows how the tenure profile in Scotland has grown over the last two decades, with private renting increasing from just 5% of households in 1999 to 15% by 2016, falling back to 14% in 2018. This was the first reduction in private renting as a share of household tenure in almost two decades, though a 1% change is likely to be on the margins of statistical significance.

There has been a significant increase in the proportion of younger households aged 16-34 years living in private renting. According to the SHS, the proportion rose from 13% of younger households in 1999 to 41% in 2014, and then dropped to 36% by 2018. There has been less variation between the 35 and 59 years – over the same period with private renting in this age group increased from 4% in 1999 to 12% in 2017 (11% in 2018) (Appendix 2).

Figure 1: Tenure by year (%) 1999 to 2018

⁶ [Research into the impact of short-term lets on communities across Scotland](#)



Source: 2018 Scottish Household Survey <https://www.gov.scot/publications/scotlands-people-annual-report-results-2018-scottish-household-survey/>

Overall the data suggests that the growth in the private rented sector has reduced very slightly recently, particularly among younger households, with slight increases in the proportions owning and renting from social landlord. These differences do not appear large enough to be statistically significant, however.

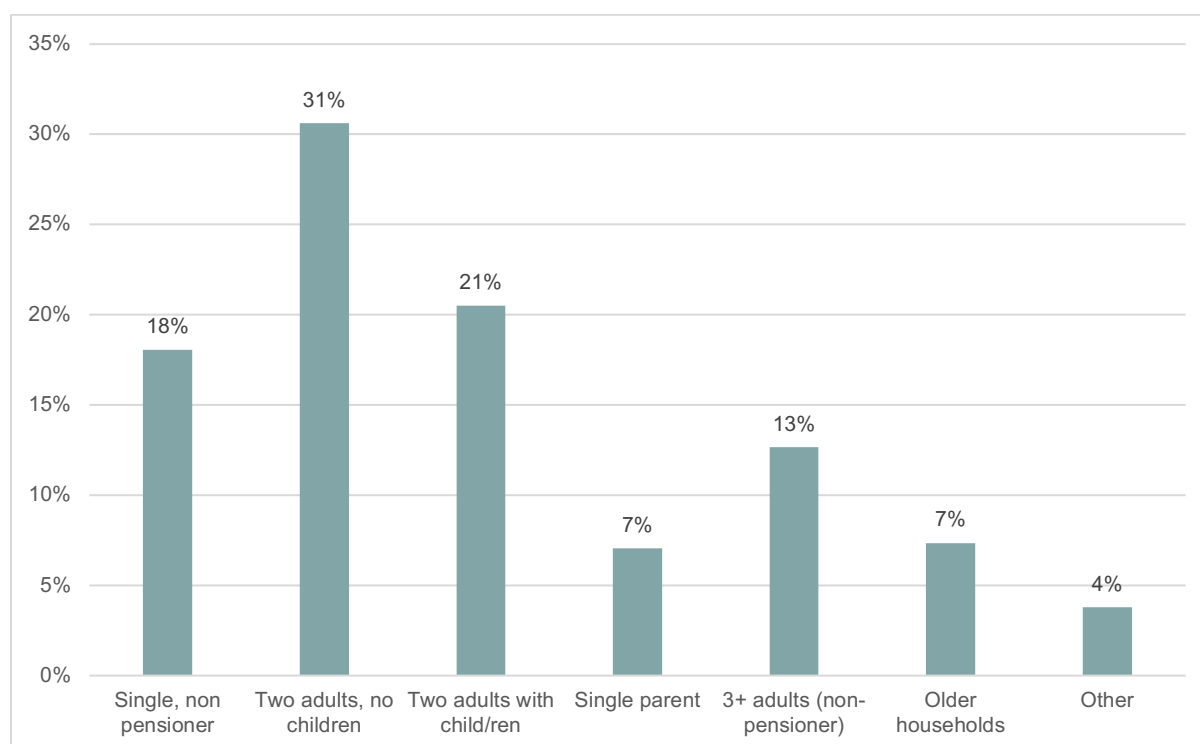
Household characteristics

3.3 Household type and age

The Rent Better Tenants Survey provided a detailed breakdown of household type and age. This respondent profile is different to the SHS (this is examined in Annex 3 of the Rent Better Tenants Survey Report).

The largest group of Rent Better Tenants Survey respondents were two adults with no children, followed by households containing two adults and at least one child aged under 16 years. The age profile of the survey respondents suggests the sector is weighted towards the younger to middle-aged groups - 60% of householders were less than 45 years, although only 11% were under 25 years. Looking at trends in the PRS from the SHS, this suggests that overall, private renter households are smaller and younger than Scottish households generally (Appendix 2).

Figure 2: Rent Better Tenants Survey - Household type



Source: Rent Better Tenants Survey

3.4 Working status and income

A large majority of the respondents participating in the Rent Better Tenants Survey were working – 63% worked full-time (30 hours or more per week) while 7% worked part-time. The working status was very different among single parent households, with 29% of single parents working full-time and 29% part-time, compared with 81% of households with two adults and children working full-time and 8% part-time.

The median monthly income of respondent households (who provided income data) was £1,800 overall, with a mean of £1,834.55 (after tax)⁷. This is broadly equivalent to an annual income of £27,000, after tax. Incomes ranged from £200 a month to £4,500 a month (after tax) with the lowest incomes found in unemployed households. Higher household incomes were more common among families with two or more adults, with monthly household incomes of £2,400-£2,500. Households with two or more adults and no children had the next highest incomes (£1,900-£2,050), with single parents and other smaller adult households having lower incomes (£1,100-£1,230). The monthly household incomes of the oldest and youngest respondents were lower than the median - £1,300 among those aged 16-24, and £1,100 for those aged 65+.

In geographic terms, median household incomes ranged from low of £875 a month in Ayrshire and £1,400 in North Lanarkshire, to higher incomes of £2,000 a month in Glasgow, and the Lothians and Edinburgh, and £2,200 in Southern Scotland.

⁷ The mean income being higher than the median (the point at which 50% of incomers are above and 50% below) indicates that the average income is skewed by some high individual household incomes.

Table 1: Household income (monthly, after tax) of different types of households

Household composition	Median Income
Larger adult household (3+ adults, with children)	£2,500
Two adults, with children	£2,400
Two adults, no children	£2,050
Larger adult household (3+ adults, no children)	£1,900
Single Parent	£1,230
Older Couple	£1,100
Single Older Person	£1,100
Single Person	£1,100
All households	£1,800

Source: Rent Better Tenants Survey

Trends from the SHS suggest that proportionately more households living in the PRS have lower incomes compared with households more generally, although in 2018, more private renters said that they managed well or very well financially compared to private renters ten years ago.

3.5 Equalities

Overall, 79% of respondents described themselves as 'White Scottish' with a further 8% 'Other White British' and 3% were 'White Polish' with 3% being 'Other White'. A further 7% of respondents described themselves as from another minority ethnic group: 1% from a mixed or multiple ethnic group; 1% Pakistani, Pakistani Scottish or Pakistani British; 1% Indian, Indian Scottish or Indian British; 1% other Asian; 1% African, African Scottish or African British. The remaining 2% of respondents described themselves as Chinese, Chinese Scottish or Chinese British, Other African, Black, Black Scottish or Black British or from another ethnic group (each fewer than 1%).

6% of respondents said that their day-to-day activities (or those of someone else within the household) were limited a lot by a health issue or disability, while a further 17% said that day-to-day activities were limited a little. This profile was far higher among retired households, with 24% of respondents saying someone's day-to-day activities were limited a lot by a health issue or disability and a further 25% saying activities were limited a little.

3.6 Housing allowances

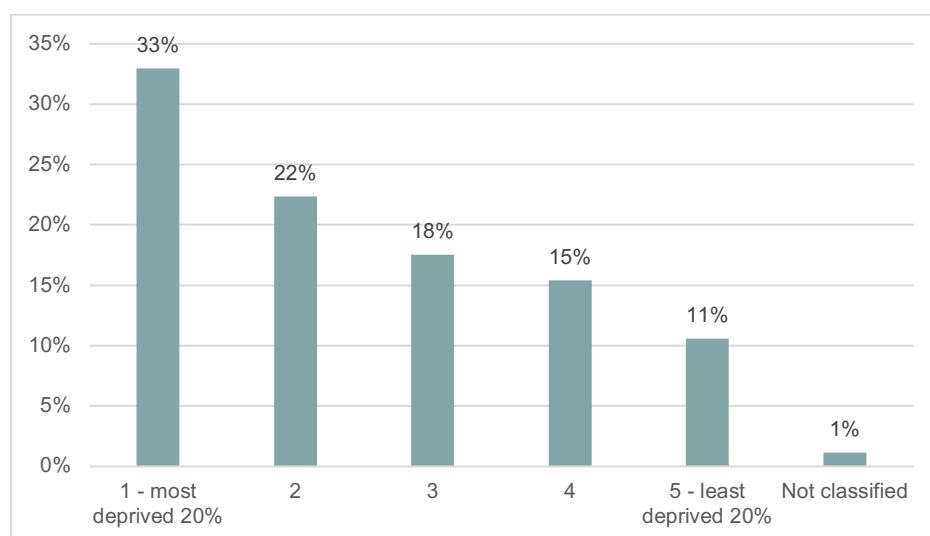
The housing allowances profile provided in the Rent Better Tenants Survey closely matched the working status of respondents, with 64% of households paying the full rent on their property. Those in receipt of financial assistance to pay for rent through Universal Credit (UC) or Local Housing Allowance (LHA) were split fairly evenly between full (13%) and partial assistance (14%). There was variation by household type, with 37% of single parents saying housing allowances paid all, and 44% saying this paid part of the rent. Single adults who were not retired were also more likely to receive full housing allowance with 25% having rent fully paid.

Department of Work and Pensions (DWP) data suggests that across Scotland DWP Housing Benefit statistics show an estimated 25% of households in the PRS are on Housing Benefit or Universal Credit, which is broadly aligned to the 27% indicated in the Rent Better Tenants Survey (Appendix 2). The DWP data shows considerable variation by local authority, with a low of just 11% of private renters in the Shetland Islands claiming housing allowances, compared with 85% of private renters in North Ayrshire. This data, alongside the income data from the Rent Better Tenants Survey is an indicator of the considerable diversity of the PRS sector in Scotland.

3.7 Deprivation

The private renters interviewed in the Rent Better Tenants Survey lived in relatively deprived neighbourhoods, with a third of households in the 20% most deprived SIMD data zones according to the Scottish Index of Multiple Deprivation (SIMD) and just 11% in the least deprived 20% of data zones. The Rent Better Tenants Survey had a larger proportion of households in high deprivation areas compared to the SHS, which suited the focus of the Rent Better survey by considering the experiences of lower income households and those in need. However, results need to be interpreted with this in mind.

Figure 3: Rent Better Tenants Survey – Residence by Scottish Index of Multiple Deprivation quintile



Source: Rent Better Tenants Survey

Housing need aspects

Two key indicators of housing need in the PRS are considered here: over-crowding and homelessness. Fuel poverty is considered below.

According to the Scottish House Condition Survey (SHCS), overcrowding affected an estimated 6% of private renters in 2018 with 15,000 households considered to be living in property smaller than what suited their needs. Although this level was an increase in the proportion from 4% in 2017 to 6% of private renters in 2018, the estimated number remains the same due to the slight drop in the total number of private renters. This proportion is similar to Housing Association renters in Scotland.

Scottish Government homelessness statistics show that the proportion of homeless applicants renting in the private rented sector prior to their homeless application increased gradually as a proportion of total applicants over the decade 2007/8 to 2017/18, from 13% to 19%. This level reduced to 17% in 2018/19, with the first full reporting period after tenancy reform. Future waves of this study will show whether this trend continues.

Property characteristics and house conditions

3.8 Rent levels

According to Citylets, the mean private rent in Scotland in 2019 was £809 per month, the median £700 per month, rising almost 10% over the five years since 2014. Rent levels range from a low median of £450 per month in North Ayrshire to a high median of £925 per month in Edinburgh. The lowest private rent levels are in line with Local Housing Allowance (LHA) levels in six local authority areas (2019/20 rates). The trends identified by the Citylets data is confirmed by the Rent Better Tenants Survey, which showed the lowest rents were in Ayrshire, and the highest in Edinburgh. Rent levels identified in the Rent Better Tenants Survey were lower than Citylets data with an overall median of £525 per month and a range of £350 to £690. This difference is probably due to the survey including some number of tenants living in deprived areas, and Citylets tending towards the middle to higher end markets. Rents and affordability are examined in more depth in Chapter 6.

3.9 Property size

The Rent Better Tenants Survey showed that most private tenants (56%) lived in two-bedroom properties, followed by three-bedrooms (23%) and one-bedroom (16%). Very large and very small properties were uncommon. Single people and younger couples tended to live in two-bedroom properties, while older couples and larger households were more likely to live in three-bedroom homes. However, families (single parents, or two adults with children) tended to live in two bedrooms.

Table 2: Household composition and size of property

Household Composition	Mean number of bedrooms	Median number of bedrooms
Larger adult household (3+ adults, no children)	2.68	2
Larger adult household (3+ adults, with children)	3	3
Older Couple	2.57	3
Single Older Person	1.78	2
Single Parent	2.25	2
Single Person	1.74	2
Two adults, no children	2.03	2
Two adults, with children	2.46	2
Total	2.2	2

Source: Rent Better Tenants Survey

3.10 Property type

The Rent Better Tenants Survey showed that most private renters lived in flats (60%) with those living in houses more commonly renting in terraced (15%) or semi-detached (16%) properties. This profile was confirmed by the Rent Better Landlords Survey, which also showed that the most common property type owned by landlords was flats.

According to the Rent Better Tenants Survey, property type varied considerably by location and household composition:

- Almost three-quarters (74%) of rural dwellers lived in houses, compared with just a third (33%) of those in urban areas.
- Over half of retired households (56%) and two-adult households with children (54%) lived in houses, compared with 38% of households generally while 80% of single (non-pensioner) adults lived in flats.
- However, more single parents PRS respondents lived in flats, compared to other households with children (61% versus 38%).

3.11 Property condition

The 2018 SHCS showed the condition of PRS properties was worse than other tenures and was becoming more so (although SHCS data indicates that housing condition was deteriorating across all tenures). The survey showed:

- 72% of PRS properties had a critical disrepair in 2018 compared with 59% in 2017.
- 40% of PRS properties had critical and urgent disrepair compared with 33% in 2017.
- 9% PRS properties had critical, urgent and extensive disrepair compared to 3% in 2017.
- 20% of private renters said that their heating only sometimes kept them warm enough in winter, while 8% said that it never did.
- 10% of PRS properties are in the least efficient SAP rating compared with 3-5% of owners and 1% of social renters.
- 19% of private renters were assessed as in extreme fuel poverty in 2018 - an improvement since 2017, when this was estimated at 24% of private renters.

The SHCS findings should be considered in the light of tenant opinion of condition and thermal efficiency. The Rent Better Tenants Survey showed that the vast majority of tenants thought the overall condition and the general state of repair of the properties they lived in was good, although satisfaction with energy efficiency was slightly less positive. However, in-depth interviews with tenants suggested that where problems do occur with repairs and maintenance, these can be difficult to resolve and distressing for tenants. These issues are discussed in greater depth in Chapters 7 and 8.

Landlord and letting agent profile

The Rent Better Landlord/Letting Agent (LLA) Survey provided a profile of respondents providing PRS properties. This survey showed:

- Most landlord respondents let out a small number of properties – 40% let only one, and 39% let between two and five properties.
- The vast majority of letting agent respondents let out more than 100 properties (79%).
- Most respondents had been in the private rental business for over 10 years - 52% of landlords and 58% of letting agents. Most had bought properties with the specific intention of renting (83%), with a minority inheriting a property and then let it out (12%).
- The largest proportion of landlord respondents said their type of landlord business was an “informal arrangement” (i.e. not a formal business as a company, sole trader or partnership) (44%), and a further 37% were sole traders or partnerships. Only 6% were private limited companies. Of those that were companies, the reasons for incorporating were around separating finances, limiting financial liability and tax advantages.
- The great majority of letting agent respondents were independent businesses (82%). Only a small number being franchise operations (8%) or branches of larger businesses (5%).

Summary and conclusions – profile of the private rented sector in Scotland

The private rented sector in Scotland has grown considerably over the last 20 years from 5% to 14% of all households in 2018, although levels vary considerably from the lowest of 3% in East Renfrewshire to highest of 25% in Edinburgh. While there are concentrations in the cities, the PRS is also an important tenure in some rural areas. Growth has been particularly marked amongst younger households with over a third of households aged 16-34 years now renting in the PRS.

From the range of data examined – household tenure, income, housing allowances and rent level, it can be seen that the PRS in Scotland is extremely diverse.

In terms of working status and household income, while most private renters interviewed worked full-time, working status varied considerably by household type with fewer single parent private renters working full-time. Single parents and small adult households are more likely to have lower incomes, but income variances are most evident by different geographic markets. The Rent Better Tenants Survey and DWP data on Housing Benefit / Universal Credit claimants show that around a quarter of private renters claim some form of housing allowance, but again with large differences by geography (between 11% and 85% of all private renters by local authority are claiming some form of housing allowance).

Private rental levels were on average £809 per month in 2019 (Citylets), but with large ranges by geography with the lowest rent levels in line with social rent levels, and a number of areas where average private rents are in line with LHA levels. The higher rent areas are Dundee, Glasgow, and in Edinburgh reaching up £1,100 per month on average.

Most private rentals are two-bedroom flats, although rural dwellers, older people and families (except single parents), are much more likely to be living in houses. Property condition and energy efficiency in the private rented sector is poor and declining. Despite this deterioration, private tenants indicate they are generally happy with the condition of their homes, although disputes regarding repairs and maintenance are distressing for the minority of households experiencing disrepair.

Landlords mainly have small portfolios of less than five properties, whereas letting agents have large portfolios of over 100 properties. Most landlord and letting agent respondents have been in the PRS for over ten years, and most landlords run their business on an informal, rather than incorporated basis.

This diverse picture of private renters and private landlords suggests that the experience of private renting is a varied so it could be expected that policies impact differently on different groups. Lower income households and those in the poorest condition properties are likely to be most vulnerable households.

4. Choice and access to the private rented sector

This chapter explores tenant motivations for private renting, the experience of private renters in finding a home as well as landlords finding a tenant. In terms of the research aims, it considers tenants' experiences of accessing the PRS, identifying any key differences for those tenants on a low income or in housing need. As with all chapters, the evidence acts as a baseline at the beginning of the research against which to assess any change over the three-year study period.

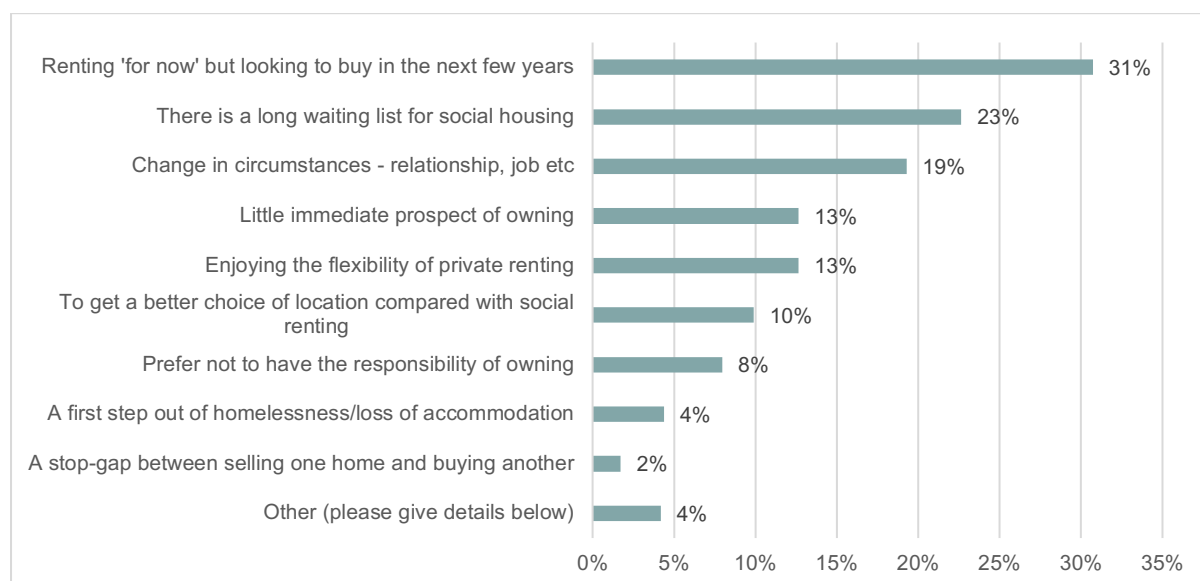
Tenants' motivations for living in PRS

Most respondents to the Rent Better Tenants Survey viewed the PRS as a transitional tenure, with nearly a third renting with the expectation of owning in the near future and a fifth of tenants relying on the tenure as a stop-gap measure whilst experiencing life changes such as relationship breakdown or job change. Tenants were asked to indicate their motivations and reasons for private renting. The most commonly agreed with descriptions were (Figure 4):

- Renting for now but looking to buy in the next few years - 31% of respondents
- Private renting due to a long waiting list for social housing - 23%
- Renting due to a change in circumstances – relationship, job etc. – 19%

Tenants in receipt of Housing Benefit more commonly said they were renting due to the length of the waiting list for social housing and to get a better choice of location compared with social renting, while those paying full rent were more commonly 'looking to buy' in future. Those 'looking to buy' had a median income of £2,300 while those with no prospect of owning had a median income of £1,112.50 - less than half the income of those looking to buy. Tenants with a disability were more likely to report that they were renting due to the long wait for social renting.

Figure 4: Best description of current status/reasons for private renting (multiple choice)



Source: Rent Better Tenants Survey

Single parents more commonly highlighted the long wait for social housing and a change in circumstances while households with two or more adults were more likely to be looking to buy in future. Respondents from black and minority ethnic groups (who tended to be younger) more commonly said they were renting 'for now' but hoping to buy in the next few years, compared to tenant respondents overall.

In-depth interviews with tenants revealed the ways in which private renting provides flexibility and choice for some, while others rent in the PRS due to the lack of other options available to them. A few participants, for example, expressed having to rent as they were unable to access social housing and a few participants aspired to rent in the social rented sector in the future - and were using private renting as a 'stopgap' while awaiting an offer of social housing. These participants tended to be more vulnerable, for example, having a history of unemployment or suffering domestic violence and reliant on benefits to afford rent. For example, one participant explained she was deemed 'not a priority' for social housing despite having experienced homelessness and substance dependency, and therefore expected to wait a very long time for an offer:

'I have been on the waitlist for council housing for a very long time... I'm going to stay here until I get an offer of housing from the council, I have no idea how long that will be'.

Other participants focussed on private renting as an alternative to homeownership. These renters were excluded from homeownership for financial reasons and as a result were renting reluctantly. For these households, homeownership was the ideal option and they were saving for a deposit while renting, while others acknowledged having no realistic prospect of buying. A few participants reported having previously owned their own home, but due to particular circumstances (such as relationship breakdown or job loss) they had to resort to private renting. Single-person households in particular complained of being unable to save for a deposit to buy a home, because: 'all the money goes to rent'.

In contrast, some participants expressed a preference for renting privately above all other options because it suited their particular needs. These participants tended to have rented in the PRS for a long time (five or more years) and were older than the average. These respondents felt rooted and had no intention of moving in the future: 'when they take me out of here, I will be in a box'. One single parent on an informal tenancy expressed great enthusiasm for her home, explaining that the same rented property would be out of reach to her on the for-sale market:

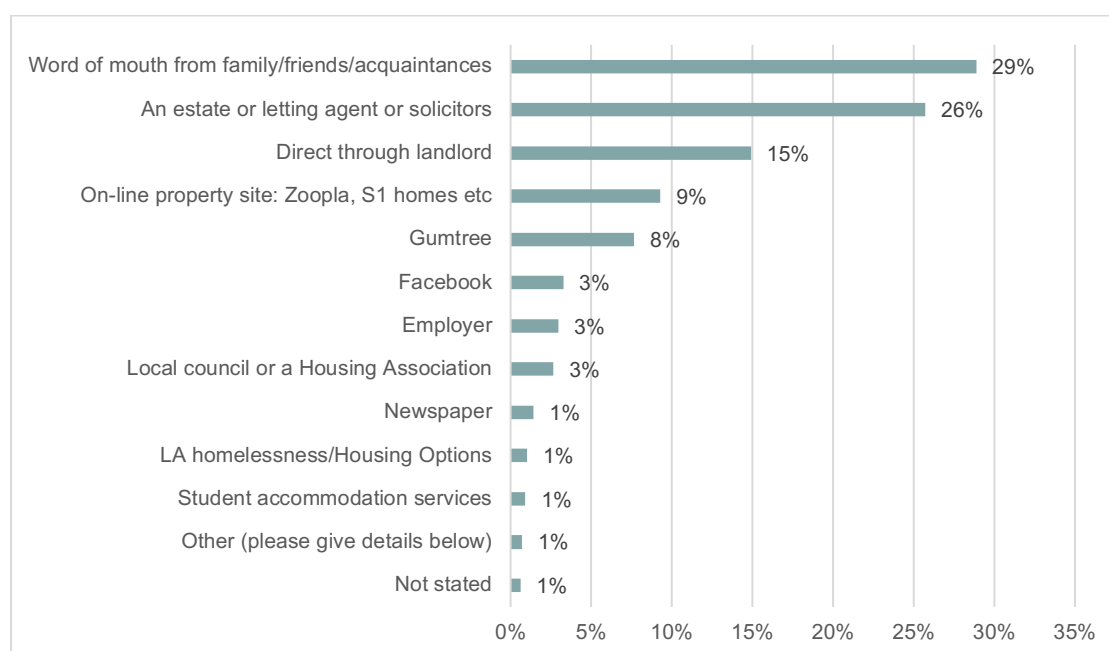
'Before with my other place, it was a house, not a home, this is a home.... [some] people who are renting are not happy, but I am perfectly happy here ...I couldn't afford to buy this place, but I can afford to rent it'.

In summary, renters can be broadly grouped as those expressing some reluctance towards private renting with a preference for either social renting or ownership, and those who are enthusiastic about renting privately and see private renting as their ideal, long term option.

Finding a home, finding a tenant

It is striking that in almost a third of Rent Better Tenants Survey respondents (29%) said that they heard about their current property by word-of-mouth from family, friends or acquaintances. Just over a quarter (26%) found their property through an estate agent or solicitors and 20% found the property from an online property website, such as Gumtree or Facebook, while 15% found the property directly from the landlord (Figure 5). Couples with children used letting agents more than other households while single parents, retired households and single people relied more on word-of-mouth. Higher income households tended to use letting agents or contacted landlords directly while lower income households used word-of-mouth more.

Figure 5: How tenants found property to rent



Source: Rent Better Tenants Survey

The LLA Survey showed that most landlords employ letting agents to find tenants (52%) compared to advertising online (32%) and word-of-mouth (12%). Amongst letting agents, online advertising is the most predominant means of finding tenants (88%).

Two thirds of tenants responding to the survey said it was easy to find somewhere to rent. However, a sizeable minority (one in five) of tenants did experience difficulty accessing the rental market, particularly families with children, and single parents. The average income of those finding it difficult was considerably lower (median £1,225 where very difficult compared with £1,938 where very easy) and 28% of those on full Housing Benefit found it difficult to find somewhere compared with 19% paying full rent. Tenants in urban areas were far more likely to report difficulties finding somewhere to stay compared with those in rural areas and those moving more recently within the last two years were more likely to report difficulties than those resident for longer. Respondents with disabilities and black and minority ethnic respondents more commonly said they had difficulties finding somewhere to rent (27% with disabilities and 35% in black and minority ethnic households compared with 21% overall). In the case of those with disabilities, this was more commonly due to being on benefits while for

minority ethnic groups affordability issues were more common. However, this may be evidence of discrimination, which might be usefully explored in future waves.

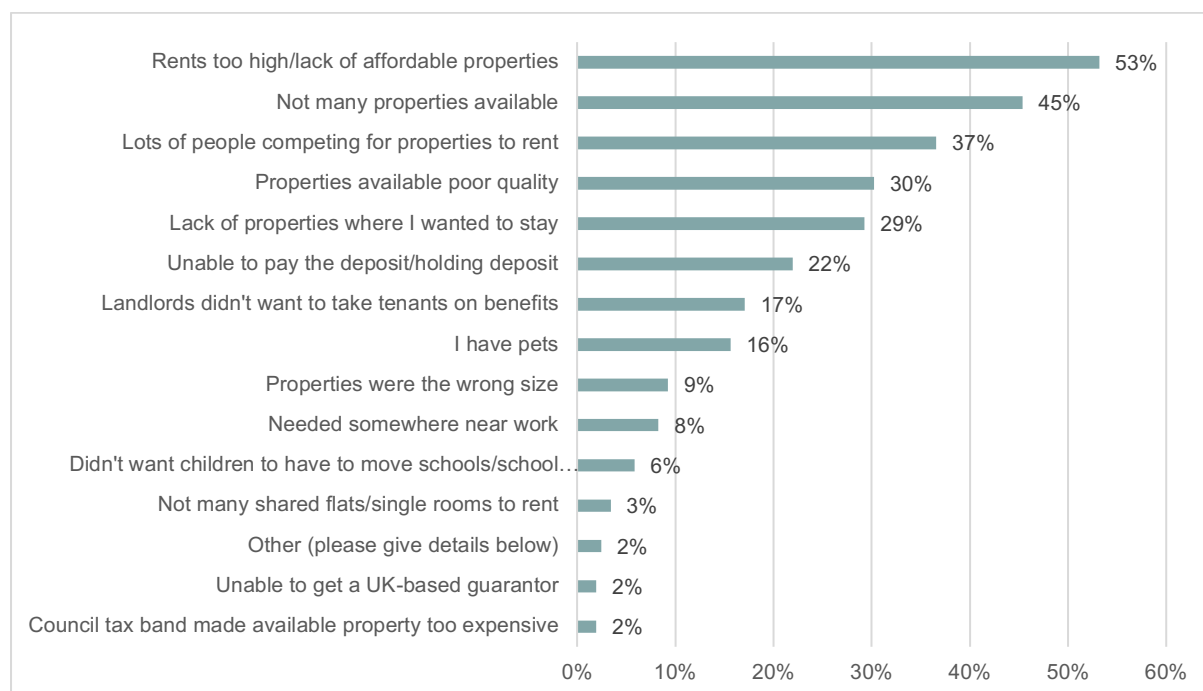
Those who said that they had found it difficult to find a property (205 respondents out of 980) were asked the reasons. The most common reasons were rents being too high/the lack of affordable properties (53%, or 11% of all surveyed) followed by there not being enough properties available (45, or 9%), and lots of people competing for properties to rent (37%, or 8% overall). Affordability issues were strongly correlated with supply and demand tensions (Figure 6).

Almost a third of those who had difficulties finding a property to rent (30%) said that available properties were of a poor quality, and a similar proportion (29%) said there was a lack of properties where they had wanted to stay. This was reported by 6% of all the tenants interviewed.

More than one in five (22%) of those who had difficulties finding a property said this was because they had been unable to pay a deposit, while one in six (17% or 4% of all those interviewed) said that they had difficulties finding a property to rent as landlords did not want to take tenants on benefits. A similar proportion (16%) had difficulties because they had pets, which were often not allowed (equivalent to 3% of all tenants interviewed). Just 5% of those who paid a deposit did so using a rent Local Authority Deposit Scheme, while the results of the survey suggest the need for help with deposits would benefit from more availability of this option.

Less commonly mentioned issues that still affected around 1 in 10 of those with difficulties finding a property were finding the right size of property, or somewhere near work. 6% of those with difficulties (one per cent of all tenants) mentioned schooling and (as would be expected) this was a higher proportion of families (22% of single parents and 13% of other families).

Figure 6: Difficulties finding a property to rent (among those who said they had difficulties n=205)



According to the landlord survey, around two thirds of landlords and letting agents (65%) said it was very easy or quite easy to source tenants, which is in line with the same question for tenants. For letting agents, this was slightly greater at 70%. City-based landlords were slightly more likely to say that they found it easy to source tenants (72% of landlords operating in Edinburgh and 71% of those operating in Glasgow said it was easy to do so). Areas where landlords were least likely to say it was easy to source tenants included Ayrshire (53%), Grampian (44%) and South Lanarkshire (43%), all of which are currently less pressured markets.

The Rent Better Tenants Survey findings were confirmed in the in-depth interviews with tenants. Most participants did not report any difficulty in accessing the PRS, although for those that did experience difficulties, searching for a home was a stressful experience. Problems in finding the right type of property (which included size, type, location or price) were most common in pressured markets. The groups that reported most difficulties were students, single parents, and those in receipt of Universal Credit. For example, one participant suggested that as a single parent she was viewed as 'risky' compared to other applicants who did not have children:

'I must have viewed about 30 properties... there were some places that just didn't want children. There were 3 or 4 that I missed out on because someone [without children] had got in there before us and offered more money'.

Another participant similarly explained having been repeatedly bypassed by landlords reluctant to accept tenants in receipt of Universal Credit:

'It took us about six months to get this place because ...no one would take on someone who was on Housing Benefits. We had been turned down outright by some landlords, and with others, had just missed out'.

In contrast, within less pressured markets, some participants spoke of the ease in securing a private let, with a few participants describing the lengths landlords would take to make the property more suitable or more attractive. One pensioner, for example, expressed her delight after finding a landlord who would adapt the property to suit her particular needs:

'I had been renting privately previously, but this one suits my needs better as I am disabled and cannot manage steps. There is a ramp in the property that was there before I moved in, but the landlord has been very accommodating and has also put in a walk-in shower'.

There was also evidence that some landlords were attempting to address financial barriers some applicants faced when securing a private rental. A few participants explained that their landlord had reduced the rent or had waived the requirement for a deposit. One respondent explained that since his landlord knew him personally, he was able to spread the value of the deposit over the course of the year to make the rental more affordable:

'I didn't have to pay a deposit when I first moved in, but instead he let me pay a bit every month extra on top of my rent towards a deposit. This was before the rent deposit scheme so I am not actually very sure how I will get that back, but I know him so it should be ok'.

Summary and conclusion

Private renters can be broadly grouped as mostly those expressing some reluctance towards private renting with a preference for either social renting or ownership, and a small proportion who are enthusiastic about private renting and see this as their ideal, long term option – these renters tend to be older. Those with fewer options - those on lower incomes, those claiming housing benefit, tenants with disabilities and single parents most commonly highlighted the long wait for social housing.

In terms of tenants' experiences of finding a home, most find it easy to get a private rental, but a significant minority have difficulties. Difficulty securing a private rental is disproportionately experienced in urban and pressured areas, by single people, single parents, students, those on lower incomes, people with disabilities, those claiming some form of housing allowance, black and minority ethnic tenants and more recent renters. The most common reason given for difficulty in finding a suitable private rental is affordability, and high demand/lack of supply in the areas where people want to live. This affects lower income groups who are often vulnerable in other ways.

5. The tenancy regime and impact of reform

This chapter explores the extent to which tenants and landlords were aware of the various elements of tenancy reform, and the impact of change from the previous tenancy regime to the Private Residential Tenancy. In terms of the specific research aims, it considers whether the changes to the tenancy regime in Scotland are achieving security of tenure and empowering tenants in exercising their tenancy rights.

Objectives of change

Consultation with wider stakeholders with an interest in the private rented sector and tenancy reform revealed what their original expectations for reform had been. These are summarised in the following themes:

- Balance: creating a fairer, more balanced tenure for both landlord and tenant.
- Flexibility: giving tenants the ability to move flexibly in and out of a private tenancy, or the sector more generally, to suit their personal circumstances as they arise.
- Security: improving security of tenure for tenants.
- Affordability: achieving affordability, with intervention if necessary, in pressured markets.
- Simplicity: achieving greater simplicity in the legal tenancy mechanism.
- Access to justice: making justice more accessible and user-friendly.

The perceived impacts of change in the tenancy from both the tenant and landlord perspectives are discussed below. Aspects of affordability are discussed in chapter 6 and access to justice is discussed in depth in chapter 8.

Types of tenancies

Signed leases

The Rent Better Tenants Survey showed that the vast majority of tenants (from a total of 980 respondents) - 79% - had a signed lease, and a further 7% said they had a signed lease but not a copy of it. 12% of tenants said they had an informal arrangement with their landlord. Not having a formal lease was more common in rural areas (16%) compared with urban areas (11%). More large adult households (typically flat-shares) and retired households had an informal lease arrangement (both 20%). Informal leases were also more common among longer standing tenancies – 20% of tenancies of over five years were informal. It is important to note that many of the tenants with an informal leasing arrangement had as good, if not better experiences, than others despite their lack of a formal lease. Those who had signed a lease that they did not have a copy of, fared less well.

- 30% of informal lease-holders had been resident for more than 5 years compared with 8% with a signed lease that they had a copy of.

- Only 23% of those with an informal lease paid a deposit, compared with 75% of those with a signed lease that they had a copy of.
- The same proportion of tenants - 50% - of those with informal leases, and those with a signed lease that they had a copy of, found the rent easy to afford.
- 77% of those with an informal arrangement said they were confident that they would be able to stay in their property for as long as they wanted, as were 76% with a signed lease that they had a copy of, compared with just 51% of those with a signed lease where they did not have a copy.
- 73% of those with an informal lease had not had their rent increased, or had it increased less frequently than once every two years, compared with 66% with a signed lease they had a copy of and 58% of those with a signed lease that they did not have a copy of.
- The median rent for informal lets was £400 a month while the median rent on a property with a signed lease where they had a copy was £495.

Types of tenancies

The Rent Better Tenants Survey showed that only a third of tenants overall were aware of the introduction of the new PRT.

Rent Better Tenants Survey respondents most commonly said that they did not know what kind of tenancy they were on – 40% were not sure, 36% said they were on a PRT, and 23% a SAT. The Landlord Survey suggested the number of tenants on SATs is higher; 44% of landlord and letting agent respondents overall said they had tenants on SATs, but much higher amongst letting agents (34% for landlords and 87% for letting agents). Two-thirds of landlord respondents were using only PRTs (and a third a mix of SATs and PRTs) while only 13% of letting agents were using only PRTs (87% a mixture). The large differences between landlords and letting agents is a function of the fact that letting agent respondent portfolios were much larger (over 100) compared to landlords (80% had five or under properties). It can therefore be concluded that there is still a significant proportion of SATs tenancies still in use.

Tenants' awareness of rights and reform

Qualitative interviews with tenants generally reflected the survey findings and showed that most tenant participants had very limited awareness regarding tenancy rights and the implications of reform and expanding rights for private tenants. While many participants did not know what type tenancy they had, some had a general understanding of what was expected of them as tenants, but mainly that understanding was limited to the notice period required for ending the tenancy. Some participants acknowledged that not knowing the terms of their tenancy agreement meant they were also not fully aware of their rights as tenants:

'I don't know what tenancy I am on and I don't know the different types of tenancy at all.... and I don't really know my rights to be honest, so I don't know what I would do if something happened, really'.

A few tenants explained that although the terms of the tenancy agreement might have been explained at the point of signing, the significance of these terms doesn't really 'sink in'. One participant suggested that additional information could be given to tenants, which could explain in plain language what the terms meant for tenants:

'I was told my rights when I moved into the flat and they went over things... you know when someone is saying something to you but you aren't really taking it in. When I re-sign the contract as well they give you information, but I don't really read it'.

The lack of awareness of rights from tenants was supported by wider stakeholders. Some participants claimed that the intention of the new legislation to expand the rights of tenants was largely undermined given there is little awareness amongst tenants of what those rights are. There was broad consensus that more work was needed to raise awareness of rights as a starting point for breaking down barriers for tenants in exercising rights and accessing justice.

How long households stay in private renting

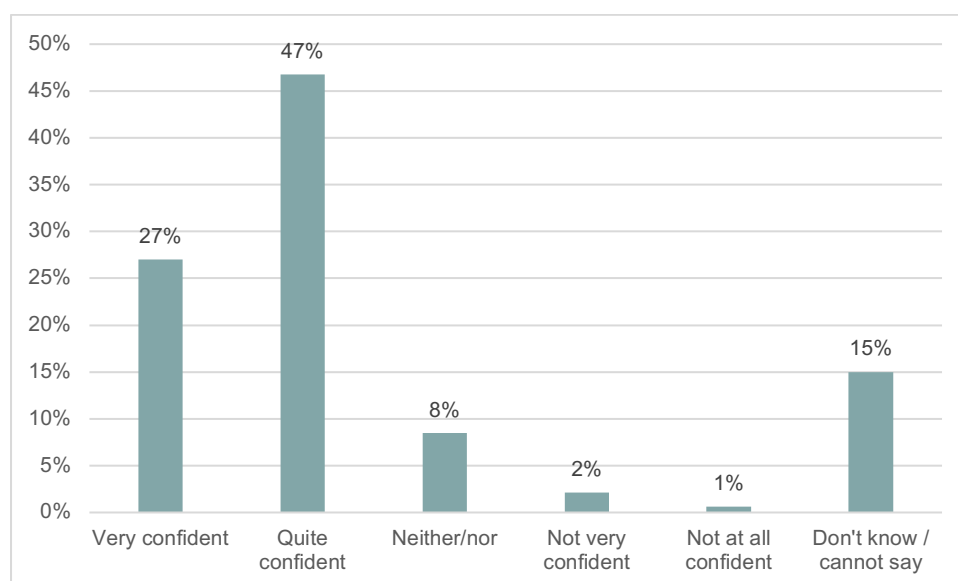
One indicator of security of tenure is length of residence, which is collected in the SHS. The average length of residence of private renters was considerably shorter than for other tenures at 2.8 years in 2018 compared with 11.8 years across all households. The average length of residence among private renters had increased between 2012 and 2018 from 2.4 years to 2.8 years, while the length of residence across all tenures has decreased from 12.0 to 11.8 years.

The Rent Better Tenants Survey also examined respondents' length of residence, with the results generally in line with the SHS. Just under half said they had been resident in their current property for two years or less, over a third between two and five years, and two-fifths for over five years. There are significant differences for rural/urban tenants - nearly half (46%) of tenants in rural areas have been resident for more than 10 years, compared with 4% of those in urban areas. Tenants were also asked how much longer they saw themselves renting their property – nearly a third said they didn't know; over a quarter said it would be less than two years, 17% between two and five years, and a quarter longer than 5 years. This confirms the transitional nature of private renting.

The Rent Better Tenants Survey also asked how confident tenants felt in their ability to stay in their tenancy for as long as they wanted. The majority - three quarters of tenants were confident that they would be able to stay in the current property for as long as they would like (27% very confident and 47% quite confident). Only a very small proportion (3%) said they were not confident, and 15% said they didn't know. Confidence in staying in the tenancy was driven by a combination of affordability, trust in the landlord, and secure employment with affordability the most commonly mentioned factor. Knowledge of the legal right to stay was much less prevalent in tenants' confidence to stay. There appeared to be less confidence where there is a signed lease but no copy, and more confidence where there is an informal arrangement or a lease where they have a copy.

Of the small number that were not confident in being able to stay for as long as they like, these tended to be living in urban areas, in areas of high social deprivation, and were more likely to be on Housing Benefit.

Figure 7: How confident or not will be able to rent the property for as long as they'd like to



Source: Rent Better Tenants Survey 2020

Security of tenure

Tenant opinion

The interviews with tenants showed that only a small number of tenants knew that a PRT afforded more legal security. The merits of an open-ended tenancy, the change of notice periods and the potential flexibility these aspects could provide tenants was not raised by any tenants in interviews. In general, participants felt they could stay in the property for as long as they wished regardless of tenancy type, including those on SATs, as long as they fulfilled their responsibilities as a tenant. However, for some tenants there was an acknowledgement of lack of security. As one tenant on a SAT explained:

'I feel as safe as we can be - we have been good tenants for four years, so I don't think he would just kick us out. Of course, we are not really secure because, how can you be when renting?'

None of the five participants with a PRT expressed feeling more secure in their tenure. Rather, as one single person explained that ideally, she would own her own home or rent from the council because she felt there was always the possibility that the landlord could take back possession:

'I would love to have my own place or even a Council place, because I suppose you could be told to leave at any point if [the landlord] did decide to sell'.

Tenancy security should also be interpreted in relation to tenants' needs and aspirations. As discussed in the preceding chapter, private renting for some is a 'stop-gap' and for others it is a clear long-term preference above other housing options. From a tenant's perspective, tenancy security is also about their perception and experience, not just the legal status of the tenancy someone has. As illustrated by one tenant who was unemployed and claiming benefits:

'I don't know what a PRT is, but I kinda feel like I have that [security of tenure] already with the landlord – being able to stay indefinitely'.

Only a few tenant participants explained having problems with the manner in which notice to leave was given by landlords. One older tenant explained how she thought she was victim of a 'revenge eviction', being forced to leave the property as a penalty for withholding rent in an attempt to compel the landlord to undertake necessary repairs. Another tenant highlighted the practical problem of having only one month's notice (from a SAT) to leave when living in a pressured rental market.

Landlord and letting agent opinion

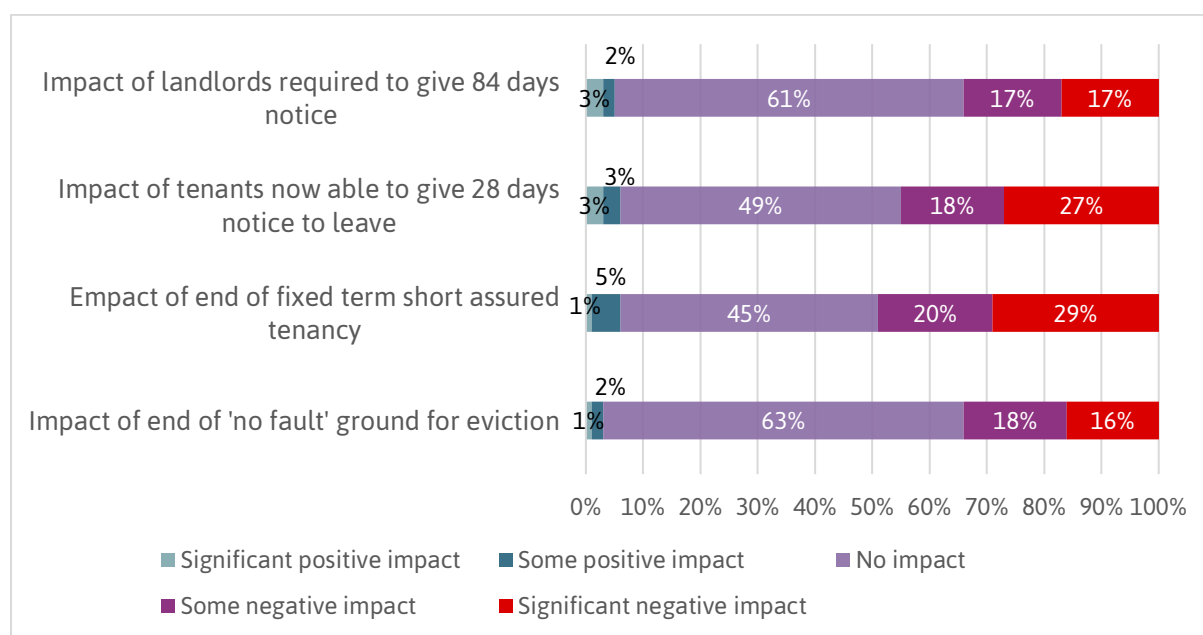
Landlords and letting agents were asked their opinion on various aspects of the PRT in the LLA Survey and in-depth interviews. The survey showed that across all landlords and letting agents there were equal levels of satisfaction (38%) and dissatisfaction (37%) with the PRT overall, with 25% neither satisfied nor dissatisfied with the PRT. Landlords generally were more likely to be dissatisfied than agents, although landlords with only one property were slightly more likely to express satisfaction with the PRT (40%). It should be noted that the differences between landlords and letting agents' responses would very likely be affected by the volume of tenancies that they had, with landlords most likely to have five or less tenants and letting agents portfolios typically over 100.

The survey then asked landlords and letting agents on their view of impacts of specific elements of the PRT (Figure 8).

LLA Survey respondents were quite likely to express a negative view about the end of fixed term SATs - 49% overall - less for landlords at 46% and more for letting agents at 60%. Landlords with one property were less likely to see a negative impact (30%) but looking at other size of landlords there was no significant difference to the landlord average response.

A similar proportion of landlords and agents had a negative opinion on the impact of the reduced 28-day notice period for tenants - 45% overall, slightly less for landlords at 42% and more for letting agents at 63%. Again, smaller landlords, including those with fewer than five properties, were less likely than the average to see a negative impact in the 28-day notice period.

Figure 8: Impact of various aspects of the PRT – all landlords and letting agents



Source: Rent Better Landlord and Letting Agent Survey 2020

In both cases of the end of fixed term and reduced notice period, there were similar proportions of respondents who said there was no impact (45% and 49% respectively overall). There were very few positive opinions for both. In the open comments in the survey, the vast majority of these were negative opinions about the open-ended tenancy and reduced tenant notice period.

In relation to the 'no fault' evictions, the LLA survey showed a higher proportion of 'no impact' at 63%. A lower proportion of respondents saw negative impacts at 34% overall, but only 3% of respondents overall felt that this had a positive impact (although higher from letting agents at 9%). In relation to landlords providing longer notice, similar proportions were shown – 34% negative, 61% no impact and 5% positive. For both aspects, there was no trend in relation to the size of landlords' portfolios.

The significant proportion of respondents stating 'no impact' on these various aspects of the PRT may reflect the fact that landlords and letting agents were still using SATs, by the practice of rolling them on.

In the qualitative interviews there were a few landlords and letting agents who were supportive of the end of minimum term leases and the move to an open-ended lease, suggesting that the security of tenure was good for tenants and long-term tenants were good for landlords. A few interviewees also suggested the PRT properly redressed the balance from landlord to tenant:

'It [PRT] is definitely slightly biased towards the tenants, but previously it was the other way round, so it has balanced it up a little.' (Letting Agent)

'In Scotland we have good protection for tenants, and so we should have. Security for tenants is a positive thing... [As a landlord] I shouldn't be able to disrupt someone else's life.' (Landlord)

Other positive aspects related to the reduction of paperwork and costs associated with maintaining former rolling contracts. Apart from the length of tenancy and security of tenure aspects of the PRT, there were other positive aspects identified by respondents, such as the standardisation of the lease, this being available online and the default electronic signature.

However, these positive views were in the minority and most were highly critical about the end of minimum term leases *in conjunction* with the reduction in the tenant notice period to 28 days. Many landlords and letting agents stated that 28 days was not enough time to deal with departing and to find new tenants, especially in less pressured markets. Some landlords had experienced a change in the pattern of letting with more ‘churn’ and resultantly increased turnover and void times incurring higher costs. The increased ‘churn’ was seen as particularly problematic given the seasonal nature of some rental markets:

‘It is being abused... One landlord has had three tenants in six months. Another had a tenant in on the Friday who moved out on the Monday saying that they didn’t like the way it had been decorated... Rental properties are being treated like Airbnb’. (Letting Agent)

The interaction of the removal of a minimum term with the seasonal nature of letting was most apparent for landlords who provide student Houses in Multiple Occupation (HMOs). The key challenge identified was that if students all move out before the end of the academic year, then it is “*virtually impossible*” to let it again until the start of the next academic year, causing significant voids over the summer period. This view was also supported by some of the wider stakeholders consulted:

‘The student market has been totally neglected and landlords and agents dealing almost primarily with these properties are struggling. There is far too much uncertainty at the moment and the tenants know now in our area that they really can blackmail us by holding their end dates, knowing full well that they are not going to be staying and that subsequently we cannot advertise.’ (Letting agent).

Interview participants’ opinion on the impact of the changed grounds for eviction were very mixed, and there was some evidence of misunderstanding of the grounds in the interviews. Only a few participants regretted the loss of the ‘no-fault’ ground and many considered the grounds to be fairer:

‘the scrapping of the no-grounds eviction was a good thing. They were rarely used, but sometimes landlords would have got annoyed about a minor thing...say, a complaint about a fridge being broken... and they didn’t want to deal with it and then served an NTQ [Notice to Quit].’ (Letting Agent)

However, there were strong negative opinions expressed by some landlords around the grounds to evict as a result of arrears, stating these were unfair for landlords and caused considerable, cumulative loss of earnings. This relates to the Ground 12 where tenants can be evicted if there have been arrears for at least three consecutive months and at least one month’s rent in total is owed on the day of the Tribunal hearing. This was also a theme in discussion under the First Tier Tribunal (see chapter 8). As one landlord explained:

‘Tenants know that they can miss two months’ rent before anything can happen, then in the third month they pay rent, then don’t pay rent for a while, then just as being taken to court pay rent again... These things are always abused.’ (Landlord)

It should be noted that some landlords interviewed had not yet had direct experience of PRTs, although they still provided an opinion on them, with negative opinion often formed through experience of other landlords and reading landlord media. This combined with the fact that the LLA survey showed a high level of ‘no impact’, and that there was still a significant proportion of SATs at the point of the survey (44% across all landlords and letting agents), suggests impacts of the PRT are yet to be fully experienced by many landlords and a few letting agents.

Joint tenancies

One area highlighted through interviews with landlords, letting agents and wider stakeholders was the apparent unintended consequences of the legislation in respect of joint tenancies. Under the PRT, joint tenants cannot end their tenancy without ending the tenancy agreement of all other joint tenants - unless they find another tenant to take over their joint tenancy with the agreement of the landlord. According to some stakeholders, the original intention was to avoid homelessness, but there have been unintended impacts, particularly problematic for the student market, and other sharing households. The impacts identified were:

- Joint tenants being unable to end a joint tenancy (for a number of reasons such as affordability issues, changes in personal circumstances or cases where there had been a relationship breakdown with other joint tenants);
- Joint tenants who find their tenancy in jeopardy (due to no fault of their own) when another joint tenant wished to break the agreement; and
- Landlords left with arrears and void properties as a result of broken joint tenancies.

Some examples of ‘workarounds’ from landlords were provided, including reducing the rent paid by the remaining tenants, particularly in larger shared lets, so that tenants could remain (affordably) and landlords did not have to find new tenants or experience a long void (particularly in the student market). This ‘oversight’ appears to be counter to the intention of the new tenancy regime increasing flexibility for tenants.

Summary and conclusions

In examining aspects of security of tenure and impacts of the PRT, knowledge of the new regime was explored alongside length of tenure, tenants experience of security of tenure – real and perceived, and landlord and letting agent opinion of the PRT.

The vast majority of private tenants had a signed lease, but a significant minority had an informal arrangement with their landlord and – despite the informality – they had as good if not better tenancy experience.

It is clear from both the tenant and landlord surveys that a significant proportion of tenancies are still SATs. However, there is also a clear lack of awareness amongst tenants about exactly

what their current tenancy is, or their rights. More work is needed to raise awareness of rights as a starting point to empower tenants and increase their access justice.

Length of residence in private renting is relatively short, confirming the transitional or stop-gap function of the PRS for most. However, the average length of tenancies is increasing. The level of confidence amongst tenants to stay in their tenancy is also striking, and it is clear most tenants do feel secure in their home to the extent that they need and want, regardless of the type of tenancy or their knowledge of rights. Knowledge of legal rights was less prevalent as a source of confidence and, after affordability, trust in the landlord and secure employment. The minority that feel less secure are those with less financial power – those living in deprived areas, on lower incomes and housing benefit.

In terms of the PRT impact on landlords and letting agents, at this stage most are indicating 'no impact' or a minority suggest a negative impact. The 'no impact' may reflect the fact that SATs are still in use, and it should also be noted that the opinions of some landlords are based on their perception as heard through the market, rather than their actual experience of the PRT. This may suggest the impacts of the PRT are yet to be fully experienced by landlords and letting agents. A minority of landlords and agents were positive about the increased security, and simplicity of the PRT. Negative opinion was much higher for the open-ended aspect, and the reduced 28-day notice period for tenants, and with these two combined was strongly argued to cause problems of 'churn' – increased turnover and voids, which seemed to be more acute in student and more seasonal markets. There is little concern about the loss of the 'no-fault' ground. There appears to be significant problems for landlords and discontent around the eviction Ground 12 - relating to rent arrears and the increased length of time it takes to achieve eviction for rent arrears (if at all), resulting in considerable loss of earnings.

The way in which joint tenancies are dealt with in the PRT is considered problematic and appears to have been an unintended consequence of the legislation. This has resulted in lack of flexibility, particularly for the student market. One conclusion would be the need to reconsider the HMO/student market as a distinct or special case in the legislation.

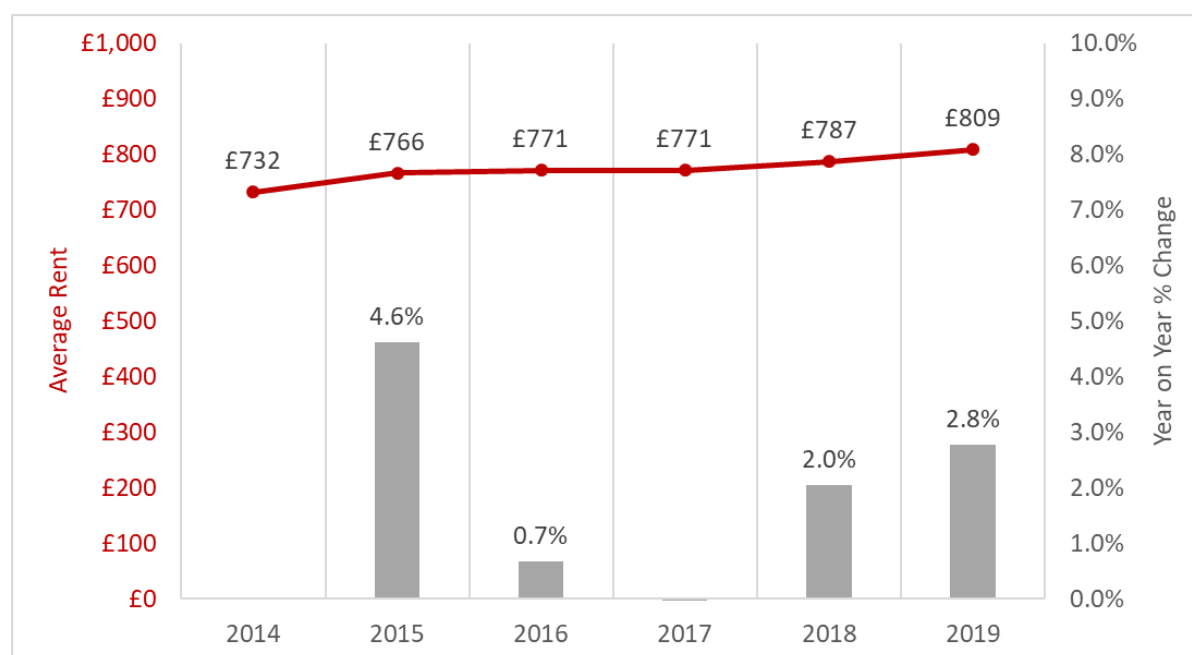
6. Rents and affordability

This chapter assesses whether the legislation has had an impact (to date) on preventing excessive rent increases. It examines the affordability of rents in terms of rent levels, rent increases and tenancy deposits, and explores legislative limitations of addressing rent affordability. It should be noted that data on actual rents across the whole of the PRS housing stock in Scotland is not publicly available. This is a limitation for any study of rents and affordability. The research has therefore relied on analysis of secondary data of advertised rents, the tenant and landlord quantitative and qualitative research, as well as wider stakeholder consultation.

Rent levels

Data from Citylets suggests that average advertised rents for Scotland have seen an upward trend between 2014 and 2019, with proportionately greater rent increases in larger properties. Rental growth in the two years prior to the policy change (i.e. from 2015 to 2017) was 0.7% while between 2017 and 2019 it was 4.9% (Figure 9).

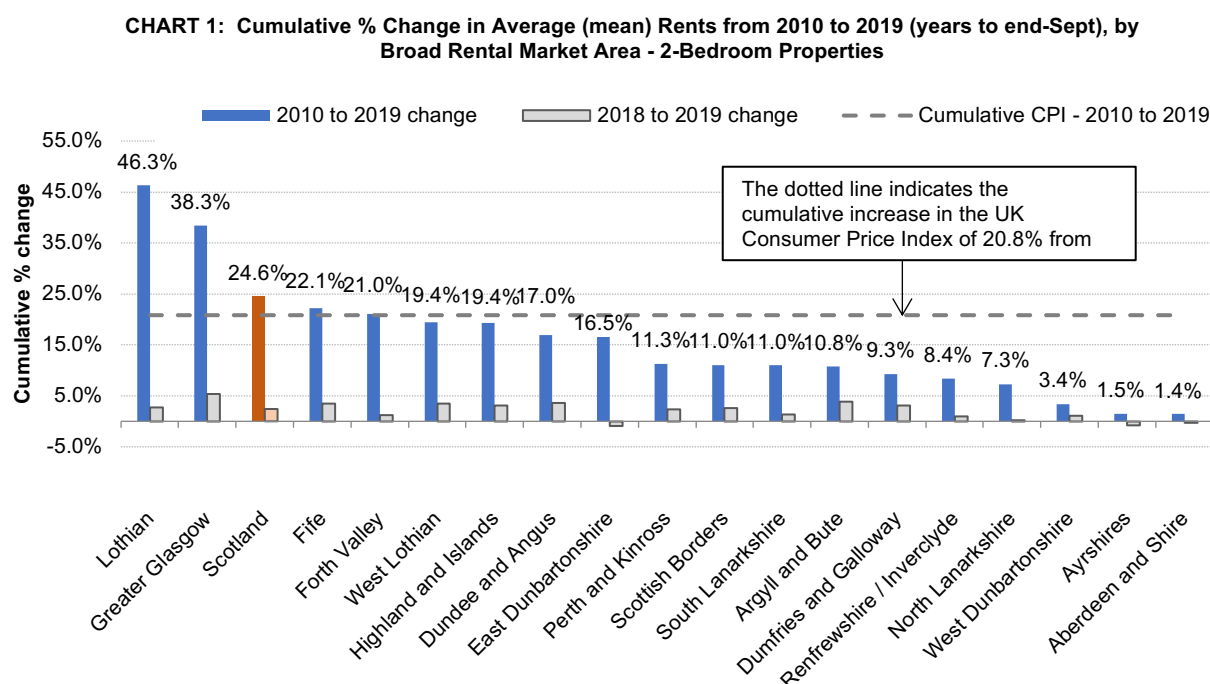
Figure 9 : Mean Average Rents and Year on Year % Growth in Scotland by Year



Source: Citylets

The Scottish Government also publishes data on private rents, based on data for Broad Rental Market Areas (BRMA), which are used to calculate the LHA. Scotland has seen an average level of rent increase in excess of the UK cumulative CPI (20.8%) from the years 2010 to 2019, with highest rent increases in the Lothians, Greater Glasgow and Fife. Rent increases have been particularly modest in Aberdeen and Aberdeenshire, across East, North and South Ayrshire and in West Dunbartonshire. Between 2018-2019, the Ayrshires saw an average decrease in rents by 7% while Greater Glasgow showed a 5.3% increase.

Figure 10: Trends in the average 2-bedroom property rents by BRMA (2010 – 2019)



Source: <https://www.gov.scot/publications/private-sector-rent-statistics-2010-2019/>

This data suggests that, so far, there is little evidence of the legislation contributing to reduced rent increases, although it is difficult to isolate policy impact on rent increases given there will be many varying local demand and supply factors at play, as well as other broader changes such as fiscal reforms that will also impact on the market. It is also noted that the figures above show advertised rents, which do not provide the whole picture of rents, with lower rents reported in the tenants survey.

From the Rent Better Tenants Survey, almost four out of five private tenant respondents (79%) said that they paid the rent that was advertised for their property while 8% said that they had agreed a lower rent. Negotiating a lower rent was more common in more pressured rental markets – the areas with higher than average proportions of tenants saying they agreed a rent below the one advertised included 22% of tenants in the Lothians and 17% in Edinburgh.

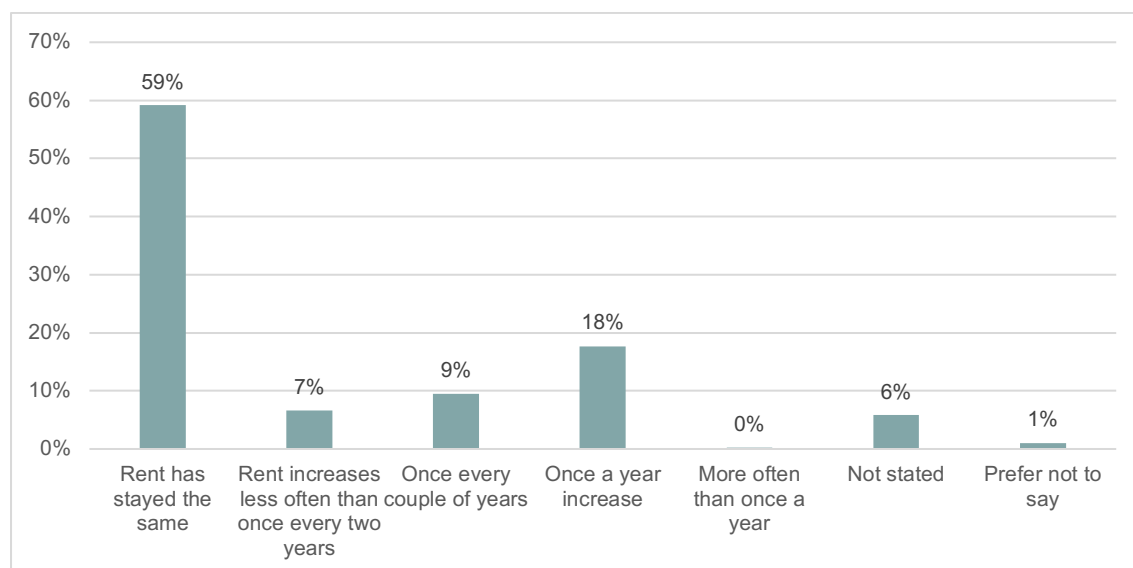
Rent Better Tenants Survey respondents reported Edinburgh and the Lothians as having the highest median rents, at £690 a month and £640 a month respectively, while some of the other areas where tenants more commonly agreed a lower rent were not higher rent areas – e.g. Renfrewshire and Inverclyde with a median rent of £425 a month and Southern Scotland with a median rent of £380 a month. It is noted that rents reported in the Rent Better Tenants Survey tended to be lower than the Citylet rents (indicating the greater number of lower income households in the survey compared with the Citylets market).

Rent increases

Almost 60% of tenants responding to the survey said that their rent had not increased since they moved in, and 18% said the rent increased annually. Just under one in ten (9%) said rent went up once every couple of years and 7% said it was less frequent than this. A very small

proportion (less than one per cent or two respondents) said the rent had been increased more often than once a year (Figure 11).

Figure 11: How often the rent has increased since the tenant moved in



Source: Rent Better Tenants Survey 2020

Of the 59% of all tenants who had not ever had their rent increased –

- The majority were more recent tenants - 39% had been resident for less than a year and 21% had been resident for between 1-2 years.
- 19% of those who had not had a rent increase had lived in their property between 2-3 years, 13% between 3-5 years and 8% for over 5 years.

Clearly, a significant proportion of tenants benefit from renting properties where the landlord does not seem inclined to increase the rent. However, most of those whose rents had not increased (79%) had a signed lease that they had a copy of, so it was not just more informal arrangements where rents were not increased. 75% of single parents said their rent had stayed the same, as did 85% of those aged 18-25 years. This appears correlated to shorter periods of residence rather than occupant characteristics, with average incomes similar among those not having a rent increase and those whose rent increases once a year.

Of the 18% who reported an annual rent increase, 33% had been resident between 1-2 years, 27% between 2-3 years and 21% between 3-5 years. In this respect, annual rent increases are more typical among tenancies that are more established (which we would expect). The oldest and youngest tenants less commonly reported annual increases. For those aged 18-24, they tended not to have had a rent increase while older tenants aged tended to have less frequent rent increases. Again, this appears related to length of residence.

Only 12% of tenants renting for five years or more reported an annual rent increase, compared to 18% overall. These were often tenants in rural areas, with 23% of tenants in rural areas saying that rents increased less frequently than once every two years.

Comparing the experiences of those on a PRT compared with a SAT, 70% of those on a PRT said their rent was the same as when they moved in, compared with 58% of those on an SAT. 18% of those on a PRT and 17% on a SAT had an annual rent increase. However, the PRT has much shorter history from which to draw conclusions on rent increases by tenancy type at this stage.

A variety of approaches to applying rent increases were apparent from the Landlord and Letting Agent Survey. The single most common approach overall was to increase rents only when the tenancy changed (this was the case for 32% of respondents overall and 36% of landlords, but only 17% of letting agents). Letting agents were much more likely to say that they increased rents once a year (34% compared to 13% of landlords) or once every couple of years (39% compared to 23% of landlords). The number of properties that landlords have also has some bearing on how frequently they increase rents. Those landlords with more than 10 properties were significantly more likely to apply rent increases annually (20% indicated that they do so compared to 13% of landlords overall).

It is worth noting from the landlord survey that rent increases were considerably more likely than average to be applied frequently in Edinburgh, with 30% of respondents indicating that they applied rent increases annually and a further 31% that they did so once every couple of years. By contrast, only 9% of landlords operating in Grampian and 8% of landlords operating in Ayrshire indicated that they applied rent increases once a year.⁸

The PRT limits the increase of rent for tenants to once a year, with the policy intention of this measure being to prevent landlords from increasing the rent more frequently than that. It is notable that none of the landlords interviewed saw this as a negative impact of the new tenancy, and only one mentioned it at all, explaining that it legitimised a once a year increase, and subsequently put one tenant's rent up by 2% where they said they would not have done so previously. The interviewee commented that it:

'Felt like permission was given...thanks a lot for the pay increase!' and

'...This seems like an unintended mistake on the Government's part... they didn't do their research.'

This qualitative evidence, corroborated by interviews with wider stakeholders suggests that the annual limits on rent setting might have had the perverse effect of actually increasing rents more regularly than the previous common practice of increases only on change of tenancy, or when there had been some investment in the property.

Deposits

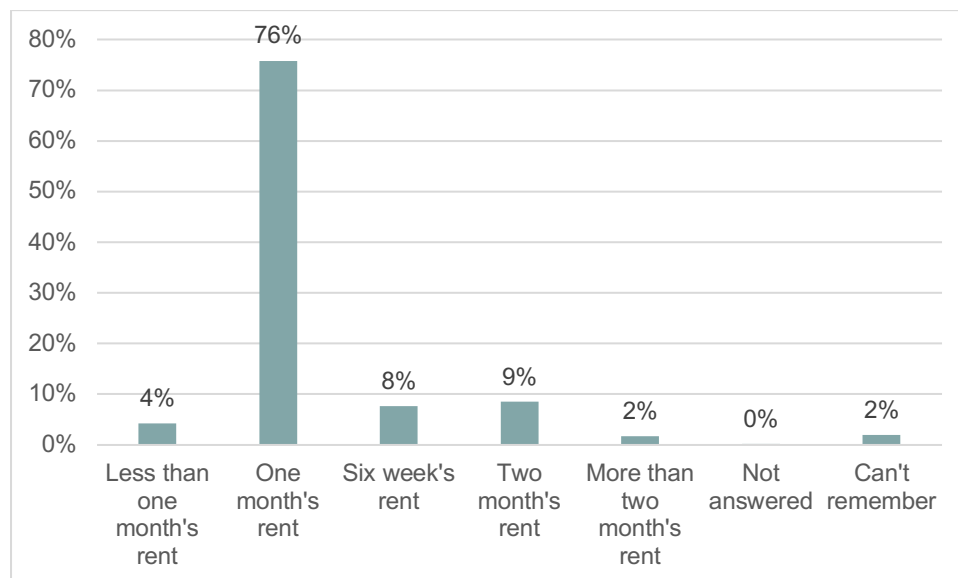
The majority of tenants (71%) said that they had paid a deposit when they first moved into the property. Tenants in rural areas were less likely to pay deposits – only 56% said they had, compared with 74% of tenants in urban areas. Those paying deposits most commonly paid a month's rent in advance, with over three-quarters (76%) of those paying deposits saying this

⁸ We have commented only where there were 20 or more respondents in each category.

amount. One in five tenants paid more than a month's rent – 8% paid six week's rent, 9% paid two month's rent and 2% even more than this (Figure 12).

In line with tenant responses, only 4% of landlords and 1% of letting agents surveyed indicated that new tenants are not required to give a deposit. Most commonly, one month's rent was sought (this was the case amongst 71% of respondents overall) and 30% of letting agents indicated that they required six weeks' rent.

Figure 12: Amount of deposits (among those paying a deposit)



Source: Rent Better Tenants Survey 2020

The reasons for requiring a tenancy deposit in excess of one month's rent varied. One landlord who has several tenants claiming benefits commented:

'I ask for just over a month if I'm doing it directly, but an agent I have used as a finding service will ask for six weeks. If someone's on benefits, that's a lot.'

Another landlord, who had a very negative view of the impact of the PRT on the risks borne by landlords, was increasing the amount of deposit they ask for as well as putting up the rents:

'The deposit varies. It would've been six weeks before but now [after introduction of PRT] it's up to two months depending on the circumstances of the person letting.'

Deposits should be lodged in a tenancy deposit scheme – through Letting Protection Service Scotland, Safe Deposits Scotland and my deposits Scotland. Almost half (45%) of tenants (51% resident for less than 2 years) who had paid a deposit said their deposit had been lodged in this way, 39% were not sure whether it had been or not and 16% said it had not. Similarly, only 4% of landlords indicated that they did not use a Rent Deposit Scheme (all such respondents were from landlords rather than letting agents). The most commonly used scheme was SafeDeposits Scotland (used by 66% of landlords and 84% of letting agents).

Most landlords were in favour of the deposit schemes and, overwhelmingly, stakeholders interviewed in the study considered that Tenancy Deposit requirements had been one of the

most successful changes in to PRS in recent years. Many noted that it has addressed a previously common complaint amongst tenants about withholding deposits.

Although generally viewed positively, minority views suggest that deposit levels may increase as an unintended consequence of changes to the PRT, as a means of mitigating the risk of rent arrears experienced as a result of Ground 12.

Rent affordability

Rent affordability is an important factor in being able to access a tenancy, with rents being too high/the lack of affordable properties mentioned by 53% of tenant respondents who found it difficult to find somewhere to rent (11% of all those interviewed). Affordability issues were strongly correlated with supply and demand tensions (as expected). There not being enough properties available and lots of people competing for properties to rent were other common difficulties (mentioned by 45% and 37% of those who had difficulties, 9% and 8% of tenants overall).

When asked what proportion of their income they spent on their housing costs, 12% of tenants surveyed said this was less than 20% of their income and 30% said they paid between 20%-30%. This means that just over half of tenants reported paying housing costs⁹ of over 30% of their net income:

- 22% of tenants said between 30%-40% of their net income goes on housing costs
- 21% said it is between 40-50%
- 8% said it is over 50%.

Scottish Household Survey (2018) data analysis also showed an estimated 35% of private renters paying more than 35% of their income on rent (though the survey notes it is not designed for detailed analysis of income and rents).

Despite these findings on the amount of income spent on rent and housing costs, just 11% of tenants in the Rent Better Tenants Survey said that their rent was difficult to afford to pay, with 23% saying that it was neither easy nor difficult to pay. Therefore, even allowing for some misreporting in the Rent Better Tenants Survey of income or rents, this suggests that private tenants expect to pay a significant proportion of their income in rent.

The Rent Better Tenants Survey showed that single parents and large adult households, as well as black and minority ethnic households were more likely to be paying large proportions of their income on housing costs, with single parents most commonly having difficulties being able to afford the rent.

Despite the survey findings around apparent general affordability, a more nuanced picture appeared from participants in the qualitative research with many reporting financial difficulty, at some point, in their experience of private renting. Single persons, single parents and those

⁹ The Rent Better Tenants Survey question asked the proportion of income spent on housing costs including rent, utilities, council tax and other regular household bills.

in receipt of benefits more frequently reported difficulty with affordability than other groups, and of these, equally reported by both urban and rural renters. The impact of financial pressures from renting had considerable consequences for the ability of households to save over the longer-term and caused considerable worry for families lacking financial stability. For example, one single parent explained the pressure to prioritise rent over other demands:

'I am living month to month and not able to save – everything goes to rent. I have two boys and the older they get the more expensive it is to clothe and feed them.'

Similarly, another single parent expressed concern at wages not keeping pace with the rising cost of housing:

'When you pay for the rent, bills, council tax, it is hard and the cost of electricity just seems to go up and up and up. I have a wee girl, so it is just us managing'.

Letting to lower income households

Accessing private renting can be a challenge for households on Housing Benefit, with 44% of landlords and letting agents saying that they did not rent to households on Housing Benefit. Almost 1 in 5 tenants (17%) who had difficulty finding a property said this was because landlords did not accept tenants on benefits. This impacted single parents and single people, in particular.

One participant suggested that as a single parent she was viewed as 'risky' compared to other applicants who did not have children:

'I must have viewed about 30 properties... there were some places that just didn't want children. There were 3 or 4 that I missed out on because someone [without children] had got in there before us and offered more money'.

There were some notable geographical distinctions in response to providing tenancies to those on benefits. Those operating in certain areas were much more likely than average to accept tenants on this basis (e.g. 72% of respondents operating in Dunbartonshire, 68% in North Lanarkshire and 55% in South Lanarkshire did so). Conversely, only 19% of those operating in Edinburgh indicated that they accepted tenants on benefits. In higher demand/more pressured markets, access to private renting for those on benefits is particularly difficult. This is also confirmed by examining DWP data, which showed the large differences in proportion of all private renters on housing allowances by each local authority – from low of 11% in Shetland to high of 85% in North Ayrshire (See Appendix 2).

This was confirmed by qualitative interviews which showed that for some landlords, having tenants on a low income is largely dictated by the location of their property or properties, and was a particularly strong factor for interviewees that had properties in several parts of the west of Scotland:

'You would find it hard to find tenants if you excluded people on Housing Benefit or Universal Credit.'

and

'I've never said I wouldn't take benefits as this is unrealistic in Greenock. Even if they are working, they will probably be on some type of benefit.' (landlord)

The qualitative research with landlords also highlighted negative perceptions of tenants on benefits, as well as examples of negative experiences letting to people on benefits. In particular, the challenges of the benefit system and direct payment to the tenant in particular was highlighted as a risk:

Benefits being paid directly to tenants rather than to me as a landlord has been catastrophic. Four of eight tenants have simply not paid me. Before this arrangement, I never evicted anyone. Since it - and I only have four flats - I have had to evict five people in three years. I am thousands of pounds out of pocket. (landlord)

Since 2018 in Scotland, Universal Credit recipients can choose to have their housing costs paid directly to their landlord¹⁰. Only two out of 29 interviewees demonstrated an awareness of this, both of whom would accept benefits claimants.

In conclusion the prevalence of letting to tenants claiming benefits is very much driven by the type of housing market, and many landlords also regard tenants claiming benefits as risky. There is apparent limited awareness of the scope to receive payments directly to the landlord, but also experiences of difficulty in navigating the benefits system for landlords. This lack of availability, alongside the difficulties experienced, for example by single parents and disabled people in accessing renting due to being on benefits suggests that further exploration of equalities and possible discrimination may be useful in future waves.

Addressing excessive rent increases

One of the policy aims of the 2016 Act was to limit excessive rent increases through Rent (RPZs). There is also an existing power to make applications to the Rent Officer to limit a rent increases - there is no change in this respect from the previous Assured/Short Assured Tenancy regime other than appeals being heard by the First Tier Tribunal¹¹. In such cases the Rent Officer calculates the market rent for the property and compares the rent rise to that rent.

Many stakeholders highlighted affordability problems in some areas and the inability of the current legislation to address this issue. One participant was disappointed to find that the objective of reform was largely concerned with controlling *rent increases* rather than overall *rent levels*. Another stakeholder explained that a focus on rent increases was particularly unhelpful for financially marginal households, stating that:

'The big issue for people on low incomes is going to be affordability - there's nothing really in the [new] system that makes it more affordable or not.' (Stakeholder)

A few stakeholders also discussed the relationship between affordability and quality, arguing that these two aims were related, and that while wider reforms have sought to address quality,

¹⁰ <https://www.gov.scot/publications/universal-credit-new-choices-people-living-scotland/>

¹¹ Claims for rent adjudication still go to the Rent Service Scotland, but the main difference being that appeals are now considered by the First Tier Tribunal (Housing and Property Chamber) rather than the abolished Private Rented Housing Panel.

the PRT has not achieved affordability and in their view inevitably quality is compromised for affordability.

In line with the general criticism from stakeholders that PRS reform has done little (or nothing) to improve affordability within the sector, RPZs were seen as having failed entirely. According to stakeholders the key problem with RPZs is that reliable data is not available to support the case for designation:

'The criteria for creating a Rent Pressure Zone includes data that does not exist and that no one can afford to collect, or no one is willing to pay to collect'. (Stakeholder)

Some participants also levied criticism against rent increase cap arguing that the RPZs (even if achievable) would only impact upon the rate of rent increase rather than overall rent level, therefore rendering them 'pointless' - as one participant claimed:

'[RPZs] ...they're unusable, both for data reasons, and also because there's no real purpose.' (Stakeholder)

Based on Scottish Government data, rent adjudication from January 2018 continued slowly, with the rent adjudication register¹² including a small number of cases in the first two years – 32 PRT cases by March 2020. This means it is difficult to gauge the difference in impact of access to justice on rents among PRT cases. Although the policy has only been in place for two years, and many people would not yet have had a rent increase, this seems a very modest number of cases to be adjudicated.

Where cases have come to adjudication, they have tended to be for larger properties, more commonly in Edinburgh and Glasgow. In the majority of cases, the adjudication decision has been that the rent is too high, typically by around 3% to 4%. However, there are a number of cases where the market rent has been determined to be higher than the market rent by more than 10%.

In conclusion, the legislation to limit rent increases appears to have limited impact, with only a small number of cases going to rent adjudication since December 2017 and as yet no Rent Pressure Zones have been implemented.

Summary and conclusions

Overall trends in rent levels suggest limited evidence of the policy (so far) protecting against excessive rent increases. Although tenants and landlords reported rent increases as being annual or less frequent, there was some qualitative evidence that the new legislation may have created perverse behaviours - encouraging landlords to consider more frequent rent increases than they would have historically done. Although policy around deposits is viewed favourably, a minority of landlords reported increasing deposits as a means of mitigating risks they viewed as inherent in the new tenancy, particularly around Ground 12 rent arrears.

¹² <https://www.gov.scot/publications/private-residential-tenancy-rent-adjudications/>

Rent affordability was a key factor limiting access to private renting, for low-income households, tenants from ethnic minorities and single parents in particular. Many tenants paid a significant proportion of their income in rent, while just over one in ten tenants described their rent as difficult to afford. Although this may indicate a general acceptance of rental costs, single people and single parents in particular spoke of experiencing significant financial difficulties. Putting together a deposit can also be a barrier to accessing private rentals, with just 5% of tenants using a Rent Deposit Scheme. Tenants with disabilities also had difficulties accessing renting, often citing being on benefits as a barrier.

The prevalence of landlords letting to private tenants claiming benefits is largely driven by the type of market. In higher demand/more pressured markets, access to private renting for those on benefits appears particularly difficult. In lower demand areas, landlords are more pragmatic and accepting of the need to rent to those on benefits, but nevertheless many landlords are still reluctant to risk renting to tenants on Housing Benefit. For many landlords there is limited awareness of the benefit system, and the scope to receive direct payments to landlords as a means of limiting the risk of rent arrears.

How to improve access to renting for vulnerable people on low incomes and benefits is an important issue for further exploration, considering equalities issues in greater depth.

There have so far been a modest number of rent adjudications in PRT tenancies – just over 30 cases between January 2018 and March 2020. Rent Pressure Zones mechanism appears to have failed in the policy objective of limiting excessive rent increases, which is mainly due to its evidential data requirements.

7. Experience of living and letting in the private rented sector

This chapter examines the experience of tenants living in the private rented sector, and the experience of landlords and letting agents letting properties. This relates to the research aims of understanding landlord and tenant conduct, and experiences for tenants living in the PRS under the PRT, compared to the Assured/Short Assured tenancy regime. This provides a baseline against which tenants experiences of living in the PRS may be assessed over time, considering any differences between the SAT and the PRT as the research progresses over the three years.

Tenants' satisfaction with the property and services

The Rent Better Tenants Survey showed that the vast majority of tenants were generally satisfied with their rented property – 92% of 980 tenants were either 'quite' or 'very' satisfied. This positive experience was also borne out when looking at specific elements of property condition – ease of getting around, general state of repair, quality of fixtures and fittings all had over 90% levels of satisfaction (generally evenly split between 'very good', and 'fairly good'). Energy efficiency, and the cost of heating the home was viewed less positively with only a third saying it was 'very good', and 10% said it was 'fairly poor' or 'very poor'. Overall, 5% of those on a PRT were dissatisfied compared with 1% on a SAT – this is 17 cases and 2 cases respectively however, so the difference is not likely to be statistically significant.

The Rent Better Tenants Survey respondents were asked how well their landlord or letting agent responded in a number of different service areas. Tenants said their landlord/letting agent responded well, particularly in relation to general contact, day-to-day repairs and ongoing maintenance and upkeep, with between 88% and 93% saying these were dealt with well. However, the proportion of respondents that stated services were dealt with 'very well' was lower than those that considered the property condition was 'very good' – suggesting lower satisfaction with services compared to the property itself.

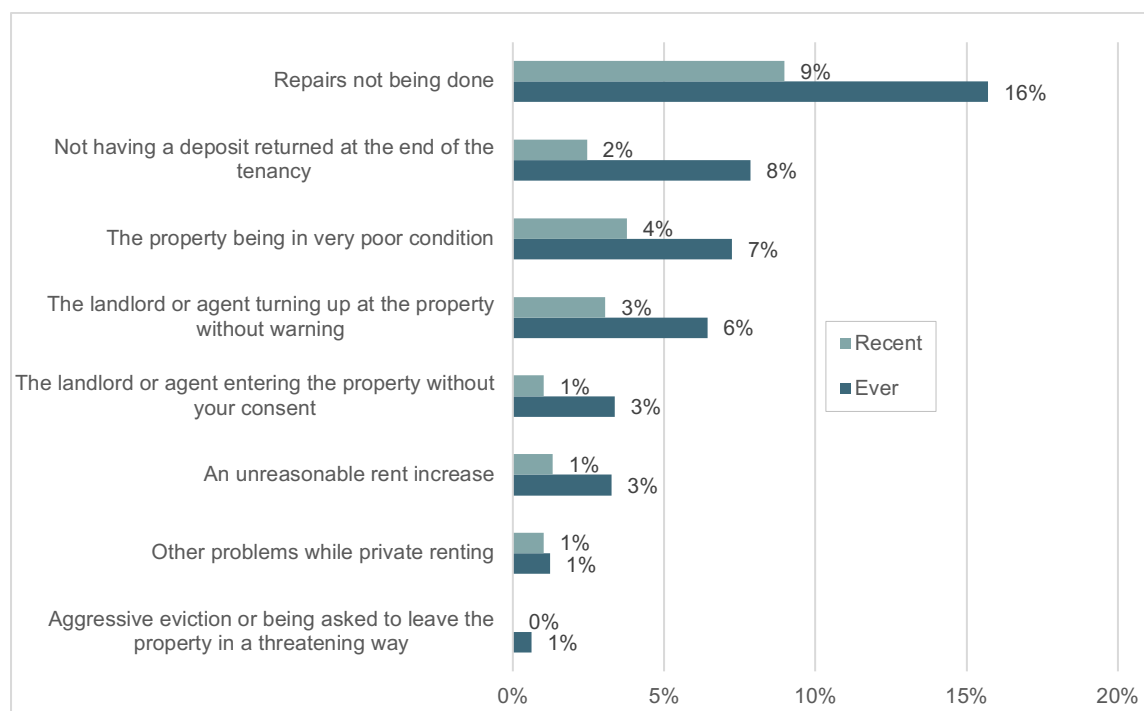
Tenants who reported having a PRT were more negative than those on an SAT in relation to property condition (albeit in small numbers as highlighted above) with the exception of energy efficiency, where SAT properties were judged more harshly. There were fewer differences on aspects of services, though, such as communication, complaints etc. Only between 2%-5% of tenants on PRT and SAT gave negative ratings on management issues.

Problems for tenants

When tenants were asked what their most common negative experience was, this was reported as repairs not being done, with 16% saying they had experienced this at some time while 9% had experienced this recently (within the last two years). Other issues were far less common (see Figure 13 below) and included deposits not being returned, agents turning up or entering the property without warning/consent, and unreasonable rent increases. However, while these issues were unusual, they were more common for certain types households. Families were more likely to have had issues with repairs, single non-pensioners and tenants with disabilities more commonly had issues with a landlord or letting agent turning up at the

property without warning, and renters that had moved into their property more recently were more likely to have had recent issues with property condition.

Figure 13: Issues tenants have ever experienced and experienced recently (in the last two years)



Source: Rent Better Tenants Survey

Qualitative interviews with tenants confirmed there had been many positive experiences of service from landlords. There was no clear distinction of experience between tenants with SAT and PRT tenancies, but there were where landlords were providing services directly (rather than through a letting agent) and had smaller portfolios. A few participants described those landlords that had taken a proactive role in not only fixing the repair, but also in mitigating the impact of the disrepair. For example, one participant explained that the landlord had given her £30 to offset the higher cost of heating due to a faulty boiler while he was organising repairs, remarking that 'he's quite caring' and another tenant described how the landlord took it upon herself to send out a plumber the same day, despite the letting agent stating there would be several days delay in someone repairing a boiler. This tenant questioned the value of letting agents:

'it was [the landlord] who did all the worrying, not the letting agent. You would wonder what she uses them for'.

For the participants that had experienced service problems, issues with repairs seemed to be the most distressing. In a few cases, participants described serious issues regarding gas safety and lack of hot water during winter months (including two separate examples from mothers with young children), which led to one forcing the issue:

'Nothing ever got fixed. The letting agent explained that it was the landlord that didn't want to pay - so we threatened to stop paying rent and were considering getting legal advice'.

Some participants reported having incurred great personal expense in undertaking repairs themselves, when the landlord had neglected to do so. For some, this was seen as a worthwhile investment to remain living in a home they loved. One single tenant who was unemployed provided an example of the compromise struck with the landlord through a reduced rent, in exchange for her contribution towards improvement:

'The flat hadn't been lived in for years and when I moved in it was in a terrible way. But we got there in the middle, both of us fixing it up - I mean it's not gorgeous, but it's getting there.'

A few participants complained that their landlord had turned up at the property without notice (which is a breach of the tenancy conditions). Although only reported by a small number of participants, the experience of a landlord gaining access to their home without prior permission and valid reason was deeply unsettling to tenants, particularly women living alone. A few different examples were provided of workmen or the landlord gaining access to undertake repairs without permission. One person thought repairs were being undertaken under false pretences, suspecting that the real reason her landlord appeared at unexpected hours of the day was to 'check-up' on her:

'He would turn up without warning, once or twice a month, doing work in the house. He was also coming to get his rent in cash even though I said I would put it into his bank account directly... I think, to be honest, he was checking was I a good tenant.'

There were also complaints from participants regarding unfairly withheld tenancy deposits, by the minority of landlords that did not participate in the Tenancy Deposit Schemes. It should be noted that participants whose deposits were protected in the Deposit Scheme widely appreciated the swiftness and fairness in which their deposits were returned.

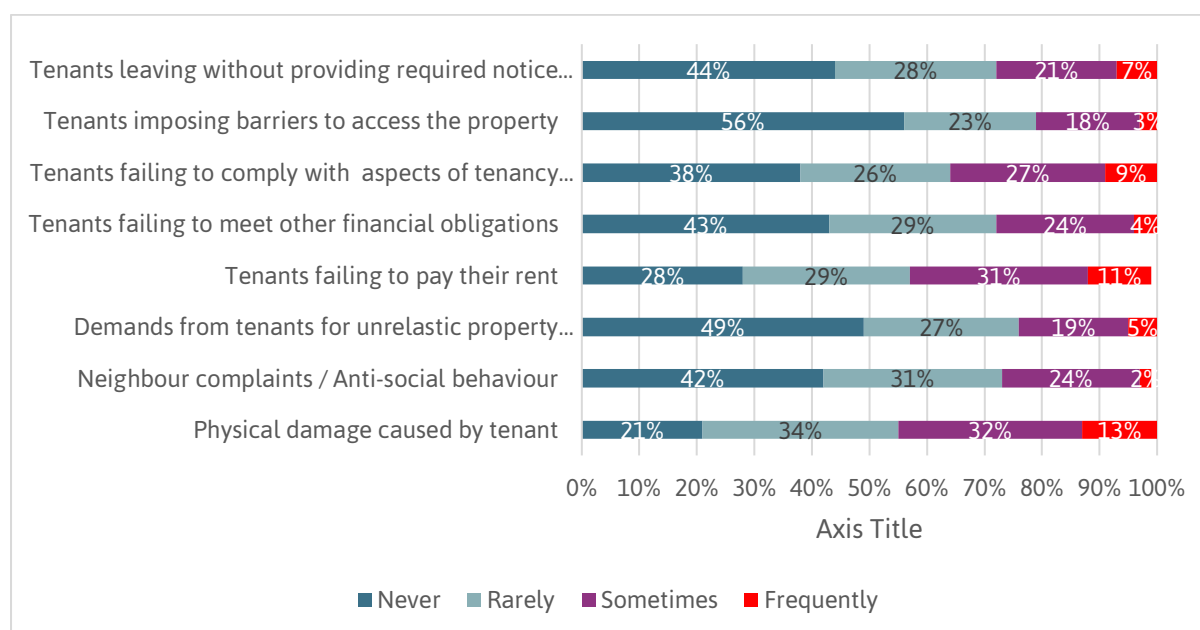
The in-depth interviews with tenants therefore provided evidence of contrasting experiences, suggesting a more nuanced picture of standards on property management and service provision when compared to the Rent Better Tenants Survey responses. There was no notable distinction between those on SATs and PRTs. Chapter 8 below discusses tenants' experiences of dealing with disputes, including experience of the First Tier Tribunal.

Landlord and letting agent experience of letting properties

Landlords and letting agents were asked in the survey what issues and challenges they had experienced in letting properties. This showed that, most commonly, landlords and letting agents never or rarely experienced these listed challenges for between 64% and 79% of cases. The exceptions were for problems with physical damage to the property and rent arrears where a lower proportion – over half (55%) of landlords/letting agents never or rarely experienced these issues, and under half (45%), sometimes or frequently, experienced these problems (Figure 14).

Comparing landlords and letting agents that had only PRTs, only SATs, and a mixture of PRT and SATs, there was no discernible differences with experiences with tenants, although it should be noted that for letting agents there is only a relatively small proportion where PRTs are in use across their whole portfolio.

Figure 14: Issues faced by landlords and letting agents when letting and managing properties



Source: Rent Better Landlord and Letting Agent Survey

Landlords and letting agents also took the opportunity to raise their concerns through open comments in the survey. The most common issue raised was around the shift in balance of rights between landlord and tenants caused by the change in legislation, also discussed by landlords in the in-depth interviews. Very strong views were held, with many complaining that the change in what they considered unfair favouritism for tenants, and the impact they felt this had in relation to conduct, illustrated by these examples:

'The tenants have too much power nowadays provided by the Scottish Government and Landlords are virtually helpless, their rights are getting trimmed with every new legislation, too much red tape and bureaucracy has been introduced and admin costs have become way higher due to this.' (Landlord).

'I have been a landlord for over 20 years and always try to ensure that my properties are presented and maintained to a high standard to ensure longer term occupants who are happy with their surroundings. More recently newer tenants have become very demanding and more "aware" of what their rights are - resulting in more hassle with the lesser items e.g. white goods minor maintenance of common areas, use of common areas etc.' (Landlord).

Other comments also repeated the theme of problems relating to physical damage to property and rent arrears:

'Have had tenants fail to pay the rent. Others flooding the flat and leaving it in a filthy state, requiring deep clean. Retaining the one-month deposit as agreed by Safe Deposit Scotland still left me thousands of pounds out of pocket to pay for cleaning and repairs to a bathroom which was brand new when the tenant had moved in the year before and then required replacing.' (Landlord).

While there were numerous similar comments, there were also a small minority who suggested they had very few challenges. For a few respondents this appeared to relate to positive relationships between tenant and landlord:

'I haven't had many challenges. I think this is to do with the fact that I keep a very good relationship with my tenants and I try to respond to anything they need done as quickly as I can. I keep in touch with them and if things like rent slip, I am sympathetic and usually come to an arrangement with them that is OK for both of us.' (Landlord)

Summary and conclusion

This chapter has explored tenants and landlord experiences of living in the PRS, and where possible has teased out any differences between PRT and SAT experiences.

Evidence from the Rent Better Tenants Survey suggested that tenants were generally satisfied with their property and the service received in the private rented sector. A more nuanced picture emerged through interviews with a minority of tenants experiencing poor service around repairs, and uncommon but very poor practice around unauthorised access to properties, both of which was distressing for tenants. There was no discernible, or statistically significant difference in tenant experiences between PRT and SAT tenancies.

Likewise, landlord and letting agents appeared generally satisfied with their experience of letting, with most challenges experienced around damage to property and rent arrears. However, many landlords and letting agents complained about the change in rights in the PRT, arguing that this had gone too far in favour of tenants and was punitive for landlords.

There were clear signs that landlords who were proactive and nurtured good, close relationships with their tenants reaped rewards for both the tenant and landlord.

In conclusion, although tenants are generally positive about their experience of renting and landlords generally positive about experiences of letting, there does not yet appear to be clear evidence of the beneficial impacts of the PRT on these experiences.

8. Access to justice

This chapter explores tenants' and landlords' experience of disputes and access to justice including experiences since the change in civil cases for the PRS moving to the First Tier Tribunal (Housing and Property Chamber).

The First Tier Tribunal approach

The First-Tier Tribunal (Housing and Property Chamber) (the Tribunal) system is now the main vehicle through which tenants and landlords access justice in the PRS in Scotland. From 1st December 2017, most types of legal applications about private sector tenancies have been dealt with by the Tribunal rather than the previous system of a combination of the Sheriff Courts and the PRHP. From 31st January 2018, it also received applications relating to the registration of letting agents. The Tribunal has a very wide jurisdiction, covering 51 different application types, involving the application of over 12 different statutes. The Tribunal's stated aim is to provide '*relatively informal and flexible proceedings*' to help resolve issues in the private rented sector¹³, with the Scottish Government's stated intention being to provide '*a more accessible and specialist decision maker for disputes...[which will] enable increased access to effective justice*'¹⁴.

The Annual Report from the Scottish Tribunals for 2018-2019 showed a breakdown of the caseload. For cases heard within the new private rented jurisdiction 51% of the cases are evictions and 37% were civil proceedings. Most of these civil proceedings were for payment orders - typically accompanied by an eviction application and usually concerned rent arrears and/or damage to rented property, although applications by tenants seeking damages were also included. This means that the majority of cases are brought by landlords rather than by tenants. The report also shows that while the majority of cases related to Assured/Short Assured Tenancies, the Chamber was just starting to see applications involving PRTs; they accounted for 23% of eviction applications and 22% of civil proceedings.

According to the legal housing expert consulted for this research, the Tribunal model is very different to the Sheriff Court approach, designed to be 'inquisitorial' in nature compared to the traditional Courts' adversarial approach. Once an application is received by the Tribunal, there is an initial sifting process which passes each case through a specialist legal member to check that notices have been served properly. At this stage the Tribunal may choose to investigate and inquire into matters, on its own initiative. There is no equivalent to this in the Sheriff Court where adjudication is limited only to the specific dispute raised in the claim, and it is up to the defender to spot any errors and persuade the court that the case should be dismissed. Applicants and defenders can attend hearings, and once complete an order is not issued until the period for appeal against the order has expired which is one month. The regulations also require that nearly all decisions are issued in writing, with a statement of reasons which are all publicly available. This means the Tribunal only has the ability to go through a fraction of

¹³ <https://www.housingandpropertychamber.scot/home>

¹⁴ <https://news.gov.scot/news/housing-disputes-addressed>

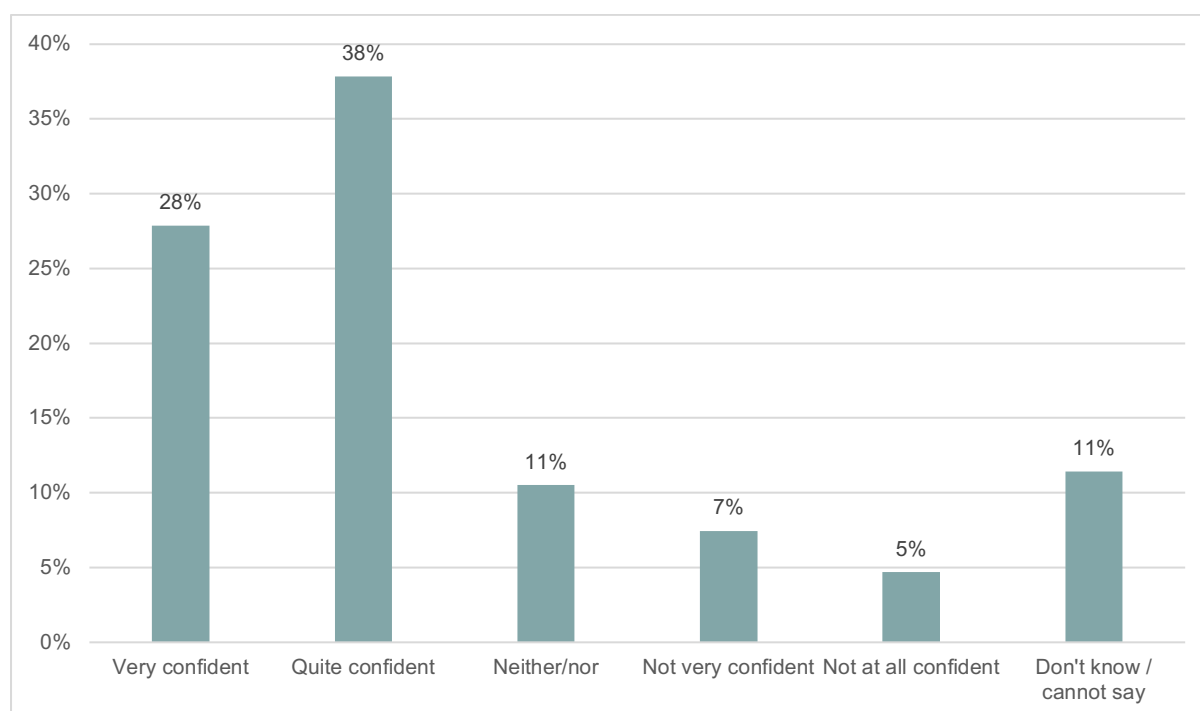
cases the Sheriff Courts can do. This was illustrated as the Tribunal typically getting through three cases a day, while a Sheriff could get through 40 or more a day.

Tenants' confidence in raising disputes

Chapter 5 above discusses the survey and qualitative evidence around formal and informal leases, the type of tenancies that tenants are on with many still on SATs, and the fact that there is generally very low awareness amongst tenants about their rights. Chapter 7 outlines tenants' experiences of living in the PRS, confirming that most were satisfied with their home and service, and for the vast majority of tenants, landlords and letting agents dealt with tenancy issues well. For those few that had bad experiences these related mainly to repairs and the condition of the home, and in a very few cases non return of deposits, entry to the property, and rent increase issues. The following sets out tenants' confidence in raising, and experience with disputes.

The Rent Better Tenants Survey showed that across the tenant sample, two-thirds of tenants said they would be confident (38% quite confident and 28% very confident) in challenging their landlord or letting agent. A significant proportion – 22% – were neither confident nor not confident, or didn't know whether they would be confident to challenge their landlord, letting agent or the owner. Those who were less confident in dealing with disputes were those with lower incomes, those who had been resident for less than two years, tenants in urban areas, tenants with disabilities and tenants from black and minority ethnic groups, younger people, those in full-time education or part-time work. Older, longer-term residents, those in rural areas and those in full-time work were more confident in dealing with disputes.

Figure 15: Confidence challenging the landlord/letting agent/owner



Source: Rent Better Tenants Survey

Despite this reported confidence, the survey showed that only 20% of tenants that experienced problems with their tenancy, actually went on to raise this formally in some way with their landlord or letting agent (or 6% of all respondents overall – due to the small proportion actually experiencing problems that had to be addressed). Those that did complain tended to try to resolve the issue directly with the landlord or letting agent first, although an equal number also sought legal advice. Other less common options included contacting the Citizen's Advice Bureau, the local council, or least likely contacting police. A few just decided to leave the property.

These findings were confirmed through the qualitative interviews with examples of successful intervention using legal advisors, advice agencies or local councils to resolve repair issues or recovering deposits. While the interviews confirmed tenants' low level of awareness of their rights, there was also generally quite high levels of trust that their landlord would 'do right' by them, and if not, there were assumptions that there would be protections within the system which they could access. As illustrated by one tenant:

'If I had an issue I would have no problems going to [an advice agency] and see what they say ... though, I think if I knew the information already I would be more confident if something did happen'.

Most participants had little or no awareness of the Tribunal system, but even those few that were more aware explained that their first port of call would be an advice agency:

'I know what to do if I have a dispute with the landlord - you withhold your rent and go to an agency to help you. I have heard of the Tribunal, but first I would go to a local organisation that helps with private renting issues'.

However, the importance of maintaining positive, trusting relationships with landlords was a strong theme from the tenant interviews. Keeping these relationships was a key driver in there being little appetite from many tenants for lodging formal legal complaints. Some respondents explained it would be too damaging to the tenant landlord relationship and would be 'more trouble than it was worth' - for a range of different reasons including overall satisfaction (despite a specific complaint) and desire to continue living in their current home, particularly in smaller communities:

'I would never raise a complaint with the Tribunal – firstly, it's like a social hornets' nest here, you can't go making official complaints against local folk without paying the price for that. And secondly, he [landlord] has been very reasonable with me otherwise, I think that would change if I did something so drastic'.

The importance of a proactive, person-centred landlord approach, most often provided by one property or small portfolio landlords, were exemplified by tenants and landlords. Examples included landlords that had compensated for repairs (when not legally required), agreeing payment plans for tenants experiencing financial difficulties, or in a few cases using mediation to resolve matters.

Awareness and experience of the First Tier Tribunal

Tenants

The Rent Better Tenants Survey respondents showed that after two years of the Tribunal's existence, there was little tenant awareness or experience of the First Tier Tribunal - 32% awareness, and less than 1% direct experience of it.

The qualitative interviews explored the experience of the Tribunal with six private tenants – one had a PRT and the other five had SATs. Summary case studies are included in Appendix 3. The purpose of this baseline analysis is not to examine the Tribunal decisions, but rather to understand both tenants' and landlords' perspective on the Tribunal process more generally and its accessibility.

The tenants' experiences involved three cases where tenants were challenging rent increases (one of which was successful and two unsuccessful), two that were challenging withheld deposits (both successful), and one which brought a Repairing Standard application (successful). Only one of these applicants had the support from a specialist advice agency throughout the course of the application, with the others managing the process themselves.

The strongest theme coming through these interviews was the marked difference in experience between those tenants that did not have professional advisory support compared to the one that did. Although it is difficult to come to a definitive conclusion since only one participant out of the six had legal assistance, there was a striking difference between the cases. The tenant with legal advice seemed to have had an easier time accessing justice and felt that they received a fair hearing. In contrast, the other cases which did not have specialist assistance were less satisfied with the outcome, felt the experience was daunting and intimidating and that they left the process feeling like their side was not fully heard, and that the decision was not fully explained or justified. This conclusion is illustrated by the examples below.

Most of the tenants said they felt lodging a complaint at Tribunal was not an accessible process:

'When the letter came about the decision, again so much paperwork and all legal jargon, it was not an easy read. I feel now with this you have nowhere to turn to. No one at the Tribunal said anything really, just that was the decision and that is that.This was the first time I challenged this and I don't think it is as easy as it should be. (Case 1).

'The paperwork is quite a lot, and ...when you get the decision it is a lot of paperwork too and you have to go through all of that, I think that could be a lot clearer. I just have stopped caring about it all now. I feel let down (Case 2).

'[I'm] ok with that type of thing [lodging complaints] because I am quite confident, but that might be intimidating for others and mean that they hold back from saying what they want to ...I could imagine for other people it might be daunting and off putting' (Case 4).

There was also a sense of asymmetry between tenants and landlords. One tenant explained that he had been advised that there was no need to attend, but he felt that in fact he missed a critical opportunity to challenge evidence that was offered by the landlord who did attend:

'I wish I had [attended] because when the notes came through and the Landlord had attended, I noted how the landlord had tried to say that the rents in the area are X amount, and he was comparing where we live to much better flats in the centre and just a totally different situation. If I had been there on the day I think I could have made it clearer that they are not comparable' (Case 3).

Unlike other participants, the tenant with specialist advice agency support seemed to have a better experience, although we cannot conclude as to whether this was about the case, or the process being easier by virtue of having that support:

'All pretty straight forward and not too onerous' (Case 6).

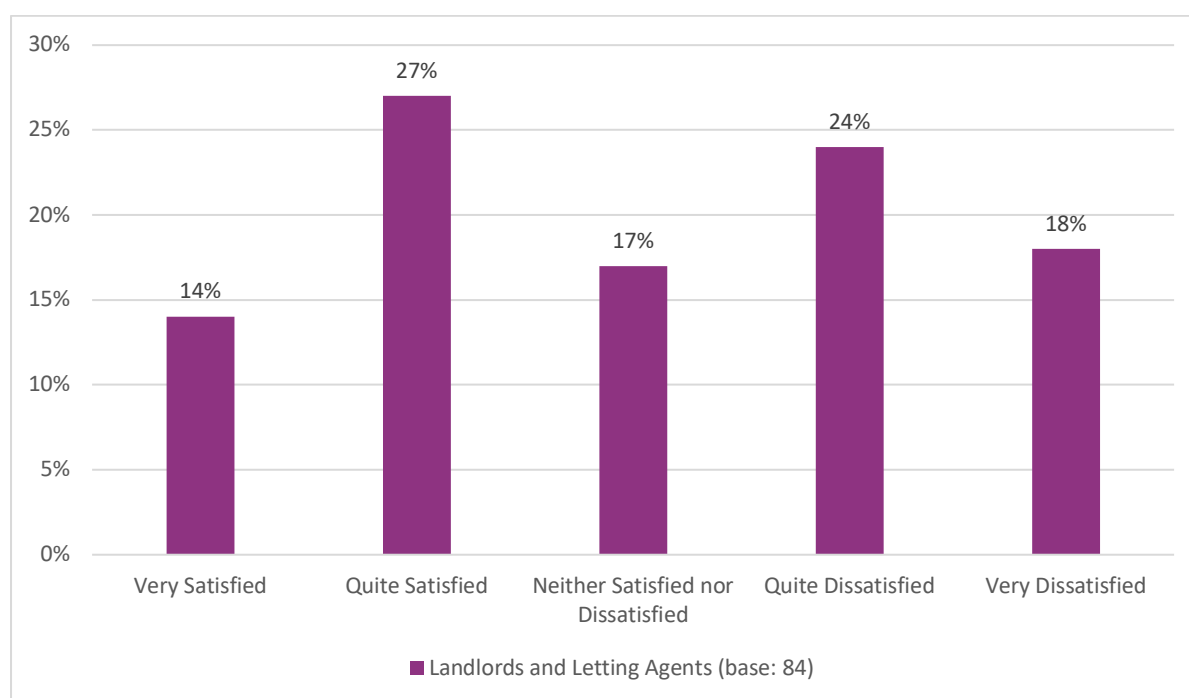
Interestingly, one tenant highlighted the potential negative impact of pursuing a formal route to justice, again emphasising the importance that many tenants place on positive relationships with landlords. Although this participant acknowledged that she was able to receive justice through the Tribunal system, she questioned whether formal legal proceedings were the most effective recourse. In her case, the practicality of remaining in the property after enduring a legal dispute with the landlord had made her living arrangement uncomfortable and that she wished there had been a way to maintain the relationship while completing necessary repairs:

'I think it really ruined the relationship in many ways. When the landlord came up to see the place (after the work was done) they asked me, 'Why don't you like us?' (Case 6).

Landlords and letting agents

The LLA Survey showed high awareness amongst landlords and letting agents of the Tribunal – overall 78%, lower amongst landlords at 74% and the vast majority of letting agents at 97%. Equally, a very small minority of landlords had direct experience of the Tribunal (1%) but a significant proportion of letting agents (20%) did. Landlords and letting agents identified a range of issues raised through their experience at Tribunal (whether taking a tenant or being taken by a tenant to the Tribunal) with the most common issues being rent arrears, followed by condition of the property, repairs, return of deposit and landlord access. Amongst those with experience of the Tribunal, levels of satisfaction from landlords and letting agents was mixed with broadly equal levels of satisfaction (41%) and dissatisfaction (42%) (Figure 16).

Figure 16: Landlord and letting agents' satisfaction with experience of the First Tier Tribunal



Source: Rent Better Landlords and Letting Agents Survey

The open comments to the survey and the in-depth interviews provided the opportunity for landlords and letting agents to give further detail of their opinion of the Tribunal.

From the landlords' perspective there were a few positive comments about the Tribunal process:

It was done in a way that was respectful to everyone. It wasn't acrimonious. The process was helpful to both sides and got it sorted (Landlord).

However, many landlords with experience of the Tribunal aired considerable frustration with it. This negative opinion related mainly to their perception of the complexity of process, length of time it took to obtain a decision, and the resulting loss of rental income. Some of the complaints related to the historical backlog of cases experienced when the Tribunal first took on its extended remit two years ago, but there were also numerous complaints about ongoing delays, including administrative errors (on the part of landlords or agents) causing applications having to be resubmitted, with the further delay, and resultant lost revenue:

'It was said to be a straightforward process where a landlord did not have to have a lawyer; however, this is not the case as, in my experience, a lawyer is a necessity.' (Landlord)

'A slow, drawn-out process... it all felt complicated... Paperwork was knocked back for this thing and that thing, bits and pieces that seemed quite trivial. It was made harder than it needed to be. First Tribunal was in August, then we were trying to get the eviction notice, there was constant back and forward between me and the letting agent and them... then there was the second hearing in November. The tenant wasn't out until the December. It took nine months.' (Landlord).

Comments made in the survey and in-depth interviews with letting agents were more mixed with positive opinion. It should also be recognised that most agents will have a greater

experience of the Tribunal than most landlords by virtue of the volume of tenancies they manage. Some letting agents spoke about a smoother and simpler approach compared to the Sheriff Court. However, there were still negative comments, again about the length of time to reach a hearing, and the disadvantages that such delays caused for landlords, in particular around rent arrears although many of these comments pointed more to the regulations around Ground 12 (rent arrears), rather than the Tribunal's approach:

'The [adjudication] process is easier now – the rules are very specific. ... Also, it is more consistent. At the panel there were different judges and depending on who you got you would maybe get a different judgement – things were open to interpretation. The arrangements in the First Tier are clear and understandable, and it's the same process for both tenants and landlords.... The panel explains itself as it goes, there's a set format, no surprises. (Letting Agent)

'The main issue I have with the PRT is the rent arrears ground for ending a tenancy. Tenants are aware that they can consistently pay late and there is not really anything that can be done about it.' (Letting agent)

The in-depth interviews with wider stakeholders provided further useful insight to experience of the Tribunal. All stakeholders were conscious of the lack of understanding of rights and lack of awareness of the Tribunal from the tenants' perspective. There was also recognition that this type of change takes time to embed and to be understood and 'become part of public consciousness'. However, there was concern about the limited guidance available to the public as to how to access justice. One advisory service provider explained:

'The guidance of [the FTT] online is really limited - how the process works, what you need to do, how to start a case, how to communicate with your landlord. That's all information that should be very easily accessible, but at the moment, it's left to [advice agencies] to communicate that to tenants and, indeed, to landlords occasionally as well'. (Wider stakeholder)

There was also concern from the tenant representative/advisory perspective about the perceived complexity of justice that was considered still to exist in the Tribunal system, as it did in the sheriff courts system. For example, it was argued that the Tribunal website is not intuitive or user friendly for members of the general public. However, a housing law expert argued that the complexity was more related to the law and guidance, rather than it was a function of the Tribunal. In relation specifically to the notice to leave processes, it was argued:

'It is very difficult for a lay person to get right...and many solicitors don't even get it right' (Stakeholder).

Some argued that this complexity meant an increasing need for legal representation, which was argued to favour landlords who were more likely to seek and be able to afford legal representation. However, a few stakeholders emphasised that it should not be concluded from the apparent asymmetry of formal representation at the Tribunal that tenants (who are less likely to be represented) are necessarily disadvantaged compared to landlords (with representation). The argument here rests around the Tribunal sifting process:

'Applications are scrutinised into such a degree, that it is not the case that viable defences are being missed...even in apparently lost cause type situations, the Tribunal's precise approach to documentation particularly allows for technical defences to be raised'. (Stakeholder)

One service provider observed that the level of scrutiny afforded to applications generally served to equalise power imbalances in landlord-tenant disputes, explaining:

'I've been really pleasantly surprised at the way cases are dealt with, and the level of scrutiny on absolutely every element of an application, and the pursuit of fairness and justice, it's been well beyond what I would have expected.' (Stakeholder)

In line with experience and argument from many landlords and letting agents, a few of the wider stakeholders raised concern about the lengthy processes, particularly in relation to Ground 12 eviction (rent arrears) was detrimental to landlords who could be facing four of five month rent arrears, and in many cases may have to go back to the beginning of the Tribunal process as a result of a technical error in the application. This was again countered by the legal opinion stating this was a function of the law – the specifics around Ground 12 regulations, and the complex notice the leave regulations – neither of which were determined by the Tribunal. Interestingly, it was highlighted that the Covid-19 emergency legislation has sought to ameliorate the apparent weaknesses of these regulations in giving the Tribunal greater discretion in relation to technical errors on the notice to leave (in favour of landlords), but at the same time increasing discretion for all grounds for eviction.

Summary and conclusions

The stated intention of moving to the Tribunal system in the PRS was to increase access to justice and to make it more accessible and specialist. The Tribunal is by design more inquisitorial, or investigative rather than the traditional adversarial approach of the Sheriff Courts with a sifting process to reject erroneous cases before hearings.

Tenants' awareness of rights is low, but most tenants say they are confident in raising disputes with their landlord/letting agent. Those that are less confident are again those with less financial power – often those on lower incomes and in part-time work, or the inexperienced – younger people, those in full-time education and those with shorter tenancies. While awareness of rights is low, there is also a general assumption that the landlord, and the system as a whole would 'do right' by tenants. Tenants that complain tend to try to resolve the issue directly with the landlord or letting agent first or seek legal advice. Help through advice agencies is much less common.

The importance of maintaining positive, trusting relationships with the landlord was a strong theme from tenants, and appears to be a key driver in there being little appetite from many tenants for lodging formal legal complaints. The importance of proactive, person-centred landlord approaches, most often provided by one property or small portfolio landlords, is also emphasised. There may be a gap in provision between informal and formal dispute resolution, which might better meet tenants needs including wider access to mediation services.

There appears to be an asymmetry of access to justice between tenants and landlords. Awareness of the Tribunal amongst tenants is extremely low, but greater for landlords and

letting agents, and the majority of cases are initiated by landlords and agents. From a small number of tenants interviewed with experience of the Tribunal, they did not find the process accessible, although it was more so for those with professional advice. Landlords' and letting agents' experience appeared to be smoother than for tenants and evidence suggests they have greater reliance on professional advisors than tenants and have carried over this approach from the Sheriff Courts to the Tribunal. However, a counter argument to these findings is that in practice the Tribunal should equalise any power imbalances through its investigative processes, and over time this change may convince tenants or landlords that professional advice is not required.

Landlord and letting agents' complaints about the Tribunal appeared to be mainly related to complaints about the law, rather than the Tribunal process itself (although initial delays and backlogs were highlighted), and specifically again about Ground 12 and the impact of delays that are built into the legislation for eviction for rent arrears.

9. Future of the sector

This chapter explores landlord, letting agent and wider stakeholder opinion on the future of the sector. In terms of the research questions, the findings set out here seek to further understand the perspectives of landlords and wider stakeholders, particularly in respect of how the PRT may impact on the future of the sector.

Confidence, risks and opportunities in the sector

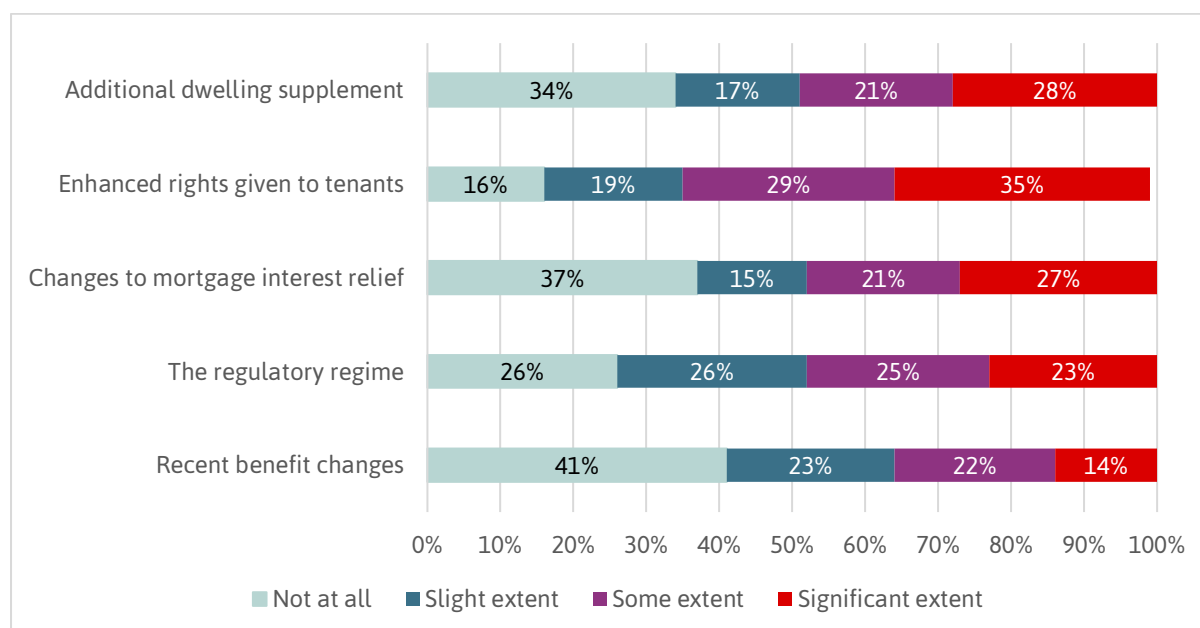
The LLA Survey asked landlords and lettings agents to give an indication of their confidence in the future sustainability of the sector. There was broadly similar positive and negative confidence in the sector. Overall 41% were either very or quite confident in the future although this was lower for landlords (36%) and higher for letting agents (55%). By comparison, overall 42% were not very or not at all confident – higher for landlords (47%) and lower for letting agents (31%). Single property landlords were more likely than others to express confidence in the sector, with 45% indicating they were either very or quite confident in the future sustainability of the sector; in the other size categories, this figure was between 30% and 32%.

Landlords and letting agents were asked to consider a range of risks and opportunities they saw going forward. In terms of risks, taking average responses from all landlords and letting agents, enhanced rights to tenants were considered to present the highest risk, followed by tax risks (both the additional dwelling supplement and changes to Mortgage Interest Tax Relief). Changes to the benefit system was considered to be lower risk with 41% suggesting 'not at all', although letting agents were more likely to consider there was some or significant risks compared to landlords in relation to benefits.

Across each of these issues, there was a broad correlation between size of portfolio and risk with single property landlords less likely to consider the various issues as a risk. As an example, amongst landlords with more than 10 properties, 71% indicated that they saw enhanced rights to tenants as a risk to some or a significant extent, for those with 6-10 properties the figure was 64%, for those with 2-5 properties it was 67% and for those with only one property it was lower at 55% (See Figure 17).

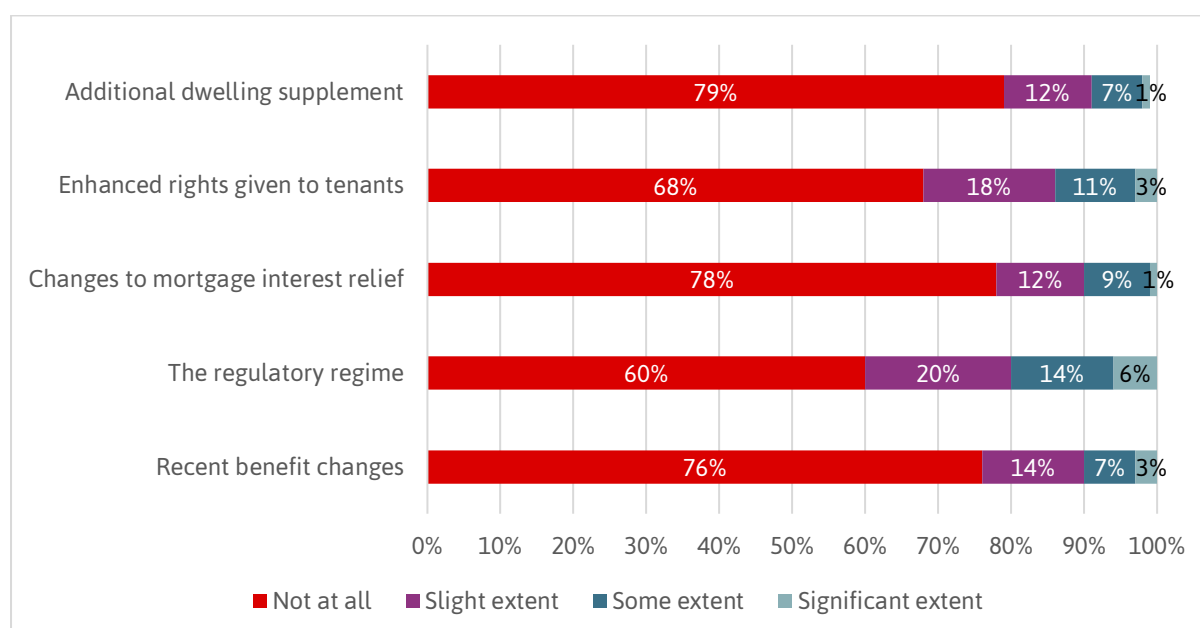
Looking at opportunities, on average landlords and letting agents considered few opportunities from this same list options with the majority of opinion being negative in all areas. The highest positive area was the regulatory regime with 40% seeing some level of opportunity here, and the lowest opportunity related to tax regimes. The opportunities were considered to be particularly low amongst larger landlords (See Figure 18).

Figure 17: Extent of perceived risk from various factors – all landlord and letting agents



Source: Rent Better Landlord and Letting Agent Survey

Figure 18: Extent of perceived opportunity risk from various factors – all landlord and letting agents



Source: Rent Better Landlord and Letting Agent Survey¹⁵

Open survey responses broadly showed stronger negative feedback regarding the regulatory regime and enhanced rights to tenants. There was a negligible amount of positive open comments in this respect. Many of the comments suggested the legislation was penalising good, often small landlords:

'All new legislation just makes it harder and more expensive to be a landlord - I comply with all legislation and it costs a lot. There are other landlords who just ignore whatever legislation

¹⁵ In some cases the risks and opportunities do not equal 100% due to rounding

comes in and make big profits. The more legislation comes in, the more good landlords are penalised financially.’ (Landlord).

‘I only have one property now. I am a VERY good landlord who takes my responsibilities seriously and I take good care of my tenants. I do NOT need all the changes - I think they have been caused by a minority of rogue landlords who will simply continue with their existing bad behaviours and practices. As a good landlord I feel I am actually being penalised.’ (Landlord)

This sense of penalisation, and even vilification of landlords was commonly discussed by participants in the qualitative interviews. There was a strong sense that landlords were unjustly thought of as ‘the bad guys’, all being tarred with the same brush as rogue landlords, regardless of good practice by many landlords/lettings agents in the sector.

By far the strongest theme around risk identified from the interview participants was the change in taxation regime¹⁶. One word was used multiple times to describe the impact on landlords’ businesses: ‘unviable’, usefully illustrated by one landlord:

‘Getting taxed on rental income is a massive problem. If you get £500 rent a month and mortgage is £400, now being taxed on £500 rather than £100. You can’t make a profit.’ (Landlord)

It is worth noting that a significant minority of the interview participants had not been impacted by tax changes: those that did not have a mortgage on their property/properties or who were not higher rate taxpayers. Of the few landlords interviewed that had chosen to incorporate their businesses to limited companies, tax reasons were the key driver.

The increased regulatory burden was raised by many landlord interview participants. This was often mentioned as a disincentive to continue as a landlord, with some suggesting there were constantly new standards that they were required to meet in comparatively short timeframes. One landlord reported their experience:

‘In 2005 when we started you just needed a tenancy agreement - a downloadable four-page document - but then we needed gas safety, then registration, electrical, legionnaires, energy, deposit schemes, tenants pack.... It’s time to get out before we land up in jail for not ticking a box or delivering a paper.’ (Landlord)

A few landlords were more positive about the need for regulatory change and their benefits for tenants. For example:

‘When I first started, [the PRS] was the wild west, there was no regulation whatsoever. It was absolutely right that the whole thing needed to be tightened. I really welcome all the safety requirements and would always keep to them because of my conscience but also because otherwise...you know, I could end up inside and I don’t want to do that...’ (Landlord)

¹⁶ Up until the 2016/17 tax year, landlords could deduct mortgage interest and other allowable costs from their rental income, before calculating their tax liability. From 6 April 2020, the UK Treasury changed the tax relief for finance costs which is now restricted to the basic rate of income tax, currently 20%.

Taking the range of risk factors into account - the regulatory change, increased rights for tenants, 'difficult tenants', and tax changes, some landlords and letting agents pointed to the negative cumulative effect with potential losses of smaller landlords to the sector:

'We have seen a 25% reduction in let property in recent years purely because the tax and legal regime is driving small landlords out of the market.' (Letting Agent)

'As barriers to entry rise and as regulation professionalises the industry, we see this as a main point of difference to our competitors and we predict there will be a rationalisation of the quantity and quality of letting agents and landlords.' (Letting Agent)

This opinion was also shared by some of the wider stakeholders interviewed, with the cumulative effects resulting in shifts of stock from smaller to larger landlords. One participant wondered if the consequence of a vanishing 'cottage industry' of landlords would mean an overall loss of quality providers who they believed had a more personal relationship with tenants, compared to larger, more institutional landlords.

Future plans

LLA survey respondents were asked which, if any, of a number of potential changes they were actively considering at present (see Figure 19). The largest proportion of landlords and letting agents overall (36%) stated they planned no change. A similar amount (35%) indicated that they were actively considering selling properties, and just under a quarter (23%) indicated that they were actively considering selling all their properties and stopping being a landlord altogether. A significant minority indicated that they were considering buying more properties to let in the private rented sector (17% overall), moving their properties into short term lets (15%), or buying more properties for short-term lets (6%).

Landlords with between 2 and 5 properties were considerably more likely than average to say that they were considering disposal of all of their properties and stopping being a landlord (39%, compared to 27% of all landlords and 23% of all landlord/letting agents). Interestingly, landlords with only one property were slightly less likely to say they would sell up (26%).

Open responses to the LLA survey about the future again showed respondents' anxiety about the impact of increased regulation, with many suggesting disinvestment from the sector, even suggesting moving their investment to the English PRS due to the different regulatory framework. Some of these survey respondents thought perceived disinvestment in the PRS may have an impact on the overall housing system, increasing pressure on the social rented sector:

'I have already, as many Landlords have, sold off my other properties and will sell the last one when the current tenant leaves as the changes have increasingly made it less and less possible to deal with the massive imbalance developing between Landlord and Tenants rights. There is a huge housing crisis looming as the shrinking private letting sector puts more and more pressure on public social housing.' (Landlord)

However, interview participants saw that continuing pressure in the housing system as opportunity for the PRS, pointing to the ongoing need for private lets alongside social housing:

'There is not enough social housing, and not enough is being built, and people want flexibility...so there will always be a PRS.'

The positive role of the PRS in the wider housing system was also confirmed by wider stakeholders. They also pointed to the fact that the sector has grown 'substantially' alongside a period of increasing regulation in recent years, concluding that: *'the fundamentals of private renting are still a very good deal for landlords... pounds are going into their bank accounts, and that's the bottom line'*.

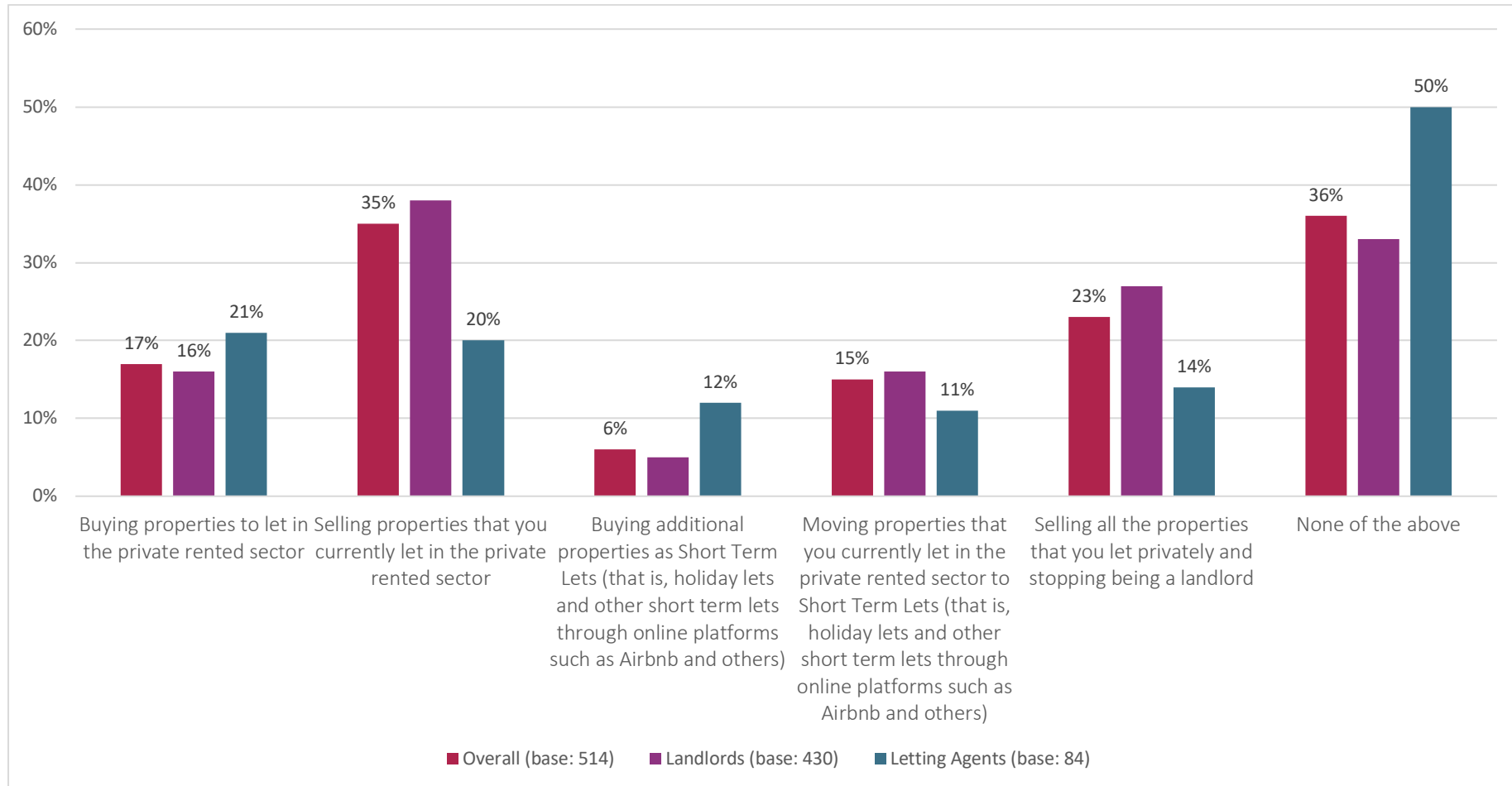
Summary and conclusion – future of the sector

In terms of understanding the perspective of landlords and letting agents opinion about the future, there appears to be broadly equal positive and negative opinions on confidence about the future sustainability of the sector. The single most unpopular intervention in recent years has been the change in tax relief regime. This, when combined with the wider changes in regulation in Scotland, was considered to be too much for some to stay in the sector - just under a quarter indicated they were considering selling all their properties and leaving the sector and were most likely landlords with between 2 and 5 properties. The highest proportion, over a third of survey respondents, stated that they planned no change for the future of their landlord business.

Taking the range of risk or 'push' factors into account participants pointed to the cumulative impact of change in the sector being more negative on smaller 'cottage industry' landlords, many of whom were seen as quality providers who have a more personal relationship with tenants, compared to larger, more institutional landlords.

Considering the sector more broadly, despite many complaints over changes in tax and regulation, it was also argued that the continuing market fundamentals and the positive role of the PRS plays in the wider housing system will ensure a continuing role for the sector.

Figure 19: Changes actively being considered by landlords and letting agents



Source: Rent Better Landlord and Letting Agent Survey

10. Conclusions and recommendation

Aims of the research

The Nationwide Foundation's key aim for this research was to understand the impact of change in the new tenancy regime and to help shape any further changes that may be needed in Scotland, and to share lessons learned for the benefit of private tenants and landlords across the UK.

The Foundation wanted to understand the impact of change on security of tenure; access to justice; affordability; landlord and tenant conduct; and tenants on a low income and/or in housing need.

The specific aims of the research were to:

- Understand if and how the changes to the tenancy regime in Scotland are achieving the aims of creating security of tenure, protecting against excessive rent increases and empowering tenants.
- Explore and compare tenants' experiences of living in the PRS under the previous regulations and under the new changes.
- Understand the perspectives of landlords, local authorities and support/advice agencies on how the new regulations are working.

Conclusions

At baseline stage it is clear that tenants have considerable lack of awareness of tenancy rights. Despite this, tenants experience and believe they are secure in their tenancy for as long as they need or want it - regardless of the legal status of their tenancy or their knowledge of associated rights. Rather, confidence in staying in the tenancy is driven by a combination of affordability, trust in the landlord and security of their employment. This is confirmed by the fact that the minority that do feel less secure are those experiencing less financial power – such as those living in deprived areas, on lower incomes and in receipt of Housing Benefit.

Private rented tenancies have increased in average length, over recent years, which may indicate more security. However, many tenancies are not yet PRTs (which may suggest a relatively slow transition from Assured/Short Assured Tenancies), so it is difficult to attribute this increased length of tenancy to the role of the new tenancy arrangements. One hypothesis to examine in future waves is the extent to which an increase in the number of tenancies that are PRTs is associated with increased tenure length or increased confidence in being able to stay in the tenancy. Confidence appears more related to affordability and economic security, though, so it may be difficult to separate these influences, particularly as Scotland emerges from the economic impacts of Covid-19.

The loss of the 'no-fault' eviction ground supports security of tenure, and there appears to be little concern about this so far from landlord and letting agents, although noting that not all will have experienced the PRT yet.

What is of much greater concern to landlords and agents, and of possible negative impact to the function of the market, is the open-ended aspect of the tenancy combined with the reduced 28-day notice period for tenants. These two changes combined are said to have impacted on 'churn' and created much shorter tenancies, particularly in tourist and seasonal markets – even using PRTs as cheap, short-term lets. This also has considerable negative impacts for landlords operating in student markets. This aspect requires careful consideration through the course of the research. What have been described as an unintended consequence of reform, the joint tenancy aspects of the legislation also requires attention.

The eviction Ground 12 of PRT relating to rent arrears has increased security of tenure for those in rent arrears compared to SATs with increased length of time and complexity for landlords before an application for eviction can be made or be successful. This change is probably the greatest area of concern for landlords across all aspects of the research.

A further hypothesis to consider in future waves of the research is the extent to which changes to the legislation are associated with increased turnover in lets, or increased instances of shorter lets.

Affordability and protecting against excessive rent increases

There are a diverse range of rent levels across Scotland with a significant number of average rents at local authority level relatively affordable at, or around, Local Housing Allowance levels. However, there are also significantly pressured markets, and even allowing for some misreporting in the Rent Better Tenants Survey of income or rents, there appears to be a general acceptance amongst private tenants that they have to pay a significant proportion of their income in rent - over half of tenants surveyed said they paid more than a third of their income on housing costs.

The minority of tenants that say they find it difficult to find a private rental relates to affordability, demand/supply issues and are most likely living in pressured areas. These tenants are also more likely to be single people, single parents, students, tenants from ethnic minorities, those on lower incomes and those claiming some form of housing allowance. It is also clear that single people and single parents are more likely to experience significant financial difficulties through their tenancy experience.

Improving the experience of private renting for vulnerable people on low incomes and benefits is an important issue for further exploration, considering equalities issues in greater depth and how these relate to access to rental properties and rent affordability. Single parents, tenants from minority ethnic groups and disabled tenants all appear more disadvantaged through having low income and being on benefits, but discrimination may also be a factor. These disadvantages may also be exacerbated by market pressures, enabling landlords to exclude those on benefits in high demand, urban areas. However, other pressures may exist in rural and lower income markets where there is more reliance on welfare support within the PRS.

The 2016 legislation was not designed to address actual rent levels, but it appears to have failed to address rent increases which could make an impact to affordability in some of the

more pressured markets. The fact that a very modest number of PRT cases have gone through the rent adjudication process and no Rent Pressure Zones have been identified indicates the limitations of the current legislation. It also appears that the PRT may have enabled more frequent rent increases to occur than in the previous regime, presumably an unintended consequence, with annual rent increases now possibly occurring more frequently than was previously the norm. This hypothesis will be explored further through looking at change over time in future waves.

Empowering tenant and access to justice

As discussed above, tenants are generally unaware of the tenancy rights, few are aware of the PRT change, or know what type of tenancy they are on. However, most feel confident to raise disputes with landlords and letting agents when needed, but relatively few use advice agencies. Those that are less confident are again those with less financial power – more often these are those on lower incomes and in part-time work, or the younger, less experienced renters, tenants with disabilities and minority ethnic groups. This all suggests more targeted work is required at promoting rights and information to lower income tenants and the more vulnerable households in the PRS.

There is also extremely low awareness of the First Tier Tribunal amongst tenants, and those tenants interviewed with experience of it did not find it easy to access or navigate without advisory support. There was a sense of imbalance in accessing justice between tenants and landlords with indications that landlords were more likely to use agents. However, this study is not in a position to judge whether that imbalance in access meant imbalance in outcomes - to the contrary, it is argued by some participants that the nature of the Tribunal has much more protection in place compared to the Sheriff Courts due to its specialist and investigatory nature.

In any case, it is clear that most tenants do not want to, or feel confident taking, a formal route to resolve a dispute with their landlord, and place much greater reliance on the relationship with the landlord. Tenants generally do not want to upset that relationship, weighing up a range of other priorities associated with largely high levels of satisfaction with their home, the service from the landlord/letting agent and the community that they live in. This fact is also true of many landlords in terms of nurturing relationships – particularly those with one property, or small portfolios, with evidence to suggest that those that have proactive, person centred relationships with their tenants reap rewards for both the tenant and landlord.

This begs the question as to whether there is a gap in the current provision to support lower income and more vulnerable tenants to resolve disputes with landlords without accessing the formal route through the FTT system.

Impacts on private tenants on low incomes and/or in housing need

The findings from the study suggest that, although the majority of tenants are able to access private rented housing and tenants are satisfied with their accommodation and widely confident that they can stay in their property for as long as they would like, a minority of tenants are disadvantaged due to a combination of low income and other vulnerabilities.

The main mechanisms that the PRT might benefit low income households and those in housing need would be through improving the access that low income households have to private renting, improving rent affordability and security of tenure, improving the condition and suitability of properties and providing better access to justice if things go wrong. There is some evidence of discriminatory practices in relation to tenants on benefits, which includes single parents and people with disabilities. Tenants from minority ethnic groups also found it hard to access tenancies, often citing affordability issues. However, this may also indicate discrimination. Equalities issues should be explored in more depth in later waves of the research.

This baseline provides an initial picture of low-income households who were less able to access housing due to affordability issues, less able to sustain tenancies and less aware of their tenancy arrangements and rights. In order to see positive impacts of the PRT for these households, evidence would need to demonstrate fewer differences between lower income households and the tenant population as a whole, to be achieved in particular through the Wave 3 tenants survey.

Future of the sector

The single most unpopular intervention for landlords in recent years has been the change in tax regime, and when combined with the changes in regulation was considered by a quarter of landlords to likely push them to selling their portfolio. Findings suggest these changes are much more likely impact smaller landlords and may drive out the 'cottage industry' or 'amateur' landlords as they sell onto larger 'professional' portfolio landlords. These larger landlords are more likely to be incorporated, where the tax changes would have less impact, and who are more able to cope with legislative change. The tension here is that many tenants appear to value the person-centred, relationship based quality service, which many of the smaller landlords appear to provide. For future waves it would be useful to investigate this deeper, for example, do tenants of institutional landlords fair worse in terms of service, quality, and affordability compared to tenants of smaller landlords?

Considering the sector more broadly, despite many complaints over changes in tax and regulation and potential demise of the small landlord, there appears to be continuing strong market fundamentals for the PRS, with wide support for the positive role that the PRS plays in the wider housing system.

Recommendations for future waves of research

For the Scottish Government and other wider stakeholders in Scotland, the following recommendations are put forward at Baseline stage:

- More work is needed, led by the Scottish Government and involving wider advisory stakeholders, to raise awareness of tenancy rights as a starting point to empower tenants and increase their access to justice. This may include some targeted work for those private tenants with less financial power - those on lower incomes and housing benefit - who feel less security of tenure than private tenants generally.

- The Scottish Government may wish to consider the early findings on the combined negative impact of the open-ended tenancy and the reduced 28-day notice period which is argued by landlords and letting agents to be causing increased turnover. Other negative impacts that merit early consideration are the Ground 12 timescales, and the difficulties around the joint tenancy aspects of the PRT.
- While not a focus of this research, challenges reported by landlords around the practical implications of the PRT in the student market should be explored further by the Scottish Government.
- There are challenges relating to rent data to enable accurate assessment of rent increases and affordability. However, given overall findings so far, the Scottish Government should consider commissioning further work to fully explore the limitations of the Rent Pressure Zones mechanism, and how this can be improved to tackle excessive rent increases where these occur in specific markets.
- There is scope for the Scottish Government, with training and advisory bodies, to support landlords and letting agents to better understand and navigate the benefits system. This could help support more lower income tenants in the PRS, and help landlords mitigate any real, or perceived financial risks in this part of the market.
- The Scottish Government and the Scottish Courts and Tribunal Service, alongside advisory agencies and local authorities should work together to raise awareness amongst tenants about the Tribunal system as a formal route to justice. In addition, there should be consideration from these stakeholders on the development of mediation services to fill a gap between informal and formal tenant landlord dispute resolution, which might better meet tenants' needs compared to the formal Tribunal route.

Wider stakeholders interested in PRS reform elsewhere in the UK:

- Should consider the early lessons learned at Baseline stage and recommendations listed above. In particular, stakeholders should note the lack of concern (so far) in the loss of the 'no-fault' ground amongst the majority landlords/letting agents participating in this research.

Next steps

Wave 2 of the research in 2020-21 is designed to include secondary data analysis and qualitative research with tenants and landlords/agents.

What has been evident in the secondary data is the lack of data directly related to PRT tenancies. Much of the data on the first two years of the legislative change relates to tenants who are on an Assured Tenancy or SAT. Unfortunately, due to the length of some tenancies and the way that the policy has been implemented, it is not possible to isolate data on PRT tenancies alone.

Secondary data analysis relies on the availability of the Scottish Household Survey data from Autumn onwards. However, there may be benefit in analysis in the New Year once data for the 2020 calendar year data for Citylets is available. That would enable analysis for

January/February 2021. The secondary analysis enables the researchers to look at the overall profile of the stock to consider whether there is evidence of increased access to private renting (e.g. more stock), longer tenancies, improved quality and rents increasing at a slower rate and whether there is evidence increased turnover/churn.

Covid-19 is likely to have impacts on the sector for the foreseeable future and clearly needs to form part of the interpretation of the secondary data and the design of the qualitative research to reflect on pre- and post-Covid renting experiences. It would also be beneficial to leave some time between the qualitative interviewing waves, with the aim of conducting qualitative fieldwork in Spring or Summer of 2021.

For the second wave of qualitative interviews with tenants, there may be benefit in focusing attention on lower income households and those in housing need to explore their experiences in greater depth. Issues relating to equalities should be explored more fully to unpick issues of access, affordability and discrimination. That focus could involve longitudinal sample from the existing respondents and/or recruitment through intermediaries to access tenants facing challenges accessing the private rented sector or accessing justice. The First Tier Tribunal data may have more PRT cases by wave 2 to follow-up.

For the landlord qualitative, following up some of the potential 'leavers' and 'stayers' from the Wave 1 qualitative may also be beneficial to provide some longitudinal insights. We would also want to explore further the experiences around the open-ended aspect of PRT combined with the 28-day notice issue identified in Wave 1. The research will also aim to target landlords and letting agents who have a mix of PRT/SAT and those with only PRT to compare and contrast these experiences.

Wave 3 of the research includes quantitative and qualitative research with PRS tenants, landlords/agents, and wider stakeholders plus secondary data analysis.

The Wave 3 tenants survey and landlord surveys are intended to be time series surveys rather than longitudinal. That involves accessing new samples of tenants and landlords, with suitable weights to take into account any differences to the Wave 1 respondent samples.

These surveys would be heavily based on the Wave 1 surveys to allow comparisons to be drawn over time. For tenants, key hypotheses to be explored are the extent to which access to private renting, security and awareness of rights has improved over time among tenants generally and lower income tenants in particular. For landlords, perceptions of the new tenancy arrangements and risk would be examined again. Have their concerns evidenced in Wave 1 (some of which was based on conjecture in the industry) worked out in reality? The hypotheses to be explored for landlords (and key stakeholders) are the extent to which the pool of landlords has changed, landlord behaviour has changed, or perceptions of policy impacts/risks have changed.

Appendices

Appendix 1 – Limitations and Quality Assurance

Limitations

Secondary data analysis - the over-riding issue with published secondary data on the PRS is that much of the administrative data is not readily accessible for research purposes. A number of strategies were explored with the Advisory Group to mitigate these limitations.

Scottish Household Survey (SHS) - data collected on rents and income was not intended to be used for detailed analysis. In order to consider affordability, data from the SHS are analysed alongside data collected in the Rent Better Tenants Survey and other data sources.

Landlord and letting agent survey – As the survey was conducted on an online self-completion basis, it was subject to a risk of respondents being atypical of the population of landlords / letting agents as a whole. In addition, as the survey was networked by a range of stakeholders to known contacts, there was a risk of differential response from certain areas or from certain types of landlord / letting agents. These risks were substantially mitigated by having a very broad range of partners encouraging completion of the survey, with coverage across the country and gathered via multiple routes. Where a difference in geographic profile was identified then overall results were weighted in line with the known national profile.

Rent Better Tenants Survey - The starting point for the sample was a database of private rented tenants, which was intended to limit the amount of screening required to secure respondents who were in scope. However, there were some considerable challenges with sample quality, which meant that a significant number of addresses on the database were not actually private rented properties. Where this was the case, interviewers were instructed to use a 'focused enumeration' approach, seeking interviews in areas adjacent to those addresses identified on the databases, with these being screened to ensure that the respondent was a private renter.

The Rent Better Tenants Survey report Annex 3 includes a comparison of the PRS tenant profile to the SHS. This shows that there are a number of areas where the characteristics of the Rent Better respondent sample differ from the SHS sample – the Rent Better Tenants Survey tending to poorer locations, and couples and families more than single adult households. However, the Housing Benefit profile is similar to DWP data.

At this stage in the Census cycle reflecting on the SHS and DWP Housing Benefit data is the best comparison we have to the Rent Better survey. This suggests that, overall the Rent Better Tenants Survey has achieved a good mix of household types but may have proportionately more poorer households in poorer areas. Given that looking at the experiences of poorer households in housing need was a key focus for the work, this is not a disadvantage, but the findings need to be interpreted in that context.

Qualitative interviews with landlords, tenants and stakeholders – The qualitative research approach allows for intensive exploration and description of key issues, allowing for insights

into participants' views. The qualitative approach does not allow us to generalise for the whole population of landlords and renters, but it does allow us, given the number of interviews involved in this research and the recurring themes found, to summarise and develop general conclusions on the basis of certain household types and experiences.

The timing of the qualitative interviews (see below) meant that all the interviews had to be undertaken by telephone or video call whereas the original research design was for a combination of telephone and face-to-face interviews. In fact, we found that the telephone interviews were convenient for tenants and landlords, and many stated their preference for telephone in any case. The average length of time for interviews was 45 minutes. However, in a small number of cases (5 tenants and 1 landlord) the interviews were shorter than aimed for, with some tenants and landlords having limited contributions despite volunteering for the in-depth interviews. This was mitigated by the large number of interviews undertaken to ensure saturation and emergence of common themes. For the stakeholder interviews, extensive use was made of video calls, which worked well, especially for group discussions.

Quality Assurance

Quantitative surveys

The survey questionnaires for both the Landlord and Tenant surveys were developed in an iterative manner within the research team, with feedback provided by the Advisory Group and with the final versions being signed off by the Nationwide Foundation.

For the Landlord survey, all responses were received online. Each individual response was checked to ensure consistency with routing. Where "Other" responses were noted in relation to "list" questions, these were checked and, where appropriate, back-coded to the relevant option within the list of responses provided for that question. Responses to open-ended questions were checked for grammar and spelling and were then listed verbatim.

For the Rent Better Tenants Survey, target quotas were set and detailed interviewer instructions were provided in writing and a verbal briefing provided to each interviewer in advance of their commencing fieldwork. Survey responses were completed by face-to-face or telephone survey. Telephone Survey responses were completed using computer-aided telephone interviewing, whilst face-to-face surveys were conducted on a pen and paper basis, with responses being data processed using the SNAP data processing software. All responses required name and address details to be provided along with an email address or telephone number for subsequent contact. Following data processing, each individual response was checked and edited as appropriate to ensure consistency with the identified routing. Where "Other" responses were noted in relation to "list" questions, these were checked and, where appropriate, back-coded to the relevant option within the list of responses provided for that question. Responses to open-ended questions were checked for grammar and spelling and were then listed verbatim. A selection of responses from each interviewer was taken and contact made by a research supervisor to verify that the interview had been conducted in an appropriate manner, that the interviewee met the selection criteria for the survey and that basic questions had been recorded accurately.

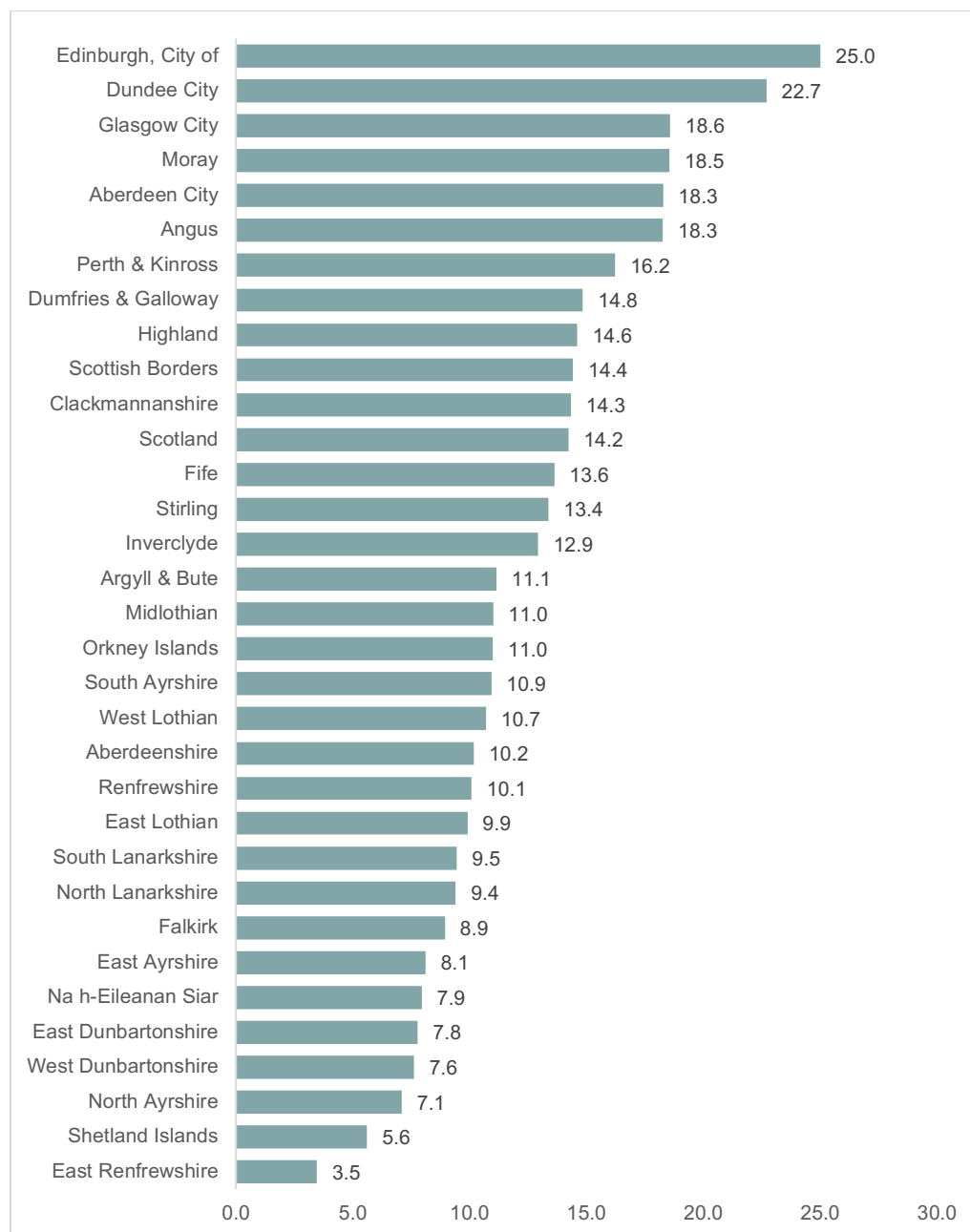
Qualitative interviews

The qualitative interview topic guides for landlords, tenants and wider stakeholders and sampling framework for each were developed in an iterative manner within the research team with feedback provided by the Advisory Group and with the final versions being signed off by the Nationwide Foundation. Interviews were recorded through a combination of notes and quotes and recording and transcription. The emerging themes from the interviews were generated and peer reviewed against transcripts before reporting commenced.

All final quantitative and qualitative outputs were peer reviewed by another research team member before Team Leader final review and sign off.

Appendix 2 – Dwellings and households

Figure A2.1: The PRS as a % of households in each LA



Source: Scottish Household Survey 2018, (Analysis by Rettie and Co)

Figure A20:2: Tenure by year (%) among households with a HIH aged 16-34

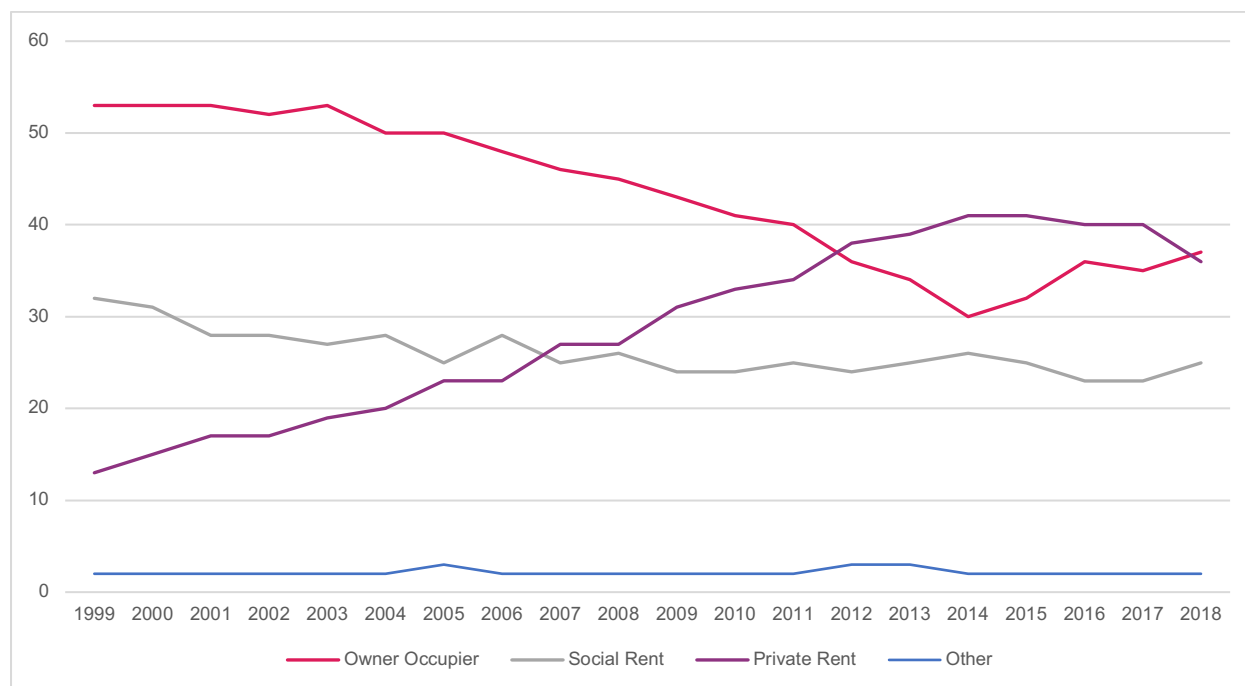
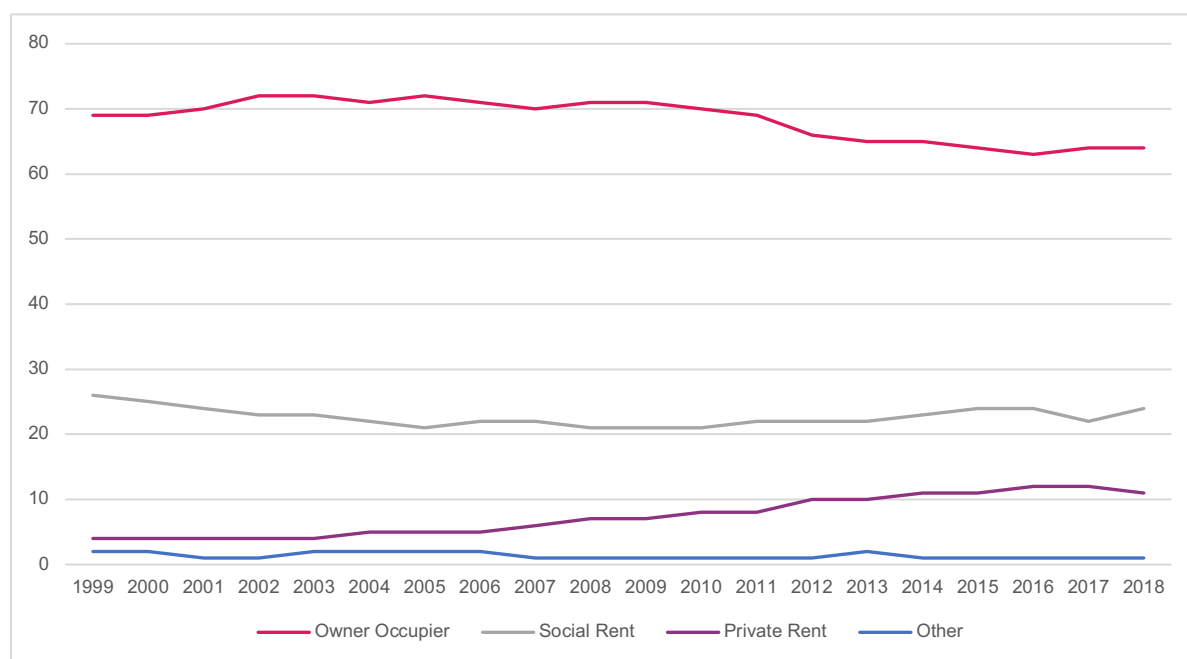


Figure A2:3: Tenure by year (%) among households with a HIH aged 35-59



Source: Scottish Household Survey <https://www.gov.scot/publications/scotlands-people-annual-report-results-2018-scottish-household-survey/>

Table A2.4: Household characteristics by tenure (2018)

	Owned outright	Buying with mortgage	All owners	Private Rent	Local authority	Housing Association	All Social renters	Other	All
Overall %	33	29	62	14	14	9	23	1	100
Number of people in household									
1 person	36	18	28	40	47	47	47	36	34
2 people	49	32	41	35	27	26	26	41	37
3 people	8	20	14	14	16	13	15	12	14
4+ people	7	31	18	12	11	14	12	11	16
Household composition									
Large adult	9	11	10	7	7	8	7	10	9
Large family	2	10	6	3	5	6	5	1	5
Older smaller	33	3	19	3	8	7	7	13	14
Single adult	12	18	15	37	30	31	31	19	22
Single parent	1	4	3	5	11	10	11	5	5
Single older	26	2	15	5	18	17	17	20	14
Small adult	15	27	20	27	14	14	14	21	20
Small family	3	26	13	12	9	9	9	11	12
	Owned outright	Buying with mortgage	All owners	Private Rent	Local authority	Housing Association	All social renters	Other	All
Age of highest income householder									
16 to 24	1	2	1	18	6	4	5	15	5
25 to 34	1	21	11	34	16	15	16	14	15
35 to 44	2	27	14	18	16	15	16	14	15
45 to 59	22	41	31	19	29	31	30	16	29
60 to 74	44	7	27	8	21	22	22	21	23
75 plus	29	1	16	3	12	12	12	20	13
Number of cars									
0 cars	19	8	14	43	59	58	59	36	29
1 car	49	42	46	40	34	33	33	39	42
2+ cars	32	50	40	16	7	9	8	26	29
Net household income									
£0-£6,000	3	1	2	5	3	2	3	5	2
£6,001-£10,000	8	1	5	7	12	12	12	8	7
£10,001-£15,000	16	4	10	14	28	24	27	17	15
£15,001-£20,000	16	7	12	15	22	21	22	14	15
£20,001-£25,000	13	10	12	12	11	13	12	10	12
£25,001-£30,000	9	10	10	10	7	9	8	9	9
£30,001-£35,000	8	9	8	7	6	5	5	5	7
£35,001-£40,000	5	10	7	6	3	3	3	5	6
£40,001-£50,000	8	20	14	8	3	3	3	14	10
£50,001-£60,000	4	12	8	5	1	1	1	4	6
£60,001-£70,000	2	6	4	2	0	0	0	-	3
£70,001-£80,000	1	4	2	1	-	0	0	-	2
Over £80,000	2	5	3	1	0	0	0	2	2
Don't know/Refused	6	1	4	7	4	5	4	6	4
How well household is managing financially									
Manages well	74	62	69	44	27	29	28	43	55
Gets by	24	32	28	43	51	49	50	49	35
Does not manage well	2	5	4	13	22	22	22	9	9
Base	3,820	2,850	6,670	1,240	1,440	970	2,410	120	10,440

Source: Scottish Household Survey, (Table 3.3 Household characteristics by tenure)

Table A2.5: Housing Benefit and Universal Credit receipt by tenure and estimated % of PRS on HB (2018)

	Private Rented Sector (HB)	PRS UC housing entitlement	Estimated hhlds in PRS	% on HB or UC
SCOTLAND	72,750	13,790	352,322	25%
Aberdeen City	1,783	211	19,660	10%
Aberdeenshire	2,161	148	11,301	20%
Angus	1,534	478	9,838	20%
Argyll and Bute	1,337	80	4,638	31%
Clackmannanshire	515	238	3,390	22%
Dumfries and Galloway	2,840	125	10,329	29%
Dundee City	3,127	999	15,967	26%
East Ayrshire	1,869	640	4,467	56%
East Dunbartonshire	847	286	3,580	32%
East Lothian	726	654	4,552	30%
East Renfrewshire	779	31	1,355	60%
Edinburgh, City of	7,554	493	58,979	14%
Eilean Siar	149	13	1,015	16%
Falkirk	1,428	258	6,458	26%
Fife	4,918	1,428	22,871	28%
Glasgow City	11,696	958	54,340	23%
Highland	1,619	1,150	15,897	17%
Inverclyde	1,333	926	4,866	46%
Midlothian	833	457	4,305	30%
Moray	1,050	71	7,888	14%
North Ayrshire	3,004	869	4,533	85%
North Lanarkshire	4,748	546	14,269	37%
Orkney Islands	173	17	589	32%
Perth and Kinross	1,854	93	11,065	18%
Renfrewshire	2,853	270	8,643	36%
Scottish Borders	1,669	103	7,847	23%
Shetland Islands	50	14	593	11%
South Ayrshire	2,107	383	5,710	44%
South Lanarkshire	3,915	1,352	13,818	38%
Stirling	558	285	5,274	16%
West Dunbartonshire	1,255	91	3,266	41%
West Lothian	2,472	108	8,333	31%

Single Housing Benefit Extract (SHBE) May 2018 (<https://www.gov.uk/government/statistics/housing-benefit-caseload-statistics>); StatExplore - "Households on Universal Credit, Regional - LA - OAs by Month and Housing Entitlement – Tenure Counting: Households on Universal Credit

Note - Claimants are as at the second Thursday of May, 2018. Cells in this table have had statistical disclosure control applied to avoid the release of confidential data. Due to adjustments totals may not be the sum of the individual cells. Individual Local Authorities may have their monthly figures substituted with that of the previous month if data is missing or identified as of insufficient quality to publish. Tenure Type does not include claimants with unknown tenure type.

Appendix 3 - Tribunal Cases

10.1 Case 1 - Rent Increase

The first rent increase case discussed in this report involved a Mid Market Rent (MMR) tenant who applied to the Tribunal after experiencing three consecutive years of rent increases. He believed that the culminative effect of the rent increases had brought his rent in line with market rent levels and was therefore unfair. He had first complained to his MSP that his rent had increased from when he first moved in from £523 per month to £585, who then explained there was nothing his ministerial office could do to assist with his grievance. The tenant then began researching on his own how he might challenge the rent increases and chose to pursue a Tribunal application after the process seemed to him quite straightforward at the time. Unfortunately, he was unsuccessful in his application and generally dissatisfied by the decision. He explained that the Tribunal had accepted that the rent level should not be as high as area market rents being an MMR rental, but that to decide a fair rent the lower end of the market should be taken into consideration. The tenant accepted that this approach was fair, however argued that in the actual decision making he felt that the Tribunal actually took into account the higher end of the market when making comparisons across the market. This tenant felt let down by the way the decision was conveyed, explaining he could not understand the legal 'jargon' and that in the decision there was no option for further appeal or offer of support of any kind. On the whole, he felt the process could have been easier and fairer.

10.2 Case 2 - Rent Increase

The case involved an older couple who had been renting their home for over 30 years and felt that their current landlord was using rent increases as a means of pushing them out of the property. The tenant explained that they had brought their landlord to Tribunal on two other occasions and successfully argued that the rent increases they were given were unfair given the amount of damp in the property. As a result, the landlord was ordered to address the damp and who, upon doing so, proceeded with the original rent increase bringing the property to £390 per month. According to the tenant, the landlord raised the rent again a few months later to £430 at which point she sought legal advice as to how to proceed. The lawyer advised that she make an additional Tribunal application on the basis that she received the same rent increase as other cottages owned by the landlord, but did not receive the same level of improvements to the property (namely, installation of central heating). Ultimately, the Tribunal decided that the rent currently being charged was in line with market rents for the area, which she thought was very unfair because being in a very rural location the only comparable rentals were those which were owned by the landlord and therefore individually could determine what market rent is. This tenant was very frustrated by the entire process and felt that she did not get a fair hearing. She had no intention of leaving the property but felt as though she had given up fighting anymore because she felt justice was not available to her.

10.3 Case 3 - Rent Increase

The final rent increase case involved a flat sharing arrangement, where a young man was renting a property with his sister and a friend. After a year of renting, they were surprised to receive an increase from £725 per month to £900 and felt that this was a 'massive' increase.

The letter notifying the tenants of the increase contained information about the Tribunal. Upon investigating this further, the tenants thought it was easy enough to proceed with an application challenging the rent increase. The tenant felt that it took a very long time for the Tribunal to initiate proceedings and that it took 4 months just to have someone come and inspect the property. During the visit the Tribunal officer advised the tenant that there was no reason to come to the hearing because all of the information was provided in his application. He felt he was very misled by this advice because upon receiving the negative decision, he had learned that the landlord had attended the hearing and felt he missed an opportunity to challenge the evidence given by the landlord. The tenant explained that the rentals the landlord selected as comparisons were in a very different part of town where higher rents could be commanded and very much disagreed that these were comparable to his rental. Although the Tribunal had decided that the rent was too high at £900 and that a fairer level was £750, the tenant still felt that an increase of £25 more each month was too much and that all three tenants were looking separately for another rental. The tenant agreed that the process was fair overall, but he did have regrets that he did not seek assistance with his challenge and that the process felt more complicated than the Tribunal guidance suggested.

10.4 Case 4 - Tenancy Deposit

The first case involving tenancy deposits discussed in this report involved a couple with young children who had difficulties with their landlord over the course of their tenancy, which ultimately compelled them to move. After the deposit was not returned within six months of moving out, and having no response from the landlord, the couple decided to bring the landlord to Tribunal after researching what to do when your tenancy deposit is withheld. The tenant explained she felt equipped to deal with complicated legal procedure on their own but felt that many others who may not be experienced in filing legal forms might perceive the process as '*daunting and off putting*'. Although somewhat complicated to initiate, the tenant felt that the process was relatively quick but was intimidating to be in the same room as the landlord. She felt the Tribunal officer was fair but even though the landlord was ordered to return her deposit, she felt disappointed by the decision because she felt that the landlord should have been given an additional penalty for withholding the deposit in the first place as well as not using a safe deposit scheme which she was legally required to do so. This tenant felt that the Tribunal process did not act as a deterrent to her landlord for withholding deposits unlawfully in the future.

10.5 Case 5 - Tenancy Deposit

The second tenancy deposit case involved a tenant who disputed rent arrears. This tenant never received his rent deposit since moving to London and after investigating the requirements of landlords in Scotland, learned that his previous landlord had never registered with a tenancy deposit scheme, as he was required to do. The tenant explained that the process of applying to the Tribunal was simple enough and relatively quick, but was intimidated by the formal procedure of the hearing. He felt the Tribunal officer deciding the case had unfairly given the landlord the benefit of the doubt and that he felt he hadn't been listened to fully. The landlord argued the reason why he had withheld the deposit was because of arrears and even though the tenant had bank statements to refute this claim whereas the landlord had

only given a spreadsheet as evidence. The Tribunal found that he was in arrears but not equal to the amount of the deposit and therefore the tenant was awarded £325 instead of the full £975. The tenant was disappointed by this decision and was surprised by the fact that the Tribunal had accepted what was essentially the landlord's word as evidence. He was also disappointed that there was no additional penalty for not registering the deposit in a Scheme. Overall, the tenant felt the process was not worth his time or money travelling up from London to attend the hearing.

10.6 Case 6 - Repairing Standard

The repairing standard case discussed in this report involved a 70-year-old woman who had lived in her flat for over 30 years and discovered her property was in a dangerous condition following an inspection by the Fire Brigade. The tenant recently had difficulty following the transfer of ownership of the property following the death of her landlord. The new landlords were the parents of the previous landlord who made it clear they were uninterested in managing the property. After several requests to the landlords to improve the faulty wiring identified as dangerous in the inspection, the tenant sought the assistance from a specialist advice agency who assisted her with her repairing standard application to Tribunal. The tenant was very happy with how fast and easy it was to apply to the Tribunal and was very happy with the result. Although the tenant could not fault the Tribunal system, she did have some regrets of having pursued a legal complaint due to the damage it caused to the relationship she had with her landlord. She explained it was quite uncomfortable living in the property now despite it being improved because she now had awkward exchanges with the landlord. Ultimately, she had preferred if there was some other route to compelling the landlord to undertake necessary works, which was not so adversarial. Furthermore, the tenant explained the disruption of the repair work was quite distressing to her as an older person and felt that she did not receive assistance with more practical issues such as moving furniture to avoid damage during works and cleaning up the dust once the workmen had left.

Appendix 4 – Glossary of terms

Additional Dwelling Supplement (ADS)

Assured (AT) or Short Assured Tenancies (SATs)

Broad Rental Market Areas (BRMA)

Department of Work and Pensions (DWP)

Housing Benefit (HB)

Landlords/Letting Agents Survey (LLA)

Local Housing Allowance (LHA)

Mid Market Rent (MMR)

Mortgage Interest Tax Relief for private landlords (MITR)

NTQ (Notice to Quit)

Private Residential Tenancies (PRT)

Private Rented Housing Panel (PRHP)

Rent Pressure Zones (RPZs)

Scottish House Condition Survey (SHCS)

Scottish Household Survey (SHS)

Scottish Index of Multiple Deprivation (SIMD)

Short-term lets (STLs)

Single Housing Benefit Extract (SHBE)

Universal Credit (UC)