

# A LIVING RENT FOR SCOTLAND'S PRIVATE TENANTS

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[www.livingrent.org](http://www.livingrent.org)

**COMMON WEAL POLICY**

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## **THE LIVING RENT CAMPAIGN**

The Living Rent Campaign was founded in October 2014 to lobby for the re-introduction of rent controls and security of tenure for Scotland's private tenants. Since the start of the campaign, a wide range of organisations have formally affiliated.

In total, organisations representing more than a million people across the country have backed the campaign. At the time of writing, our affiliates include the National Union of Students in Scotland, Unison Scotland, Unite Scotland, RMT Scotland, UCU Scotland, EIS, Scottish Churches Housing Action, the Scottish Youth Parliament, the STUC Youth Committee, the Govan Law Centre, and Zero Tolerance.

## **AUTHOR**

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## **ACKNOWLEDGEMENTS**

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## BACKGROUND

In 1988, Margaret Thatcher's Government scrapped rent controls across the UK. Since then, the landscape of housing in Scotland has changed dramatically:

The Scottish Private Rented Sector (PRS) has grown dramatically since the late 1980's. Stagnating wages, increasing house prices and the collapse of social housing has meant that, increasingly, people have nowhere else to go. Between 1993 and 2013, the proportion of housing in the PRS doubled, from 7% to 15%.

There are serious problems of quality in the PRS and many private tenants live in fuel poverty, with more than 50% of PRS properties failing the Scottish Housing Quality Standard. Rent controls could be an effective mechanism for incentivising much needed improvements and repairs.

Rents in Scotland are increasing faster than many tenants can afford, and many are being forced into poverty by these increases.

Women are particularly hard-hit by high rents due to a gender pay gap of almost 18%.

PRS tenants are disproportionately young, non-white and non-British, meaning there is a crucial equalities aspect to making the PRS fairer.

High rents, insecure tenancies and poor quality housing have an enormous public cost; directly through housing benefit and discretionary housing payments; and indirectly through the costs associated with homelessness and the health impacts of damp and cold housing.

Scotland's tenants are amongst the least secure in Europe.

## SUMMARY OF RECOMMENDATIONS

In order to bring rents under control and to give tenants security of tenure, we propose the following changes:

That initial rents be set against a points system to reflect the value of the property

That rent increases be capped at a rent affordability index to ensure increases do not push tenants into hardship

A move towards indefinite tenancies as default, away from short-term contracts

Ensuring that all tenants are entitled to a hardship defence in relation to evictions

The creation of a Scottish Living Rent Commission, to oversee these recommendations and to serve as a centre of expertise for the Scottish Private Rental Sector

## THE CASE FOR RENT CONTROLS

### THE CHANGING LANDSCAPE OF SCOTTISH HOUSING

In 1988, Margaret Thatcher's Government scrapped rent controls, which had been in place in various forms since 1915. Since then, the regulatory framework surrounding private renting in Scotland has remained largely the same. The role of the Private Rented Sector (PRS) in Scottish housing, however, has changed beyond all recognition in that time.

The Scottish Government, in September 2015, announced a series of planned legislative changes<sup>1</sup>, including dramatic improvements to security of tenure and provisions for local rent controls in so-called, but undefined, pressure areas. These are welcome changes, but this paper will lay out how security of tenure and rent controls could best work.

In the two decades between 1993 and 2013, the PRS more than doubled, both in its proportion of the total housing stock and in absolute numbers, as can be seen in Table 1<sup>2</sup>. The other major change in Scottish housing during this time has been the decline of social housing, collapsing from 34% of the housing stock to just 13%, and falling behind the PRS for the first time since the 1960's.

The proportion of housing in the owner-occupied sector has increased, but rapidly increasing house prices present a major barrier to first-time buyers. In the twelve months leading up to March 2015, house prices increased faster in Scotland than anywhere else in the UK, and more than 3% faster than London<sup>3</sup>. This comes on top of an increase of almost 37% in the previous decade<sup>4</sup>.

Table 1: Housing Statistics for Scotland - Key Information and Summary Tables

	Owner-occupied		PRS		Local authority		Total 000s
	000s	Share	000s	Share	000s	Share	
December 1993	1,217	55%	154	7%	755	34%	2,193
March 2013	1,458	58%	368	15%	318	13%	2,521
Change	20%	3	139%	8	-58%	-21	15%

### FOR MANY, THE PRS IS INCREASINGLY THE ONLY OPTION FOR HOUSING.

For many, particularly younger people, the PRS is increasingly the only option for housing. In the decade between 2003 and 2014, the proportion of 16-24 year-olds who rent privately increased from 30% to 59%, and the proportion of 25-34 year-olds renting privately almost tripled, from 13% to 35%<sup>5</sup>.

### EXPLAINING THIS GROWTH

This drastic shift is almost unique amongst European countries.

As shown in table 2<sup>6</sup>, the UK is the only country in Western Europe where deregulation since the 1980's has correlated with an increasing PRS. In every other country where regulation in the sector has been relaxed, the PRS has decreased in size profoundly.

Table 2: Correlation between deregulation and size

	1980's	2000's	Change
England	11%	17%	6%
Finland	33%	16%	-17%
Denmark	22%	14%	-8%
Spain	21%	13%	-8%
Norway	27%	19%	-8%

1 Scottish Government (2015) A Stronger Scotland: The Government's Programme for Scotland 2015-2016. Available at: <http://www.gov.scot/Resource/0048/00484439.pdf> (accessed 23/09/2015)

2 Scottish Government (2014) Housing Statistics for Scotland - Key Information and Summary Tables. Available at: <http://www.gov.scot/Topics/Statistics/Browse/Housing-Regeneration/HSfS/KeyInfoTables> (accessed 02/07/2015)

3 L Boyce (2015) Property market soars 10% in year to March as average UK house price jumps £4k in a month in This is Money. Available at: <http://www.thisismoney.co.uk/money/mortgageshome/article-3087544/Annual-house-price-inflation-rises-time-summer-average-home-adding-4k-month.html> (accessed 01/07/2015)

4 Registers of Scotland (2014) Registers of Scotland 10-Year Property Market Report 2004-2014. Available at [https://www.ros.gov.uk/\\_data/assets/pdf\\_file/0008/3977/RoS10YearReport2004-2014.pdf](https://www.ros.gov.uk/_data/assets/pdf_file/0008/3977/RoS10YearReport2004-2014.pdf) (accessed at 02/07/2015)

5 ad-hoc request from Scottish Government (2015), Scottish Household Survey. Data available on request.

6 C Whitehead (2012) The Private Rented Sector in the New Century. Available at: <http://www.cchpr.landecon.cam.ac.uk/Projects/Start-Year/2010/Private-Rented-Sector-New-Century-Comparative-Approach/Project-Report> (accessed 29/06/2015)

This correlation holds even in countries where regulation has been kept broadly the same or tightened, as the graph below shows.<sup>7</sup>

Table 3: Correlation between deregulation and size

Decreasing regulation		Increasing size	
Finland		England (11 to 17%)	
England			
Denmark			
Spain			
Norway			
No radical change		Medium	
Netherlands		Sweden (21 to 23%)	
Germany		Germany (45 to 45/49%)	
Sweden		France (23 to 21%)	
Switzerland			
Increasing regulation		Decreasing size	
France		Switzerland (63 to 58%)	
Ireland		Ireland (13 to 9%)	
		Norway (27 to 19%)	
		Denmark (22 to 14%)	
		Spain (21 to 13%)	
		Netherlands (19 to 10%)	
		Finland (33 to 16%)	

The PRS in the UK, including in Scotland, has grown significantly since deregulation, but this growth can be largely explained in two ways:

- Firstly, this has mainly come at the expense of other housing tenures – as opposed to new-build. UK-wide estimates suggest that at least 90% of the increase in the PRS has been pre-existing homes.<sup>8</sup>
- Secondly, the availability of buy-to-let mortgages has been, according to UK Government analysis, “a significant factor supporting the substantial growth in PRS housing since 2000.” This report went on to argue that “mortgage availability would be the key issue facing individual investors in the PRS going forwards.”[Emphasis added]<sup>9</sup>

## THE GROWTH OF THE PRS HAS MAINLY COME AT THE EXPENSE OF OTHER HOUSING TENURES.

Such a dramatically changing landscape means the role of regulation in the PRS must be reviewed in order to protect the increasing number of people who are finding themselves with nowhere else to live.

## QUALITY OF THE PRIVATE RENTED SECTOR

There are serious and well-recognised issues of quality in the Scottish PRS. More than half of PRS dwellings fail the Scottish Housing Quality Standard, with 14% being assessed as “not healthy, safe or secure.”<sup>10</sup> In some areas, the situation is significantly worse.

In February 2015, the Scottish Government and Glasgow City Council spent £9.3 million buying up properties in Glasgow’s south side that had fallen into “slum-like” conditions, recognising that the market was failing to bring the properties up to standard.<sup>11</sup>

There are serious and well-recognised problems of quality in the Scottish PRS.

As many as a third of PRS tenants in Scotland are also living in fuel poverty, almost double the same figure for those with a mortgage<sup>12</sup>, and significantly reducing the likelihood that the Scottish Government will meet its target to eradicate fuel poverty by 2016.<sup>13</sup>

The detrimental health impact of poorly heated homes is well documented, but poor insulation and energy efficiency also pushes up the cost of bills. This means that people in the PRS not only pay more in housing costs than in any other tenure, but they pay more in energy costs as well.

There is a strong case to be made that increased security of tenure and protection from eviction would give tenants the confidence to raise concerns with local authorities, facilitating the enforcement of standards.

7 ibid

8 D Bentley (2015) The Future of Private Renting: Shaping a fairer market for tenants and taxpayers. Available at: <http://www.civitas.org.uk/pdf/thefutureofprivaterenting> (accessed 28/06/2015)

9 HM Treasury (2010) Government response to the consultation on investment in the private rented sector. Available online at: [http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/investment\\_in\\_the\\_uk\\_private\\_rented\\_sector\\_response\\_summary.pdf](http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/investment_in_the_uk_private_rented_sector_response_summary.pdf) (accessed 30/06/2015)

10 Scottish Government (2013) Scottish House Conditions Survey 2013, key findings. Available at: <http://www.gov.scot/Resource/0046/00465627.pdf> (accessed 02/07/2015)

11 BBC (2015) Flats bought up in Govanhill area to end slum housing problem. Available at: <http://www.bbc.co.uk/news/uk-scotland-glasgow-west-31162806> (accessed 02/07/2015)

12 Scottish Government (2013) Scottish House Conditions Survey 2013, key findings.

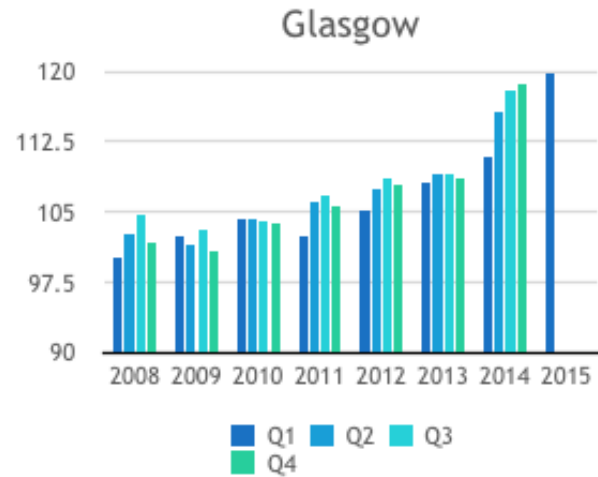
13 Energy Action Scotland Target: Eradicate Fuel Poverty in Scotland by 2016. Available at: <http://www.eas.org.uk/page.php?id=1790> (accessed 02/07/2015)

In other countries such as Germany and the Netherlands, The quality of properties is reflected in what landlords are allowed to charge. As will be further outlined later, a system of rent controls that restricted rents on properties that fail to meet the SHQS could provide a significant incentive to make necessary improvements.

**RENT LEVELS IN SCOTLAND**

Rent in Scotland is rapidly increasing. Aberdeen is an acknowledged hot-spot, where Government statistics have shown that rent for a 4-bedroom flat has risen by more than 65% in just 4 years.<sup>14</sup> It would, however, be wrong to suggest that Aberdeen was the only place in Scotland where rent increases were becoming more of a problem.

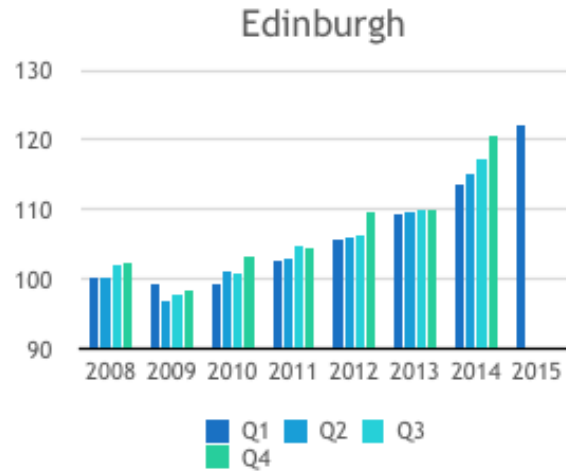
Statistics on average rents released earlier this year by Citylets show strong increases in PRS rents in Glasgow, Edinburgh and Aberdeen.<sup>15</sup>



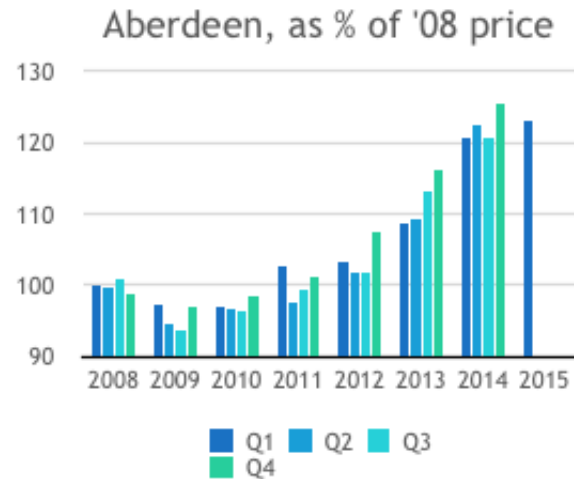
**Table 3: Rent levels in Glasgow as a percentage of the first quarter of 2008.**

14 Scottish Government (2014) Private Sector Rent Statistics, Scotland (2010-2014). Available at: <http://www.gov.scot/Publications/2014/11/2313> (accessed 02/07/2015)

15 Citylets (2015) Quarterly Report Q1 2015. Available at: <http://www.citylets.co.uk/research/reports/pdf/Citylets-Rental-Report-Q1-15.pdf?ref=reports> (accessed 02/07/2015)



**Table 4: Rent levels in Edinburgh as a percentage of the first quarter of 2008.**



**Table 5: Rent levels in Aberdeen as a percentage of the first quarter of 2008.**

These increases have outstripped inflation in all three cities, but even that does not tell the full story. Firstly, across Scotland the rate of increases in rent is speeding up. Since the first quarter of 2012, rents in these cities have increased far faster than inflation.<sup>16</sup>

16 Historical Inflation Rates for United Kingdom (2012-2015). Available at: <http://www.rateinflation.com/inflation-rate/uk-historical-inflation-rate?start-year=2012&end-year=2015> (accessed 18/06/2015)



Secondly, there are limits to the usefulness of inflation as a measure. For many in Scotland, wage increases have been consistently below inflation, meaning that even where rent increases have been broadly in line with inflation, this has meant significant financial strain.<sup>17</sup>

Therefore, it is clear that increasing rents are an issue for many in Scotland; and furthermore that this problem is not confined to small parts of Aberdeen.

## SCOTLAND'S TENANTS

The impact of these increasing rents the wellbeing of tenants is clear. The Joseph Rowntree Foundation has found that increasing housing costs in Scotland are forcing more and more tenants into poverty. The proportion of people classed as being in poverty who live in the PRS has almost tripled in a decade; from 11% in 2002/03 to 29% in 2012/13.<sup>18</sup>

Rising rents have also the additional impact of trapping tenants in the PRS. Research by Santander has shown that 49% of non-homeowners have given up attempting to save for a deposit altogether, having next to nothing left at the end of the month.<sup>19</sup>

## RISING RENTS HAVE ALSO THE ADDITIONAL IMPACT OF TRAPPING TENANTS IN THE PRS.

Additionally, there is a crucial equalities aspect to tackling high rents.

Firstly, the gender pay-gap in Scotland sees women earn as much as 17.8% less than men.<sup>20</sup> This means that already high rents have a disproportionate impact on women.

Secondly, the demographic spread of PRS tenants is far from even. Three groups are far more likely to live in the PRS than the average: young people, immigrants, and non-white people. A majority of PRS tenants are under 35<sup>21</sup>, 27% of PRS tenants are from outside the UK, compared to only 5% of home-owners and 7% of tenants in the socially rented sector<sup>22</sup>, and non-white people in Scotland are almost 5 times more likely to live in the PRS than white people.<sup>23</sup>

The Scottish Government's Equality Impact Assessment did rightly make reference to the particular importance of increased security of tenure in the PRS to many of the most marginalised demographics, but 'security of tenure' without the guarantee of affordable rents is limited.

## INSECURITY OF TENURE

Currently, Scotland's tenants are amongst the least secure in Europe. Shelter Scotland show that in many countries, around Europe and elsewhere, private renting is a "mainstream housing option" and that, "[r]eflecting the importance of the sector as a housing provider, many of these countries offer [PRS] tenants a relatively high level of security in their homes."<sup>24</sup>

17 K Devlin (2015) Scots workers' wages down £1.9k since 2010...while chief execs earn average salary every two days in The Herald. Available at: <http://www.heraldscotland.com/politics/scottish-politics/scots-workers-wages-fall-by-almost-1900-since-2010-as-chief-execs-earn-av.118547831> (accessed 02/07/2015)

18 Joseph Rowntree Foundation (2015) The Changing Face of Poverty in Scotland: Young Adults and Those Privately Renting Now at Greater Risk. Available at: <http://www.jrf.org.uk/media-centre/changing-face-poverty-scotland> (accessed 02/07/2015)

19 L Boyce (2014) Half of renters have given up on buying their own home as 'rent trap' leaves them without the money to save for a deposit in This is Money. Available at: <http://www.thisismoney.co.uk/money/mortgageshome/article-2786304/Half-not-home-never-expect-future-rent-trap-leaves-without-money-save-deposit.html> (accessed 02/07/2015)

20 K Devlin (2014) Action demanded after study reveals rising gender pay gap in The Herald. Available at: <http://www.heraldscotland.com/politics/wider-political-news/action-demanded-after-study-reveals-rising-gender-pay-gap.24340636> (accessed 02/07/2015)

21 ad-hoc request from Scottish Government (2014), Scottish Household Survey. Data available on request.

22 ibid

23 Scottish Government (2012) Evidence Review of the Private Rented Sector in Scotland. Available at: <http://www.gov.scot/resource/0039/00391717.doc> (accessed 02/07/2015)

24 Shelter Scotland (2013) The case for greater security for private tenants in Scotland. Available at: [http://scotland.shelter.org.uk/\\_data/assets/pdf\\_file/0008/709811/Shelter\\_Scotland\\_-\\_The\\_case\\_for\\_greater\\_security\\_for\\_private\\_tenants\\_in\\_Scotland.pdf](http://scotland.shelter.org.uk/_data/assets/pdf_file/0008/709811/Shelter_Scotland_-_The_case_for_greater_security_for_private_tenants_in_Scotland.pdf) (accessed 02/07/2015)



## SCOTLAND'S TENANTS ARE AMONGST THE LEAST SECURE IN EUROPE

They argue that Scotland is “exceptional in offering tenants very short periods of security from eviction and no protection against rent rises for the duration of the tenancy.”<sup>25</sup>

Typical short-assured tenancies in Scotland last just 6 months<sup>26</sup>, and landlords are guaranteed possession of the property at the end of this term.<sup>27</sup>

While the short-term nature of many tenancy agreements is appropriate for many tenants, it is a problem for others. For instance, more than a quarter of PRS households contain dependent children.<sup>28</sup>

This insecurity has a well-established impact on tenants. The Commission on Housing and Wellbeing argues that the typically-short duration of short assured tenancies can cause uncertainty and difficulty and recommends that “[n]ew tenancy arrangements in the private rented sector should allow for longer-term tenancies.”<sup>29</sup>

Indeed, this recommendation was made to the UK Government in an EU Council report, urging them to “Take steps to improve the functioning of rental markets, in particular by making longer rental terms more attractive to both tenants and landlords.”<sup>30</sup>

## WHO FOOTS THE BILL?

When rent controls were scrapped across the UK in 1988, it was the explicit intention for rents to increase. As rents that were previously kept at affordable levels by regulation began to dramatically increase, the Conservative Government of the time were clear that there would be a shift towards the taxpayer in meeting housing costs. Sir George Young, the then Housing Minister, stated explicitly that housing benefit – and therefore the public purse – would “take the strain” if tenants could not afford their rents.<sup>31</sup>

The inflationary impact of housing benefit on PRS rents is well established.<sup>32</sup> He cites a telling admission from a DWP report, conducted by the Institute for Fiscal Studies, that, both in the UK and elsewhere, “empirical studies of the impact of rent subsidies have tended to find that the incidence is largely on landlords – in other words, rent subsidies result in higher rents – mainly because the supply of rental accommodation is unresponsive to changes in rent levels.”<sup>33</sup>

Particularly at a time of extreme pressure on public spending, the trajectory of housing benefit going directly to private landlords since its introduction has been profound, with the amount reaching almost £10 billion in 2014 – a figure expected to continue to rise.<sup>34</sup> In Scotland, this figure is approximately £9 million.<sup>35</sup>

As well as housing benefit, Discretionary Housing Payments also support tenants in paying their rent. For '14/'15, this was more than £50 million, although much of this has been allocated to mitigate the effects of the 'Bedroom Tax'.<sup>36</sup>

25 ibid.

26 The Scottish Government (2009) Review of the Private Rented Sector. Available online at: <http://www.gov.scot/Resource/Doc/264996/0079349.pdf> (accessed 21/08/2015)

27 Shelter Scotland (2013) The case for greater security for private tenants in Scotland.

28 Scottish Household Survey (2011), as quoted in Shelter Scotland (2013) The case for greater security for private tenants in Scotland.

29 Commission on Housing and Wellbeing (2015) A Blueprint for Scotland's Future. Available online at: <http://housingandwellbeing.org/> (accessed 02/07/2015)

30 EU Council (2013) Council recommendations on the National Reform Programme 2013 of the United Kingdom. Available online at: [http://ec.europa.eu/europe2020/pdf/csr2013/uk/csr2013\\_council\\_uk\\_en.pdf](http://ec.europa.eu/europe2020/pdf/csr2013/uk/csr2013_council_uk_en.pdf)

31 <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06760>

32 D Bentley (2015) The Future of Private Renting: Shaping a fairer market for tenants and taxpayers.

33 Department for Work and Pensions (2014) Econometric analysis of the impacts of Local Housing Allowance reforms on existing claimants. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/329745/rr871-lha-econometric-analysis-of-the-impacts-of-reforms-on-existing-claimants.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/329745/rr871-lha-econometric-analysis-of-the-impacts-of-reforms-on-existing-claimants.pdf) (accessed 02/07/2015)

34 R Dyson (2014) Landlords' £9bn housing benefit 'fuelling bubble' in The Telegraph. Available at: <http://www.telegraph.co.uk/finance/personalfinance/investing/buy-to-let/10787462/Landlords-9bn-housing-benefit-fuelling-bubble.html> (accessed 02/07/2015)

35 K Berry (2014) SPICe Briefing: Housing Benefit Statistics. Available at: [http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/S4/SB\\_14-50.pdf](http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/S4/SB_14-50.pdf) (accessed 02/07/2015)

36 Scottish Government (2015) DHPs in Scotland: 1 April 2014 to 31 March 2015. Available at: <http://www.gov.scot/Topics/Statistics/Browse/Social-Welfare/dhp/DHP31March2015> (accessed 02/07/2015)

Direct support with housing costs is, however, not the only public cost of the PRS. It is difficult to calculate exact figures, but there are two other important ways in which reducing rents could reduce the public cost of housing:

- Through reducing homelessness. The amount of homelessness applications from PRS tenants is both disproportionately high and falling at a significantly slower rate than from other forms of tenure.<sup>37</sup> Figures from 2009 put the public cost of a single incidence of homelessness at anything between £15,000 and £83,000.<sup>38</sup> Beyond these immediate costs, there is no way to put a cost on the longer-term impacts of homelessness on individuals and society. The Commission on Housing & Wellbeing recognises that “[e]ven a short period of homelessness can have a significant impact on life outcomes and in all cases, homelessness can lead to a damaging loss of personal confidence and morale.”<sup>39</sup>
- Through reducing cost to the NHS of health problems exacerbated by poor quality housing in the Scottish PRS. Again, the Commission on Housing & Wellbeing argues that “the right type of housing and housing policies can lead to savings in expenditure in our National Health Service”, going on to outline some of the ways in which poor quality housing can impact on people’s health; including the strong link between dampness and respiratory diseases.<sup>40</sup>

Not all of these costs are devolved to the Scottish Government, and the social costs – particularly of homelessness and health problems – are impossible to calculate meaningfully. What is clear, however, is that high rents come at a significant cost to the public purse, as well as to tenants struggling to make ends meet.

Particularly if housing benefit were to be devolved to the Scottish Government (a move we would support), but even if not, it is clear that there is a significant financial case to support the reduction of PRS rents.

## **HIGH RENTS COME AT A SIGNIFICANT COST TO THE PUBLIC PURSE, AS WELL AS TO TENANTS STRUGGLING TO MAKE ENDS MEET.**

### **WHO BENEFITS?**

Generation Rent has outlined in detail the profits that UK landlords are making – roughly £42.3bn in rent alone annually. On top of this, UK landlords benefit from as much as £26.7bn in public subsidies – almost £10bn in Housing Benefit, and more than £17bn in various tax breaks – on mortgage interest payments and on capital gains.

## **UK LANDLORDS BENEFIT FROM AS MUCH AS £26.7BN IN PUBLIC SUBSIDIES**

Rental income, however, makes up only one part of the income landlords receive; the other major part being in capital growth on the value of their properties. Bentley argues many investors have bought homes to let in pursuit of capital gains as much as rental yields, and that it would therefore be wrong to assume that limiting rent levels would “create an exodus of investors from the private rented sector.” Indeed, across the UK, since 2009, landlords have made a profit of more than £177bn in capital growth alone.<sup>41</sup>

### **WHAT KIND OF RENT CONTROLS**

During the First World War, almost every country implemented rent controls. As in Scotland, these often took the form of an absolute freeze on rents, sometimes back-dated to their pre-war levels. These kinds of controls have since come to be known as “First Generation” rent controls.

37 Shelter Scotland (2015) Homelessness in Scotland 2014. Available at: [http://scotland.shelter.org.uk/\\_data/assets/pdf\\_file/0017/1050272/Homelessness\\_in\\_Scotland\\_2014\\_Getting\\_behind\\_the\\_statistics\\_FINAL\\_V2.pdf](http://scotland.shelter.org.uk/_data/assets/pdf_file/0017/1050272/Homelessness_in_Scotland_2014_Getting_behind_the_statistics_FINAL_V2.pdf) (accessed 02/07/2015)

38 Scottish Government (2009) Prevention of Homelessness Guidance. Available at: <http://www.gov.scot/resource/doc/274719/0082198.pdf> (accessed 02/07/2015)

39 Commission on Housing and Wellbeing (2015) A Blueprint for Scotland's Future.

40 Ibid.

41 K Allen, J Pickard (2015) UK landlords make £177bn from rising house prices over 5 years in Financial Times. Available online at: <http://www.ft.com/cms/s/2/b94cd0d2-95a8-11e4-a390-00144feabdc0.html#axzz3Vx670aLT> (accessed 21/08/2015)

There are legitimate criticisms of these kinds of rent controls that would not apply to the much more sophisticated and nuanced forms rent controls took on after the Second World War. However, few would seriously propose this First Generation model for Scotland, and this section is an attempt to outline what a modern version of rent controls could look like here.

The kind of rent controls we are proposing for Scotland are common across Europe, and are often referred to as “Second Generation” rent controls. Such models often have three elements:

- linking initial rents to a Points System, as is the case in the Netherlands;
- linking rent increases to a Scottish Rent Affordability Index, similarly to how rents in Spain are pegged to a cost of living index;
- and a series of measures to increase security of tenure, similar to the regime in Germany.

To monitor and enforce these regulations, we propose the creation of a **Scottish Living Rent Commission**. This would be tasked with assessing rents, calculating the Rent Affordability Index, and would serve as a centre for expertise on the PRS, producing the much-needed statistics we need to inform policy and debate on the sector.

We believe that the functions and remit of the existing Rent Service Scotland could be expanded to fulfill this purpose, and that any costs incurred by this expansion would be more than met by the savings outlined in the final section of the previous chapter.

## INITIAL RENTS

There have been a number of relatively limited proposals to introduce some controls on rent that focus exclusively on increases within tenancies – but not on initial rents, and not on rent increases in-between tenancies. There are two clear limitations to this.

The first is that rents are already too high, and high rents already having a devastating effect on tenants. Regulating increases alone will not help to those people who are currently being forced to choose between feeding themselves and paying their rents.

Secondly, not only is there little evidence that this model would actually reduce rents over time, but there is a risk that initial rents would be set artificially high to compensate for limited increases over time. While this may mean that longer-term tenants ultimately pay the same as otherwise, or even less, there is a very real risk that tenants who cannot commit to longer-term tenancies are unlikely to be in a contract long enough for this top-loading to even out. This approach risks harming the most vulnerable tenants – young people in precarious employment or those fleeing domestic abuse, for example – at the expense of some of the most stable.

For these reasons, we propose a system that would regulate initial rents as well as increases. We would support a similar approach to that which exists in the Netherlands, where initial rents are measured against an expansive ‘points system’, and properties are assigned a maximum rent level based on how many points they are awarded<sup>42</sup>. There are also similarities between this model and the German *rent mirror*<sup>43</sup> and Swedish *utility value*.<sup>44</sup>

42 Huurcommissie (2015) Handleiding Behorende Bij Het Waarderingsstelsel Voor Onzelfstandige Woonruimte. Available at: [http://www.huurcommissie.nl/uploads/media/Handleiding\\_onzelfstandige\\_woonruimte.pdf](http://www.huurcommissie.nl/uploads/media/Handleiding_onzelfstandige_woonruimte.pdf) (accessed 02/07/2015)

43 MeineStadt.de, Mietspiegel Deutschland. Available online at: <http://www.meinestadt.de/deutschland/immobilien/mietspiegel/>

44 Sveriges Allmännyttiga Bostadsföretag (2013) Rent setting in Sweden. Available online at: [http://www.sabo.se/om\\_sabo/english/Documents/Rent%20setting%20in%20Sweden.pdf](http://www.sabo.se/om_sabo/english/Documents/Rent%20setting%20in%20Sweden.pdf)

A model such as this for Scotland could see properties awarded points based on the size, quality, and location of the property but, crucially, not simply market levels. The Commission would then establish a maximum rent for properties assessed based on how many points they are assessed as – similar to what the Dutch Rent Commission does.<sup>45</sup>

Points could be added to properties based on criteria such as the following:

- The size of the property
- Energy efficiency rating
- Access to a private garden, patio or balcony, with points increasing based on size relative to the number of properties sharing the garden
- Access to a shared garden, with points increasing based on the size
- The property including a parking space
- The extent and quality of kitchen and bathroom amenities
- Access to local transport links and other local services

Additionally, points could be deducted for properties in a state of disrepair, or failing the Scottish Housing Quality Standard.

Linking rents chargeable to quality in this way creates an important financial incentive for landlords to improve the quality of their housing stock.

Tenants who believed their rent levels were higher than what they should be would be entitled to appeal to the Commission for the property to be assessed, as is the case in the Netherlands.<sup>46</sup>

Crucially, the goal of this system would be to set rents at affordable levels, rather than simply to prevent individual properties being far outwith the market level. 'Affordable' would be judged as rents that are no more than 25% of a tenants' income.

## SCOTTISH RENT AFFORDABILITY INDEX

The most common feature of rent regulation across Europe is a limit on the amount by which rents can increase within tenancies, but this is done in a great variety of different ways. At its simplest, increases are capped at a pre-existing measure – such as inflation. As discussed above, this model has a key problem; that the rate of inflation can often be much higher than the rate of increases in wages. While this type of limit may provide a sense of predictability, it does not necessarily guarantee affordability. We believe that rent increases should be assessed against a more sophisticated **Scottish Rental Affordability Index**.

This index would be forecasted and calculated by the Commission and would be designed to ensure that increases reflected genuine cost on behalf of the landlords, as well as reflecting the array of financial pressures on tenants.

Factors that would make up the Scottish Rental Affordability Index could include:

- Increases (or decreases) in average wages, as supported by the Joseph Rowntree Foundation<sup>47</sup>, while considering the income distribution of private renters
- The amount of other support that tenants may need to rely on, such as housing benefit or student support
- The need for tenants to be able to save money for a deposit
- Changes in other aspects of the cost of living, for example food, travel and energy costs

45 Huurcommissie (2015) Maximale Huurprijzen Onzelfstandige Woningen per 1 July 2015. Available at: [http://www.huurcommissie.nl/uploads/media/Maximale\\_huurprijzen\\_onzelfstandige\\_woningen\\_per\\_1\\_juli\\_2015.pdf](http://www.huurcommissie.nl/uploads/media/Maximale_huurprijzen_onzelfstandige_woningen_per_1_juli_2015.pdf) (accessed 02/07/2015)

46 Huurcommissie (2015) Puntenformulier Zelfstandige Woonruimte. Available at: [http://www.huurcommissie.nl/uploads/media/Puntenformulier\\_zelfstandige\\_woonruimte.pdf](http://www.huurcommissie.nl/uploads/media/Puntenformulier_zelfstandige_woonruimte.pdf) (accessed 02/07/2015)

47 B Robson (2015) The Housing Market isn't helping people to make ends meet. Time for Living Rents. Available at: <http://www.jrf.org.uk/blog/2015/06/living-rents> (accessed 02/07/2015)

As a means of incentivising improvements to the property, landlords would be entitled to increase rents above the index rate by applying for a re-assessment of initial rent. This would mean that substantial improvements to, for example, a property's energy efficiency would allow landlords to increase rents beyond the increases stipulated by the index. Similarly, tenants would also be entitled to have the initial rent re-assessed if they believed that the circumstances had changed such that the property could have points deducted.

As with initial rents, tenants would be entitled to appeal to the Commission if they believed rent increases were higher than reasonable.

## SECURITY OF TENURE

Protection from unreasonable rent increases is only one aspect of a well-functioning PRS. The other is a well-defined and enforced right to security of tenure for tenants. This plays two important functions; the first is that tenants are protected from evictions or having to move home at great cost and disruption. The second is to give tenants the confidence and assurance that they can challenge their landlords or letting agents (on cost, repairs, harassment, or anything else) without fear of having their contract terminated.

We propose three changes to improve security of tenure:

- A move away from short-assured tenancies towards indefinite tenancies as standard. This would require the abolition of the no-fault grounds for repossession, and would mean that tenants who paid their rent and otherwise abided by their contract would be entitled to stay in a property for as long as necessary without fear of eviction or notice to quit.
- That when tenants are evicted for reasons beyond their control (such as a landlord selling the property, or a landlord making the property their primary residence) that the reasonable removal expenses be awarded to the tenant.

- That all grounds for eviction be discretionary; such that the Housing Tribunal would always have the ability to make exceptions to allow tenants to stay in a property where an eviction would cause undue hardship for the tenant. In Germany, the so-called Sozialklausel makes provisions for tenants to request a continuance of the rental agreement where its end would constitute hardship for the tenant, their family or another member of the household, which cannot be justified even when taking into account the landlord's interests. The main reason to invoke this clause is a lack of alternative accommodation on reasonable terms. Typical cases of this kind also include: illness, pregnancy, disability, old age, and children's schooling.<sup>48</sup>

Security of tenure is limited where tenants are not protected from rent levels that would force them to move, but if tenants are not protected from eviction then the benefits of any controls on rent is equally limited. We see the two aspects as necessarily going hand-in-hand.

## ENDS

48 German Government (2013) Submission to United Nations Office of the High Commissioner for Human Rights consultation on security of tenure. Available at: <http://www.ohchr.org/Documents/Issues/Housing/SecurityTenure/ResponseGermany.pdf> (accessed 02/07/2015)