

Scottish Parliament Joint Committee Housing (Scotland) Bill consultation

Independent Age response

May 2024

About Independent Age

Independent Age is the national charity for older people living in poverty.

Our helpline and expert advisers offer free, practical support to older people without enough money to live on. Through our grants programme, we support hundreds of local organisations working directly with older people across the UK.

We use the knowledge and insight gained from our support services and partnerships to highlight the issues experienced by older people in poverty and campaign for change.

We believe no one should face financial hardship in later life.

General

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

Agree

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

Independent Age believe that all older renters in Scotland should be able to live in homes that are affordable, secure and suitable for their needs. The Housing Bill is a significant opportunity to make progress towards that vision and Independent Age welcomes many of the proposals contained within the Bill, in line with the Scottish Government's aim of improving housing outcomes for those who rent their home.

In Scotland:

- 5% of people aged 65 and over are renting in the Private Rented Sector (PRS) and 17% of older people are social renters.¹
- Around half of the 150,000 pensioners in poverty are renters.
- 8 in 10 older private renters support the introduction of limits on how much landlords can increase rents.²
- The number of older people experiencing homelessness increased by 23% in the latest official statistics from 2022/23.³
- Only 30% of older renters feel fully informed about their housing rights.

Against this backdrop, Independent Age welcome many of the proposals in the Bill which seek to address the rising costs of renting, give tenants greater flexibility with

¹ DWP, Households Below Average Income

² YouGov plc survey on behalf of Independent Age. Total sample size was 2,177 renters in England (1,804) and Scotland (373). Fieldwork was undertaken between 15–28 June 2023. The survey was carried out online. The results in this report are from the Scotland sample.

³ [Supporting documents - Homelessness in Scotland: 2022-23 - gov.scot \(www.gov.scot\)](https://www.gov.scot/supporting-documents-homelessness-in-scotland-2022-23)

personalisation in properties, and shift the focus from crisis intervention towards prevention activity on homelessness. With a rising number of older people in the PRS, a rising proportion in poverty, fear and anxiety over rising rents, and concern over finding affordable accommodation that is of a good standard – the Housing Bill is urgently required.

Alongside the measures contained within the Bill, Independent Age note that building more social homes is essential in addressing many of the housing issues being experienced by people in later life today and into the future.

Rent

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

Yes

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

Independent Age welcome the proposals in the Bill that establish a national framework for system of rent controls.

The Bill contains welcome measures that Independent Age support including:

- the duty on local authorities to conduct periodic assessment of rent conditions;
- the provision for interim assessments of rent conditions either initiated by the local authority or at the direction of Scottish Ministers;
- the duties on landlords to provide information;
- the ability for areas to be designated as rent control areas and have rent increases moderated;
- the restriction on levels of rent increases applying between tenancies.

Rent control areas

All older people in Scotland should be able to live in affordable, secure and suitable housing. Over recent years there has been an increase in both the number of older people in the Private Rented Sector (PRS) and the proportion that live in poverty. Currently 1 in 3 older private renters are in poverty, compared to less than 1 in 4 a decade ago.⁴ Addressing the housing issues faced by older people requires a multi-pronged approach, from building more social homes, to ensuring adequate social security support and controlling rents in the private rented sector when required. The proposals contained in the Bill regarding rent control areas are much needed to address the latter of these.

This matters. An older person living in a private rented property, who last year had their rent increased by 3% told us it had gone up by "*£30 per month. It's a lot when you're on a pension income and prices are rising.*"

Moderating rents is supported by older private renters; 82% of older private renters support the introduction of limits on how much landlords can increase rents for existing tenants.⁵

⁴ Relative poverty; Households below average income series, DWP

⁵ YouGov plc survey on behalf of Independent Age. Total sample size was 2,177 renters in England (1,804) and Scotland (373). Fieldwork was undertaken between 15–28 June 2023. The survey was carried out online. The results in this report are from the Scotland sample.

Our research found that over one third (34%) of older private renters have felt anxious about paying their rent.⁶ Four per cent said they were currently in rent arrears, with the same number worried they soon would be.⁷ Whilst a survey by Age Scotland found that more than 1 in 10 older renters were not financially able to pay their rent.⁸ This is an incredibly concerning situation for everyone who finds themselves in this position.

Additionally, Independent Age polling found that 28% of older private renters have less than £200 disposable income per month after paying their rent.⁹

Independent Age support the proposals allowing rent control areas to be designated and rents controlled.

Information from landlords

Independent Age welcome the duties on landlords to provide information to local authorities as part of the assessment of rent levels – this is essential to enable an accurate assessment of local rent levels. Independent Age note that the current list of information that can be sought from a landlord does not contain information related to standards or energy efficiency – such as an EPC rating certificate. If this information was collected as well, it would not only allow for a more accurate assessment of rent levels across properties, but could be used as part of the criteria under Section 9 (3) b as a factor considered in the cap level. For example, properties with a lower EPC rating could have a lower cap as a means of incentivising landlords to implement energy efficiency measures.

Independent Age support the requirement for landlords to provide information and recommend consideration is given to expanding the list to include EPC certificates.

Enforcement

Independent Age note that whilst there are rightfully measures in the Bill for enforcement penalties for landlords who unlawfully evict a tenant, and for landlords who fail to provide information to local authorities – there are currently no enforcement penalty proposals included in the Bill for landlords who breach rent control rules within rent control areas. Independent Age recommend that consideration is given to whether penalties for landlords who increase rents beyond the cap in designated control areas are required. This would help prevent the potential financial harm this could cause to a tenant and the use of enforcement could better incentivise compliance on rent levels within rent control areas.

Independent Age recommend the consideration of including enforcement provisions for landlords who breach caps within rent control areas.

Evictions

Q5. What are your views on Part 2 of the Bill that deals with evictions?

Independent Age welcome the introduction of the duty on the Tribunal and the Sherriff Court to consider whether a delay on enforcement of an eviction order should occur based on the circumstances of the individual. In our polling, 6 in 10 older private renters said it would be difficult to find a new property to rent. A delay to enforcement could ensure that people have time to secure alternative accommodation, particularly given

⁶ Survey of 544 adults aged 65+, Independent Age, August–September 2023

⁷ [full-report-national-housing-survey-2023.pdf \(ageuk.org.uk\)](https://www.ageuk.org.uk/full-report-national-housing-survey-2023.pdf)

⁸ [full-report-national-housing-survey-2023.pdf \(ageuk.org.uk\)](https://www.ageuk.org.uk/full-report-national-housing-survey-2023.pdf)

⁹ YouGov plc survey on behalf of Independent Age. Total sample size was 2,177 renters in England (1,804) and Scotland (373). Fieldwork was undertaken between undertaken 15–28 June 2023. The survey was carried out online. The results in this report are from the Scotland sample.

the often more specific housing needs – e.g. accessibility needs, which some older people will have when finding a new property.

At Independent Age we have heard from older people who are worried about eviction and who have experienced being evicted whilst in later life. In August 2023, almost half (49%) of older private renters in Scotland said they were still worried about evictions despite the temporary measures (including the enforcement ban) that were then in place.¹⁰

One older man aged 70–74 shared with Independent Age that he had faced eviction as a pensioner: *"My landlady decided to sell her property, so I was given notice. An example of a private landlord selling up. The property was purchased for use as a second home and short-term let." He noted that "it's scary how starting rents have increased."*

Julie, aged 65, told us: *"As I am now in a social housing situation, I am less worried about eviction but, having been a private tenant for many years, I am/was worried about it – when looking for my latest property, I dismissed one [private rented] property I liked, because of the current eviction rates."*

To strengthen the security that older renters can experience in the PRS, **Independent Age recommend that the Housing Bill includes provision that introduces a standard 84 day notice period for tenancies, regardless of how long a person has been a tenant.** Thus, removing the difference and disadvantage experienced by tenants during the first six months of their tenancy, when the notice period is set at 28 days.

The Housing Bill is also an opportunity to ensure that tenants are informed of their rights, particularly at a time of extreme personal impact (such as eviction) where being aware of rights in housing, and of the independent support available is essential for older people who are in this position. Independent Age research found that just 30% of older renters feel fully informed of their rights.¹¹

Independent Age recommend that landlords should be required to provide information concerning their rights and independent sources of advice to all tenants at the time of serving notice.

Making changes to property

Q6. Do you support the proposals in Part 3 of the Bill to strengthen the rights of tenants to keep pets and make changes to let property?

Pets

Independent Age welcome the provisions for strengthening the rights of tenants to keep pets in their home.

Looking after a pet can help reduce loneliness and isolation whilst contributing positively to mental and physical health. One older private tenant shared with us what their pets mean to them: *"Pets are particularly important for older people who might be living alone like myself. My cats are my lifeline. When I had a dog, it encouraged me to exercise, which I rarely do now that she has died."*

We welcome the period of 42 days, during which landlords must respond to requests from tenants who wish to keep pets. However, classing no response from a landlord as

¹⁰ Survey of 544 adults aged 65+, Independent Age, August–September 2023

¹¹ Survey of 544 adults aged 65+, Independent Age, August–September 2023

not consenting- without them having provided a reasonable refusal – should be addressed so the onus isn't on the tenant to challenge this null response to a positive one.

Independent Age recommend that if a landlord fails to respond within the 42 day period, the request should be treated as being accepted by the landlord.

While Independent Age welcome the right for private tenants to request a pet, and for this to not be reasonably refused, we have concerns about what this means for people with existing pets who are searching for a new privately rented home.

Older private tenants have shared with Independent Age their experiences when searching for a new home, with 6 in 10 (59%) saying they found the process difficult.¹² This process can be particularly challenging for tenants with pets. We have heard from older tenants who struggled in their search for a privately rented home because many landlords refuse to allow pets in their properties. One older private renter told us: *"A lot of private rentals will not accept dogs."*

Another shared: *"Finding a home that allowed pets was a nightmare"*. When asked how their experience as a private renters could be improved, they said: *"Please allow pets as default."*

Independent Age therefore recommend that the Scottish Government consider the rights of people with existing pets who are entering new tenancies and whether provision is required to ensure that prospective tenants can request to have pets.

Changes to property

Independent Age welcome the provisions set out in the Bill to strengthen tenant's rights to make decorative changes which can help someone renting feel like their house is a home. There are a few areas which we believe can be strengthened or where more clarity is needed.

We welcome the period of 42 days during which landlords must respond to requests from tenants who wish to make changes to their home, but are concerned that there is the potential for landlords to simply not respond to requests and for this to be taken as a 'no' without them having provided a reasonable refusal. The onus would then be on the tenant to challenge this null response.

Independent Age recommend that if a landlord fails to respond within the 42 day period about home decorative changes, the request should be treated as being consented to by the landlord.

While the Policy Memorandum does provide a few examples of Category 1 and 2 changes, it is not yet clear what types of modification will fall into each of the two categories. Tenants must be made fully aware of which modifications they will be able to carry out without their landlord's consent, to avoid being penalised for making changes without the required consent.

Tenants may require adaptations to their home as they age due to disability, long term condition or limited mobility. Independent Age recommend that specific definitions are included in the Bill to distinguish the differences between Category 1 and 2 changes and

¹² YouGov plc survey on behalf of Independent Age. Total sample size was 2,177 renters in England (1,804) and Scotland (373). Fieldwork was undertaken between undertaken 15–28 June 2023. The survey was carried out online. The results in this report are from the Scotland sample.

adaptations which will aid the tenant. Adaptations must not be subjected to the landlords' reasonable refusal under Category 2 changes, and older tenants who require adaptations to be made to their home should be allowed to do so from the beginning of their tenancy, not wait 6 months as per the Category 2 change rules. There also must be considerations within the Bill for the needs of tenants who have disabilities under the Equality Act 2010.

Additionally, Independent Age urge that a clear differentiation is made between the changes tenants wish to make for decorative purposes and the upkeep of standards and quality of the property. It must be made clear to tenants that they are not responsible for the upkeep of the quality of their home and that this will continue to be the responsibility of the landlord.

Across Scotland, 65% of the homes lived in by older people across all tenures are in a state of disrepair. And across all ages, 4 in 5 homes in the PRS are in a state of disrepair.¹³ Independent Age hear from many older people who are living in privately rented homes which have issues with dampness, draughts and mould.

One older person who recently had their rent increased, told us: *"My home is never warm; the heating system seems ineffective. There is a smell of damp in the winter months."*

Joint tenancies

Q8. What are your views on Part 4 of the Bill that deals with how joint private residential tenancies can be ended?

We welcome the improved rights for joint tenants to leave a tenancy with sufficient notice without having to wait for the approval of other joint tenants.

Homelessness prevention

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

Independent Age strongly support the proposals in Part 5 of the Bill. No older person should have to experience homelessness, yet over recent years the number of older people in this situation has grown, with a 23% increase in 2022-23 compared to the previous year – rising from 891 people to 1,100.¹⁴

It is worth noting that around a quarter of people aged 65 and over who became homeless in 2022/23 were exiting privately rented accommodation.¹⁵ This is particularly concerning as it is a disproportionate cohort compared to the overall proportion of older people (around 5%) who are tenants in the PRS.

Independent Age recommend that landlords are required to inform all tenants of independent advice services when they serve notice.

The proposal to extend the prevention duty to six months and supporting it through advice and assistance known as 'reasonable steps' to be set out in future regulations, is also strongly welcomed.

¹³ Scottish House Conditions Survey 2022

¹⁴ [Supporting documents - Homelessness in Scotland: 2022-23 - gov.scot \(www.gov.scot\)](https://www.gov.scot/supporting-documents/homelessness-in-scotland-2022-23)

¹⁵ [Supporting documents - Homelessness in Scotland: 2022-23 - gov.scot \(www.gov.scot\)](https://www.gov.scot/supporting-documents/homelessness-in-scotland-2022-23)

It is essential that the proposals that deal with homelessness prevention in the Bill can be fulfilled, for this to happen local authorities will require sufficient funding.

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

Independent Age welcome the 'ask and act' duties on relevant bodies to help prevent homelessness in Scotland. Of the 970 people aged 65 and over who were assessed as homeless in 2022/23, well over half (585) had at least one support need identified based on physical or mental health conditions or their ability to live independently.¹⁶ It is likely that many of the older people assessed as homeless will have contact with health and social care professionals, who with the correct expertise, guidance and resources could support homelessness prevention efforts in future.

Independent Age echo the recommendations made by Crisis in relation to areas where further clarity is likely to be needed in the legislation, including:

- how the "ask" and "act" duties are discharged by relevant bodies: how relevant bodies will be able to state that they no longer have a duty to the individual
- how to ensure relevant bodies have sufficient expertise to assess, and make the appropriate interventions. People's circumstances are often complex, as is the support (e.g. housing law, benefits system, debt advice) they may require. One mechanism for this would be through a clearer framework for partnership working with the local authority. This was recommended by the HPRG but is not contained in the bill.
- A transparency and accountability mechanism for the relevant bodies, to ensure the duties are implemented effectively. Scrutiny will be needed to better understand how these duties will work effectively.
- How the relevant bodies work together to provide holistic case management support to an individual.

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

Independent Age welcome the requirement on councils to act sooner to prevent homelessness – by extending the period when someone is considered statutorily threatened with homelessness from 2 to 6 months – in the Bill. This is essential to ensuring that older people at risk of homelessness have access to support and hopefully resolution of their housing needs as quickly as possible. In 2022-23, 35 people over the age of 65 were forced to sleep rough the night before making their homelessness application.¹⁷ Early intervention is one key way of preventing any older person from having to experience rough sleeping.

Whilst the Bill extends the time period for when someone is considered statutorily threatened with homelessness from 2 to 6 months, there is no further definition of 'threatened with homelessness'. Greater clarity may be required to ensure people can access support when a problem is identified and are not turned away and told to come back with the crisis is imminent.

It is vital that there is an awareness amongst older renters of the duties local authorities have to support someone at risk of homelessness. Our research found that over half of older renters are unaware or unsure of their housing rights.¹⁸ Consideration should be given to how older renters can be informed of this, so they know they can access support.

¹⁶ [Supporting documents - Homelessness in Scotland: 2022-23 - gov.scot \(www.gov.scot\)](http://www.gov.scot)

¹⁷ [Supporting documents - Homelessness in Scotland: 2022-23 - gov.scot \(www.gov.scot\)](http://www.gov.scot)

¹⁸ [Homing in: How to improve the lives of older renters in Scotland \(independentage.org\)](http://independentage.org)

For local authorities, adequate resources must be available to allow this duty to be realised in practice.

Additional comments

Q15. Do you have any additional comments on the other measures the Bill deals with or any other general comments?

Driving and enforcing standards: a regulator for the Private Rented Sector

The importance of safe, appropriate, and comfortable homes for older people cannot be overstated – these elements are fundamental to maintaining health, sense of community and independence in later life. However, this is not the experience of many pensioners living on a low income who rent. Many live in homes that are damp and unsafe – often feeling that there is no way to resolve the problems they encounter.

All rented homes in Scotland should already meet the Repairing Standard, which sets out the minimum standards private rented properties must meet. Updated guidance came into force in March 2024, which adds central heating and adequate kitchen facilities. Though many good landlords will already meet these standards, our evidence shows that for some older people they are living in properties that are damp, cold and neglected and, at times, fear raising concerns at all.

In our survey almost 4 in 10 older people living in the PRS in Scotland said they were not satisfied with the standard or quality of their home. One older person noted the “*lack of refurbishment and minor repairs*” at their privately rented property.

Damp, heating and energy efficiency problems were frequently mentioned by the older people based in Scotland who responded to our survey. In some instances, landlords were failing to provide a safe and comfortable environment for their tenants.

An older person who recently had their rent increased told us: “*There is a huge opening in the back wall where the boiler is located. The wind whistles into the flat... I’m living in a property that has not been improved or renovated in over twenty years.*”

Other responses included:

“*The house is old and drafty and needs new windows.*”

“*Better insulation, it’s cold even in summer.*”

Some of the conditions older people in the PRS have shared that they are being subjected to, are likely violations of the Repairing Standard. To ensure that current standards, and any future improvements to rights are upheld, it is essential to protect tenants by empowering them to challenge substandard living conditions. Whilst at the same time ensuring stringent penalties for landlords who fail to maintain housing standards.

When talking about the repairs they need in their property, one older person told us “*I don’t ask in case they ask me to leave*”. Ensuring penalties for breaches would protect and support older tenants to raise concerns and enforce their rights.

Our evidence shows older renters often live in hazardous, poor quality homes, with limited scope to improve them. Though we know this is not a ubiquitous experience, and that many landlords provide an adequate service to their tenants, our insight points to a pervasive inequity of power between some older people who are renting and their

landlords - resulting in them tolerating living standards that are detrimental to both their mental and physical health.

Currently, the Scottish Housing Regulator exists to regulate social housing in Scotland but there is no such body for the PRS.

Independent Age recommends the Scottish Government establish a regulator for the Private Rented Sector drawing on learnings for the Social Housing Regulator.