

Housing, Regeneration and Planning



The Scottish
Government
Riaghaltas na h-Alba

Qualitative research to explore
the implications for private
rented sector tenants and
landlords of longer term and
more secure tenancy options



Qualitative research to explore the implications for private rented sector tenants and landlords of longer term and more secure tenancy options.

**Lucy Robertson, Simon Little & Sheenagh Simpson
Craigforth**

Scottish Government Social Research
2014

This report is available on the Scottish Government Publications Website
(<http://www.scotland.gov.uk/Publications/Recent>).

The views expressed in this report are those of the researcher and do not necessarily represent those of the Scottish Government or Scottish Ministers.

© Crown copyright 2014

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk

Table of Contents

EXECUTIVE SUMMARY

1	INTRODUCTION	1
	Background	1
	Study aims and objectives	2
	Study approach	3
	Focus and structure of this report	5
2	PROFILE OF PARTICIPANTS & OPINION DRIVERS	6
	Profile of research participants	6
	Opinion drivers	8
3	UNDERSTANDING OF THE CURRENT TENANCY REGIME	13
	Types of tenancies being used	13
	Understanding of the SAT regime	14
	Tenancy documents	15
	Potential for a model or standard	17
4	VIEWS ON STRENGTHS AND WEAKNESS OF THE CURRENT TENANCY REGIME	19
	Strengths of the current regime	19
	Weaknesses of the current regime	21
5	VIEWS ON SPECIFIC ASPECTS OF THE TENANCY REGIME	23
	Possible changes to tenancy length	23
	Notice periods	27
	Grounds for Repossession	29
6	SUMMARY OF VIEWS	31
	Landlords	31
	Tenants	31

EXECUTIVE SUMMARY

Context

- In September 2013, an independently chaired PRS Tenancy Review Group was set up and tasked with looking at the suitability and effectiveness of the current Private Rented Sector (PRS) tenancy regime, including considering if legislative change is required.
- To inform the Review Group's discussions, Craigforth was commissioned to undertake qualitative research which explored tenants' and landlords' views on, and responses to, a range of longer-term and more secure tenancy options.

Approach

- Participants were recruited using a purposive sampling approach, with the sample reflecting the diversity of the sector. For the landlord group, the emphasis was on ensuring that size of property portfolio was taken into account. The tenant group was to include families with children; higher and lower income working age households; Local Housing Allowance (LHA) recipients; and households including members with protected characteristics.
- A total of 63 tenants took part in the research, with the overall group relatively evenly divided between those living in urban, smaller town or rural locations. There were 43 landlords participants, with an even spread between smaller, medium-sized and larger landlords.

Summary of landlords' views

- Despite their varied profile, the landlords who contributed to the research tended to hold very similar views on the 'bigger' issues. The landlords' position can be summarised as follows:
 - The SAT regime broadly works well and fundamental changes are not required.
 - The arrangements for issuing a SAT, and the tenancy documents themselves, can be lengthy and complicated and there may be a case for simplification.
 - The initial fixed tenancy period plays a key role in allowing landlords to operate a viable business. Even those who have never needed to end a tenancy at the end of the period, value the safety net it offers them.
 - Both the current notice period and grounds for possession also generally work well, although there may be a case for tightening up the grounds relating to rent arrears.

- Rather than making changes to the tenancy regime, the focus should be on taking action against landlords who are not complying with the legislation and regulations.

Summary of tenants' views

- The views of tenants were more varied, although did divide into two broad positions depending on whether the tenant expected to live in the sector for a relatively short while or whether they anticipated living in private rented accommodation in the longer term.
- The shorter-term, transitional tenants tended to hold the following views:
 - The SAT regime appears to work reasonably well and offers them the flexibility that is generally very important to them.
 - The initial tenancy period offers a welcome period to test out both the landlord and the property. If things are not working out, looking for an alternative property is both a realistic but also a preferred option.
 - The ability to both access but also move on from a property relatively quickly is important, particularly if needing to make a work-related move or buying a property.
- The longer-term tenants tended to hold the following views:
 - For many, the major problems are around property condition and getting repairs carried out. Other considerations, such as concerns about lack of security of the tenancy, are often secondary.
 - However, lack of security can be of critical concern to some, and particularly to those who feel they have few if any other options. Lack of security tended to be most keenly felt by those with strong previous connections to the social rented sector. These tenants would like to see changes which afford them greater security.
 - Tenants are not in a position to 'take on' their landlords and tackle issues associated with poor condition or other breaches of tenancy legislation or regulation. Alterations to the tenancy regime will not change this.

Understanding of the SAT regime

- Landlords reported the use of the Short Assured Tenancy (SAT) as being standard industry practice. Equally, the majority of tenants who were clear about the type of tenancy being used by their landlord had a SAT.
- The research found some variations in understanding of the rules and regulations which underpin the SAT regime. For example, not all landlords agreed about when and how the AT5 document should be issued.

- Tenants tended to be less confident about the basic arrangements that are or should be in place if a landlord has issued them with a SAT. For example, there was varied understanding and some confusion about the arrangements in place once the initial period of the SAT had expired.

Tenancy documents and the potential of a model

- There was a clear consensus that the documentation associated with setting up a tenancy can be both lengthy and complicated, with smaller or newer landlords more likely to express anxieties about the tenancy documentation.
- Given the difficulties some respondents reported with understanding tenancy documentation, it is perhaps unsurprising that many supported the idea of some type of model tenancy document.
- However, some landlords did have concerns, a key one being that the degree of property-to-property variation required could be so considerable as to render the original premise (of a standardised document) null and void.

Strengths of the current regime

- When considering the strengths of the SAT regime, most respondents tended to point initially to its flexibility. This was common to both tenants and landlords, with both seeing advantages to having the opportunity to 'test' whether the other party was a 'good' or 'bad' tenant or landlord.
- The overall impression from both landlords and many tenants was that the initial fixed period is an easy-to-understand and well-understood approach, albeit that there is some confusion about the precise arrangements at the end of that period and thereafter.
- Despite being a business arrangement, there was also a sense that many participants welcomed the potential to bring the arrangement to a civilised end without explanation or the need to find fault.

Weaknesses of the current regime

- Many landlords' concerns were around the practicalities of regaining possession of their property should the need arise. There was a strong consensus that the current processes, particularly those involving the Sheriff Court, are time-consuming, costly and potentially ineffectual.
- Tenants were more likely to raise significant concerns although, as with the landlords, the most frequently raised issue was about how the regime translates into practice on the ground. Property condition and the difficulties around getting landlords to carry out improvements or repairs was the key concern, with those affected having little faith that changes to the tenancy regime would help tackle this issue.
- However, some tenants did have concerns that related directly to the current tenancy regime. These concerns were generally about the lack of longer-term

security afforded by the SAT regime, and were very often raised by those with previous experiences of living in the social rented sector.

Possible changes to tenancy length

- The landlords' position was clear and unambiguous; the landlords who took part in this research did not wish to see the removal of the fixed initial tenancy period (currently at a minimum of 6 months), after which they would be able to regain possession of the property without needing to meet specific grounds for repossession.
- Some landlords also made it clear that changes to tenancy length could affect their business decisions - in terms of their ability or willingness to invest in the sector, or the types of tenant to whom they would be prepared to rent.
- Many landlords felt that any changes would be symptomatic of the Scottish Government's approach to the sector over recent years. The view was while 'good' landlords bear the considerable burden of complying with any changes, no meaningful efforts are made to tackle those who do not.
- Tenants' opinions were more varied, with those who expected to use the PRS as a shorter-term, transitional housing option having very few concerns regarding security of tenure.
- Tenants who expected to be living in the PRS in the longer-term generally had a different perspective, although property condition tended to remain the over-riding concern. These tenants were clear that they are not in a position to 'take on' their landlords and tackle issues associated with poor condition or other breaches of tenancy legislation or regulation. They were unlikely to believe that greater security of tenure would make them feel more able or inclined to pursue a right to repair.
- However, many longer-term tenants did still favour changes to the tenancy regime. Those with a strong connection to the social rented sector were most likely to support a change and tended to favour an approach similar to that used in the social rented sector.
- While some tenants supported the idea of greater security, some had chosen to give up such security (offered by a social rented sector tenancy), in favour of a PRS property that better met their needs or was in a location in which they felt safe.
- Some tenants, particularly those who received LHA, were concerned that any changes could backfire on tenants such as themselves, with private landlords increasingly disinclined to offer them even sub-standard accommodation.

1 INTRODUCTION

Background

- 1.1 In November 2013, the Scottish Government commissioned Craigforth to undertake qualitative research to explore the implications for private rented sector tenants and landlords of longer term and more secure tenancy options. The primary focus of the research was on exploring tenants' and landlords' views and responses to a range of longer term and more secure tenancy options.
- 1.2 The research was carried out between November 2013 and January 2014, with the challenging timescale dictated by the need to provide evidence to inform the Scottish Government's review of the Private Rented Sector (PRS) tenancy regime.
- 1.3 The Scottish Government's strategy for the Private Rented Sector, *A Place to Stay, A Place to Call Home*¹, made a commitment to review the suitability and effectiveness of the current PRS tenancy regime, including considering legislative change where required. In September 2013 an independently chaired PRS Tenancy Review Group was set up and tasked with:
 - Examining the suitability and effectiveness of the current Private Rented Sector (PRS) tenancy regime, considering legislative change where required.
 - Developing recommendations to the Scottish Government on how the current regime might work better and/ or the options for taking reform forward. These were to be available by February 2014.
- 1.4 To inform the Review Group's discussions, an evidence review was carried out by the Housing and Regeneration Research team within the Scottish Government's Communities Analytical Services Division. Key points to emerge from the review included the strong preference for home ownership rather than renting (suggesting that demand for private renting is growing mainly due to 'push' factors rather than choice) and that, while the PRS is characterised by high levels of mobility, certain types of households (for example, older people, households with children and those in receipt of local housing allowance), tend to live within the sector for longer. The evidence review also highlighted that high levels of mobility appear to be driven by tenants rather than landlords, although it was not clear how often a tenant's decision to move was connected to the actions of their landlord. It also noted that the majority of private rented agreements in Scotland are short assured tenancies and that other options (most obviously the Assured Tenancy), are used rarely.

¹ A Place to Stay, A Place to Call Home: A Strategy for the Private Rented Sector in Scotland, Scottish Government, May 2013. Available at: <http://www.scotland.gov.uk/Publications/2013/05/5877>

- 1.5 In addition to reviewing the existing evidence, the review also highlighted a number of areas in which the evidence base was limited. These included: our understanding of the motivating factors underlying mobility among tenants; tenant preferences for longer term and/or more secure tenancies; and how landlords might respond to longer term and/or more secure tenancies, including when selecting tenants or making decisions around investing in the sector. The current piece of qualitative research was commissioned to help build the evidence base in these areas and, by extension, to help inform the deliberations of the Review Group.

Study aims and objectives

- 1.6 To fulfil the overall aim of exploring the implications for private rented sector tenants and landlords of longer term and more secure tenancy options, a series of research objectives were set. The first two objectives were to:
- i. Explore tenant and landlord knowledge and understanding of the current tenancy regime, including its advantages and disadvantages.
 - ii. Develop understanding of how the current tenancy regime influences key elements associated with living in the private rented sector, including:
 - Tenant/landlord relationship
 - Levels of mobility
 - Housing aspirations.
- 1.7 These objectives were designed to provide background information to contextualise the findings from the third and fourth objectives, which were to:
- iii. Explore tenants' views and responses to a range of longer term and more secure tenancy options, including the perceived advantages and disadvantages of each. In particular, for each option, to explore in detail the possible implications for:
 - Tenant/landlord relationship
 - Levels of mobility
 - Housing aspirations.
 - iv. Explore landlords' responses to a range of longer term and more secure tenancy options, including the perceived advantages and disadvantages of each. In particular, for each option, to explore in detail the possible implications for:
 - Tenant/landlord relationship
 - Tenant selection
 - Investment in the sector.
- 1.8 The initial expectation had been that the Review Group would be in a position to directly inform the range of options to be considered in addressing objectives 3 and 4. However, the very tight timescales to which both the Review Group and the Research Team were working meant this was not possible. In response, and to ensure the timely delivery of the research

findings, the focus was shifted to exploring ideas and concepts (such as longer tenancy terms, changes to notice periods or the use of standardised tenancy documents), rather than specific options.

- 1.9 A further requirement was for the sample of both landlords and tenants participating in the research to reflect the diversity of the sector. For the landlord group, the main emphasis was on ensuring that scale was taken into account and that landlords with only one or two properties (including some who might categorise themselves as 'reluctant' landlords) were included, as well as those with medium or larger property portfolios.
- 1.10 The tenant group was to include: families with children (including lone parent and couple households); high income working age households; Local Housing Allowance (LHA) recipients; low income working age households; students (not in halls of residence or purpose-built student accommodation); and households including members with protected characteristics² (including disabled households). There was also a requirement to include tenants living in rural areas.

Study approach

- 1.11 Two key challenges needed to be considered in developing the study approach. First, the timescales were extremely tight but fixed by the requirement to present findings to the Review Group in January 2014. Second, researching the PRS comes with particular challenges, especially in terms of recruiting study participants.
- 1.12 The non-probability sampling approach generally considered appropriate to qualitative research was adopted. More specifically, a purposive sampling approach, in which the selection of research participants and the areas in which fieldwork is conducted are selected in order to achieve a sample that has the particular features or characteristics required, was used.
- 1.13 The target tenant sample was 48-60 participants, and the aim was to recruit around 8-10 research participants for each of the 6 tenant household characteristic groups set out at paragraph 1.10 above. The aim was also for the tenants to be divided relatively evenly between those living in rural, small town or larger urban areas and to be drawn from a range of locations across Scotland.
- 1.14 As was expected, many tenant participants fell into more than one of the 6 household characteristic groups (for example, a family with children may also be a low income working household). In this case they were included within one of the 6 categories for sampling purposes, although the overall profile of the household was taken into consideration when undertaking the analysis.

² The Equality Act 2010 makes it unlawful to discriminate against people with a 'protected characteristic'. The protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation.

- 1.15 The target landlord sample was 30-36 participants. The aim was for landlord participants to be divided relatively evenly between those with only 1 property and including some reluctant landlords, medium sized landlords (2-19 properties) and those with larger property portfolios (20 or more properties).
- 1.16 As with the tenants, landlords with properties in a range of rural, small town and urban locations and from a range of locations across Scotland were sought.
- 1.17 A broad range of techniques was used to recruit participants. For landlords, these included publicising the research through industry bodies, inviting landlords already attending a landlord-related meeting (such as a Scottish Association of Landlords branch meeting or a Landlord Accreditation Scotland training session) to participate, and publicising the research through a range of social media (including Facebook, Twitter and a number of community-based websites). A small number of third sector organisations or letting agents also publicised the research to their network of landlord contacts.
- 1.18 Social media and the extended network of contacts of the Research Team and other Craigforth staff were the principle routes used to recruit tenant participants. As with landlords, a small number of third sector organisations or letting agents also helped the Research Team make contact with people they knew to be living in the PRS.
- 1.19 Anyone interested in participating in the research was asked to make contact with Craigforth. The potential participant was supplied with further information about the study and arrangements were made for them to take part. The preferred approach was small group discussion, with around 3-5 participants. If the participant preferred or arranging a small group was not practical (because of timescales or location), a member of the Research Team met with an individual participant. In a small number of cases the interview was conducted by Skype or telephone (again, either because of the participant's preference or because of the practicalities of achieving the interview within the required timescales).
- 1.20 Given that the issues to be discussed were potentially complex, participants were supplied with outline discussion topics in advance of the session and were also asked to complete a brief information gathering pro-forma. Copies of these research materials, along with the full Discussion Schedule for both the tenant and landlord groups are included within the appendices to this report.
- 1.21 With the express prior agreement of the research participants, all of the discussion groups and face to face interviews were recorded. Notes were taken for the small number of telephone interviews undertaken.
- 1.22 The qualitative data gathered was analysed through the application of a coding framework. Emerging themes were identified through an initial analysis of a sample of the raw data. These themes were assigned codes, which were then applied across the whole of the qualitative data set. The analysis also sought to reflect any occasional or unique views expressed and

the focus was very much on capturing the range of opinion on any particular issue, rather than simply the most frequently expressed views.

Focus and structure of this report

- 1.23 The findings of the analysis were presented to the Review Group on 21st January 2014 and are now set out within the remainder of this report, which is structured as follows:
- Chapter 2: provides an overview of the key characteristics of the tenants and landlords who took part in the research. This is followed by an examination of some of the other factors that appeared to have the potential to influence landlords or tenants views on the tenancy regime.
 - Chapter 3: covers the types of tenancies being used and landlords' and tenants' understanding of the current tenancy regime. The second part of the chapter looks at tenancy documents, including the potential for introducing use of a model or standard set of tenancy documents.
 - Chapter 4: covers the range of views expressed on the strengths and weaknesses of the current tenancy regime for the PRS.
 - Chapter 5: explores security of tenure further, with a particular focus on landlords' and tenants' views on making changes to length of tenancy arrangements. The chapter also covers views on notice periods and grounds for repossession, with a focus on both the current arrangements and any appetite for change.
 - Chapter 6: sets out a short summary of both tenant and landlord views on the current SAT regime and possible changes to it.
- 1.24 The analysis presented within this report reflects the qualitative nature of the study and focuses on presenting the range of views expressed along with reasons participants gave for holding these views.
- 1.25 The report does not set out to judge the accuracy of the comments made or indeed of participants' understanding of the current tenancy regime. Readers who would welcome further information on the current regime, including on the differences between the Short Assured and Assured tenancy regimes, may wish to refer to the Scottish Government's website at:
<http://www.scotland.gov.uk/Topics/Built-Environment/Housing/privaterent>

2 PROFILE OF PARTICIPANTS & OPINION DRIVERS

2.1 This chapter provides an overview of the key characteristics of the tenants and landlords who took part in the research. This is followed by an examination of some of the other factors that appeared to have the potential to influence landlords or tenants views on the tenancy regime.

Profile of research participants

2.2 All research participants were offered confidentiality and the information set out below reflects that commitment, i.e. we describe the key characteristics of the overall sample rather than providing specific details on the profile of individual participants.

Tenant participants

2.3 A total of 63 tenants took part in the research, with the overall group relatively evenly divided between those living in urban, smaller town or rural locations. The areas in which those participating lived included Aberdeen, Alloa, Dunblane, Dundee, Edinburgh, Glasgow, Glenrothes, Inverness, Kirkcaldy, Peebles, St Andrews, Scottish Borders villages, South Queensferry, Stirling and Stirlingshire villages.

2.4 Other points to note about the tenant households which took part are that:

- They included a number of higher income working households. For the purposes of this study, having a higher income was self-defined and was taken to be having sufficient household income to allow someone to make active housing choices in the area in which they wished to live.
- A number of lower income working-age households also took part. Some of these households were in receipt of LHA (full or partial), with a small number also containing someone in lower paid and/or part-time employment. All but a small number were working age households and they also included a small number of households led by a student.
- Many households contained children, with these being evenly divided by single and two parent households. These households included those in the higher and lower income brackets, a number of households in receipt of LHA and a small number of student-led households.
- The sample also included households with one or more household member who:
 - is older (defined for these purposes as 65 years or older)
 - is from the Black and Minority Ethnic (BME) community
 - has a physical disability
 - has a long-term or life-limiting illness
 - is an EU or other non-UK national.

2.5 Participants' current or previous housing circumstances were also varied:

- While some had only been living in the PRS for a matter of months, others had been renting in the sector for between 1 to 5 years or for 6 or more years. The longer-term tenants included a small number who had lived in PRS accommodation for more than 20 years.
- In terms of their current tenancy, some tenants had lived in their current home for 12 months or less. This group included a number of student households, households in receipt of LHA and households containing children. Tenants living in urban areas also tended to have been in their current accommodation for a shorter period. Those living in smaller towns or rural areas tended to have been living in their current tenancy for longer.
- As would be expected (given the range of both locations and property sizes and types) rent levels varied considerably. The range was between £280 and over £1,000 a month, with the mean rental charge around £540 per month.

Landlord participants

- 2.6 A total of 43 landlords took part in the research. In terms of the principal type of area in which landlords owned properties, there was an even spread across urban, smaller town and rural areas. The specific locations in which rental properties were located included: Aberdeen, Dumfries, rural Dumfries and Galloway, Dunblane, Dundee, Edinburgh, Falkirk, Glasgow, Kirkcaldy, Inverness, Livingstone, Motherwell, Perth, rural Perthshire, Portree and St Andrews.
- 2.7 There was also an even spread between smaller, medium-sized and larger landlords. Amongst the smaller landlords (those who owned one property), some identified themselves as being, or having been, a reluctant landlord. The mean number of properties owned by medium-sized and larger landlords was 6 and 120 respectively. The largest portfolio exceeded 600 properties.
- 2.8 Landlords were split relatively evenly between those who defined themselves as full-time or part-time landlords. Full-time landlords tended to have larger property portfolios and to have been landlords for longer. They were also less likely to use the services of a letting agent. A small number of landlords were also lettings agents themselves.
- 2.9 Other points to note about the landlords who participated in the research are that:
- They ranged from those who manage their properties entirely themselves through to those who make use of a full management service provided by a letting agent or factor.
 - There was a considerable range in the length of time participants had been a landlord, from around 6 months to over 30 years.

- A small number of the landlords were not-for-profit organisations that own a small number of properties that are available to rent to clients.

Opinion drivers

2.10 Below we summarise a range of other factors that appeared to influence participants' views on either the current tenancy regime or on possible changes to the regime. These included their previous experiences, other routes by which they had acquired knowledge about the sector and their future plans.

Previous experiences

2.11 As would be expected, the views of both tenants and landlords were very clearly influenced by their previous experiences of operating within the sector. In terms of tenants' previous experiences of living within the sector:

- While some tenants had lived in 3 or more other PRS properties before moving into their current home, for others their current home was their first experience of living in the PRS.
- The average length of previous tenancies was very varied; a number had stayed for only 6 months, whilst at the other end of the spectrum a small number had lived in the same tenancy for 10 or more years.
- Reasons for choosing to move on themselves were varied and included moving for work or study reasons, relationship formation or breakdown, problems with neighbours, rent increases and the condition of the property.
- A small number had experience of being asked to leave a tenancy by a previous landlord. The primary reason for being asked to leave was the landlord selling the property, although a small number did not know why they had been asked to move on.

2.12 The experiences of landlords broadly mirrored those reported by tenants. In particular:

- A relatively small proportion of tenancies had come to an end after an initial (usually 6 month) period.
- Most tenancies were brought to an end by the tenant and for many landlords their only experience of tenancies ending had been when tenants chose to move on.
- When landlords had brought a tenancy to an end this had generally been associated with non-payment of rent. On a small number of occasions a landlord had brought a tenancy to an end because of damage to the property or anti-social behaviour.

Other sources of knowledge or information

- 2.13 Whilst their own personal experiences (as either a tenant and/or a landlord), clearly influenced participants' views, many participants also drew on the experience of others. Many had also accessed information about the sector through more formal routes to information, such as professional bodies or advice agencies (see para 2.16 below).
- 2.14 The experiences of others appeared to be particularly significant amongst landlords and often focussed on the difficulties of repossessing a property if there were significant problems with the tenancy. This led some to have significant concerns about what might happen should they need to repossess a property, although many had no direct experience of needing to do so themselves.
- 2.15 Although particularly evident amongst landlords, some tenants also drew on the experiences of others within their circle of family and friends or within their community. As with landlords, having heard about the negative experiences of others appeared to create a wariness that they could find themselves in a similar situation in the future.
- 2.16 There was also a more formal set of routes through which participants had acquired their knowledge about the sector. These tended to be more extensive for landlords and included information provided by professional landlord bodies or local authorities, or acquired through attending landlord awareness-raising or training sessions. A number of landlords also referred to the extensive information that is available via the internet, including that provided by the Scottish Government. For larger, professional landlord organisations there was also a body of learning from within their own company to be drawn on. The role and influence of both agents and solicitors was also clear, particularly amongst smaller and/or part-time landlords but also occasionally among tenants. Some tenants also reported having sought information on the internet, from their local authority or from a voluntary sector organisation (such as a rent deposit guarantee scheme or a disabled persons' housing service).
- 2.17 The specific impacts of information being sourced through various routes will be highlighted elsewhere within the analysis. However, it is of more general note that a number of landlord participants highlighted the role of established practice and norms within the industry – particularly, for example, in the choice of tenancy being used. However, despite these 'industry norms' there was also a range of understanding about key legislation and its implications for landlords' practice.

Future plans

- 2.18 It was also clear that participants' plans for the future tended to inform their views on a range of tenancy-related issues; this was particularly the case in relation to some tenants' views on security of tenure (this issue is discussed further within Chapters 4 and 5 of this report).

2.19 Very much reflecting the diversity of the tenants overall, future plans varied considerably. However, tenants tended to fall into one of two broad groups. The first group generally saw the PRS as a short to medium-term option. This shorter term, transitional group included students, young professionals and others who had made recent work-related moves. This group:

- Generally expected to move into the owner occupied sector at some point in the future.
- Included a small number who had left the owner occupied sector, generally because of a work-related move. It also included a small number who still owned properties in other areas and in some cases were renting out these properties – in other words they were both tenants and landlords. These tenants generally expected to either return to the property they currently own, or to buy another property, at some point.
- Included a number of students or younger people who were in the early stages of living independently. Most of these tenants had previously lived in the owner occupied sector. They tended to expect to make a number of other moves in the PRS before choosing or being able to buy a property, although a small number were in the process of looking to buy a property of their own.

2.20 The other group generally anticipated staying in the PRS in the longer-term. This group:

- Included a small number who were ‘born and brought up’ in the PRS and anticipated that they would continue to live in the PRS. These tenants tended to live in rural areas with little or no social rented sector supply and did not anticipate they would be able to afford to buy a property in that area.
- Had previously had a social rented sector tenancy but had given up that tenancy and moved into the PRS. Reasons for giving up a social rented tenancy included concerns about neighbours and the neighbourhood or the unsuitability of the property (for example its size or accessibility). Those within this group tended to either have concerns about returning to the social rented sector or doubted that the social rented sector would be able to supply a property that met their needs.
- Had generally grown up in the social rented sector but had not been able to access their own social rented sector tenancy or had been unable to sustain a tenancy. Those within this group perceived they had little or no prospect of being offered a social rented sector tenancy in the foreseeable future (either because of the high-pressured market in which they were looking for a home or because of their housing history).

2.21 A considerable majority of the landlords who took part in the research expected to continue operating as landlords for the foreseeable future. This included a small number who had initially been reluctant to become a private

landlord but, having been through the necessary processes, had decided to continue letting out their property rather than seeking to sell.

- 2.22 However, a number of landlords did raise several factors that could influence their decision to remain as a landlord, or which might influence a decision to increase or decrease the number of PRS properties they own. These included:
- The tenancy regime itself (these issues, in particularly in relation to length of tenancy and the basis on which a property can be repossessed are discussed further within Chapters 3-5 of this report).
 - The availability of accessible and affordable financing options – both in terms of interest rates and the conditions associated with buy-to-let mortgages.
 - Returns (either in terms of income or asset value) being at a level that makes being a landlord a reasonable or good investment decision. In addition to possible changes to the tenancy regime, the introduction of Universal Credit and changes to the Energy Performance regulations were also cited as having the potential to undermine the overall viability of their businesses.
- 2.23 On an associated point, a small number of landlords voiced concerns that, simply by conducting a review into the tenancy regime, the Scottish Government was introducing an unwelcome level of uncertainty, and that this uncertainty could have a potentially negative effect on investment in the sector.

Emotion-related factors

- 2.24 Finally, there was a range of other ‘softer’ factors that appeared to influence views on the tenancy regime. In particular, it was evident that there were sometimes very powerful emotions at play, despite the letting or renting of a property essentially being a business transaction.
- 2.25 For a small number of participants there were very strong and powerful attachments to a specific property. From a landlord perspective, this sometimes translated into needing to trust a tenant to look after a very precious asset. These attachments to a property tended to stem from it being a former family home that had been inherited and/or a property in which the landlord had previously lived themselves. In the latter case, landlords sometimes had an expectation that they would return to live in the property at some point in the future.
- 2.26 From a tenant perspective, some participants had formed very clear and considerable attachments to the property they were currently living in or reported having formed such an attachment with a PRS property they had lived in in the past. Sometimes this was about having brought up their family within the property, although for others it was simply that they were living in a property they would very much have wished to be their own but were unable

to afford to buy. For some tenants this then translated into a sense of gratitude towards their landlord for renting them the property. Equally, a small number of landlords expressed gratitude that their tenant(s) had looked after a property well.

- 2.27 Underpinning many of these relationships were issues of trust. Whilst they were perhaps at their strongest when property-related attachments were also in play, they nonetheless appeared highly significant to many other landlord-tenant relationships. From a landlord's perspective, landlords spoke of trusting a tenant to look after their property and pay the rent as agreed. Smaller or medium sized landlords sometimes appeared hurt or angry when they felt that trust had been betrayed. Equally, when their trust had been repaid they sometimes spoke of trying to help out their tenant - for example by being flexible in relation to notice periods or by being flexible if the tenant was struggling to pay the rent for some reason.
- 2.28 Equally, some tenants also spoke of trusting their landlord to deliver the service and to treat them fairly. The focus was very often on the landlord maintaining and repairing the property in return for receiving the rent they were paying. When this was not happening, tenants often spoke of feelings of frustration and powerlessness.
- 2.29 This issue of power and control was perhaps the single greatest influence on tenants' views on the tenancy regime. More specifically, when tenants felt they had options - which generally translated into having the economic wherewithal to exercise real choice within the market – they tended to see things differently to those who saw their choices as limited or felt that they had no choice at all.
- 2.30 However, the issue of power and powerlessness did not apply only to tenants. Some landlords also spoke of powerlessness, particularly in relation to dealing with a tenancy that had broken down. The desire to avoid these feelings of powerlessness and frustration often appeared to influence tenant selection and certainly appeared to feed in to some views of tenancy length for example.
- 2.31 Finally, it should be noted that despite emotions sometimes running high, a number of participants did try to make objective judgments and to 'see the issue from both sides of the fence'. Those with recent experience of being both a landlord and a tenant tended to be particularly inclined to consider both positions. However, a range of other experiences, such as landlords with adult children renting in the PRS or tenants who have friends or family who are landlords, also inclined participants to consider alternative perspectives on the issue.

3 UNDERSTANDING OF THE CURRENT TENANCY REGIME

- 3.1 This chapter covers the types of tenancies being used and landlords' and tenants' understanding of the current tenancy regime. The second part of the chapter looks at tenancy documents, including the potential for introducing the use of a model or standard set of tenancy documents.

Types of tenancies being used

- 3.2 Very much in accordance with previous research, including the evidence review discussed in Chapter 1, the vast majority of the landlords who took part in this research routinely use the Short Assured Tenancy (SAT). The very few exceptions were either connected to renting to students using occupancy agreements or to very long-standing tenancies. In these cases, where Regulated or Assured Tenancies were in place for some existing tenants, any new tenancies created were SATs.
- 3.3 Equally, the majority of tenants who were clear about the type of tenancy being used by their landlord had a SAT, with a small number of student participants having an occupancy agreement. Although a number of tenant participants were unaware what type of tenancy they had, discussion of the key features they understood to apply to the tenancy suggested they too were renting through a SAT.
- 3.4 This is very much in line with the view expressed by landlords that the SAT is essentially ubiquitous, with its use simply seen as standard industry practice. A number of landlords also noted that all likely sources of advice and information for landlords (see para 2.16 above), actively promote the use of the SAT. Some participants also pointed out that example tenancies (such as those made available by professional bodies or some local authorities), are always SATs. Some of those with financing arrangements such as buy-to-let mortgages in place noted that the use of a SAT is generally stipulated by lenders.
- 3.5 No landlords recalled being advised to use, or having actively considered using, an Assured Tenancy since the introduction of SATs in 1989. In fact a small number of landlords were not aware that an alternative to the SAT was available. Those who were aware of the Assured Tenancy option saw no logical reason why a landlord would prefer its use, nor indeed why landlords would consider an option so little used within the industry.
- 3.6 Tenants also generally saw a SAT as the only option, with only a very few aware that other options existed. Those that were aware of the Assured Tenancy had generally had one at some point in the past. No tenants recalled having been offered any alternative to their current SAT, nor had any raised the possibility with a potential landlord or with an agent. Tenants typically suggested that when looking for a property the focus is very much on finding good-quality accommodation at an affordable price and that the type of tenancy being offered is not really a consideration, or as one tenant put it:

.... if you've found somewhere half decent you're not going to start complicating things...apart from anything else you'd be worried they'd give it to someone else who was happy just to take what was on offer.

(Higher income tenant with children living in small town)

Understanding of the SAT regime

- 3.7 Although the use of the SAT was consistent, the research found some variations in understanding of the rules and regulations which underpin the SAT regime. Landlords tended to suggest that, at its core, a SAT was an initial 6 month tenancy and that, at the end of the first 6 months, the landlord could bring the tenancy to an end with no grounds if preferred or required. A small number of landlords did note that the initial 6 month period is simply the *minimum* and that although 6 months is generally used, other timescales are possible. For example, a small number of landlords reported offering a 12 month SAT as standard.
- 3.8 There was also a widespread understanding of the need to issue an AT5³ at the creation of a new tenancy. However, not all landlords agreed about when and how the AT5 should be issued; some suggested it should be in advance of the signing of the tenancy documents, others that it could be signed along with the tenancy documents.
- 3.9 Another area in which practice and/or understanding differed was with regard to the arrangements in place at the end of the initial tenancy term. Most landlords described a rolling, month-by-month arrangement and were clear that this was stipulated within the tenancy documents they use. However, a small number suggested that if they do not ask a tenant to leave, another SAT of the same period as the first automatically comes into force. Those taking this approach appeared less clear about whether these arrangements were set out within their tenancy documents.
- 3.10 Tenants tended to be less confident about the basic arrangements that must or should be in place if a landlord has issued them with a SAT. In particular, they often assumed that the arrangements under which they were currently renting were simply the standard and that there was little or no potential to vary them. Some were themselves surprised that they had never really questioned these arrangements, whilst others noted that they tend simply to be presented as 'the way is must be done':

I'm on my fourth let and I don't think anyone has ever suggested anything different...or that there could be anything different....certainly agents don't.

(Lower income, rurally based tenant)

- 3.11 Overall, however, tenants tended to suggest that a SAT was for 6 months or occasionally for 12 months. The small number who pointed to the potential

³ An AT5 is a notice which a landlord must issue to a tenant if they wish to set up a Short Assured as opposed to an Assured tenancy.

for a longer tenancy all had direct experience of being offered a 12 month tenancy and were all renting at the 'upper end' of the sector.

- 3.12 Otherwise, the common understanding was that as a tenant they had both agreed to stay and were entitled to stay in the property until the tenancy expired, assuming they met other tenancy conditions (such as paying the rent on time for example). Only a very few tenants were aware of the role of an AT5 or of having been issued with one. However, none of the participants were clear that they had not been issued with an AT5.
- 3.13 There was varied understanding and some confusion amongst tenants as to the arrangements in place once the initial period of the SAT had expired. Some assumed that they automatically had another 6 month period unless they were asked to leave, some were clear or suspected that they were on either a monthly or two-monthly rolling notice period, while others simply did not know and were occasionally surprised by their own lack of knowledge:

That's shocking. I should know that shouldn't I. How can I not know that?
(Student with children in receipt of LHA, urban area)

- 3.14 Some of those with a higher degree of awareness reported having 'learnt the hard way'. For example, confusion about whether a tenant was still required to give notice at the end of the initial tenancy period had led one tenant to lose their deposit. Another reported having assumed they had a guaranteed further 6 months having not been asked to leave, only to be asked to move on 2 months later. In this case the tenancy had set out a month-by-month rolling arrangement but the tenant had not been fully aware of the implications of this.
- 3.15 The frequent lack of communication between the tenant and either their landlord or their landlord's agent as the tenancy period drew to an end was striking. Many tenants had not attempted to make contact themselves and many had no recollection of anyone making contact with them. Whilst some found this surprising in hindsight, others explained that they had always been led to believe the tenancy would continue beyond the initial period unless they chose to bring it to an end themselves. This meant that a number of tenants experienced little or no anxiety associated with the initial tenancy period coming to an end. However, some did consider this strange when they reflected on it.

Tenancy documents

- 3.16 One area in which there was a clear consensus amongst research participants was that the documentation associated with setting up a tenancy can be both lengthy and complicated. Many of the larger or more established landlords tended to view this as simply being one of the realities of being a landlord, were confident that they had all the necessary documentation in place, and that the processes they used for setting up a SAT were fully compliant with the legislation and any associated regulations.

- 3.17 Smaller or medium-sized landlords, and particularly those who had entered the sector relatively recently, were more likely to express anxieties about the tenancy documentation itself. A common area of concern was around the correct practice for issuing an AT5 and the implications of getting this wrong. Those with these concerns sometimes reported having received conflicting information when they had sought clarification. There were also mixed reports about the extent to which use of an agent, factor or solicitor gave comfort, with a small number of landlords having stopped using an agent precisely because one of their tenancies had not been set up correctly. A number of landlords also pointed out that ultimate responsibility lay with them as the landlord and that for this reason they felt they ought to have a clear understanding of the tenancy regime. As one newer landlord put it:

I know the buck stops with me...and it's a business so I really ought to have it all straight in my head...but it's really hard, especially when the people who are supposed to know aren't even all telling you the same thing.

(Landlord with 2 properties, only been renting for 8 months)

- 3.18 Some landlords also raised concerns about the sheer amount of paperwork that needs to be issued and the impact this can have on a tenant's ability or willingness to really engage with the detail associated with the contract they are taking on. Most landlords reported that they did try to take tenants through key parts of the tenancy document but suspected that few, if any, of their tenants go through all the paperwork. In this respect, the requirement to issue the Tenant Information Pack at the point at which the tenancy document is signed was seen as unhelpful. An alternative suggestion was that it should at least be possible to issue the Tenant Information Pack in advance and that doing so might increase the likelihood of a new tenant reading it. On an associated point, the fact that the Tenant Information Pack cannot be edited to match the terms of the tenancy being issued was raised as unhelpful.
- 3.19 Landlords' perception that few if any tenants read the tenancy carefully was generally confirmed by tenant participants. Tenants generally felt that, whilst they knew they should have read the document carefully, it is simply human nature not to read the small print. Some reported that they had read those parts which they considered to be most important; these generally seemed to relate to the payment of rent and responsibilities for repairs and maintenance. It was also common for those who had struggled to find accommodation to suggest that reading their tenancy document would have achieved little, since even if they had any concerns they would not have been in a position to turn down a property.
- 3.20 Although in a minority, a small number of tenants had either read their tenancy document carefully or had tried to do so. Those in the former category included the small number of foreign nationals who took part in the study, along with tenants who had either studied law or worked within the housing profession. Others reported trying but giving up, with their experience perhaps typified by the following:

*Its full of herewiths and thereafters....excuse my language but I've got no **** idea what they're talking about. They don't write these things so normal folk can understand them and that's no coincidence.*

(Longer-term tenant with health problems living in a larger town)

- 3.21 Finally, there was a small group of tenants who were not in possession of a tenancy document. All were aware of having signed a tenancy when they moved into the property and some reported having asked repeatedly to be sent a copy. All of those without a copy of their tenancy were living in properties at the bottom end of the market and were in receipt of LHA. These tenants tended to see the absence tenancy documents as one of the less-worrying realities that came with having few, if any, choices about where to live. There was a sense in which a tenancy document was seen as meaningless – these tenants believed their landlord would be unlikely to adhere to the tenancy terms and were equally clear that they would not be able to mount any realistic challenge when this happened. It should be noted that all those in this situation believed their landlord to be registered, with a few tenants having checked this was the case.

Potential for a model or standard

- 3.22 Given the difficulties some respondents reported with understanding tenancy documentation it is perhaps unsurprising that many supported the principle of introducing some type of standard or model tenancy document. Indeed, some participants, principally tenants but also a small number of landlords, expressed surprise that such a thing does not already exist. When exploring this issue further with landlords it appeared that the example tenancy being supplied by either the Scottish Association of Landlords or some local authorities may have been understood as representing some type of industry standard. Tenants who were of this view thought that any tenancy documents they had seen had always appeared to look the same, although did generally concede that they were not really sure whether the content had been the same.
- 3.23 Most participants (including nearly all tenants and many landlords) supported the principle of a model tenancy. However, other participants took a different view. Those who broadly supported the idea of a model tenancy included most tenants and a number of newer or smaller landlords. These participants made the following points:
- Given that all tenancies need to be compliant with the same legislation and regulations, why is there a need for many possible variations?
 - A standard approach could help tenants and some landlords develop knowledge and understanding of their rights and responsibilities. In particular, knowledge gained from one tenancy would be directly transferable to another tenancy.
 - There could be a non-adaptable section that contained all the information that cannot be changed on a tenancy-by-tenancy, or property-by-property

basis. Anyone reading the tenancy document would know they should focus their attention on those parts that could be adapted.

- The 'ownership' of the document would be important – any landlord using it would need to be confident that it was not open to legal challenge and was being updated as required. The general consensus was that this suggested the Scottish Government should develop and maintain the document.

3.24 However, some landlord participants did have concerns. These landlords tended to be the larger or more established landlords, with the range of issues raised by this group including the following:

- Landlords already have compliant tenancy documents in place and these will have been developed in accordance with the type of properties they own and may have been customised on a property-by-property basis. The resources associated with changing all these documents (even based on newly created tenancies only) would be considerable.
- There would be an absolute need to allow any model to be adapted on a property-by-property basis. The degree of variation required could be so considerable as to render the original premise (of a standardised document) null and void.
- Resources would be better directed at checking that documents currently being used are compliant, rather than introducing '*change for change's sake*'.

4 VIEWS ON STRENGTHS AND WEAKNESS OF THE CURRENT TENANCY REGIME

4.1 This chapter covers the range of views expressed on the strengths and weaknesses of the current tenancy regime for the PRS. Given its predominant use, the focus is very much on the SAT regime, although where participants made comparison with the Assured regime this is also set out.

Strengths of the current regime

- 4.2 When considering the strengths of the SAT regime, most respondents tended to point initially to its flexibility. This was common to both tenants and landlords and across the range of participants within both groups.
- 4.3 When this was explored further certain differences did emerge, although for many this flexibility equated to an initial trial period after which either party could, in theory at least, bring the arrangement to an easy and non-confrontational end. Both tenants and landlords used similar language in describing the advantages of having this trial period with comments generally focusing on whether the other party was a 'good' or 'bad' tenant or landlord.
- 4.4 More specifically, landlords often pointed to finding out whether the tenant paid their rent and otherwise treated the property with respect. Some suggested it also allowed the landlord to test whether the tenant's lifestyle would fit with that of the neighbours and, by extension, whether there could be problems with anti-social behaviour; those raising this issue sometimes went on to note their obligations as private landlords under the [Anti-Social Behaviour etc \(Scotland\) Act 2004](#)⁴.
- 4.5 Tenants also reported a similar process of using the initial tenancy period to test out their landlord. From the tenants' perspective the focus was very much on whether repairs were carried out and whether the landlord otherwise behaved well, for example by not making unannounced visits to the property.
- 4.6 A number of tenants also saw the initial tenancy period as giving them a valuable opportunity to test out other aspects of their new home. Some of these were about the property itself, such as whether it was reasonably easy and affordable to heat. Others were about whether the property fitted well with their preferred lifestyle, for example was it well positioned for travel to work or schools and did they like the neighbourhood. These considerations were particularly important to tenants who were new to an area having made a work-related move.
- 4.7 Other advantages which tenants saw as coming from a short, initial fixed period tenancy included that both tenant and landlord have a clear

⁴ Part 7 of the [Anti-Social Behaviour etc \(Scotland\) Act 2004](#) allows a local authority to serve an anti-social behaviour notice on a private landlord specifying that action must be taken to tackle the anti-social behaviour of the tenant.

understanding of what is expected to happen in the short term – essentially that the tenant has made a commitment to stay for 6 months and the landlord has made a commitment to make the accommodation available for that period. This was particularly appealing to tenants who were either uncertain of their future plans or were not at a time in their lives when they wished to make longer-term plans.

- 4.8 Some tenants also saw a clear correlation between a shorter-term tenancy and being able to access a property quickly. For example, there was a suggestion that if a tenancy was for a shorter period the landlord or agent might be more ‘relaxed’ about carrying out previous tenancy checks. Those raising this issue were not concerned that they would not pass such checks, but were concerned that the time taken to go through these processes could be lengthy. Again, those who had needed or wanted to move quickly raised this issue.
- 4.9 Tenants who were contemplating a move into the owner-occupied sector were also likely to favour a regime that offered the capacity to move on quickly but without penalty and generally felt that the SAT regime delivers according to these criteria.
- 4.10 The overall impression from both landlords and many tenants was that the initial fixed period is an easy-to-understand and well-understood approach, albeit that there is some confusion about the precise arrangements at the end of that period and thereafter (as discussed in Chapter 3). Despite being a business arrangement there was also a sense that many participants welcomed the potential to simply bring the arrangement to a civilised end without explanation or the need to find fault. As one landlord who ended a tenancy at the end of an initial 6 month period expressed it:

It was a shame, because she was a lovely girl... but it was just too small a house for the children and next door were complaining... I'd have hated to have to say that to her though cos she really was trying her best... and I found a mate of mine with a place round the corner...

(Experienced, full-time landlord renting in urban area)

- 4.11 Equally, a small number of landlords suggested that the current regime inclines them – or more precisely does not entirely rule out their capacity to take a calculated risk on certain tenants, or as one landlord commented:

Sometimes you might want to give someone the benefit of the doubt... a younger person leaving home for example... it's good to know there are options if it's not working out.

(Experienced, part-time landlord with small town/rural portfolio)

- 4.12 However, whilst the ‘civilised’ end to a tenancy was sometimes cited as a positive outcome, most landlord participants were also absolutely clear that the capacity to bring a ‘problem tenancy’ to an end was critical, be it automatically at the end of a fixed tenancy period or simply by giving sufficient notice within a rolling tenancy period. Many, therefore, supported the theoretical basis on which a SAT can be brought to an end. However, as will

be discussed further below, they often had very considerable concerns about how this works out in practice.

- 4.13 Finally, some landlords noted other business-planning advantages that the current regime offers. For example, a small number of newer landlords, including some who had started out as reluctant landlords, suggested that the initial 6 month period had given them the confidence to explore whether being a private landlord was the right option for them. A small number of larger, more established landlords noted that the SAT regime gives them reasonable flexibility to manage their assets or is advantageous in terms of the valuation of assets. The fact that the financial sector assesses the asset value of properties rented using SATs favourably was explained as critical to accessing affordable borrowing and by extension maintaining business viability.

Weaknesses of the current regime

- 4.14 While most participants identified strengths in the current SAT regime, most were also able to identify weaknesses. As with the positive aspects, some of these were about the fundamental principles which underpin the regime, whilst others were about how the regime translates (or not) into practice on the ground.
- 4.15 As noted above (para 4.12), many landlords' concerns were around the practicalities of regaining possession of their property should the need arise. Although few of the landlord participants had direct experience of seeking repossession of a property through the formal channels, many had heard or read about the experiences of others. There was a strong consensus that the current processes, particularly those involving the Sheriff Court, are time-consuming, costly and potentially ineffectual. A number pointed in particular to the significant financial losses that can be incurred by the landlord - especially in relation to rent arrears - and the lack of any workable mechanism to recover any of those losses.
- 4.16 These problems, along with some issues around the complexities of the tenancy regime, were the principal concerns expressed by landlord participants, and the main areas in which they would welcome change. Otherwise, landlords tended to the view that the current system works reasonably well and there is no need for significant change.
- 4.17 Tenants were more likely to raise significant concerns about the current tenancy regime although, as with the landlords, the most frequently raised issue was about how the regime translates into practice on the ground, rather than the regime itself.
- 4.18 For tenants, the issues raised most frequently and forcefully concerned the condition of the property in which they were living and, more specifically, the difficulties in getting landlords to carry out improvements or repairs. Those experiencing such difficulties tended to be living in the bottom end of the sector and/or in rural areas and some of the problems being reported - particularly in relation to water ingress and dampness - were severe. Those

in these situations were clear that their priority and, by extension, the issue they would most like the Review Group to address, was property condition:

I hear what you're saying that the Government is looking at this and that's nice... but I'd rather they made [landlord's name] fix my house... my bairns don't care what some paper says... they just want somewhere nice to stay... so they can bring their pals back and their stuff doesn't end up stinking.

(Tenant with children in receipt of LHA, renting in urban area)

- 4.19 Those affected by these kinds of issues had little faith that changes to the tenancy regime would help improve their position (as discussed further in Chapter 5). Rather, they were looking for a quick and easy route by which landlords could be required to carry out repairs and, in particular, for an independent body or bodies to take responsibility for carrying out condition checks and ensuring that landlords carry out any necessary repairs.
- 4.20 Although property condition, along with rent levels and affordability, were the most frequently raised issues, some tenants did have concerns that related directly to the current tenancy regime. These concerns were generally about the lack of longer-term security afforded by the SAT regime and were very often raised by those with previous experiences of living within the social rented sector.
- 4.21 Concerns about lack of security were particularly strong amongst older tenants, those with specific housing requirements (such as for a wheelchair-accessible property) and those with school-age children. However, not all tenants with school-age children raised these concerns and there was a clear correlation between the feelings of powerlessness and lack of choice (as discussed at paragraphs 2.24-2.30 above) and security-related concerns. Those who were less concerned about their capacity to access another suitable property were also less concerned about the possibility of being asked to leave their current home while those who had already struggled to find the right home, or indeed any home at all, were often very concerned about the prospect of losing it.

5 VIEWS ON SPECIFIC ASPECTS OF THE TENANCY REGIME

- 5.1 This chapter explores security of tenure further, with a particular focus on landlords' and tenants' views on making changes to length of tenancy arrangements. The chapter also covers views on notice periods and grounds for repossession, with a focus on both the current arrangements and any appetite for change.

Possible changes to tenancy length

- 5.2 As discussed in Chapter 4, the length of a SAT (usually taken to be 6 months, followed either by another 6 month period or by a rolling month-by-month period) was identified as both a strength and weakness of the current tenancy regime.
- 5.3 The landlords' position was clear and unambiguous; the landlords who took part in this research did not wish to see the removal of the fixed initial tenancy period (currently at a minimum of 6 months) after which they would be able to regain possession of the property without needing to meet specific grounds for repossession. A very substantial majority was also opposed to removing the option for a month-by-month rolling tenancy after the initial tenancy period has expired. As some landlords pointed out there are good reasons why they could but do not use the current Assured Tenancy and they would have very considerable concerns about being required so to do. As discussed above, these concerns centred on the difficulties of regaining possession of their property if they needed to do so.
- 5.4 Although there was no appetite amongst landlords for removing fixed period tenancies, a small number saw a case for moving away from month-by-month rolling tenancies. Those who took this view suggested that if a tenancy had been working well for both parties for a period of 6 months or more it would not seem unreasonable to offer a tenant the additional security associated with having another 6 month tenancy. Similarly, a small number of landlords took the view that there might be a case for increasing the minimum 6 month initial period to 12 months, although again this was very much a minority view.
- 5.5 Many landlords also wished to make it very clear that any changes to the tenancy length arrangements could affect their business decisions - either in terms of their ability or willingness to invest in the sector, or in terms of the types of tenant to whom they would be prepared to rent. With regard to investment, some landlords were clear that any arrangements which jeopardised the availability of buy-to-let financing, or which made the terms of any financing considerably less advantageous, could threaten their ability to remain within the sector. Equally, some suggested they might make a risk-related business decision that they could invest their money more wisely or more safely elsewhere.
- 5.6 A further suggestion was that landlords would inevitably seek to minimise their exposure to financial risk, and particularly the risks associated with unpaid rent or damage to their property, by not renting to certain types of tenants. The types of tenants that these landlords suggested they would avoid

included those in receipt of LHA or without good tenancy references, although some of those raising this issue already chose not to rent to such tenants.

- 5.7 Finally, many landlord participants felt that any proposal to bring in changes to the tenancy regime, and to length of tenancy in particular, was symptomatic of the Scottish Government's approach to the sector over recent years. In summary, the view was that more and more requirements have been imposed on landlords and that, while 'good' landlords bear the considerable burden of complying with any changes, no meaningful efforts are made to tackle those who do not. Many of the landlords who participated in this research wished to send a clear message that improved standards across the PRS will not be achieved by making yet further change, but by enforcing the changes that have already been made. Their view was typified by one landlord as follows:

*Every new thing they bring in, I do it... now that takes time and usually money. And then I have to sit and watch other people doing none of it... and nobody does a ***** thing about it. Enough, just enough.*

(Experienced, full-time landlord renting in rural area)

- 5.8 While landlords tended to hold very similar views on possible changes to tenancy length, tenants' views were more varied. In particular, it was very apparent that views on this issue were shaped by the tenant's personal circumstances and plans for the future.
- 5.9 Most straightforwardly, those tenants who expected to use the PRS as a shorter-term, transitional housing option had very few concerns regarding security of tenure. These tenants tended to the view that an initial 6 month tenancy offered as much security as they were looking for. A small number of younger, working age tenants suggested that 6 months is actually quite a long time to be tied in and that they felt more comfortable in the rolling month-by-month phase of their tenancies.
- 5.10 As discussed previously (paras. 4.5-4.9), shorter-term tenants tended to place considerable store on flexibility. Whilst some took the view that greater security (in the form of a longer or indefinite tenancy) would have its benefits - and could understand that it might be important to other longer-term tenants - they were very clear this would only be preferable for them if they were not constrained any further as a result. In effect, if asked to choose between having greater security or retaining flexibility, they would chose flexibility.
- 5.11 However, whilst greater 'formal' security was not a particular priority for shorter-term tenants, this appeared to correlate with a perception that they were actually more secure in their accommodation than the tenancy conditions alone would suggest. There was a common understanding that a landlord would prefer to hold on to a tenant who pays the rent and does not damage their property and such tenants simply saw no logical reason why they would be asked to leave. Many holding this view also cited conversations with landlords or agents which had confirmed this to be the case. A typical view was:

I honestly can't see why [landlord's name] would ask us to leave and anyway he said we'd be welcome to stay on as long as we wanted. I'd be annoyed if he went back on that, but we'd cope.

(Higher income working tenant with children renting in a small town)

- 5.12 Along with their understanding of their value as a 'good' tenant, this expectation of being able to deal with the repercussions of being asked to move on appeared key to the relatively relaxed view many shorter-term, transitional tenants had on security of tenure.
- 5.13 These tenants also often held the view that the property belonged to the landlord, that ultimately it was their right to do with it as they wished, and that they had understood the nature of the business relationship they were entering into when they took on the tenancy.
- 5.14 Those short-term tenants that considered length of tenancy from the landlords' perspective tended to a view that it would not be fair to expect a landlord to offer greater security without also expecting a tenant to make a longer-term commitment. Again, should this be the choice, they favoured flexibility, but as one tenant put it:

If you're asking me to choose, I think the most important thing is that I can move on easily...but if you're saying I can have both....then why not?

(Higher income working tenant in urban area)

- 5.15 Tenants who expected to be living in the PRS in the longer-term generally had a different perspective, although the picture was somewhat complex. For example, many longer-term tenants were equally aware of the value to a landlord of a 'good tenant'. This was particularly the case amongst those whose families had lived in the PRS for a considerable time and in some cases for generations. These tenants also tended to be living in rural areas. A small number of these tenants had previous experience of the Assured Tenancy regime and, while one tenant was of a clear view that an Assured Tenancy had its advantages, most were not aware that the introduction of SATs had resulted in significant changes to the way the sector works.
- 5.16 For longer-term tenants, issues involving property condition tended to be the over-riding concern (see paras 4.18-4.19). Typical property-related issues described by members of this group can be summarised as follows:
- The condition of the property is poor and repairs are either not done or are done slowly and to a poor standard.
 - The landlord's primary concern is receiving the rent on the property and as long as that rental income is coming in (be it through LHA or otherwise), they are unlikely to actively engage with either the property or the tenant. This includes requiring the tenant to leave.
 - The tenant feels powerless to get repairs done or improvements made and they have a choice between staying on in poor conditions or moving on. However, any alternative accommodation they are able to access or afford is unlikely to be any better.

- They may already have made attempts to involve statutory services or otherwise look for help to address the problem, but have found these routes to be ineffectual. This may include contact with agencies which have offered advice on their rights and how to pursue these.
- They do not feel able 'take on' their landlord themselves and would expect this to be a lengthy and both emotionally and financially draining process. They have no appetite for such a fight – life is hard enough.

5.17 Tenants experiencing such property-related concerns were unlikely to believe that greater security of tenure would make them feel any more able or inclined to pursue their right to have the property repaired. In most cases, tenants are disinclined to pursue the right to repairs not because they are concerned about losing their home, but because they cannot face going through formal channels and have little expectation it will prove worth the effort. Those who are able prefer simply to move to other accommodation, while those who are not able to move are clear that it should not be the responsibility of individual tenants to try and tackle poor condition issues. It is also worth noting that a small number of the shorter-term, transitional tenants expressed a similar view, but they had the advantage of being able to move on relatively easily.

5.18 However, while many longer-term tenants were not convinced that having a longer or indefinite tenancy would empower them to tackle property condition, many did still favour changes to the tenancy regime. Those with a strong connection to the social rented sector were most likely to support a change and tended to favour the adoption of an approach similar to that of the Scottish Secure Tenancy used by the social rented sector. Those favouring such an approach sometimes referred to 'lifetime' tenancies, with one tenant explaining his position as follows:

It should be like for the Council....no-one should be able to take your home from you, not if you pay the rent and that.... I just want to know that when I'm gone she's [the wife] got a roof over her head.

(Older tenant, long history of living in the social rented sector)

5.19 As the above quote suggests, a number of the tenants who were looking for greater security had other significant issues they were dealing with, including ill health. Some also had very particular housing requirements, for example for a wheelchair-accessible property and, having found suitable accommodation, were extremely concerned that they might then lose it. Whilst these tenants were not suggesting they should be entitled to stay in a PRS property under *any* circumstances (see the discussion below on grounds for repossession), they were of the view that a landlord should not be able to ask them to leave for no legitimate reason.

5.20 However, there was a strong correlation between tenants taking this view and those with a preference for living in the social rented sector. Many of the tenants who were looking for more security would have actively preferred to be living in the social rented sector; they tended to report having active housing applications with local social housing providers and generally suggested they would be likely to accept an offer of suitable social housing.

However, they very often thought that such an offer was unlikely to come at all, or that if they were made an offer it would be in an unsuitable area⁵.

- 5.21 While tenants in these circumstances did tend to support the idea of greater security, some had chosen to give up such security (in other words a social rented sector tenancy) in order to access a more suitable property or in order to leave a neighbourhood - or more precisely to get their children away from a neighbourhood – which gave them concerns. Ultimately, these tenants had placed having a property that met their basic requirements or was in a suitable location above security of tenure, although they did not see this as a choice but a necessity:

I had to get my girls away from there... Mum thought I was mad to give up my [housing association] house... but I'd do the same again. Maybe we will have to move one day, but at least my kids are safe.

(Lower income working tenant with children living in a small town)

- 5.22 In the same way that some tenants favoured safety and location over security, some were making an even more stark choice in favour of having anywhere to live over security. This group of tenants were currently living at the bottom end of the PRS, had very often had contact with statutory homeless services at some point in the past, and often had made a clear and determined choice to never do so again. This group of tenants was concerned that any changes which required landlords to offer greater security could backfire on tenants such as themselves and that – echoing the suggestion made by a small number of landlords and set out at para 5.6 above - landlords might be increasingly disinclined to offer them even sub-standard accommodation. As one young mother explained:

Can't honestly see it'll change anything...well no it might...it might mean she won't give her flats to the likes of me....you know, unless someone does something to make them do what they're supposed to do it might just make it worse. Oh, and by the way, tell them that we [gesturing to other participants] can't make her do what she's supposed to... they bring in all this stuff then the Council needs to get out and make sure she's doing it properly.

(Tenant with family, in receipt of LHA, renting in an urban area)

Notice periods

- 5.23 In general, both landlords and tenants had a good understanding of the notice periods in place should either party wish to bring a SAT to an end. The one area in which there did appear to be some confusion was in relation to the requirement to give notice in the lead-up to the end of the first fixed period if either party wished to bring the tenancy to an end at that point. A small

⁵ Location was often critical, with most of these tenants having significant ties into their local community – for example in terms of schooling, informal childcare arrangements, or proximity to their place of work or frequently-used health or support services.

number of tenants had experienced a situation when they had not realised this was the case and had effectively lost their deposit as a result⁶.

- 5.24 Overall, most landlord and tenant participants felt the current notice arrangements work reasonably well. However some participants, including a number of landlords did consider them to be too short. Others, generally including those tenants who placed a particularly high value on flexibility, did not.
- 5.25 A range of possible notice period alternatives were explored with research participants, including landlords or both landlords and tenants having to give a longer period of notice, or that the length of the notice period a landlord would give a tenant might be linked to the length of time they had been in the tenancy.
- 5.26 There were a range of views on any possible changes, with the clearest divide between those who felt there should be parity, with landlord and tenant notice periods the same, and those who did not. Those who suggested there should be parity (a group which included most landlords but also some tenants), tended to simply consider this to be fair. Some landlords pointed to the fact that they are rarely if ever asked for longer notice periods and had serious doubts that they would be appealing to tenants if reciprocal.
- 5.27 Those who took the alternate view all thought that notice periods should be weighted in favour of tenants, with reasons given including the following:
- It is fundamentally more important that a tenant does not find themselves without a home than a landlord does not find themselves without a tenant.
 - It is likely to be easier for a landlord to find a tenant than for a tenant to find a new home.
 - If a tenant does find possible alternative accommodation, they will need to move quickly - no other landlord will 'hold' a property while a tenant serves out a longer notice period. This is particularly the case in relation to a move into social rented housing, when any offer will only be open for a short period and any tenant in receipt of LHA will have limited scope for covering double rent payments.
 - If a tenant is choosing to make a move, they are also likely to need to move quickly - for example, it may be work-related and a prospective employer is likely to want someone to start as soon as possible.
 - Equally, any tenant looking into owner occupation may need to move quickly and is unlikely to be in a position to cover both rent and mortgage payments whilst serving out a longer notice period.

⁶ In effect they had moved on without giving notice and the deposit had been used to cover the rent for the notice period.

- This approach could actually feed into creating longer-term tenancies and, by extension, be in the best interests of both tenants and landlords. If tenants had a longer period to find suitable accommodation they might be less likely to take 'what is on offer at the time' but then look at move at the end of the initial fixed period.
- 5.28 Overall, therefore, many tenants would welcome being given a longer notice period, but only a very small number considered this would be worth having at the expense of having to give longer notice in return.
- 5.29 The idea of linking notice periods to the length of time the tenant had been living in the property also received mixed reviews. From the landlord perspective, a small number of participants did see its merits, although some had concerns about how practical it would be. For example, it was suggested that if a longer-term tenant is being asked to move it may very well be that major repairs or improvements are required to the property and that allowing someone to carry on living in the building for a period of many months might not be in their best interests or indeed be safe.
- 5.30 Some landlords also suggested that all good landlords would already take this approach, with a small number of rurally-based landlords suggesting that they simply would not require a tenant of many years standing to move on at short notice without very good reason and without making every effort to find them alternative accommodation.
- 5.31 Again, the substantial majority of tenants only considered this to be a desirable option if the longer notice periods were not reciprocal.

Grounds for Repossession

- 5.32 As noted earlier within this report (para. 4.15), one of the main concerns landlords raised about the current SAT regime related to regaining possession of their property if there were significant problems with a tenancy. These concerns focused very much on the processes to be gone through and particularly that it is likely to be both lengthy and costly.
- 5.33 In terms of the grounds themselves, both landlords and tenants tended to consider them to be broadly fair. In particular, tenants had a very clear view that in taking on a tenancy someone was making certain basic commitments, which included paying the rent and not damaging the property. All tenants were of a view that a landlord should be able to regain possession of their property if the tenant broke these rules.
- 5.34 However, there were some areas which were seen as less clear cut, with some tenants raising one or more of the following issues:
- A tenant should not be penalised if delays or mistakes in processing of LHA results in them falling into rent arrears. One suggestion was that the local authority should be required to make contact with the landlord to explain the circumstances and reach an agreement.

- It may be appropriate, or at least would certainly be desirable, for landlords to be required to make allowances if a tenant has experienced a dramatic change in their financial circumstances, for example through the loss of employment. Again, there was a suggestion that the local authority may have a role to play, possibly by covering the rent until any LHA claims are processed.
- Some tenants did not agree that a landlord should be able to repossess a property if they either wished to sell the property or to live in it themselves. Others suggested that it should be possible, but that clear evidence of the need to sell or move in should have to be presented to the Sheriff Court. Those holding this view recognised that a landlord could, for example, be suffering financial difficulties themselves. However, they were of the opinion that it should only be possible for a landlord to sell or move into a property that had an existing tenant if this could be demonstrated to be absolutely necessary.

5.35 Overall, however, most tenants took the view that the property belongs to the landlord and that ultimately, and assuming all legal processes are followed, they should be entitled to take possession if they want or need to.

5.36 Landlords held a similar view and generally felt the existing grounds to be fair and balanced. However, some landlords suggested that revisions should be made to the rent arrears-related discretionary grounds⁷. In particular, it was suggested that some tenants (and their advisors) have worked out how to stay just on the right side of these grounds, but that the landlord can still be suffering very considerable financial losses. Although some suggested that the grounds themselves should be modified, it was also clear that some of the concerns centred on what the landlords considered to be inconsistent or incorrect application by the Sheriff.

⁷ The Persistent Delay in Paying Rent and The Some Rent Unpaid grounds

6 SUMMARY OF VIEWS

- 6.1 This short concluding chapter sets out a brief summary of the views expressed by both the tenants and landlords who contributed to this research. Participants were asked for their views on a range of key issues relating to the current tenancy regime and possible changes to it. The views expressed were varied and had often been carefully considered; it was clear to the research team that many of the participants held very strong views on the issues being discussed but that they nevertheless sought to offer a balanced and constructive contribution to the research.
- 6.2 It was also clear that participants were drawing on a broad and varied range of experiences and that these experiences, along with their future hopes and plans, were a powerful influence. Although most participants were clear that the tenant-landlord relationship is essentially a business one, it was also clear that a range of emotions, particularly connected to trust and feelings of powerlessness, were often in play.

Landlords

- 6.3 Despite their varied profile – in terms of number and locations of properties owned for example – the 43 landlords who contributed to the research tended to hold very similar views on the ‘bigger’ issues. The landlords’ position can be summarised as follows:
- The SAT regime broadly works well and fundamental changes are not required.
 - The arrangements for issuing a SAT, and the tenancy documents themselves, can be lengthy and complicated and there may be a case for simplification.
 - The initial fixed tenancy period, with the current minimum at 6 months, plays a key role in allowing landlords to operate a viable business. Even those who have never needed to end a tenancy at the end of the period, value the safety net it offers them.
 - Both the current notice period and grounds for possession also generally work well, although there may be a case for tightening up the grounds relating to rent arrears. In terms of repossessing a property, the problems lie with the processes that have to be gone through rather than the grounds themselves.
 - Rather than making changes to the tenancy regime, the focus should be on taking action against landlords who are not complying with the legislation and regulations.

Tenants

- 6.4 The views of tenants were more varied, although did divide into two broad positions depending on whether the tenant expected to live in the sector for a

relatively short while or whether they anticipated living in private rented accommodation in the longer term.

6.5 The shorter-term, transitional tenants tended to hold the following views:

- The SAT regime appears to work reasonably well and offers them the flexibility that is generally very important to them.
- The tenancy documentation can be both long and complicated. A simplified approach based on a model document may help counter the natural inclination not to read the small print.
- The initial tenancy period offers a welcome period to test out both the landlord and the property. If things are not working out, looking for an alternative property is both a realistic but also a preferred option.
- The ability to both access but also move on from a property relatively quickly is important, particularly if needing to make a work-related move or buying a property.
- The grounds for repossession generally seem fair and balanced.

6.6 The longer-term tenants tended to hold the following views:

- For many, the major problems are around property condition and getting repairs carried out. Other considerations, such as concerns about lack of security of the tenancy, are often secondary.
- However, lack of security can be of critical concern to some, and particularly to those who feel they have few if any other options. Lack of security tended to be most keenly felt by those with strong previous connections to the social rented sector. These tenants would like to see changes which afford them greater security.
- The tenancy documentation can be both long and complicated. A simplified approach based on a model document may help counter the natural inclination not to read the small print.
- The grounds for repossession are broadly fair, although a tenant should not be penalised for delays or mistakes in processing LHA.
- There may be a case for offering tenants longer notice periods, although not for requiring tenants to give longer notice.
- Tenants are not in a position to 'take on' their landlords and tackle issues associated with poor condition or other breaches of tenancy legislation or regulation. Alterations to the tenancy regime will not change this.

APPENDICES

- 1. Pre-discussion Information, landlords**
- 2. Pre-discussion information, tenants**
- 3. Discussion Schedule, landlords**
- 4. Discussion Schedule, tenants**

Appendix 1 Pre-discussion Information

Please could you provide some information about you as a landlord. We would like to gather this information in advance of the meeting so that we can focus on the issues and gathering your views at the discussion group. The information will only be used to develop an understanding of who we have spoken to and will not be shared with any other parties. All information will be held securely (under the terms of the Data Protection Act) and will only be kept until the research has been completed.

If possible, please complete this form online at: [website address]. Alternatively, please could you bring the information along to the group.

Name: _____

Business name (if applicable): _____

Approximate number of properties owned and where they are?

Are you also a letting agent? Yes / No

As a landlord, do you use a letting agent? Yes / No

If yes, what type of service do they provide? Please tick closest option.

Full management service

Tenant finder and rent collection service

Tenant finder service only

Approximately how long have you been a private landlord? _____

How would you describe the type of landlord you are (in terms of full time/part time, professional investor/reluctant or accidental landlord etc)?

What type of tenancy agreement(s) do you use (i.e. assured or short assured)?

Are there types of tenants you prefer to rent to? If yes, what type(s)?

Are there any types of tenants you prefer not to or will not rent to? If yes, what type(s)?

What proportion of your tenancies would you say end after the initial 6 months?

Of these, roughly what proportion end because this is the tenants' choice and what proportion do you not renew?

Tenant preference to end: _____ My preference to end: _____

Roughly how often do you need to bring a tenancy to an end?

If you bring a tenancy to an end, what are the usual reasons for doing so?

Appendix 2

Pre-discussion Information

Please could you provide some information about your experience as a tenant renting in the private sector. We would like to gather this information in advance of the meeting so that we can focus on the issues and gathering your views at the discussion group. The information will only be used to develop an understanding of who we have spoken to and will not be shared with any other parties. All information will be held securely (under the terms of the Data Protection Act) and will only be kept until the research has been completed.

If possible, please complete this form online at: [website address]. Alternatively, please could you bring the information along to the group.

Name: _____

Where are you currently living? _____

Please describe the household you live with (in terms of the numbers of adults and children and their relationship to you)?

Roughly how long have you been living in the private rented sector? _____

Including your current home, how many properties have you lived in during that time? _____

If you have lived in two or more properties, how long have you tended to stay in each? _____

How long have you lived in your current home? _____
How much longer do you plan or hope to continue living there? _____

If you have ever chosen to move on from a private rented property, what was your main reason(s) for doing so?

If you have ever been asked to leave a property or your lease was not renewed, what (if any) explanations were given?

What kind of lease do you have currently? Please tick one

- Assured
- Short Assured
- Don't know/not sure
- Don't have one
- Other Please specify _____

Does your current landlord use a letting agent Yes / No / Not sure

If yes, what type of service do they provide? Please tick closest option.

Full management service

This would mean you probably have little or no

contact with your landlord

Tenant finder and rent collection service

This would mean you found the property through an agent and you pay them the rent, but the landlord deals with other issues, such as repairs

Tenant finder service only

This would mean you found the property through an agent but otherwise deal with your landlord

Approximately how much is your monthly rent? _____

Do you receive any help towards your rent in the form of either housing benefit or local housing allowance? Yes / No / Rather not say

Appendix 3

Discussion Schedule - Landlords

Notes to discussion leaders:

- Please take copies of the CEC Model Tenancy agreement, an AT5 and of the 'grounds for possession' (set out below) to the discussion.
- The schedule assumes the discussion will last for around 60-90 minutes.
- It will be important to keep the focus of the discussion on the tenancy regime (unless there is a clear relationship between the issue and the tenancy regime).
- If any of the participants are also agents, try to keep the focus on their landlord role.
- Issues to look out for and explore if appropriate/relevant:
 - Whether views etc are shaped by own or others experiences.
 - Whether the use of an agent seems to affect landlords' understanding/views;
 - Whether being a reluctant/accidental landlord affects people's understanding, experiences/views.
 - Whether the rural/small town urban dimension affects views, including whether those with properties in a mix of areas see different approaches as preferable according to the location of their properties.

Introductions

- Introductions and 'housekeeping' (emergency exits etc)
- Brief overview of purpose of research and how findings will be used.
- Agreement to record (including explanation of how recording will be used, stored and destroyed).
- Agreement to Chatham House rules.

Theme 1 - The current assured and short assured tenancy arrangements

- Clarify **what type of tenancies** landlords are using. If using SAT, check that AT5 issued (including to all tenants named on the agreement).
- If using SAT, briefly **discuss the choice** – what are the expected advantages/benefits for a landlord of using the SAT?
- Are there any disadvantages or drawbacks with using a SAT?
- [If using Assured, explore why? ‘Accident’ because correct paperwork was not issued or deliberate? If deliberate, what were the reasons?]
- Is the current legislation **easy to understand and implement**, particularly in terms of the documentation required to set up and maintain a short assured [or assured tenancy]?
 - Are the AT5 rules clear?
 - Are you aware of the ‘serving prior grounds rules’?
 - Is it clear what is required of a tenancy agreement?
 - Do you find your own tenancy agreement easy to understand? If not, explore whether that has led to any issues/problems, including misunderstanding between landlord and tenant.
- Overall, are you **confident that you are ‘getting it right’**? If yes, what has given you that confidence (training, using of an agent etc)? If no, what concerns does this give rise to?
- Are there any aspects of the current tenancy arrangements that you think **work particularly well**? If changes were to be made, are there any specific components you would like to see retained and why?
- What **works less well** and are there any specific components you would like to see changed?
- As part of that process and reflecting any changes made, would a **‘Model Tenancy Agreement’** be a possible/helpful way forward?
 - Do you already use a Model Tenancy and if so, where did you source it from?
 - If a ‘national’ Model Tenancy’ were developed, what key features would you be looking to see? (i.e. S.G. sanctioning is relevant, currency, ease of understanding etc)?
 - If not a helpful way forward, why not? What are your concerns?

Theme 2 - Length of Tenancies

- Briefly discuss **what is happening at the moment**. Are tenancies tending to 'roll over' for as long as the tenant wishes to stay? Are certain types of tenants staying longer or moving on more quickly? *Briefly explore whether patterns appear to be as would be expected i.e. students/young professionals using as short-term, families etc using as longer term, patterns suggesting pressure on SRS.*
- If landlords are ending tenancies after 6 months, why? In terms of **how long a tenancy lasts, what is most important to you** as a landlord and why? Explore issues around:
 - Maintaining revenue stream and avoiding rent loss periods
 - Property being well looked after
 - Keeping flexibility and the option to take possession of the property – if so why e.g. might wish to move in; family might want to move in; might want to sell the property etc?
- If tenancies are tending to last longer than 6 months, **what processes are you using** (new SAT, month-by-month roll over)?
- Do your preferences as a landlord seem to **fit with what existing or prospective tenants** are looking for? Do you discuss length of tenancy with new tenants?
- If the **length of tenancies** was being reviewed (essentially the SAT 6 month period), what would be the **most important characteristics** that any new regime would need to have to work for both landlords and tenants? (*Note: specifics discussed below, focus on core characteristics*). Explore:
 - Flexibility
 - Security
 - Balance between the two
 - Other.....
- How would you feel about **fixed tenancy periods that ran for longer than 6 months**, for example for 12 or 24 months? Under such circumstances, what types of conditions or safeguards would be important to you and your business? Explore:
 - Grounds for possession (*note - specific grounds discussed in greater detail below*)
 - Notice periods (*note - specific grounds discussed in greater detail below*)
 - Rent increase processes (for example, annual RPI-related, principle set out in tenancy etc)
 - Ability to have a trial period
 - Demand, impact on including potential to stifle from some types of tenants
 - Other.....

- In many countries there are **no pre-determined or fixed tenancy periods**. **Tenancies continue indefinitely** until the landlord seeks repossession or the tenant gives reasonable notice. Again, under such circumstances, what types of conditions or safeguards would be important to you and your business?

Explore:

- Grounds for possession (*note - specific grounds discussed in greater detail below*)
- Notice periods (*note - specific grounds discussed in greater detail below*)
- Rent increase processes (for example, annual RPI-related, principle set out in tenancy etc)
- Ability to have a trial period
- Demand, impact on including potential to stifle from some types of tenants
- Other.....

Theme 3 - Balance between landlord and tenant rights.

- Overall, do you feel that the current arrangements strike the right **balance between the interests of both landlords and tenants**? If not, who is being advantaged or disadvantaged and in what way?
- In particular, do you think the current '**grounds for possession**' that apply to a SAT and an Assured Tenancy are fit for purpose? If not, why not? If the balance is not right, do you think the issue is with the tenancy regime itself or about the processes that are in place to enable repossession? *Have copy of grounds available in case required.* Explore:
 - Have you ever sought possession and why?
 - If yes, did the process work well/less well and how?
 - If you haven't, but might have liked to, what was it that held you back?
- What (if **any changes**) would you like to see? Explore:
 - Should the mandatory 'no fault' ground stay or go and why?
 - Are there any issues arising from the mandatory/discretionary division?
 - Are there any grounds that should not be there?
 - Are there any grounds that are missing?
- Have you ever had a tenant **abandon** one of your properties? How easy/difficult was this to deal with? Have you any suggestions on changing the powers that private landlords have to deal with an abandoned property?
- How would you feel about **linking notice periods with how long the tenant has been living in the property**? (For example, if someone had lived in a period for more than a year, they would be entitled to a longer notice period, possibly on a sliding scale up to a maximum period). If such an approach was being considered, what 'principles' should underpin it? What could be the pros and cons (from both a landlord and tenant perspective) of such an approach? Explore:
 - Reciprocity
 - Reasonable levels/thresholds
 - Other....
- Do you have any (other) suggestions as to how the tenancy regime could be changed to **encourage constructive relationships** between landlords and their tenants? Explore:
 - Perceptions that tenants may be concerned to raise 'quality' issues in case their tenancy is not renewed.
 - Any ways the tenancy regime could assist in promoting open dialogue.

Next steps, thank yous and close

Appendix 4

Discussion Schedule – Tenants

Notes to discussion leaders:

- Please take copies of the CEC Model Tenancy agreement, an AT5 and of the ‘grounds for possession’ (set out below) to the discussion.
- The schedule assumes the discussion will last for around 60-90 minutes.
- It will be important to keep the focus of the discussion on the tenancy regime
- Issues to look out for and explore if appropriate/relevant:
 - Whether views etc are shaped by actual experiences or draw on received wisdoms;
 - Whether a landlord dealing directly with a tenant or using an agent seems to have any effect.
 - whether the rural/small town urban dimension affects views, including whether those looking for properties in different types of areas seem to have different experiences.
 - *Impact if any of HB or LHA on ability to find/landlord, agent willingness to let and by extension sense of security etc (note: approach sensitively – possible short phone follow up after the group if appropriate).*
 - *Impact if any of personal issues that may make it difficult to either secure a property or affect how secure tenant feels (e.g. if need and find an accessible property does the sense of ‘rarity’ impact on how a tenant behaves.*

Introductions

- Introductions and ‘housekeeping’ (emergency exits etc)
- Brief overview of purpose of research and how findings will be used
- Agreement to record (including explanation of how recording will be used, stored and destroyed).
- Agreement to Chatham house rules.

Theme 1 - The current assured and short assured tenancy arrangements

- Clarify **what type of tenancies** tenants have. If participants believe they have a SAT, check whether they recall receiving an AT5 (including to all tenants named on the agreement). Do you know/were you aware of what the AT5 is for?
- What do you believe to be the **'key features'** that come with the tenancy type they have? Explore expectations/understanding around security and particularly their understanding of when or on what grounds they can be asked to leave and the arrangements if they wish to give notice.
- How **familiar are you with private sector tenancy regulations** in general? Where has any knowledge/understanding come from? How much information have you been given by any landlord/agent prior to or when signing their tenancy? If you have been or might be looking for more information about tenancies, where have you gone/where might you go for that information?
- How **easy is your current tenancy document to understand?** Did you go through it before signing? Have you looked at it since? Are you reasonably confident that it complies with legislation/good practice? If so, why? *Explore whether use of agent gives confidence, apparent professionalism/size of landlord etc.*
- Have **any problems** arisen as a result of either not understanding your tenancy document or you having a **different understanding to your landlord?** If so, what were they and how (if at all) were they resolved?
- Do you think there is a **case for simplifying or standardising** tenancy arrangements? If so, do you have any ideas? *Explore either principles or specific suggestions as appropriate.*
- Would a standard or **'Model Tenancy Agreement'** be a possible/helpful way forward - for example a standard tenancy document that was used by all landlords and with any variations introduced having to be expressly highlighted to any prospective tenant?

Theme 2 - Length of Tenancies

- Briefly explore **why participants are living in the PRS** (i.e. choice b/c of period of life, unable to access SRS, unable to afford/not right time for OO)? *Explore briefly to contextualise attitude to PRS/perception of whether by choice or necessity etc.*
- What was **most important to you** when you were looking for your current home? *Explore relative priorities around length of tenancy vs location, price, condition etc.*
- How long were you/are you **wanting or hoping to stay** in your current home? How does that compare to the length of the tenancy you have?
- Did you **discuss how long the tenancy would be for** at the outset (with either your landlord or their agent)? Were the arrangements clearly explained to you? Were any alternatives offered/was there any room for negotiation? *Explore whether anyone asked for a tenancy that was longer or shorter than 6 months and if so what happened?*
- If the length of tenancy you would have liked and what you have are different, **how (if at all) does that affect you?** *Explore issues around 'putting down roots', in particular any issues around accessing services e.g. schools, health services etc. Alternatively, any issues around people having to stay longer than they might choose?*
- Do you **expect/hope to live in the PRS in the longer term** or would you expect/hope to move on to either a social rented or owned property? What factors have influenced your longer term preferences? *Explore whether any aspects of tenancy regime - such as security – are influencing preferences /intentions and if so how?*
- If you have had a previous tenancy(ies) in the private sector, **roughly how long did you stay?** Have you had experience of 6 month tenancies 'rolling over'?
- **If you choose to move on, why?** *Explore issues - 'pushes' (such as too costly, poor quality, difficulties getting repairs done etc) and 'pulls' such as moving location for work, forming new household, being able to afford something bigger/better etc ?*
- Have you ever been asked to **move out of a private rented property before you wanted to?** If so, under what circumstances? Had the lease come to an end, or did the landlord seek possession? Do you know why the landlord wanted the property back?
- A Short Assured Tenancy (the one most commonly used in the private rented sector sector) initially lasts for 6 months. How, if at all, **does that affect your**

views on renting in the private sector? How, if at all, does the length of a tenancy affect your relationship with your landlord? *Explore any fears, any advantages*

- If the **length of tenancies** was being reviewed (essentially the SAT 6 month period), what would be the **most important characteristics** that any new regime would need to have to work for you as a tenant? What do you think might be important to landlords? (*Note: specifics discussed below, focus on core characteristics*). Explore:
 - Flexibility
 - Security
 - Balance between the two
 - Other.....

- How would you feel about **fixed tenancy periods that ran for longer than 6 months**, for example for 12 or 24 months? Under such circumstances, what types of conditions or safeguards would be important to you? Explore:
 - The basis on which a landlord was able to require you to leave , including grounds for possession (*note - specific grounds discussed in greater detail below*)
 - Notice periods (*note - specific grounds discussed in greater detail below*)
 - Rent increase processes (for example, annual RPI-related, principle set out in tenancy etc)
 - Whether it would affect your ability to find a tenancy
 - Other.....

- In many countries there are **no pre-determined or fixed tenancy periods. Tenancies continue indefinitely** until the tenant gives reasonable notice or the landlord seeks possession. Again, under such circumstances, what types of conditions or safeguards would be important to you? Explore:
 - The basis on which a landlord was able to require you to leave , including grounds for possession (*note - specific grounds discussed in greater detail below*)
 - Notice periods (*note - specific grounds discussed in greater detail below*)
 - Rent increase processes (for example, annual RPI-related, principle set out in tenancy etc)
 - Whether it would affect your ability to find a tenancy
 - Other.....

Theme 3 - Balance between landlord and tenant rights.

- Overall, do you feel that the current arrangements strike the right **balance between the interests of both tenants and landlords**? If not, who is being advantaged or disadvantaged and in what way?
- In particular, do think the current '**grounds for possession**' that apply to a SAT are fair? If not, why not? *Have copy of grounds available to circulate.* Explore:
 - Has anyone ever sought possession of a property you were living in?
 - If yes, was it easy to understand what was happening?
 - What was the outcome and did it seem fair?
- What (if **any changes**) would you like to see? Explore:
 - Should the mandatory 'no fault' ground stay or go and why?
 - Are there any issues arising from the mandatory/discretionary division?
 - Are there any grounds that should not be there?
 - Are there any grounds that are missing?
- How would you feel about **linking notice periods with how long a tenant has been living in the property**? (For example, if someone had lived in a period for more than a year, they would be entitled to a longer notice period, possibly on a sliding scale up to a maximum period). If such an approach was being considered, what 'principles' should underpin it? What could be the pros and cons (from both a tenant and a landlord perspective) of such an approach?
Explore:
 - Reciprocity (for example, if you got longer, would it also be fair for you to need to give longer notice to the landlord?)
 - Reasonable levels/thresholds
 - Other....
- Do you have any (other) suggestions as to how the tenancy regime could be changed to **encourage constructive relationships** between tenants and landlords? Explore:
 - Perceptions that tenants may be concerned to raise 'quality' issues in case their tenancy is not renewed.
 - Any ways the tenancy regime could assist in promoting open dialogue.

Next steps, thank yous and close.

Social Research series
ISSN 2045-6964
ISBN 978-1-78412-328-4

web only publication
www.scotland.gov.uk/socialresearch

APS Group Scotland
DPPAS25431 (02/14)

