

**Child Rights and Wellbeing Impact
Assessment (CRWIA)**

**Landlord Registration:
Statutory Guidance for
Local Authorities**

August 2017

Final CRWIA - Web publication Secondary Legislation CRWIA

CRWIA title: Landlord Registration :Statutory Guidance for Local Authorities

Executive Summary

Provisions in the Private Rented Housing (Scotland) Act 2011 require local authorities to have regard to any guidance issued by the Scottish Ministers about the discharge of functions in relation to landlord registration.

The aim of the new guidance is to help local authorities use the full range of available powers available to help drive up standards in the Private Rented Sector (PRS) by taking tougher targeted enforcement against landlords who continue to operate outside the law.

The evidence establishes links between poor housing and poor educational and health outcomes. By improving the quality of accommodation that children and young people live in, so that the PRS represents a good place to live, we would expect this to ultimately have a positive effect on health and educational attainment.

The policy covered by this CRWIA will contribute to the National Outcomes:

- “we live in well-designed, sustainable places where we are able to access the amenities and services we need”; and
- “we have tackled the significant inequalities in Scottish society”

The policy also contributes to the Scottish Governments vision that all people in Scotland live in high quality, sustainable homes that they can afford and that meet their needs.

We consider that of the eight wellbeing indicators (Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, Included (known by the acronym SHANARRI)), the policy relates to:

- **Achieving:** Being supported and guided in their learning and in the development of their skills, confidence and self-esteem at home, at school and in the community.
- **Included:** Having help to overcome social, educational, physical and economic inequalities and being accepted as part of the community in which they live and learn.
- **Nurtured:** Having a nurturing and stimulating place to live and grow.

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| | <ul style="list-style-type: none"> • Healthy: Having the highest attainable standards of physical and mental health, access to suitable healthcare, and support in learning to make healthy and safe choices. <p>Of the UNCRC considerations, the policy relates to:</p> <ul style="list-style-type: none"> • Article 6 (2) The right to life. That is, ‘ensure to the maximum extent possible the survival and development of the child’. • Article 23 (1) The rights of a disabled child. That is, ‘a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child’s active participation in the community’. • Article 27 (1-3) Adequate standard of living. That is, ‘the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development’. • Article 28 (1e) Right to education. That is, ‘takes measures to encourage regular attendance at schools and the reduction of drop out rates’. <p>The available evidence shows us that the number of families and young people within the PRS has grown significantly in recent years and that a secure home protects and promotes the wellbeing of children and young people. In 2015, around a quarter of PRS households had children, an estimated 90,000 households compared to 20,000 in 1999. The sector provides a home for nearly one in six of all households with children. We have also been able to identify a number of possible positive outcomes for different groups of children and young people with protected characteristics.</p> <p>The results of this CRWIA demonstrate that there are no potentially negative impacts of the policy. This is because it complies with the UNCRC requirements and has the potential to advance the realisation of children’s rights and wellbeing.</p> <p>This CRWIA was informed by a range of evidence and consultations.</p> |
| <p>Background</p> | <p>Landlord Registration was introduced by the Antisocial Behaviour etc. (Scotland) Act 2004.</p> <p>The legislation requires that private landlords register with the local authority in which they let property. The landlord is subject to a ‘fit and proper’ person test before the local authority either approves or refuses the application.</p> |

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| | <p>Local authorities have the ability to take a wide range of material into account when deciding whether a landlord is a fit and proper person to let houses. This includes material, for example, relating to a range of criminal offences; any contravention of housing, landlord or tenant law; repairing standard enforcement orders. In addition to specified material, local authorities can consider any other material if it is relevant to the fit and proper person test.</p> <p>It is for each local authority to determine how they will administer landlord registration although the principles behind the regime should be consistent across Scotland. The new statutory guidance will help local authorities to think more strategically about how they carry out their regulatory functions through use of existing powers. The guidance highlights practical examples of successful local authority enforcement activities.</p> |
| <p>Scope of the CRWIA</p> | <p>The likely effects of the policy were informed by a range of evidence, including public consultation and stakeholder engagement on the content of the Private Rented Housing (Scotland) Bill, the Scottish Government Strategy for the Private Rented Sector in Scotland and the Housing (Scotland) Bill. Scottish Government officials also examined evidence from a range of studies, reports and surveys, including:</p> <ul style="list-style-type: none"> • The Scottish Government’s 2009 Review of the Private Rented Sector. This provided a detailed primary evidence base on the sector in Scotland, including information relating to the protected characteristics (vulnerable groups). • The Scottish Government’s 2013 Evidence Review of the Private Rented Sector Tenancy Framework in Scotland. This provided an overview of some of the key issues relating to the PRS in Scotland. • Homeless Action 2013 and Youth Homelessness in Scotland 2013 Surveys. These surveys provide information on housing experiences of tenants in the PRS. • Results from the 2015 Scottish Household Survey. • Results from the 2013 Scottish House Conditions Survey. This provides further detail of the physical condition of housing stock and was supplemented by analysis from analytical services colleagues. • Craigforth’s 2014 qualitative research to explore the implications for private rented sector tenants and landlords of longer term and more secure tenancy. This provided an outline of tenants' experiences of the current tenancy, including its advantages and disadvantages. |

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| | <ul style="list-style-type: none"> • Analysis of Equality Results from the 2011 Census – Part 2. This data provided further information regarding the profile of tenants across equality groups within the PRS. • The Scottish Government (2010) A Thematic Review of Literature on the Relationship between Housing, Neighbourhoods and Schools. This presents a comprehensive review of the evidence relating to the relationship between housing and education. • Scottish Government (2013) Growing Up in Scotland. Growing Up in Scotland is the longitudinal research study tracking the lives of thousands of children and their families from the early years, through childhood and beyond. Housing is covered as part of this. • Understanding the Housing Aspirations of People in Scotland. This research report provides evidence on the PRS in relation to property condition and low income households. • What does the literature tell us about the social and economic impact of housing? CAS report 2010. <p>The policy is designed to improve standards for the benefit of all groups of people living in the PRS, or being adversely affected by poor landlord practice. However, the available evidence indicates that children and young people from certain groups are more likely to be living in poor quality housing such as ethnic minority, migrant families and students.</p> <p>The positive impacts may be felt more by vulnerable children from certain groups. For example, the policy may help to address the problems linked to sub-standard housing for children and young people from low income households, or at risk of homelessness.</p> |
| <p>Children and young people’s views and experiences</p> | <p>While there is a lack of research detailing children’s views on the issue of poor housing in the PRS, there is substantial evidence of the views of parents and young people who are tenants and qualitative research on the views and experiences of those within the sector.</p> <p>There is also evidence on the composition of the PRS generally and on the condition of properties within the PRS that allows us to determine where the policy might deliver improvements to those living in the sector. As the rights of children/ young people and their parents/ carers are inextricably linked, we consider that the available evidence provides a good basis for examining the impact of the proposals upon children and young people. The available evidence shows us that the number of families and young people living in the PRS has grown significantly in recent</p> |

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| | <p>years and that poor quality housing can impact negatively on the wellbeing of children, young people and their families.</p> |
| <p>Key Findings</p> | <p>Available evidence shows that the PRS has more than doubled in size since 1999 and covers more than a seventh of all homes in Scotland. One of the fastest-growing groups of tenants since 1999 has been families - in 2015, around a quarter of PRS households had children, an estimated 90,000 households compared to 20,000 in 1999. The sector provides a home for nearly one in six of all households with children.</p> <p>The proportion of young people renting has also risen dramatically in recent years and projections indicate that this will increase further, with diverse demand including from vulnerable and lower income young people. Some, such as students, will be in the sector through choice and value the flexibility that it provides. However, this increase can also partially be attributed to a lack of options due to the growing proportion of young people unable to access home ownership.</p> <p>While specific data on 16 -18 year age group within the PRS is not available, we can demonstrate that the proportion of renters within the 16-34 age group expanded from 13% in 1999 to 41% in 2015.¹</p> <p>The 2009 Review of the Private of the Private Rented Sector included views from tenants on their experience in the PRS, including on the issue of property condition and repairs. The tenant survey included evidence on the experiences of 280 students, as well as tenants with children in the PRS.</p> <p>Chapter 2 of the Growing up in Scotland (GUS)² considers the characteristics and circumstances of children and parents in relation to Area and Housing. 16% of children were living in private rented homes. The proportion of families in owner occupied homes has decreased (from 62% to 56%) whereas the proportion in the PRS has increased (from 6% to 16%).</p> <p>The survey found that on the matter of repairs needed to family homes in the PRS, 13% of families needed one repair on their home, 6% needed two and 6% needed three or more. Families living in areas of higher deprivation were more likely to need multiple repairs on their home. 16% of those living in areas in the highest deprivation quintile</p> |

¹ [Scotland's People Annual Report: Results from the 2015 Scottish Household Survey](#), September 2016, Scottish Government

² [Scottish Government \(2013\) Growing Up in Scotland: Birth Cohort 2. Results from the First Year;](#)

required two or more repairs compared with 7% living in areas in the lowest deprivation quintile.

To measure satisfaction with their local neighbourhood, parents were asked how satisfied or dissatisfied they were with the area they lived in. The vast majority (84%) of parents in Birth cohort 2³ were satisfied with where they were living. Most parents agreed that they lived in an area that was good for bringing up children (76%) and half (50%) did not want to live in another neighbourhood. The report also stated that the greater numbers of families in rented properties was indicative of many more people having difficulty getting a mortgage or finding suitable homes at affordable prices. The study therefore suggests an increased reliance on the PRS to provide a housing solution for families with children and young people.

A Scottish Government review, A Thematic Review of Literature on the Relationship between Housing, Neighbourhoods and Schools (2010) found that neighbourhood and housing characteristics, including poor property condition, can impact on children's and young people's educational development and outcomes in a number of complex and interrelated ways. Unstable housing, particularly when it arises from moves which are not consciously chosen such as housing problems or instability, result in very negative outcomes for children and young people.⁴

The review concludes that poor quality housing has been identified as exerting a negative impact on educational performance, whether this is through its association with poor health or because at the neighbourhood level poorer neighbourhoods tend to have poorer housing and schools which do not have successful outcomes for pupils. The available evidence demonstrates that better quality housing provision has the potential to advance children's rights and wellbeing in Scotland by allowing those in the PRS to flourish in their chosen community and school.

A 2010 Scottish Government research report looked at the social and economic impacts of housing. The report highlighted a body of research on housing and health that showed in general, poor housing condition in terms of

³ This was a longitudinal study and 'Birth cohort 2' refers to the second group which were studied to track changes.

⁴ [The Scottish Government \(2010\) A Thematic Review of Literature on the Relationship between Housing, Neighbourhoods and Schools](#)

overcrowding, poor heat insulation and air quality problems is a factor in poor physical health as well as stress and mental health problems. The report also indicated a relationship between poor housing and poor health and that inequality in housing wealth is often transmitted into other aspects of life such as health and education.

A recent qualitative Scottish Government research report (Understanding the Housing Aspirations of people in Scotland) identified⁵ that those with financial resources were able to navigate the market and secure a property that offered a good standard of living and fitted in with their lifestyle. However, at the bottom-end of the market low-income households were in a more vulnerable position, especially in high demand rental markets such as Aberdeen.

The experiences of private renters highlighted the persistence of illegal landlord practices and a lack of enforcement of existing legislation, for example the unwillingness of landlords to carry-out repairs. Most commonly mentioned problems were in relation to draughty properties with poor/faulty heating, highlighting possible breaches of the repairing standard. The report highlighted the reluctance of tenants, including those with children to uphold and enforce their rights in relation to getting repairs done for fear of a damaging the relationship with the landlord and being asked to leave the property.

Craigforth's 2014 qualitative research⁶ explored the implications for PRS tenants and landlords of having a longer term and more secure tenancy. This included an outline of 63 tenants' (including households with children on low income and students) experiences of living in the sector. 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 the issue they would most like to address was property condition.

Those affected by these kinds of issues were looking for a quick and easy route by which landlords could be required to

⁵ [Understanding the Housing Aspirations of people in Scotland](#), September 2015, Scottish Government

⁶ [The Scottish Government \(2014\) Qualitative](#) research to explore the implications for private rented sector tenants and landlords of longer term and more secure tenancy

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| | 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. | | | |
| Conclusions and Recommendations | <p>The Scottish Government has found that the proposals do not impinge negatively upon articles on the UNCRC or the indicators of wellbeing (SHANARRI) and that there are no issues that will impact negatively upon children and young people in the PRS.</p> <p>We would consider that any impact would be positive and have the potential to have a positive effect on all children and young people within the PRS. The proposals comply with the UNCRC requirements and have the potential to advance the realisation of the rights and wellbeing of children and young peoples in Scotland. This may be particularly relevant for those living in vulnerable households who may find it difficult to assert their rights as a tenant.</p> <p>We recognise that the data available does not allow a complete picture of the experiences and views of children and young people within the PRS. However the CRWIA has provided the opportunity to consider the potential impact of the policy on them.</p> <p>The potential positive indirect impacts for children and direct impacts for young people who rent in the PRS lead to a recommendation to proceed with the policy.</p> | | | |
| Monitoring and review | The Better Homes Division will monitor the impact of the policy through the regular collection of performance data from local authorities. | | | |
| Bill - Clause | Aims of measure | Likely to impact on. . . | Compliance with UNCRC requirements | Contribution to wellbeing indicators |
| Local authorities must have regard to guidance issued by the Scottish Ministers | To encourage local authorities to use the full range of powers available to help them carry out their regulatory functions, and to target enforcement against non-compliant landlords | Tenants living in the PRS and the wider community; private landlords. | <p>The policy does not impinge negatively on any of the UNCRC articles.</p> <p>We would consider that it advances:</p> <p>Article 2: Non-discrimination. Article 6: Life, survival and</p> | <p>The policy does not impinge negatively on any of the indicators.</p> <p>We would consider that it advances:</p> <p>Achieving; Included; Healthy Nurtured.</p> |

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| | | | <p>development. Article 27 (1-3): Adequate standard of living. Article 28 (1e): Right to education.</p> | <p>Evidence indicates a link between housing quality, health and educational attainment. Further, findings show that the policy may have a greater effect on vulnerable children, young people and their families. Improving the standard of homes that they live in should help to address inequalities in the ways in which they live and develop.</p> |
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CRWIA Declaration

Tick relevant section, and complete the form.

CRWIA required

CRWIA not required

✓

Authorisation

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