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Housing, Regeneration and Planning

Tenant Information Packs: Analysis of Consultation Responses



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**TENANT INFORMATION PACKS:
ANALYSIS OF CONSULTATION RESPONSES**

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EXECUTIVE SUMMARY

The Private Rented Housing (Scotland) Act 2011 places a duty on private landlords to provide new tenants with a Tenant Information Pack (TIP). Scottish Ministers were given powers to make regulations to specify the documents to be provided to tenants under an assured tenancy. A stakeholder working group involving key public sector, consumer and professional bodies considered options for the form and content of a TIP and developed a draft pack.

The Scottish Government wished to seek views on the draft TIP and consulted with tenants, landlords, agents and others in focus groups, in-depth interviews and a written consultation. This report provides an analysis of the views expressed.

3 focus groups were run with tenants, student tenants and small landlords. In-depth telephone interviews were conducted with 5 larger landlords and 5 private letting agents. 80 responses to the written consultation were received. 67 responses (84%) were from organisations, and 13 (16%) were submitted by individuals. A summary of all respondents' views on the key issues follows.

Information about the tenancy

There was broad support for the inclusion within the TIP of information on the type of tenancy although views were mixed on whether the TIP should restrict information to the type of tenancy relevant to the recipient (usually a short assured tenancy). Including details of tenancy types other than that held by the tenant was envisaged as creating confusion.

The inclusion of reference to the AT5 form¹ was well received, with some calling for more information on its purpose.

The bulleted, checklist style format of the section on Tenancy Agreement received praise particularly from tenants who considered the section useful in alerting them to what to expect from landlords and how to assess whether a landlord is meeting requirements.

There was much support for the inclusion in the TIP of information on ending a tenancy. However, calls were made for improvements in the clarity of this section, in particular to highlight that different tenancy agreements may stipulate different arrangements for ending tenancies.

Some written respondents suggested that further work is required before the TIP achieves an acceptable balance between being accessible and simple, yet also conveying accurate, legal information.

¹ In the case of Short Assured Tenancies, landlords must give a special notice (called an AT5 Notice) before the lease is signed, or before the tenant moves in, stating that it is a Short Assured Tenancy.

Information about the property

Majority support was expressed for the inclusion in the TIP of information on gas and electrical safety; the Energy Performance Certificate; Council tax information; permitted level of occupancy; Repairing Standard; and inventories. It was felt that this information will be of particular help to make tenants aware of property standards and safeguards. There were mixed views on whether information on testing electrical appliances should be included considering that this is not a legislative requirement. Inclusion of a separate section on the Energy Performance Certificate (EPC) received little support. The prevailing view was that information on condition and safety of the electrical installation in the property should be restricted to safety certificates and recommended dates for re-testing. A need for greater clarity on what is within scope of “portable electrical appliances” was called for.

Students in particular welcomed the information on Council tax as some had experienced difficulties in accessing clear information about this previously. A re-focus to tenants’ needs and simplification of the information on permitted level of occupancy were called for to make the information more useful. Tenants in particular welcomed the inclusion of information on the Repairing Standard as the issue of speed of repairs had emerged as problematic for many over the previous year.

The information on inventories was broadly welcomed, with an acknowledgement that this will need to be updated to accommodate the latest information on tenant deposit schemes. More emphasis was requested on the importance of the tenant checking the inventory along with the landlord, particularly in light of the introduction of these schemes.

Student tenants requested that the TIP include a section on personal safety encompassing communal door entry systems, hallways, lighting and conditions of locks. Large landlords, however, felt that this was generally outwith their remit and more a responsibility of the tenant.

A recurring recommendation was for the TIP to cover fire safety issues, including the location of fire safety equipment and fire escape routes, more comprehensively. Another common safety recommendation was for the inclusion of more information on carbon monoxide detectors.

Information about the landlord

There were mixed views on the inclusion of landlord registration information in the TIP. Whereas students and other tenants felt that this would help them to identify if their landlord is registered, landlords and agents were anxious that landlord registration databases should be kept up-to-date and be easy to search. Some respondents argued that this information duplicated that in the lease.

Information was requested on what tenants should do if they find their landlord is not registered.

There were mixed views on whether information about HMO licenses should appear in the TIP. Whilst the balance of views favoured its inclusion, some felt that it should be provided only for those tenants living in such properties.

A prevalent recommendation amongst written respondents was for the contact details of landlord and agent to be included in the TIP. Emergency contact numbers for approved contractors were also commonly requested.

Rights and responsibilities of tenants and landlords

The information on rights and responsibilities was welcomed as bringing together in one place, simple information on what is expected from tenants and landlords.

Some expressed concern about what they perceived to be the overlap of information with that contained in the lease, and it was recommended that this be addressed by referencing the lease for more specific information. Many suggestions were made for minor amendments to the list of tenants' and landlords' responsibilities.

There was general agreement that the information on harassment and unlawful eviction is useful and will help tenants to identify if their landlord is acting unlawfully.

Although antisocial behaviour had not been experienced as a major issue for respondents, it was considered important to retain this section. A key theme was to place stress on the importance of maintaining good relations with neighbours and trying to resolve differences informally.

Key contacts for help and advice

A common view was that the usefulness of the contact information could be enhanced by inserting details on the reason for making contact. Some recommended re-ordering the list of contacts to make it more topic-focused and logical. One recurring request was for the provision to be made for customising the pack to include local contacts.

Some agents recommended that more emphasis be placed on the role of the landlord as the first point of call rather than resorting immediately to wider contacts.

Presentation of the pack

The pack was widely praised for what was perceived to be its clear layout, use of headings and sub-headings and bite size information. Most considered that the pack struck a good balance between providing robust information yet not overburdening landlord or tenant with complex information.

The document was welcomed as being largely in plain English and avoiding legal jargon. However, it was suggested that the drafting could be tightened in places to make it more accessible.

Views were mixed on the preferred order of the sections. One recurring view was that the information on rights and responsibilities should be placed further

towards the start of the document. Others considered the order of sections should follow the logical “journey” of the tenant, from pre-tenancy to ending the tenancy.

Whilst there was general agreement on the need for the pack to be provided in alternative formats, many viewed this provision as the responsibility of the Scottish Government.

The pack was viewed as fulfilling the purpose of providing consistent and reliable reference information for tenants. Other purposes were highlighted including exposing rogue landlords and improving the relationship between landlord and tenant.

The notion of a TIP was welcomed by tenants as appearing to be user-friendly and useful; small landlords, however, perceived the notion of a “pack” to be daunting.

Landlords and agents requested clarity on the extent to which they would be permitted to tailor the pack to avoid duplication with the lease, remove what they perceived to be unnecessary details, and to insert local information.

Operation of the pack

The majority of those who commented argued for the pack to be available in hard copy form, backed up with access to an online version, probably held on the Scottish Government website. Landlords and agents reported being used to providing information online and did not consider that the distribution of the TIP in this manner would create too much of an additional burden for them.

The main benefits of hosting the pack on the Scottish Government website were seen as: information will be managed well; updating will be carried out promptly; information will be presented consistently across locations and landlords; and landlords will be less likely to issue out of date information. A few respondents recommended that a bespoke web portal be developed to host the pack and supporting information and advice documents.

Many respondents queried how landlords and tenants will be informed about newer versions of the pack and updates. It was commented that parts of the draft pack are already out of date.

Views were divided on whether the pack should be provided in advance of signing a lease. Providing the pack beforehand was seen as advantageous in giving the tenant informed choice about property and landlord standards. However, providing the pack to prospective tenants who may or may not take on the tenancy was viewed by landlords as potentially expensive. Clarity was requested on references within the TIP to timing of the distribution of the pack. With only a few exceptions, participants in focus groups and interviews preferred to have a hard copy signature from tenants to confirm that the TIP has been received. Concerns were raised by some of the written respondents regarding the proposal for email confirmation of receipt by tenants. One key disadvantage was seen as the burden on landlords and agents faced with

chasing up confirmation which had not been submitted. Amongst suggestions made to address this potential problem were replacing the need to confirm *receipt* with the need to confirm *issue* of the pack by landlords and agents.

A recurring theme was that on-going publicity will be needed to advertise the pack and the legal requirement for providing this. Some written respondents sought details on how the scheme will be enforced and what the penalty will be for not providing the pack. It was suggested that tenants need guidance on what action to take if they are not provided with a pack.

1. INTRODUCTION

1.1 The private rented sector is playing an increasingly important role in the Scottish housing market, partly as a result of current constraints in accessing home ownership and social housing. The growth in private sector tenants is accompanied to some extent by a growth in first time landlords. For both landlords and tenants, information about landlord-tenant law and rights and responsibilities of both parties is essential to ensuring good relations and the operation of high standards in the sector. Whilst neither party wishes to be overloaded with complex documents, both will benefit from clear, accessible and up-to-date information on their rights and responsibilities.

1.2 A review of the private rented sector (March 2009²) highlighted pre-tenancy arrangements as an area which could be enhanced to promote tenants' knowledge about their rights and responsibilities. The review revealed that despite landlords explaining to tenants their rights and responsibilities at the start of their tenancy, many still did not understand these.

1.3 The Scottish Private Rented Sector Strategy Group established in October 2009 took forward recommendations from the review, focusing on pre-tenancy arrangements and tenants' knowledge of their rights and responsibilities. A public consultation on the proposed Housing Bill (March 2010) revealed strong support for the idea of an information pack for tenants³. The subsequent Private Rented Housing (Scotland) Act 2011 placed a duty on private landlords to provide new tenants with a Tenant Information Pack (TIP). Scottish Ministers were given powers to make regulations to specify the documents to be provided to tenants under an assured tenancy. Regulations may make further provision about the form and content of the documents.

1.4 A stakeholder working group involving key public sector, consumer and professional bodies considered options for the introduction of the TIP and concluded that the pack should consist of a booklet accompanied by a covering checklist, both easily accessible for download from the internet. Feedback from the 2010 consultation, discussion with the Scottish Private Rented Sector Strategy Group, and also discussions that took place in the Scottish Parliament during the passage of the Private Rented Housing (Scotland) Bill were taken into account in developing a draft TIP.

1.5 The Scottish Government wished to seek views more widely on the draft TIP.⁴ It consulted in 3 different ways:

- A consultation document containing details of the TIP including its proposed content and checklist was published on 27 February 2012 with views requested by 21 May 2012. The consultation document sought views on 3 areas:
 - What information should be contained within a pack.

² <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/privaterent/government/prsreview>

³ Consultation analysis report is at: www.scotland.gov.uk/Publications/2010/06/21135047/2

⁴ A copy of the draft TIP is in Annex 3.

- What the pack should look like.
 - How it should operate in practice.
- 3 focus groups were run with tenants, student tenants and small landlords (each with 3 or fewer tenancies).
 - In-depth telephone interviews were conducted with 5 larger landlords (with at least 10 tenancies each) and 5 private letting agents.

The focus groups were held in urban, semi-urban and rural locations. Larger landlords and letting agents across the central belt and in rural communities were included amongst the interviewees.

Written consultation responses

1.6 Eighty responses to the consultation were submitted and analysed.⁵ These responses will be published on the Scottish Government website unless the respondent has specifically requested otherwise. Sixty-seven responses (84%) were submitted by organisations, with 13 (16%) submissions from individuals. Table 1 shows the numbers of responses by category of respondent. 24 local authority responses were received representing 30% of the overall submissions. The full list of the organisations responding to the consultation is in Annex 1.

Table 1: Respondents by category⁶

Category	Abbreviation used in report	Number	Percentage %
Local Authority	<i>LA</i>	24	30
Representative bodies	<i>Rep</i>	13	16
Agent	<i>Agent</i>	9	11
Landlord	<i>Landlord</i>	6	8
Voluntary organisation	<i>Vol</i>	4	5
Fire and rescue body	<i>Fire</i>	3	4
Legal body	<i>Legal</i>	2	3
Housing Association	<i>HA</i>	1	1
Landlord and agent	<i>L/A</i>	1	1
Other	<i>Oth</i>	4	5
Total organisations		67	84
Individual	<i>Ind</i>	13	16
Total		80	100

1.10 An electronic database was used to collate the written responses to assist analysis. This database stored free text in a systematic manner whilst providing the flexibility for amendments as the work progressed. The fields used to record the material were based on questions used in the consultation document. A qualitative approach to analysing the responses was undertaken on account of the relatively small number of responses and the open-ended nature of the questions posed.

⁵ One further response has since been received and examined by the policy team.

⁶ Where respondents fitted more than one category, a decision was made on their “lead” category according to the content of their response.

1.11 The focus group and interview schedules were based around the written consultation questions. Discussion was audio-recorded and tapes transcribed to facilitate in-depth analysis.

Report of findings

1.12 The following 7 chapters document the substance of the analysis. Part 1 of the report (Chapters 2 – 5) focuses on the draft content of the pack. Part 2 (Chapters 6 – 8) refers to what the pack should look like and how it will work in practice.

1.13 Where quotes or specific views are attributed to their source, italics are used to signify views generated in the written consultation, with normal typeface used for views arising in focus groups and interviews.

PART 1: WHAT INFORMATION SHOULD BE CONTAINED WITHIN A PACK

The Private Rented Housing (Scotland) Act 2011 gives Ministers the power to specify the documents that must be provided in a TIP, through secondary legislation. It is proposed that this might include documents containing information about:

- the tenancy
- the house
- the landlord
- the rights and responsibilities of tenants and landlords.

However, it is recognised that good information may already be available to tenants and the new TIP is not intended to replace this, but to provide a minimum standard of information available across the whole sector. It is also intended that the Government strikes an appropriate balance between giving tenants the information they need whilst not overloading them with large quantities of complex documents.

2: INFORMATION ABOUT THE TENANCY

Q1: Do you agree that the following information should be included in a pack about the tenancy?

- The difference between assured and short assured tenancies?
- What an AT5 form is?
- What to do if you want to end a tenancy?

Q2: Please list any other types of information you think should be included about the tenancy.

Difference between assured and short assured tenancies

2.1 Participants in focus groups, the interviewees and written consultees generally supported the inclusion of information on the type of tenancy in the TIP. It was remarked that some leases do not make the type of tenancy clear. One written consultee (LA) suggested that leases should state simply and upfront which type of tenancy is operating. For several of the tenants and a few of the small landlords, the information provided was new to them and useful.

2.2 The majority view in focus groups and amongst interviewees was that the TIP should provide information on only the tenancy type relevant to the tenant receiving the TIP, in most cases a short assured tenancy. This contrasted with the majority view amongst written consultees for including details of both types of tenancy.

2.3 The main argument **against including both** short assured and assured tenancies was that this could create confusion. Comments included:

“For people who don’t understand that there are different types of tenancies or for people for whom English is not their first language, this could be quite confusing” (agent 2).

“We are just little landlords – we don’t need any hassle so things need to be very clear” (small landlords)

“We believe that it could be confusing for some tenants to be given the information about both tenancies in the information pack. The way the information is currently presented leaves the tenant to read over the information and work out which type of tenancy applies to them. We believe it might be less confusing for tenants if 2 separate information packs were created, one for each type of tenancy” (Oth).

Other arguments in favour of removing reference to assured tenancies were:

- will make the document briefer (tenants)
- will reduce the likelihood of a tenant arguing that they had an assured tenancy (small landlords)
- reduces “clutter” in the document (Rep).

2.4 Arguments in favour of including information on both types of tenancy included:

- makes the process more transparent (*LA*)
- to educate tenants and landlords (*LA*)
- even if a tenant does not have an assured tenancy it is still relevant for them to know about them (*LA*).

One consultee (*Agent*) suggested a compromise of including a full explanation of short assured tenancies, but briefer details on assured tenancies. 2 consultees (*both individual respondents*) recommended that it be made clear that the short assured tenancy is just one form of an assured tenancy and the rules applying to the latter are also applicable.

Other comments on the information on type of tenancy

2.5 One agent commented that the information on types of tenancy appeared to be too simplistic to be helpful.

2.6 A few of the student tenants considered the use of the word “home” in the bullet points under “Assured Tenancy” to be potentially ambiguous, particularly for foreign students.

2.7 Both agents and large landlords commented that joint tenancies did not appear to be covered in the draft. One remarked:

“This should be explained – that this is possible and what happens at the end of a joint tenancy. For example, if someone passes away does the tenancy pass to the surviving partner or not?” (large landlord 3)

One agent noted that a type of tenancy which they used, that of joint and several liability, was omitted from this section.

2.8 A few participants queried the placement of the information on “Grounds for repossession” under the “Assured Tenancy” section, arguing that it would be more logical to place it under “Ending the Tenancy”. One agent praised in particular the web link to the full details of the grounds and the procedure to be followed.

Inclusion of information on the AT5 form

2.9 The inclusion of reference to the AT5 form and the link to the sample form was well received overall. Only 2 (*Ind; Agent*) of the written consultees stated specifically that they did not favour its inclusion.

2.10 A few of the student tenants claimed not to have heard of the AT5 form previously. Calls were made (*Oth; Agent*) for more information on its purpose.

Tenancy agreement

2.11 The section on Tenancy Agreement was given much praise from focus group participants. Tenants including students in particular liked what they perceived to be a checklist format which gave them confidence about what to

look out for in their lease, and a yardstick against which they could assess whether their landlord was meeting requirements. One commented:

“It reassures me that my landlord is genuine” (tenant).

Another remarked that this section made the lease seem less complicated than they had originally thought. The potential usefulness of this information prompted debate amongst tenants as to the most helpful time to be provided with the TIP. The consensus was that it seemed logical to have details of what the lease should contain prior to signing the lease.

2.12 One large landlord queried why “Tenancy Agreement” and “Ending the Tenancy”, were both subheadings within a section titled “Types of Tenancy”.

2.13 Many suggestions were made in written responses as to other types of information which could be included about tenancies:

- good practice on dealing with abandoned tenancies
- duty of care for tenant and landlord to maintain safety devices and safety provisions in an effective working order
- unfair fees and charges/charges which can legally be levied
- list of termination rights
- information on the Private Rented Housing Panel (PRHP)
- where to seek advice on housing costs including benefit payments
- within the tenancy agreement section: property address; emergency contacts; access arrangements for landlords and agents; management arrangements including inspection visits; information on type of tenancy; information on whether a HMO licence applies; occupancy arrangements; responsibility for household bills; local amenities; responsibilities regarding cleaning; how to report repairs.

2.14 Other pertinent comments were:

- It should be made clear that landlords may provide their own style of lease which is still legally binding (*Ind*).
- It could be helpful for the tenancy agreement to make clear what information is obligatory and what is additional (*Rep*).
- It should be highlighted that a lease is a contract between the tenant and the landlord and not between the tenant and the agent (*Agent*).
- There should be an emphasis on the legality of the tenancy agreement, with encouragement to seek legal advice if there are queries (*Rep*).
- Even if the tenant has not been provided with a lease they should be made aware that they still have rights and should be advised on what to do to acquire a lease (*Oth*).

Ending the Tenancy

2.15 There was much support for the inclusion in the TIP of information about ending a tenancy. Only 5 (*2 Individuals; 2 Agents and one Other*) of the written consultees opposed its inclusion, their main argument being that different tenancy agreements stipulate different arrangements and duplication in the TIP could create confusion.

2.16 A few of the written consultees (*Legal; LA; Rep*) urged that more recognition is given to the differences between the types of tenancies in terms of how they end. The information provided was seen to refer to short assured tenancies only.

2.17 The prevailing view from large landlords and agents interviewed was that this section required further work to enhance its clarity. Two main concerns emerged repeatedly in both the interviews and in the written responses:

- There needs to be clearer advice that if the tenant leaves the property before the duration stipulated by their short assured tenancy, then they are still wholly responsible for paying the rent and the good order of that property for the length of the tenancy.
- The section on minimum notice needs to make it clearer that a tenant cannot simply give 40 days or 28 days notice if they still have longer than that left of their short assured tenancy period.

One large landlord suggested that clarity could be enhanced by providing examples. This landlord highlighted what they perceived to be the vagueness of phrases like “coincide with agreed termination date” and recommended that a specific example along the lines, “so for a short assured tenancy that began on this date, and ended on this date, then this notice is required.....” could help to minimise any confusion.

2.18 Other information highlighted for inclusion in relation to ending tenancies included:

- More information on the formal notices (notice to quit; AT6; s33), what they are, how they should be served, what they need to contain (*LA*).
- If the lease stipulates what will happen at the end of the initial short assured tenancy term then automatic renewal will not necessarily apply (*Legal*).
- State more clearly that the landlord is entitled to terminate the short assured tenancy at the end of the contractual period (*Legal*).
- Include information about tacit relocation (*LA; Rep*).
- What constitutes unlawful eviction and how to seek advice on this (*LA*).

General comments

2.19 A recurring theme in the written responses was that although the TIP clearly had to be accessible and simple, this should not be at the expense of providing accurate, legal information. One comment was:

“It should be noted that by producing this document and making it a statutory requirement to supply it, many consumers will afford it authoritative status” (Legal).

Several of the written respondents highlighted areas which they perceived to be inaccurate, the most common being that notice AT6 no longer needs to be served to end a short assured tenancy (s33 notice suffices) unless there is a breach of the tenancy agreement.

2.20 A common theme amongst interviewees was that some of the information duplicated that contained in the lease. There were mixed views on whether this was helpful:

“The more opportunity there is to read this information the more likely it is that it will be understood” (agent 1).

“It doesn’t bode well to bombard people with the same information written in different ways. This can create confusion” (agent 2).

2.21 One suggestion was for the information on different tenancies to be presented in diagrammatic format (LA). Another local authority respondent suggested heading the section “before a tenancy starts”, followed by the procedures which landlords and tenants should undertake at this stage.

2.22 Another suggestion was for the TIP to contain templates of the different notices referred to (LA).

2.23 One consultee (Rep) called for information to be inserted on the additional rights that disabled people have with regard to the tenancies and the protection provided by the Equality Act 2010.

2.24 Summary

- There was broad support for the inclusion of information on the type of tenancy in the TIP.
- Views were mixed on whether the TIP should provide information only on the type of tenancy relevant to the recipient.
- The inclusion of reference to the AT5 form was well received.
- The section on Tenancy Agreement was praised in particular by tenants who liked the bulleted, checklist style format.
- Suggestions were made for additional items about tenancies to include in the TIP.
- There was much support for the inclusion of information about ending a tenancy in the TIP. However, calls were made for improvements in the clarity of the relevant section.
- Some written respondents suggested that further work is required before the TIP achieves an acceptable balance between being accessible and simple, yet also conveying accurate, legal information.

3. INFORMATION ABOUT THE PROPERTY

Q3: Do you agree that the following information should be included in a pack about the property?

- **Gas and electrical safety**
- **Energy Performance Certificate**
- **Council tax information**
- **Permitted level of occupancy**
- **Repairing standard**
- **Inventories**

3.1 Forty-six of the 80 written respondents from a range of sectors gave broad support to the inclusion of such information in the TIP. Typical comments were:

“This information will make tenants aware of the standard that the property must meet and assist them in increasing their understanding of the safeguards in place to protect them. The proposed pack covers all areas of importance” (LA).

“It is extremely useful to include the proposed information about the property. For most students who move into a shared flat during their first few years at university it will be their first time living in private rented accommodation and they will be completely unfamiliar with some of this” (Rep).

Other written respondents supported the inclusion of particular aspects of the information. Two respondents (*Legal; Ind*) argued that the pack should signpost to the relevant information which can be found elsewhere, rather than host the information itself.

Gas and electrical safety

3.2 Few substantive comments were made by written consultees or by participants in focus groups and interviews on the inclusion of the section on gas safety other than to caution that including the hyperlink to the Health and Safety Executive could “overload” the document (agent 3), and contact with the relevant local authority should be encouraged if the necessary checks appear to have been overlooked (*LA*).

3.3 Suggested additions were:

- When the gas safety certificate needs to be reviewed (large landlord 1, *Oth*).
- How to get a copy of the gas safety certificate and how to read it (large landlord 1, *HA*).
- Specify that it is in the best interests of the tenant to allow access for gas safety to be checked (agent 4).

3.4 There were mixed views from a range of written consultees and participants in focus groups and interviews alike on the inclusion of

information about testing electrical appliances, considering that this is not a legislative requirement. Whereas some agents and landlords welcomed this information as representing good standards, others felt that this could create difficulties for landlords who were not required by law to undertake such tests. One written consultee expressed a common view thus:

“Whilst it may be a benefit to have a PAT, given that it is not a statutory requirement it seems inappropriate to include this here. The TIP should be a reflection of the present legal position and not used as an attempt to implement standards of best practice on a statutory basis” (Legal).

3.5 Student tenants and other tenants also considered the wording to be contradictory, on the one hand stipulating that landlords *must* ensure electrical wiring and appliances are safe, and on the other stating that *responsible* landlords only will carry out tests on appliances and hold safety certificates. Some, however, argued for retention of this section on the grounds that this would prompt them to query whether electrical testing had been done when looking at properties in future. Student tenants suggested that the wording be changed along the lines of:

“Some landlords will carry out testing of electrical appliances. Ask your landlord about this.”

3.6 One large landlord suggested making clearer the distinction between testing wiring (which they understood to be mandatory) and testing appliances (which is not a legislative requirement). One agent also proposed alternative wording to aid clarity:

“Electrical testing is not mandatory but best business practice suggests that credible landlords and agents will have these tests done” (agent 2).

Energy Performance Certificate (EPC)⁷

3.7 The inclusion of a separate section on the EPC received little support from landlords large or small nor from agents. The majority of those who responded had failed to recognise that the provision of an EPC was a legal requirement and that the costs must be borne by the building owner. The majority had never investigated the potential of installing energy efficiency measures, and had reported that tenants showed little interest in this topic. This view was backed up by the lack of interest in this aspect of the TIP displayed by tenant participants in the focus groups. Landlords perceived the cost of producing the certificate to be prohibitive, with small landlords suggesting that if they got this done they would need to pass on the costs to their tenants. One suggestion was to subsume this section under general electrical safety issues.

⁷ Energy performance certificates were introduced on 4 January 2009 and are aimed at improving the energy performance of new and existing buildings. Landlords must provide tenants with a copy of the EPC if the tenancy started after 4 January 2009.

3.8 Few written consultees addressed the issue of inclusion of the EPC. Whilst one (*Oth*) strongly supported the inclusion of this information on the grounds that private rented dwellings tend to have poor energy efficiency and relatively high energy bills, others argued that this represented unwanted bureaucracy (*Ind; Ind*), and the display of the EPC within properties should suffice (*LA; Agent*).

Council tax information

3.9 There was agreement across all sectors that this section should be included in the TIP. Landlords reported this as being a confusing area for students; student tenants welcomed the information, one stating that this emphasised that responsibility lay with the tenant to find out about exemptions rather than leaving this to the landlord.

3.10 Suggested additions were:

- Need to make clearer where to seek advice if students and non-students share a tenancy (student tenants):

“I went to the estate agent and on-line to try to find the information but it was too general. I couldn’t find the information I needed. There is information about what students have to pay, and what non-students have to pay, but not about when there is a mix”
(student tenant).

- Explain what Revenues and Benefits is along with contact information (large landlord 1)
- Inform your landlord if you are in receipt of benefits in order to give them an overview of your situation (large landlord 3).
- State simply that everyone who signs a lease is required to pay council tax unless exempt (agent 1).

Written consultees made little specific comment on the inclusion of this information other than to agree that Revenue and Benefits requires explanation (*LA*), and to suggest that landlords are given the option to insert details of the relevant council tax band for each property (*Vol; Rep*).

Permitted level of occupancy

3.11 A recurring view across tenants, landlords and agents was that this section appeared to be targeted more towards landlords than tenants. Some felt that with a re-focus and slight simplification it could be more useful in terms of providing tenants with information on an issue which had cropped up in many tenancies. Several written consultees also perceived the section to be overly complex and requiring greater clarity. A few suggested simply referencing the relevant legal provisions rather than including the detail in the TIP (*LA; LA*).

A view from student tenants was that the section appeared to imply that people who share a room always do so under duress. It was remarked that some people, like partners, may not be married but may choose to sleep in the same room.

3.12 Suggested detailed additions were:

- Change term “husband and wife”⁸ to reflect other partnerships who choose to sleep in the same room (agent 3; student tenants).
- State simply that only those listed on the lease can occupy the property (agent 2; agent 4).
- Each landlord should specify for each property the permitted level of occupancy rather than detailing the room and space standards, which are confusing (*Rep*).

Repairing Standard

3.13 Tenants in focus groups (students and others) were strongly of the view that information on the Repairing Standard should be included in the TIP. Speed of repairs was an issue which had emerged for many over the last year. Views of agents, landlords and written consultees varied. Some felt that the including this information in the TIP is important, whereas others argued that this information is already contained in the lease and should not be duplicated.

3.14 Suggested additions were:

- Further explanation of “reasonable time” at the end of the first paragraph (student tenants; large landlord 3).
- Expand on the information on the PRHP to include details of how and when to approach the panel (*7 written consultees from a range of sectors*).
- Definition of “reasonable state of repair” in bullets 2- 4. Perhaps insert examples (large landlord 1).
- Clearer delineation between the responsibilities of the landlord and those of the tenant (student tenants).
- Some idea of prioritisation of repairs, with examples which could be along the lines of “a squeaky door is routine, but a door fallen off is urgent” (large landlord 2).
- Cross reference to section 4 (large landlord 3).
- Expand bullet 6 to refer to smoke detectors and interlinked smoke alarms if the property is over 2 floors (large landlord 3; agent 1).
- Under “Repairs and Maintenance” a definition of “reasonable access” (*LA*).
- Greater emphasis that if repairs are needed then the tenant should inform the landlord promptly (*LA*).

Inventories

3.15 This section was welcomed in general. Some tenants in the focus groups had experienced problems relating to inventories over previous years. The web link to a sample inventory was praised by some large landlords in interviews and local authority written consultees. It was commented that the detail of this section will need to be amended to accommodate latest information on the deposit schemes. A recurring view from large landlords

⁸ It should be noted that some of the suggested amendments relate to legal terms which are outwith the scope for change at present.

and agents was that reference to tenants developing their own inventory and using an independent witness should be removed.

3.16 Suggested additions were:

- More emphasis on the importance of the checking the inventory in conjunction with the landlord, especially in light of its link with future deposit schemes (agent 1; large landlord 5; tenants; LA)
- More emphasis of the importance of taking photographs to record state of repair at the start of the tenancy (tenants; large landlord 1).
- Cross-reference to information on deposit schemes (agent 1; agent 3; small landlords).

Q4: Please list any other types of information you think should be included about the property.

3.17 Written consultees proposed additional types of property information to be considered for inclusion. These are summarised below:

- details of utilities companies
- meter readings at the start and end of the tenancy
- potential health risks: details of the water supply; presence of lead piping; asbestos
- fire safety including details of the fire alarm installation and maintenance schedule, fire drills, fire risk assessment, means of escape
- location of stop cock
- details relating to electrics and heating management including the location of the fusebox, location of meters; instruction manuals; heating controls
- information about waste management including where and when to put out different forms of waste
- delineation of land belonging to the property (e.g. drying green)
- out of hours emergency contacts
- sound proofing including the impact of different floor coverings
- common area cleaning arrangements
- details of rights of tenants with a disability regarding adaptations; signpost to local Scheme of Assistance.

Q5: Do you think the pack should include more detailed information about the condition and safety of the electrical installation in the property?

3.18 The prevailing view from written consultees across many sectors was that the information should be focused on ensuring tenants receive the latest safety certificates, are given help in understanding the information they contain, and are provided with recommended dates for re-testing. A common view was that any more information would over-complicate matters for both tenants and landlords.

Q6: Do you think there should be more information included about the condition and safety of electrical appliances in the property?

3.19 Participants in focus groups and interviewees tended to concentrate largely on the issue of electrical appliance testing. Recurring comments were:

- Need for more information on what constitutes portable electrical appliances. For example, are kettles, toasters and hairdryers included? If an appliance is built into a kitchen should this be included? (small landlords; student tenants).
- More emphasis is required to make clear testing relates to appliances supplied *with* the property (large landlord 4).
- Information is required on the frequency with which testing should take place (small landlords; student tenants).
- Information should be available on the age of appliances and when they were last checked (student tenants).
- The section should inform that testing is not required for properties under 3 years old (large landlord 2).

3.20 Written respondents were more concerned with the practicalities and legalities of providing more information. Whilst some (several local authorities in particular) considered the inclusion of further information on the condition and safety of the properties' electrical appliances to be desirable, others (from a variety of different sectors) argued that this is not statutory, and could prove to be cumbersome for landlords in terms of keeping information up-to-date and useful. A few respondents questioned whether tenants will wish to be provided with information over and above the PAT.

Q7: Do you think there should be more information included about the general safety of the property?

3.21 Student tenants requested that the TIP include a section on **personal safety**, encompassing the security of their building (communal door entry system, condition of locks, hallway, lighting, and so on). Other tenants also highlighted personal safety as an issue which had arisen during the last year (e.g. the entry system buzzer not working and not being mended). Large landlords, however, commented that responsibility for communal safety issues was not directly within their remit. One remarked that tenants should check whether they are happy with the personal safety aspects of a property before signing the lease. Agents described how their remit extended only so far as to giving advice on personal safety such as not opening the communal door to strangers and keeping communal exits clear.

3.22 A recurring recommendation from the written responses was for the TIP to include more information about **fire safety**. Local authorities, agents and fire bodies in particular highlighted what they saw as the need to include details on:

- provision and location of smoke detectors
- location and inspection of fire blankets
- responsibility to test smoke detectors
- fire escapes and exits
- fire drill protocol

3.23 Another common recommendation was for the inclusion of more information on **carbon monoxide detectors** although it was pointed out the differences between HMOs and other properties should be highlighted in this respect, as detectors are compulsory in the former but not in the latter.

3.24 Other recommendations for additional information on general safety were for:

- safety of drinking water (in some rural areas) (tenants)
- presence of asbestos (LA)
- furniture safety regulations (LA).

3.25 Summary

- There was majority support from a range of sectors for the inclusion in the TIP of information on gas and electrical safety; the Energy Performance Certificate; Council tax information; permitted level of occupancy; Repairing Standard; and inventories. It was felt that this information will be of particular help to make tenants aware of property standards and safeguards.
- There were mixed views on whether information on testing electrical appliances should be included considering that this is not a legislative requirement. It was suggested that this could be addressed by improving the clarity of the draft to highlight that this is not mandatory.
- Little support was received for the inclusion of a separate section on the EPC.
- Some students had experienced difficulties in accessing information about council tax and they welcomed the inclusion of this information in the TIP.
- A recurring view was that the information about permitted level of occupancy appeared more targeted towards landlords than to tenants. However, it was felt that with a re-focus and slight simplification the section could be made more useful for tenants.
- Tenants in particular welcomed the inclusion of information on the Repairing Standard as the issue of speed of repairs had emerged as problematic for many over the previous year.
- The information on inventories was broadly welcomed, with the acknowledgement that this will need to be updated to accommodate the latest information on tenant deposit schemes. More emphasis was requested on the importance of the tenant checking the inventory along with the landlord, particularly in light of the introduction of these schemes.
- The prevailing view was that information on condition and safety of the electrical installation in the property should be restricted to safety certificates and recommended dates for re-testing.
- A need for greater clarity on what is within scope of “portable electrical appliances” was called for.
- Student tenants requested that the TIP include a section on personal safety. Large landlords, however, felt that this was generally outwith their remit and more a responsibility of the tenant.

- A recurring recommendation was for the TIP to cover fire safety issues, including the location of fire safety equipment and fire escape routes, more comprehensively. Another common safety recommendation was for the inclusion of more information on carbon monoxide detectors.

4. INFORMATION ABOUT THE LANDLORD

Q8: Do you agree that the following information should be included in a pack about the landlord?

- Landlord registration information
- HMO licence information

Landlord registration information

4.1 Tenants and student tenants in focus groups supported the inclusion of landlord registration information in the TIP. They felt that this would enable them to undertake a discreet check to see if their current or prospective landlord had registered, saving them the embarrassment of asking directly. Likewise, most of the written respondents agreed that the TIP should contain this information. Some provided reasons to support their response: the information will contribute to good practice in ensuring landlords do actually register (*HA*); thus ensuring the success of the scheme (*LA*); necessary as registering is a specific legal process (*Legal*).

4.2 Landlords and agents were more circumspect about this information remaining in the pack. They were content for its inclusion on the condition that registers are kept up-to-date and are easy to search. This had not been the experience of several of the large landlords to date.

4.3 Although a few written respondents recommended that the specific landlord registration number be included in the TIP, others argued that this would duplicate the information in the lease. One agent requested that a copy of the landlord registration approval letter be included within the TIP.

4.4 Written respondents recommended the following additional information be included about landlord registration:

- what to do if your landlord is not registered (*Rep; Rep; Oth; Oth; Vol; Agent*)
- information regarding the voluntary landlord accreditation scheme (*LA, LA, Rep*)
- trade/professional memberships of landlord (*Landlord; Agent*)
- why the landlord registration was introduced (*Agent*)
- reference to some landlords and properties being exempt from the requirement for landlord registration (*LA*)
- whether the tenancy is managed by a landlord or the landlord's agent (*Rep*)
- registration details for the agent (*LA*).

HMO licence information

4.5 Several consultees commented that the abbreviation HMO had appeared earlier in the draft pack without any explanation and this omission should be rectified. A few of the written respondents (*Ind; LA; Legal*) questioned the accuracy of the current definition of an HMO property, suggesting that it should read instead, “more than 2 people from more than 2 families”. One respondent (*LA*) recommended that “houses” be inserted along with the other examples of HMOs listed in section 3.2, first paragraph.

4.6 Most participants in focus groups had never come across HMO licensed properties, and there were mixed views on whether this section should be in the pack. Tenants in general thought that for the sake of completeness the information should be documented. Many agents and landlords large and small agreed that despite having no experience of HMO properties, the information should still be covered. A few agents, however, recommended removal of this section for non-HMO tenancies. One remarked:

“We don’t have any HMO licensed properties. This bit is not relevant. There is no point in me giving a tenant this. Would I be able to take it out without invalidating the pack? What is the point of them seeing it? It takes enough time to get a tenant signed into a flat without having extra information which they don’t need. They only want to read stuff relevant to them” (agent 1).

The majority of written respondents supported the inclusion of this information. However, a few agreed that information on HMO licensing should be provided only for those tenants living in such properties.

4.7 The hyperlink to more information was praised by small landlords who welcomed the brevity of the section but appreciated that some tenants may need more information.

4.8 The final paragraph under 3.2 came under scrutiny from 5 local authority respondents who commented that this appeared to confuse registering with licensing.

4.9 Written respondents recommended the following additional information be included about HMO licensing:

- copy of license (*Rep; LA*)
- penalty for not having an HMO license (*LA*)
- conditions of license (*LA*).

Q9: Please list any other types of information you think should be included about the landlord.

4.10 The prevalent recommendation amongst written respondents was for the contact details of landlord and agent if appropriate to be included in the TIP. Another common recommendation was for the inclusion of emergency contact numbers for approved contractors. One respondent (*LA*) called for contact details for factors to be inserted in the pack. Another suggested contact

details of the Scottish Government and the relevant local authority by incorporated (*LA*). Two respondents (*LA; Rep*) cautioned against trying to include too much information as they envisaged that this will deter landlords from producing the pack and tenants from reading it.

4.11 One respondent (*Ind*) queried why the section is headed “Information about the landlord” when some tenants deal only with an agent.

4.12 Summary

- There were mixed views on the inclusion of landlord registration information in the TIP. Whereas students and other tenants felt that this would help them to identify if their landlord is registered, landlords and agents were anxious that landlord registration databases should be kept up-to-date and be easy to search. Some respondents argued that this information duplicated that in the lease.
- Information was requested on what tenants should do if they find their landlord is not registered.
- There were mixed views on whether information about HMO licenses should appear in the TIP. Whilst the balance of views favoured its inclusion, some felt that it should be provided only for those tenants living in such properties.
- A prevalent recommendation amongst written respondents was for the contact details of landlord and agent to be included in the TIP. Emergency contact numbers for approved contractors were also commonly requested.

5. RIGHTS AND RESPONSIBILITIES OF TENANTS AND LANDLORDS

Q10: Do you agree that the following information should be included in a pack about the rights and responsibilities of tenants and landlords?

- Tenants' and landlords' responsibilities
- Harassment and unlawful eviction
- Information about the tenancy deposit scheme(s)
- Tenants' obligations under antisocial behaviour legislation

Q11: Please list any other types of information you think should be included about the rights and responsibilities of tenants and landlords.

Tenants' and landlords' responsibilities

5.1 With little exception, these sections were welcomed as bringing together, in a simple way, important information about what is expected from tenants and landlords. They were considered to be particularly helpful for first time tenants and also for inexperienced landlords who need to understand their commitments in letting out property. One written respondent (*Vol*) described the section as "vital". Another commented:

"It is particularly important for private rented tenants that they are aware of not only their rights during the tenancy but also of what can reasonably be expected of them by landlords. Young students and those who are first-time private rented tenants can be especially vulnerable to improper conduct or unfair treatment due to lack of experience" (Vol).

5.2 It was noted that some of the information proposed for the TIP overlaps with that contained in the lease. This created some concern from student tenants in the focus group and one agent interviewed that if the information about tenants responsibilities differed from that set out in the lease, this could cause confusion. A small minority of written consultees (*Ind; Landlord; Oth; Rep*) expressed the same concern, one commenting that the TIP might indeed undermine the lease (*Landlord*). One solution suggested was to insert a sentence in the TIP to say that the lease should be referred to for more specific information (agent 4).

5.3 One large landlord queried the validity of the heading of "rights and responsibilities" which led into a list detailing "responsibilities" only.

5.4 A few of the written consultees concerned themselves with the language and presentation of the sections on tenants' and landlords' main responsibilities. Legal representatives urged that the draft achieve the balance of being wholly legally accurate yet presented in non-legal language in digestible "bites". For example, it was suggested that the phrase, "to occupy the property as your principal home" is not common terminology. One respondent (*Oth*) requested that these sections be moved towards the start of the pack to reflect their importance, but be presented more logically in sub-sections, perhaps headed: "before", "during" and "after" a tenancy. Another

(Agent) recommended keeping the information concise and free from technical and legal detail by signposting to more detailed information rather than inserting it into the TIP.

5.5 Suggested amendments to the list of tenants' responsibilities (see Annex 3, section 4.1) were:

Suggested revisions to bullets

- Bullet 3: expand on what is meant by "damage" (differentiating between this and wear and tear) (student tenants). Add information on responsibility for repairs when the damage is caused by the tenant (LA).
- Bullet 4: consulting the landlord was not considered sufficient. Alternative wording along the lines of, "not to make alterations to the property without written permission from your landlord" was suggested (several large landlords). Several calls were made from agents and landlords for this bullet to be removed. One written consultee (Rep) however, requested an expansion of information on what constituted reasonable adjustments to features, local authority duties in relation to assisting with adjustments and responsibility for maintenance and removal of adjustments.
- Bullet 5: insert "promptly" or "as soon as repairs are identified" (several large landlords).
- Bullet 8: there was considerable criticism of this bullet which was perceived to be suggesting that sub-letting tenancies is acceptable.
- Bullet 9: define more clearly what is meant by "proper notice" (large landlord 3). Insert "written" between "proper" and "notice" (LA).
- Bullet 10: reword to, "Take your turn in washing the stairs and maintaining the garden and other communal areas if the maintenance is not included in your rent" (LA).
- Bullet 11: one view was that reference to insuring your personal property should be removed as this is not obligatory (agent 2).
- Bullet 12: amend to "put out bins at the appropriate place for collection" (large landlord 5). Add "and recycling" after "bins" (LA).

Suggested additions

- Insert new bullet: "Contact your landlord immediately if you are having difficulty paying the rent" (large landlord 1).
- Insert new bullet relating to responsibilities relating to fire safety (Fire).
- Insert new bullet to emphasise that the property should not be used for illegal purposes (Rep).
- Insert new bullet on rights regarding the times the property requires vacating (e.g. for renovation) (Rep).
- Insert new bullet to prompt tenants to consult their lease for the policy on keeping pets (large landlords 2 and 3; agent 5).
- Insert new bullet about personal safety issues such as avoiding letting strangers in via the door entry system (agent 3).
- Insert new bullet to prompt tenants to abide by the policy in their lease on smoking in their property (large landlord 2).

- Insert new bullet covering responsibilities for communal areas and tasks such as stair cleaning, window cleaning, gardening, use of communal storage area (several agents; large landlord 5, *LA*).
- Insert new bullet encouraging tenants to alert their landlord if they plan to be away from the property for an extended length of time (several large landlords).
- Insert new bullet for tenants in rural areas: “Arrange for septic tank to be emptied regularly” (large landlord 4).
- Insert new bullet relating to paying bills such as council tax, utilities, TV license (large landlord 4; agent 4; agent 5).
- Insert new bullet: “arrange for regular sweeping of your chimney” (landlord 4).
- Insert new bullet on electoral registration responsibility (*Oth*).
- Insert new bullet on responsibility to preventing condensation build up and keeping heating at adequate levels to prevent frost damage (*Rep*).
- Insert new bullet to inform about the legality of charges which can be made by landlords and agents (*Rep*).
- Insert new bullet on the responsibility of the tenant to claim housing benefit (or housing support in universal credit) (*LA*).

5.6 Suggested amendments to the list of landlords’ responsibilities (see Annex 3, section 4.2) were:

Suggested revisions to bullets

- Bullet 3: many landlords commented that rent books are a thing of the past, superseded by on-line banking, standing orders and direct debits.
- Bullet 5: some landlords do not provide written notice, preferring to email the notice, or telephone their tenant instead. Clarification of “proper notice” was requested (large landlord 1; large landlord 2; *LA*).
- Bullet 7: change “outside of property” to “exterior of property” (large landlord 3).
- Bullet 9: there is no legal requirement for a landlord to insure a property (*Legal*).
- Bullet 13: small landlords felt that being responsible for informing tenants of the function of the PRHP overstepped their role. They preferred to direct to websites for advice such as this, rather than be seen as advice providers in their own right.
- Bullet 14: this bullet was viewed as ambiguous. Further clarification of “within reason” was sought (agent 2; small landlords).

Suggested additions

- Insert new bullet relating to providing tenant with main contacts (large landlord 1).
- Insert new bullet relating to responsibility for rodent and other infestations (small landlords).
- Insert information about rights if a tenant does not pay their rent or causes criminal damage to the property (*Landlord*).
- Insert more information on the service level expected from landlords in respect to repairs (*LA*).
- Insert new bullet outlining responsibility to advise tenants in writing on ways in which complaints can be registered (*LA*).
- Insert new bullet on rights and responsibilities relating to retention of keys and the use of keys by landlords and agents (*LA; Oth; Ind*). One comment was:

“Clearly obstructive tenants continually refusing access would have to be dealt with, but too many letting agents use their keys with no regard for a tenant’s privacy and security” (Ind).

5.7 One additional topic emerging in the written responses (*Landlord; Vol; Rep*) was to stress the responsibility on both landlord and tenant to maintain good relationships and resort to law about the tenancy only as a last resort. It was suggested that more emphasis be placed on highlighting organisations which can help in this regard (such as Shelter, CAB, Ombudsman).

Harassment and unlawful eviction

5.8 Participants in interviews and focus groups generally agreed that the information is useful and will help tenants to identify if their landlord is acting unlawfully. One written consultee (*Landlord*) however, commented that this information is usually freely available at many advice centres and could be omitted from the TIP.

5.9 A general view emerging from the written responses was that greater clarity is required on what constitutes “harassment” and “unlawful eviction”. It was suggested that the section be turned around with the last 2 paragraphs moved to the start (*Rep*), and examples provided (e.g. does changing the locks constitute physical removal) (*Rep*). It was recommended that “or threaten to physically remove” be inserted in the last sentence (*LA*).

5.10 Another broad theme in the written responses was the need to include more information on sources of help from local authority services (social work, environmental health, anti-social behaviour team) to CAB, housing support, PRHP and Shelter.

Tenancy Deposit Schemes

5.11 Participants in interviews and focus groups acknowledged that further details of schemes will emerge later in the year.

Tenants' obligations under antisocial behaviour legislation

5.12 Antisocial behaviour was not an issue which had emerged as a major issue for any of the tenants, landlords or agents interviewed. However, all considered it important to retain this section. Amongst the written consultees it was the representative bodies who gave this topic most attention. One key theme was that more stress should be placed on the importance of maintaining good relations with neighbours and trying to resolve differences informally, with legal options being the last resort. Further details on where to seek help on neighbour relations (such as community mediation schemes) were recommended (*Rep*), with another respondent (*Rep*) referring to the Scottish Government leaflet "Problems next door" as a potential source of help.

5.13 Two consultees (*LA*, *Rep*) stressed that in circumstances where tenants are on the receiving end of anti-social behaviour, there should be an explicit responsibility set out in the TIP that the landlord should, as an absolute minimum, have to recognise its existence and receive reports from tenants, and liaise with others (e.g. local authority and police) to tackle it. It was felt that the final paragraph of the section should be expanded to reflect the distress which anti-social behaviour can cause, with reference to "nearest Citizen Advice organisation" being replaced with local authority (*LA*) and also to the HMO unit (if applicable) (*LA*). In general respondents considered that signposting to further advice could be clearer.

5.14 A few further amendments were suggested:

- Emphasis should be made on contacting the police rather than the landlord regarding antisocial behaviour of neighbours (agent 4). Contact details of the local police should be inserted (*Rep*).
- Make clear that landlords are not responsible for tenants' behaviour (agent 3).
- Insert an additional bullet highlighting that pets can cause nuisance (large landlord 3).
- Emphasise more that tenants are responsible for the behaviour of visiting family or friends (agent 1).
- Emphasise in penultimate paragraph that one outcome of antisocial behaviour amongst the tenant's family or friends is the landlord ending the tenancy (*LA*).
- Regarding the final bullet relating to "the sale of drugs or drug abuse" it was emphasised that a tenant with addiction issues should be supported, and any addiction problems do not necessarily translate directly to neighbourly bad behaviour. A request was made for this bullet to be re-written (*LA*).

5.15 Summary

- The information on rights and responsibilities was welcomed as bringing together in one place, simple information on what is expected from tenants and landlords.
- Some expressed concern about what they perceived to be the overlap of information with that contained in the lease, and it was recommended that this be addressed by referencing the lease for more specific information
- Many suggestions were made for minor amendments to the list of tenants' and landlords' responsibilities.
- There was general agreement that the information on harassment and unlawful eviction is useful and will help tenants to identify if their landlord is acting unlawfully.
- Although antisocial behaviour had not been experienced as a major issue for respondents, it was considered important to retain this section. A key theme was to place stress on the importance of maintaining good relations with neighbours and trying to resolve differences informally.

6. KEY CONTACTS FOR HELP AND ADVICE

The final section of the pack contains suggestions for key contacts for help and advice. Views on these were invited from tenants, landlords and agents in focus groups and interviews.

6.1 A common view was that the usefulness of the contacts could be enhanced by inserting information on the reason for making contact. This applied particularly to contacts which were not generally familiar to tenants such as the PRHP. One large landlord urged that advice be kept very simple, such as stating, "*If you smell gas, contact.....*" (large landlord 1).

6.2 Student tenants recommended that rather than list contacts alphabetically, a more logical approach may be to group them by sector/topic/trade. One written respondent (*Rep*) suggested re-ordering under sub-headings: Getting advice with your tenancy; Gas and electrical enquiries; Condition of property; and so on.

6.3 Many respondents commented that CORGI is now called Gas Safe. A few (*Oth, LA*) requested that the contact details for PRHP are updated.

6.4 Student and other tenants in particular considered that both national and local contacts should be included. Large landlords agreed that it would be helpful to add local, emergency contacts for out of hours, such as emergency plumbers. One suggestion was for the list to contain an area left blank specifically for tenants to add contacts useful to them (large landlord 4).

6.5 Suggested additions to the list were:

- landlord contact details (large landlord 1; agent 3; *Vol*)
- agent contact details (large landlord 3)
- details of the tenancy deposit scheme (in due course) (large landlord 1)
- Scottish Landlord Estates (large landlord 3)
- other landlord associations (*Rep; LA; LA*)
- letting agents bodies (*Rep*)
- Association of Residential Letting Agents (agent 2)
- local council (many respondents in interviews, groups and written responses)
- an electricity body to balance the inclusion of CORGI (or Gas Safe) (agent 3)
- contact details for housing related welfare benefits (*Rep*)
- organisations which provide advice and assistance to people with disabilities, for example, Disabled Persons Housing Services; Care and Repair Services; Housing Options in Scotland (*Rep*).
- Law Society of Scotland (*Legal*).

Another suggestion was for inserting signposting to "useful leaflets" (landlord 1).

6.6 In interviews a few agents expressed concern that by including such contacts, the importance of the role of the landlord as first point of call may be diminished, and this needed to be addressed. One typical comment was:

“What we should be encouraging is increased communication between landlords, agents and tenants. This section seems to exclude the best lines of communication. If people contact those listed they are going to get very general advice when perhaps the situation could have been addressed quite quickly without escalating. This should say that the first point of contact for advice should be the landlord or letting agency. After that it should be the local authority or CAB” (agent 2).

6.7 Summary

- A common view was that the usefulness of contact information could be enhanced by inserting details on the reason for making contact.
- A few respondents recommended re-ordering the list of contacts to make it more topic focused and logical.
- A recurring request was for the provision to be made for customising the pack to include local contacts.
- Some agents recommended that more emphasis be placed on the role of the landlord as the first point of call rather than wider contacts.

PART 2: WHAT THE PACK SHOULD LOOK LIKE AND HOW IT WILL WORK IN PRACTICE

The consultation document stressed that the pack should be presented in a way that is clear, accessible and straightforward, without causing an additional burden on landlords.

Discussions with the implementation working group concluded that the TIP could consist of a booklet accompanied by a covering checklist. It is proposed that the pack works as follows:

- A PDF will be created and placed on a website (possibly the Scottish Government website to maintain version control).
- The pack will be given to the tenant at the start of the tenancy in either hard copy or online.
- If the tenant is given the pack as a hard copy, both parties will have to sign and retain the declaration at the bottom of the checklist. Alternatively, if the pack is issued electronically the tenant would have to confirm receipt by email.

7. PRESENTATION OF THE PACK

Q12: What are your views on the way the example pack contained in this consultation document is presented? For example, is it “fit for purpose”, clear, understandable, and easy to interpret?

Overall presentation

7.1 The pack was given much praise from different sectors in interviews, focus groups and in the written responses for its clear layout, use of headings and sub-headings and bite size information. Most appreciated that for economical reasons the pack did not contain graphics or colour although a few respondents felt that some use of colour even at the page borders would help with signposting (student tenants; large landlords 1 and 2).

7.2 One large landlord considered that an A5 format would be preferable for handing out to tenants. Student tenants, however, felt that the A4 presentation was easier for them to print out.

7.3 A minority of the written consultees (7 across 5 different sectors) considered that the pack was overly complex and wordy in places, a general complaint being that key details were cluttered with too much general information, or too much wording at times. One respondent commented:

“...edit and prune existing text. For example, the sentence “As a tenant of a privately let residential property the law protects you against harassment...” All the tenant needs to know is: “The law protects you against harassment” (Ind).

7.4 One respondent (*Rep*) liked in particular the clarity and brevity of the section 2.7 on inventories and requested that this set the template for the rest of the document. Another (*LA*) appreciated the bulleted presentation of sections 4.1 and 4.2 and queried why the rest of section 4 did not follow this pattern.

Length

7.5 Most perceived the pack to strike a good balance between providing robust information yet not overburdening landlord or tenant with complex information. One large landlord commented in interview that the pack is “as good as you’ll get”. The length was seen by most written consultees to be acceptable although a minority of 6 (including 4 agents) stated explicitly that they thought the document to be too long. A few large landlords and agents remarked that on *first sight* they thought the pack was too long, but on reading it they felt nothing could be removed. One typical comment was:

“When I first saw it I thought it looked big, but I was quite happily surprised that it’s got quite enough information in it, without bombarding someone” (large landlord 5).

Three of the written consultees (*Landlord; LA; Oth*) expressed concern that the pack could appear intimidating to single property landlords or tenants in terms of its detail and reference to a volume of paperwork.

Language

7.6 The language was welcomed by large landlord and agent interviewees and tenant and small landlord participants in focus groups as being plain and avoiding legal jargon. One specific comment was that it struck a balance between being in plain English yet not too simple as to be misleading (large landlord 5).

7.7 The balance of views amongst written consultees was that the pack was easy to understand and concise. There were recurring comments amongst a minority of respondents, however, that the drafting could be tightened in places to make it more accessible and direct. In interview one agent commented that at times the document “slipped confusingly between legal and non legal terminology”. This view was repeated by a few of the written consultees (*Ind; Vol*), with reference to section 2.5 as an example of a section where it was felt that background legislation got in the way of stating clearly what is permitted.

7.8 One respondent (*Rep*) remarked that the pack did not appear to have been written for the audience for which it is intended. Others (*Ind; Vol*) suggested that the pack could speak more directly to its audience by using wording such as “you” rather than “the tenant”.

7.9 Another respondent (*Rep*) considered that the pack contained several subjective terms which required further explanation. The term “within reason” was provided as an example.

Order

7.10 Views contrasted on the preferred order of the sections. However, one recurring view was that current section 1 on type of tenancy was not as important to tenants as others such as rights and responsibilities, or information about the property. Another point of general agreement was that contact information needed to be easily accessible by placing it either at the end or the start of the pack.

7.11 Tenants commented that the order of the pack should be determined by when the pack will be received. If provided prior to taking on a tenancy then it seemed logical to start with information on pre-tenancies. However, if received at signing of the lease, then information on rights and responsibilities may be more relevant to present up front.

7.12 One large landlord and 5 of the written consultees (*LA; Vol; Rep; Agent; Oth*) made alternative suggestions for ordering the information based on what they perceived to be a logical progression (or “journey” (*Agent*)) through the process of a tenancy from decisions on taking on the lease, to maintenance of the tenancy and ending the tenancy.

Alternative formats

7.13 Although there was general agreement that the pack might seem daunting to tenants for whom English is not their first language, there were mixed views on whether translated versions should be made available. In interviews and focus groups landlords expressed their view that responsibility for this lay ultimately with the Government, but care should be taken with the translation of legal terms and issues to ensure the law is upheld.

7.14 Other formats suggested for the pack were:

- Braille (student tenants)
- Large print (student tenants)
- CD and memory stick (large landlord 3)
- DVD in British sign language (*Rep; Rep*)
- Easy read version with graphics (*Rep; Rep*)

7.15 Two written respondents (*HA; LA*) argued for supporting leaflets (e.g. advice on fuel poverty, advice on managing finances) to be in hard copy to cater for those who do not have access to the internet and therefore cannot access hyperlinks.

Fit for purpose

7.16 The pack was viewed in general as fit for its main purpose of providing a reference for information for tenants. One tenant commented:

“I’ve rented properties for almost 30 years and I’ve learned stuff from this!”

More specific purposes for the pack were envisaged:

- Improving standards (tenants; *LA*).
- Whittling out the rogue landlords (tenants).
- Plugging gaps if unscrupulous landlords do not provide adequate information (agent 2).
- Providing all relevant information in a single, common and concise fashion (*LA*).
- Ensuring tenants across Scotland receive consistent, reliable information (*Oth*).
- Making it easier and clearer for landlords to understand what they need to provide to their tenants (*Oth*).
- Improving the relationship between tenants, landlords and communities (large landlord 5).
- Promoting transparency between tenant and landlords (tenants).
- Providing information when things go wrong or there is a dispute (small landlords).
- Providing information when circumstances change (large landlord 1).
- Keeping useful information for tenants in one place (agent 1).
- Removing the problem of tenants claiming ignorance (agent 5).
- Supporting the signing of the lease by giving it more importance (agent 3).
- Supporting the introduction of the tenant deposit schemes (agent 3).

7.17 A minority of the written consultees considered that the pack's usefulness was currently curtailed due to the lack of clarity over its relationship and apparent duplication with the lease. One suggestion was for the insertion of a clear statement along the lines of:

“The pack does not form part of the tenancy agreement but sets out the essential information that landlords and tenants must have regard to” (Rep).

7.18 Another concern was that the pack clouds issues of legality such as the authority of the landlord and agent to provide advice. One respondent (*Legal*) urged that the information in the pack be clearly branded as Scottish Government advice.

7.19 Other suggestions made for improving the usefulness of the pack were:

- Improving the information on bringing the tenancy to an end (*LA*).
- Improving the signposting to further information (*LA*).
- Making it clear where recommendations are optional and landlords can tailor these to each tenancy as appropriate (*Landlord*).
- Making it clear whether this is a pre-tenancy or a tenancy pack (*Ind*).

Notion of a “pack”

7.20 A few participants in the tenants' focus group commented that the title “pack” sounded user-friendly and useful. They perceived a TIP to be “*on our side*”, “*working for the tenant*” and “*protecting our rights*”. Small landlords on the other hand reported that a “pack” sounded quite daunting and in reality the TIP was only one element within an overall “pack” of documents. One agent suggested that the TIP be referred to more accurately as the “TIP along with supporting documents”.

7.21 Written respondents representing fire bodies recommended that the checklist and pack include information on fire and safety measures in their own right.

Tailoring the pack

7.22 Several of the large landlords and agents commented in interview that they already produce information for tenants and for most the TIP duplicated some of this. Some commented that the TIP complemented their information provision, the former being more general, and the latter more specific to the particular property. There was uncertainty about the extent to which they would be permitted to tailor the pack in order to avoid duplication with their existing information, or remove what they perceived to be unnecessary details (such as the information on assured tenancies). One large landlord stated that if they could tailor the TIP they could rationalise their information provision, possibly removing the need for their own information pack.

7.23 A recurring suggestion emerging from written responses was for the pack to be provided electronically to landlords with the purpose of enabling

them to customise sections such as relevant contacts, to make the pack more location and tenancy specific.

7.24 Summary

- The pack was widely praised for what was perceived to be its clear layout, use of headings and sub-headings and bite size information.
- Most considered that the pack struck a good balance between providing robust information yet not overburdening landlord or tenant with complex information.
- The document was welcomed as being largely in plain English and avoiding legal jargon. However, it was suggested that the drafting could be tightened in places to make it more accessible.
- Views were mixed on the preferred order of the sections. One recurring view was that the information on rights and responsibilities should be placed further towards the start of the document. Others considered the order of sections should follow the logical “journey” of the tenant, from pre-tenancy to ending the tenancy.
- Whilst there was general agreement on the need for the pack to be provided in alternative formats, many viewed this provision as the responsibility of the Scottish Government.
- The pack was viewed as fulfilling the purpose of providing consistent and reliable reference information for tenants. Other purposes were highlighted including exposing rogue landlords and improving the relationship between landlord and tenant.
- The notion of a TIP was welcomed by tenants as appearing to be user-friendly and useful; small landlords, however, perceived the notion of a “pack” to be daunting.
- Landlords and agents requested clarity on the extent to which they would be permitted to tailor the pack to avoid duplication with the lease, remove what they perceived to be unnecessary details, and to insert local information.

8. OPERATION OF THE PACK

Q13: What are your views on the proposed process outlined in the consultation document for managing the content and for accessing the pack?

8.1 The majority view amongst tenants, student tenants, landlords large and small and agents was for the pack to be available in hard copy form, backed up with access to an online version, probably held on the Scottish Government website. The benefits of providing hard copies of the TIP were perceived to be:

- easier to have at hand for referencing
- addresses issue of tenants being unlikely to save an email with the TIP attached, or print out the TIP
- better for people without access to a computer
- to enable hard copy acknowledgement of receipt of the pack.

8.2 A common view from large landlords and agents was that they were used to providing information in this manner and although the TIP was additional information to distribute this did not create too much of an extra burden. One agent commented that if an agent or landlord did have concerns about printing out hard copies, they could always ask their tenants to give a copy back at the end of their tenancy.

8.3 Written consultees also envisaged in general the provision of the pack both electronically and in hard copy, with one respondent reflecting the views of others by stating that the proposals appeared to be, “sufficient, reasonable and appropriate” (LA). Many focused on considering the benefits of the Scottish Government hosting the pack on its website. Advantages included:

- ensures that the information will be managed correctly
- ensures that updating can be done promptly
- ensures that the information presented will be consistent across Scotland and across landlords
- limits the likelihood of landlords issuing out of date information.

8.4 The theme of keeping the information up-to-date emerged repeatedly in written responses. For example, respondents requested information on whether and in what form a system of notification of updates will operate (LA); how tenants will be informed of the need to double-check with the Government’s “control” version of the pack (LA); it was recommended that the online version states clearly the date when it was last reviewed (Oth); concern was raised over links to further information becoming out of date and defunct (LA; Agent). In this regard it was commented that the hyperlink to Consumer Focus information about electrical safety is already redundant as is the reference to CORGI in the contacts section.

8.5 Some written respondents addressed these issues by suggesting the pack be accessed as a standard online template that is “write protected”, along with specific fields which can be customised as appropriate by the landlord or agent. This compromise was seen as enabling support

organisations to provide up-to-date hyperlinks for inclusion in the pack, whilst also ensuring that essential information is not amended or deleted by rogue landlords prior to providing their tenants with the pack.

8.6 The notion of hosting the pack on a web portal was raised by a few respondents with 2 (*Oth; Rep*) suggesting this be run through the Scottish Government's proposed "Direct Scot" portal, and another (*Rep*) suggesting that Shelter may be in a good position to operate the portal. The benefits of a web portal were seen largely in terms of enabling the user to access the pack and supporting information on one site, rather than having to click onto multiple sites run by different organisations. One respondent (*Rep*) also argued that under such an arrangement the pack itself could be kept relatively brief.

8.7 A few respondents commented that some tenants may be disadvantaged if the pack is accessible in electronic form only, although this may be the most economic and environmentally friendly option. In particular, it was felt that older people, people with limited IT literacy, those living in remote and rural areas with slow broadband speeds, people with no access to printers and those on low incomes could be placed at a disadvantage. It was also noted that providing the pack in hard copy only will mean that people with no access to the internet will not be able to use the hyperlinks to further information. One respondent (*LA*) commented on the likelihood of supporting information such as safety certificates being available in hard copy, making it more appropriate that the pack also be available in this format.

Q14: Does the process outlined in this consultation document provide adequate confirmation that the pack has been provided to the tenant before the tenancy has begun? If not, can you explain why?

Timing of distribution

8.8 Views of participants in the focus groups and interviews were split over whether the TIP should be accessed before the lease is signed, or at the time of signing. The benefits of accessing the TIP beforehand were identified as:

- enabling the prospective tenant to be informed about the standards maintained by the landlord prior to agreeing to take on their tenancy
- saving office time during process of signing the lease.

It was commented that providing the pack before signing the lease may prove to be expensive if the person does not then proceed with the tenancy (large landlord 3; *Landlord*):

"...there is no way I will provide anything that is 8 pages long at my expense before I can enter into a legally binding contract"
(*Landlord*).

8.9 Timing of the distribution of the TIP emerged as an important theme amongst the written responses. Many respondents from a variety of different sectors felt that the details in the consultation document relating to timing the distribution of the TIP were vague or contradictory. For example, page 8 of

the document refers to providing the pack “at the start” of the tenancy; paragraph 4.2 refers to providing the TIP but does not give any timescale; the checklist refers to providing the pack “no later than the date on which the assured tenancy commences”; the consultation question refers to providing the pack *before* the tenancy has begun. This perceived lack of clarity and inconsistency led one respondent to comment:

“The Government needs to be clear what they want the information pack to achieve. Is it to help tenants make informed choices before starting a tenancy or is it to help the tenant manage their tenancy successfully? If it’s about tenants making informed choices, they should be furnished with a copy when they view a property (either in person or online). If it’s about helping to make the tenancy successful, hard copies could be signed when the lease agreement is being signed.” (LA)

Whilst several consultees emphasised what they saw as the need for the pack to be issued prior to the taking on the tenancy, others queried how this could work in practice if paperwork such as safety check certificates and inventories are to accompany the pack.

Confirmation of provision of TIP

8.10 With a few exceptions, participants in focus groups and interviews preferred to have a hard copy signature from tenants to confirm that the TIP had been received. One small landlord commented that in this way confirmation was “in black and white with no grey areas”. One large landlord remarked that:

“...even if the tenant acknowledges online that they have received it, I still feel the need for a hard copy confirmation of receipt. We do this already with our packs of information” (large landlord 1).

8.11 In total 24 of the written respondents reported that they were content that the process outlined in the consultation document provided adequate confirmation that the pack has been provided to the tenant before the tenancy has begun. Many others, however, expressed concern at the proposal for email confirmation of receipt by tenants. Opposition to this plan included:

- potential apathy of recipient may result in non-response (*Rep*)
- tenants’ failure to react promptly will result in burden on landlords to chase up (*Agent; Ind; LA*)
- what will happen further down the line if the landlord fails to get a confirmation email from their tenant who they subsequently wish to evict? (*Agent; Agent*)
- will require the landlord to keep records of email receipts (*LA*)
- some spam filters and other anti-virus software can prevent emails from arriving (*Rep*).

- 8.12 Suggestions were made to help to address these potential problems:
- Instead of seeking confirmation of receipt of the pack, confirmation of sending it should be obtained from landlords and agents (*Ind; Landlord; Landlord; Rep*).
 - The landlord should be encouraged to save their “sent emails” as proof that they have issued the TIP (*LA*).
 - A “read receipt” response from tenants should be acceptable as proof of receipt (*Rep*).
 - A penalty on the tenant for non-compliance with confirming receipt should be considered (*Rep*).
 - Whilst the pack can be sent electronically, the signature page should be issued in hard copy and returned in hard copy (*Rep*).
 - The TIP could be sent out electronically in advance of signing a lease, followed by the tenant signing the checklist to confirm receipt when they attend the office in person to collect the keys (agent 4).

8.13 The views described above contrasted with those of a minority of the large landlords and agents interviewed who reported that they were content with their existing protocol of obtaining on-line signatures.

8.14 A few of the written respondents argued that rather than providing each tenant with the pack, the hosting of the document on a central website for access whenever required should be sufficient in terms of information provision to tenants, and would address issues of timing of receipt, non-receipt or lack of confirmation of receipt (*Agent; Agent*). One respondent (*Rep*) argued for a hard copy of the pack to remain permanently with the property, in accordance with routine practice in social rented accommodation.

8.15 One respondent (*Ind*) called for the wording of the declaration on the checklist to be amended to reflect the *issuing* of the documents by the landlord rather than the receipt; and the removal of the word “can” in “I can confirm”.

Publicity

8.16 A recurring theme in the written responses was that publicity will be needed to advertise the pack and the legal requirement for providing this. It was considered that this should be addressed at both tenants and landlords. One respondent (*LA*) remarked that publicity will require to be on-going. Another local authority described their plans to inform tenants of the scheme using their landlord registration database.

Enforcement

8.17 Some written respondents sought details of how the scheme will be enforced. It was commented that landlords need to be made aware of what the penalty is for not providing the pack (*Oth*). One respondent (*LA*) considered paragraph 3.1 in the pack provides an example of how this could be done. Another commented:

“(the scheme)...must be underpinned by a meaningful penalty to ensure irresponsible or unfit landlords cannot shirk responsibilities and that more vulnerable tenants are adequately protected” (LA).

8.18 Concern was expressed that responsibility for policing the scheme could rest with local authorities (*Rep*). It was suggested that the Scottish Government may wish to undertake periodic sampling of tenancies as a policing measure (*LA*).

8.19 It was suggested (*LA; LA*) that tenants should be given guidance on what action to take if they are not provided with the pack. It was also argued that protocol should be in place to enable tenants to alert their landlords if they are having difficulties reading or understanding the information in the pack (*Rep*).

8.20 Summary

- The majority view was for pack to be available in hard copy form, backed up with access to an online version, probably held on the Scottish Government website.
- Landlords and agents reported being used to providing information online and did not consider that the distribution of the TIP in this manner would create too much of an additional burden for them.
- The main benefits of hosting the pack on the Scottish Government website were seen as: information will be managed well; updating will be carried out promptly; information will be presented consistently across locations and landlords; and landlords will be less likely to issue out of date information. A few respondents recommended that a bespoke web portal be developed to host the pack and supporting information and advice documents.
- Many respondents queried how landlords and tenants will be informed about newer versions of the pack and updates. It was commented that parts of the draft pack are already out of date.
- Views were divided on whether the pack should be provided in advance of signing a lease. Providing the pack beforehand was seen as advantageous in giving the tenant informed choice about property and landlord standards. However, providing the pack to prospective tenants who may or may not take on the tenancy was viewed by landlords as potentially expensive. Clarity was requested on references within the TIP to timing of distribution of the pack.
- With only a few exceptions, participants in focus groups and interviews preferred to have a hard copy signature from tenants to confirm that the TIP has been received.
- Concerns were raised by some of the written respondents regarding the proposal for email confirmation of receipt by tenants. One key disadvantage was seen as the burden on landlords and agents faced with chasing up confirmation which had not been submitted. Amongst suggestions made to address this potential problem were replacing the need to confirm *receipt* with the need to confirm *issue* of the pack by landlords and agents.

- A recurring theme was that on-going publicity will be needed to advertise the pack and the legal requirement for providing this.
- Some written respondents sought details on how the scheme will be enforced and what the penalty will be for not providing the pack.
- It was suggested that tenants need guidance on what action to take if they are not provided with a pack.

9. OVERARCHING THEMES

9.1 The TIP received broad cross-sector support as providing a consistent and reliable source of reference for tenants. Despite the initial expectations of some that the pack might be overwhelming in its complexity, the general view was that it managed to present useful, robust information without over-burdening the reader. The length of the document and the provision of text broken down into headings, sub-headings and bulleted sections received widespread praise. The prevailing view across sectors was for the pack to be available in hard copy format, backed up with access to an online version.

9.2 Some variation in views emerged between the key respondent sectors. **Local authorities** in particular emphasised the importance of following common protocol and ensuring safety issues are addressed comprehensively in the pack. For example, they urged that further information be included on the condition and safety of electrical appliances and were amongst those championing the introduction of information on fire safety within the TIP. Local authorities were also at the forefront of respondents wishing to see the provision of the TIP actively enforced. Another key concern for this sector was the need to establish clear updating protocol to make sure latest versions of the pack are readily accessible.

9.3 A key focus of attention for **agents and large landlords** was the extent to which the TIP could be tailored to meet local needs. They could see benefits in inserting local contact information and placing more emphasis on the role of the landlord as the first port of call for queries and emergencies. They needed reassurance, however, that a customised pack would still retain its statutory basis and fulfil the legal requirement placed on landlords. They were encouraged by what they perceived to be the possibilities offered by the TIP to improve and maintain tenant-landlord relationships, by setting out clearly the rights and responsibilities of each party.

9.4 **Small landlords** were the most cautious of all the sectors in welcoming the introduction of the TIP. Some of the information contained in the draft TIP was new to them, and exposed a general lack of knowledge about their responsibilities as landlords. They needed more time to consider the implications of the provision of such information to their tenants. They were particularly eager to ensure that the TIP does not imply mandatory obligations for landlords (which may have financial consequences) where these do not exist. Of particular concern was what they perceived to be an emphasis on landlords undertaking tests of electrical appliances when this is not a legal requirement.

9.5 **Tenants** (students and others) tended to provide views from a practical perspective. They reflected on their experiences of private renting over the last year and welcomed information on issues which had cropped up, for example, liability for council tax and checking inventories. They perceived the pack to be very informative and pitched at a helpful level. The TIP had the potential to empower them to make more informed choices about taking on

future tenancies, and made them more confident about negotiating and communicating with their landlord in an informed manner.

9.6 A number of overarching themes dominated:

- **Balancing legal content with accessibility of message**
Various commentators remarked on the fine line between ensuring the content of the TIP is user-friendly and accessible, yet maintaining the legality and accuracy of the text. Overall, respondents appeared to view this as having been achieved, but for some, there was occasional lack of clarity over what constitutes statutory obligations and what is not mandatory. This was compounded by what some respondents felt was a confusing mix in parts between legal and non legal terminology. There was some concern that the statutory requirement on landlords to provide the TIP might result in all of the contents being perceived as having statutory underpinning.
- **Possibilities of tailoring the pack**
As described above, a common consideration was whether, and to what extent, the pack can be tailored to reflect local circumstances. In addition, suggestions were made for sections to be removed if not of direct relevance to a particular tenancy. Assured tenancy information and details of HMO properties were highlighted in this regard. The perceived advantages of customising the pack included making it more relevant to the tenant and reducing potential for confusion. There were some concerns, however, that the opportunity for tailoring the pack could play into the hands of unscrupulous landlords who might be tempted to remove sections which refer to responsibilities which they may not be fulfilling.
- **Operational issues**
There were common concerns about how best to confirm that the pack has been issued by the landlord and received by the tenant. The prevailing view from landlords and tenants alike was in favour of hard copy signatures to signify receipt of the pack. Whilst landlords and agents did not consider the pack to present them with any significant extra work, they did foresee a potential problem in terms of increased workload if confirmation of receipt is to be permitted electronically and their tenants do not respond to this. The possibility of this scenario led to some favouring a legal requirement to confirm *issue* of TIP rather than *receipt* of the document.

As previously mentioned, local authorities in particular urged that systems are put in place for ready access to updated versions of the pack, leading to support for a centrally located electronic “control” document containing latest amendments.

- **Timing of issue of TIP**
Many respondents felt that there was a lack of clarity over when landlords will be required to provide the TIP to tenants or prospective tenants. The timing of its issue was linked, for some, with its precise

purpose. If its main purpose is to enable prospective tenants to make informed choices about taking up a tenancy then some respondents pointed out that tenants should be furnished with the TIP prior to signing a lease. However, if the main focus is on helping them to manage their tenancy once in operation, then it was argued that providing the TIP at point of signing the lease will be appropriate. Benefits and drawbacks of both approaches were cited, but a prevailing view was that clearer direction is needed on when the TIP should be issued.

ANNEX 1: LIST OF RESPONDENTS
No. of respondents = 80

Organisation
Local Authority = 24
Aberdeen City Council
Aberdeenshire Council
Argyll and Bute Council
City of Edinburgh Council
Clackmannanshire Council
Dundee City Council
East Ayrshire Council
East Dunbartonshire Council
East Lothian Council
East Renfrewshire Council
Falkirk Council
Fife Council
Glasgow City Council
Highland Council
Inverclyde Council
Moray Council
North Lanarkshire Council
Renfrewshire Council
Scottish Borders Council
South Ayrshire Council
South Lanarkshire Council, Community and Enterprise Resources
South Lanarkshire Council, Housing and Technical Resources
Stirling Council
West Lothian Council
Representative bodies = 13
Association of Local Authority Chief Housing Officers
Association of Residential Letting Agents
Chartered Institute of Housing Scotland
Edinburgh University Students' Association
National Landlords' Association Scotland
National Union of Students Scotland
Scotland's Electrical Trade Association (SELECT)
Scottish Accessible Housing Network
Scottish Community Mediation Network
Scottish Council for Single Homeless
Scottish Council on Deafness
Social Landlords Crime and Nuisance Group
Walmer Crescent Association
Agents = 9
Belvoir Lettings Dundee
Belvoir Lettings Falkirk
Bondsave Ltd t/a Braemore Property Management
Countryside Residential Lettings
James Gibb
Malcolm Homes Ltd

Orchard and Shipman
Ryden Lettings
Steyn Lettings
Landlords = 6
Allan Thornton Rentals
Robert Gordon University Accommodation Services
University of Edinburgh
3 further landlords who wished to remain anonymous or did not indicate whether their name could be publicised
Voluntary bodies = 4
CRISIS
Electrical Safety Council
Moray Citizens Advice Bureau, SLAB project
Shelter Scotland
Fire and rescue bodies = 3
Chief Fire Officers Association Scotland
Lothian and Borders Fire and Rescue Services
Strathclyde Fire and Rescue
Legal = 2
Lindsay's solicitors
Turcan Connell
Housing association = 1
Link Group Ltd
Letting agent and landlord = 1
Respondent did not provide details on whether they wished to remain anonymous.
Others = 4
Consumer Focus Scotland
Electoral Registration Committee of the Scottish Assessor's Association
Private Rented Housing Panel
Symington Mackell Chartered Surveyors
13 individuals

ANNEX 2: WRITTEN CONSULTATION QUESTION BY NUMBER OF RESPONDENTS WHO COMMENTED (Total respondents = 80)

Question	No. of respondents who commented
1	69
2	53
3	74
4	56
5	67
6	65
7	63
8	68
9	48
10	68
11	46
12	65
13	63
14	59

ANNEX 3: DRAFT TENANT INFORMATION PACK

CHECKLIST

Property address:

Landlord name/address/registration no:

Tenancy period:

It is a legal requirement that the following documents must be provided no later than the date on which the assured tenancy commences -

Tenancy Agreement

AT5 Form (for short assured tenancies only)

Gas Safety Certificate (if applicable)

Energy Performance Certificate

Repairing Standard information

'Tenant Information Pack' (see attached)

Declaration

I can confirm that I have received all of the above mentioned documents.

Tenant signature:

Date:

Landlord signature:

Date:

TENANT INFORMATION PACK CONTENTS

Section 1: Types of Tenancies

1.1 Short Assured Tenancy

1.2 Assured Tenancy

1.3 Tenancy Agreements

1.4 Ending the Tenancy

Section 2: Information about the Property

2.1 Gas safety

2.2 Electrical safety

2.3 Energy Performance Certificate

2.4 Council tax information

2.5 Permitted level of occupancy

2.6 Repairing Standard

2.7 Inventories

Section 3: Landlord details

3.1 Landlord registration

3.2 HMO licensing

Section 4: Rights and responsibilities of tenants and landlords

4.1 Tenants main responsibilities

4.2 Landlords main responsibilities

4.3 Harassment and unlawful eviction

4.4 Tenancy deposit schemes

4.5 Tenant's obligations under antisocial behaviour legislation

Section 5: Key contacts for help and advice

Section 1: Types of tenancies

Your rights in private rented accommodation will depend on the type of tenancy agreement that exists between you and your landlord. The following descriptions provide a broad set of rules for each of the main tenancies. Where there is any doubt, you must obtain legal advice to be certain of the type of agreement that you have signed, or are being asked to sign.

1.1 Short Assured Tenancy

The most common types of agreements in the private sector are Short Assured Tenancies and this type of tenancy has been available since 2 January 1989. The landlord must give a special notice (called an AT5 Notice) before the lease is signed, or before the tenant moves in, stating it is a Short Assured Tenancy. The initial let must be for a *minimum* of six months, otherwise it is not a Short Assured Tenancy. However, Short Assured Tenancies could be for a longer period and you may want to discuss this with your landlord to establish whether greater flexibility suits both parties.

A sample of an AT5 form can be found on the Scottish Government website or by clicking on this link - [sample AT5 form](#).

1.2 Assured Tenancy

If you rent your home from a private landlord or letting agent then you will probably have an assured tenancy if -

- Your tenancy started after 2 January 1989
- Before the tenancy started, you were not given a notice (an AT5 form) stating that it was to be a short assured tenancy
- The place where you live is rented as a home
- It is your only or main home.

Assured tenants have security of tenure, which means that the landlord must get a court order for possession before the tenant can be made to leave. The grounds for possession are detailed below.

Grounds for repossession

There are 17 grounds on which possession might be obtained. Full details of these grounds and the procedure that the landlord must follow can be found on the Scottish Government website.

Grounds 1 to 8 are mandatory grounds - that is if they are established the sheriff must grant an order for possession.

Grounds 9 to 17 are discretionary grounds - that is even if they are established the sheriff will grant an order for possession only if he believes it is reasonable to do so.

1.3 Tenancy Agreement

The Tenancy Agreement must be a written document and the terms of the agreement should be agreed between the landlord and the tenant before the

tenant signs the agreement. An example of a model tenancy agreement can be found on the Scottish Government website [*insert web link here*].

In general, the tenancy agreement should include the following:

- The name and address of the landlord and/or agent
- The landlords registration number
- The length of the tenancy, with start and end dates
- When the rent is due, how it should be paid and if the rent is to be increased during the tenancy
- How much the deposit is to be and where it will be held e.g. tenancy deposit scheme
- Who is responsible for internal decoration and internal and external repairs and maintenance
- Any condition or restrictions on the use of the property, for example about pets, guests or smoking.

1.4 Ending the Tenancy

Your tenancy agreement will state how long you will be renting the property for, for example, six months or a year. At the end of that time, your tenancy will automatically renew itself unless:

- your landlord gives you written notice that they want you to leave the property or
- you give the landlord written notice that you want to leave at the end of the tenancy.
-

If neither you nor your landlord has given notice, your tenancy will renew itself. This will be for the same length of time, unless your tenancy agreement says that it will be for a different period.

For example, your tenancy agreement might say 'the property is let for a period of six months and then monthly thereafter'. This would mean that your tenancy agreement would be for six months and that it could renew itself one month at a time after that. If the tenancy was for more than a year, it can only renew itself for a year. There is no need for a new AT5 each time the tenancy renews itself.

When the landlord wants you to leave

The Landlord can give notice in writing at least two months before the end of the initial period or at any time thereafter that possession of the property will be required. Notices can be served during the tenancy to coincide with the agreed termination date. If you decide not to vacate the property at this time your Landlord will have to go to Court to recover possession.

To gain possession at the end of a Short Assured Tenancy, the Landlord must serve you with the following Notices:

- A written [Notice to Quit](#)
- An [AT6 Notice](#)
- A [Section 33 Notice](#)

Breach of tenancy

If, during the term of the tenancy, you are in breach of any terms of the tenancy, possession can be sought using grounds for possession.

If you receive a notice to quit or notice of proceedings (AT6) DO NOT IGNORE IT. Contact your local Citizens Advice Bureau or your council's local housing office who will be able to give you further advice and assistance on all your housing options.

If You Want To Leave

Before you can leave, you must give your landlord written notice. If you want to leave before your tenancy has run out or you are in a period when it has renewed itself, you will need to check if you can arrange to leave before the end of the tenancy. It should state on your tenancy agreement whether you can do this and if so, how much notice you have to give.

Even if this is not mentioned on the tenancy agreement, you may be able to come to an arrangement with your landlord. If you cannot reach an arrangement with your landlord, you will have to give notice stating that you wish to leave when the tenancy runs out.

The minimum notice you have to give is:

- 40 days if your tenancy is for six months or longer
- 28 days if your tenancy is continuing on a month to month basis after the original period has expired.

If you leave the property without giving notice or before your notice has run out, you will still be responsible for the property and for any rent that you are due to pay. If your landlord has to take any legal action, you could also be responsible for any costs that they have to pay.

Section 2: Information about the Property

Your landlord has a responsibility in terms of making sure that the accommodation is safe. The electricity supply, plumbing, water and heating systems should all be in good condition. If you have any concerns regards the safety of any item in the property then you should speak with the landlord, it is important that you do not move into the accommodation until these concerns have been addressed.

2.1 Gas Safety

If your property has a gas supply your landlord must arrange for an annual Landlord's Gas Safety Check to be carried out by a Gas Safe registered engineer and give you a copy of the gas safety certificate. If your landlord does not have a current safety certificate you can contact the Health and Safety Executive at www.hse.gov.uk/contact/ for advice (contact details in section 5).

If you know that your gas installations or pipe work is defective you must let your landlord or agent know. You must never use appliances that are condemned or unsafe.

2.2 Electrical Safety

Your landlord must make sure electrical wiring and electrical appliances in your property are safe to use. Responsible landlords will carry out Portable Appliance Testing (PAT) on appliances and have a current electrical safety certificate from an approved contractor.

Consumer Focus Scotland has produced an information leaflet for tenants which provides helpful tips. The leaflet is available at -

www.consumerfocus.org.uk/scotland/publications/consumerguides

2.3 Energy Performance Certificate (EPC)

Energy performance certificates were introduced on 4 January 2009, which aims to improve the energy performance of new and existing buildings. Landlords must provide tenants with a copy of the EPC if the tenancy started after 4 January 2009.

An EPC provides an energy rating for the property and makes simple, cost-effective recommendations for ways in which its efficiency could be improved, to help save energy, reduce bills and cut carbon dioxide emissions. The certificate is valid for ten years. Further information can be found on the Scottish Government website -

<http://www.scotland.gov.uk/Topics/Built-Environment/Building/Building-standards/homeinfo/appbody>

2.4 Council Tax

Most tenants will have to pay council tax charges in the property they rent. A landlord should be able to tell you about your responsibilities for council tax charges and give you information on the current rates. If a property is occupied entirely by students then they are exempt from paying Council tax. Students must apply to Revenues and Benefits for their exemption.

2.5 Permitted level of occupancy

Overcrowding is a problem in some parts of the private rented sector, as well as having detrimental effects on your health and wellbeing, it can also relate to adverse effects on your neighbours and lead to wider social problems in the community.

Local authorities have some powers and duties in relation to overcrowded houses and their occupants, including carrying out inspections to identify overcrowded houses.

If you live within an HMO the local authority will have advised your landlord of the maximum number of occupants permitted in the house.

Part VII of the Housing (Scotland) Act 1987, defines that a house is overcrowded if it fails either of two tests - the room standard and the space standard.

The room standard is contravened when two people of opposite sexes, who are not living as husband and wife, have to sleep in the same room. This does not apply to children under 10. The rooms regarded as sleeping accommodation are defined as being 'of a type normally used in the locality either as a bedroom or living room'.

The space standard sets limits on the number of people who can occupy a house, relative to both the number and floor area of the rooms available as sleeping accommodation. For this purpose, children aged at least one but less than 10 count as half of a person, while children under the age of one do not count at all. Rooms of less than 50 square feet are not taken into account. The prescribed numbers are set out in tables. For example, four rooms may be occupied by no more than 7.5 persons, but that number could be lower depending on the size of the rooms.

You should take reasonable steps to ensure that the property you are living in does not become overcrowded. If you are concerned about overcrowding, you should seek advice from your landlord or contact your local authority housing office.

2.6 Repairing Standard

A landlord has a duty to repair and maintain the property at the start of the tenancy and at all times during the tenancy, including a duty to make good any damage caused by carrying out this work. Upon notification or awareness of a defect, the landlord must complete the work within a reasonable time.

A private rented property must meet the repairing standard as follows:

- The house is wind and water tight and in all other respects reasonably fit for human habitation
- The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order
- This installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order
- Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and are in proper working order

- Any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed
- The house has satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire

The landlord must, on or before the start of the tenancy, provide the tenant with written information about the effect of the Repairing Standard in relation to the tenancy. Tenants should also be provided with information on how to approach the Private Rented Housing Panel and in what circumstances.

Further information can be found here -

<http://www.scotland.gov.uk/Topics/Built-Environment/Housing/privaterent/landlords/physical/rules/repairing>

Repairs and Maintenance

The tenant must give the landlord reasonable access to the property but failing mutual agreement, the landlord must give at least 24 hours' advance notice in writing of their intention to enter the property - except where an emergency repair is required.

2.7 Inventories

An inventory can help avoid a dispute over your deposit when you move out because it proves what state the property was in when you moved in. It's in your landlord's interest to provide an inventory, because if you break or damage anything while you are living there, the inventory shows that it wasn't broken before you moved in. On the other hand, if anything in the property is already damaged, the inventory proves that you didn't do it.

Your landlord or letting agent should supply you with an inventory. If they haven't done so by the time you move in, ask for one.

If you aren't given an inventory, you can make one yourself and get an independent witness who doesn't live in the property to sign it. You could also take photos of the property when you move in.

Section 3: Information about the Landlord

3.1 Landlords details

Landlord Registration

All private landlords must register with their local authority to ensure that they are a "fit and proper person" to let property. It is an offence to let any house without being registered. From 31 August 2011 the maximum fine for operating as an unregistered landlord was increased to £50,000.

You can check online at www.landlordregistrationscotland.gov.uk to see if your landlord is registered or alternatively you should contact your local authority.

Further information can be found here -

<http://www.scotland.gov.uk/Topics/Built-Environment/Housing/privaterent/landlords/registration>

3.2 HMO licensing

An HMO (house in multiple occupation) is a property that is shared by three or more tenants who aren't members of the same family. HMO landlords must have a licence from the local authority. This ensures that the property is managed properly and meets certain basic safety standards. Examples of HMOs include hostels, refuges, shared flats and bedsits. You can find out more by clicking on the following link -

<http://www.scotland.gov.uk/Topics/Built-Environment/Housing/privaterent/government/hmo>

If you want to find out if a landlord is registered or if you think the standards are not being met then you can contact your local authority. They require to keep a register of all the licensed landlords in the area.

Section 4: Rights and responsibilities of tenants and landlords

4.1 Tenants main responsibilities

As a private tenant, you have certain responsibilities connected with your occupation of the property. These will generally be detailed in your tenancy agreement but the following list summarises the fundamental responsibilities that will apply to most tenancies.

- To occupy the property as your principal home
- To pay your rent in full and on time
- Not to cause damage to the property, fixtures, fittings or furniture belonging to the landlord or to allow members of your household or visitors to do so
- To consult your landlord about any proposals to make alterations to the property. Written permission should be obtained.
- To report the need for any repairs to the landlord
- Not to cause disturbance, nuisance or annoyance to neighbours or to allow your visitors to do so
- To allow the landlord access to the property for the purpose of inspections or carrying out repairs when sufficient notice has been given.
- To obtain written permission from your landlord if you intend to sublet or take in a lodger
- To give proper notice to your landlord when you wish to leave the property
- Maintain any communal areas
- Insuring your personal property
- Present bins for collection

4.2 Landlords main responsibilities

- Supply the tenant with their name and address
- Give the tenant written conditions of the tenancy
- A rent book or a receipt for any rent payments
- Respect the tenant's right to peace and quiet in the home
- Give proper written notice before accessing the property
- The gas, electricity and furniture safety requirements are met in the accommodation
- Maintain the structure and outside of the property

- Follow the correct legal procedures if they want tenants to leave
- Insure the property
- To register with their local authority
- Have an Energy Performance Certificate for the property
- Carry out annual gas safety checks where applicable
- Inform you about the function of the Private Rented Housing Panel
- Allow disabled adaptations, within reason
- Ensure the property meets the Repairing Standard
- Provide the tenant with a Tenant Information Pack

4.3 Harassment and unlawful eviction

As a tenant of a privately let residential property, the law protects you against harassment and unlawful eviction. It does this in two ways:

- by making harassment and unlawful eviction criminal offences
- by enabling someone who is harassed or evicted to claim damages through the courts.

The law against harassment applies to all people living in residential property. This means that you are protected by the law whether you have a full tenancy or some other right of occupation or occupancy agreement. It applies if your landlord personally harasses or evicts you unlawfully, or if somebody else does it on his or her behalf.

The Scottish Government Booklet 'Protection against Illegal Eviction and Harassment' provides full details of the rights of private tenants in this area and can be accessed by clicking on the following link –

<http://www.scotland.gov.uk/Publications/2007/12/19112519/2>

If your landlord attempts to physically remove you from the property, he is committing a criminal offence, regardless of the circumstances. Landlords must follow the formal legal process detailed in this document to recover possession of their property and if the tenant does not leave voluntarily, the landlord must obtain Decree for Eviction from the Sheriff Court. If the landlord obtains a Decree, the actual eviction will be undertaken by Sheriff Officers, not the landlord or agents acting on their behalf.

If your landlord has physically removed you from your rented home, you should report the matter to the Police.

4.4 Tenancy Deposit Schemes

A tenancy deposit scheme is a scheme designed to protect tenant's deposits by placing them with an independent third party. Deposits are safeguarded by a scheme until they fall to be repaid at the end of the tenancy.

**Insert further details of the scheme(s) once approved.*

4.5 Tenant's obligations under antisocial behaviour legislation

Antisocial Behaviour is defined as behaviour which causes or is likely to cause fear, alarm or distress. Everyone has the right to live safely and peacefully without worrying about being bothered or harassed. Where tenants act in a way which causes nuisance or annoyance and stops people from enjoying the peaceful occupation of their home, this may be considered as Antisocial Behaviour. This includes, but is not limited to:

- Persistent, excessive noise
- Verbal or physical abuse of neighbours
- Racial or sexual harassment
- Vandalism in the neighbourhood or damaging neighbours' property
- The sale of drugs or drug abuse.

Tenants are also responsible for the behaviour of their family or friends visiting their home. A landlord may take action against the tenant if they have broken a clause in the tenancy agreement relating to antisocial behaviour.

If you are affected by the antisocial behaviour of others it is recommended that you keep a written record of the incidents. Depending on the seriousness of the situation and how badly it affects you, you should contact the police or your nearest Citizen Advice organisation. If you require further information please do not hesitate to contact the Antisocial Behaviour Team at your local authority.

Section 5: Key contacts for help and advice

Citizens Advice Scotland

<http://www.cas.org.uk/>

Consumer Focus Scotland

Royal Exchange House

100 Queen Street

Glasgow

G1 3DN

Tel: 0141 226 5261

www.consumerfocus.org.uk/scotland/

CORGI

Council for Registered Gas Installers

Helpline: 01256 372300

www.corgiservices.com

Health and Safety Executive (HSE)

Gas Safety Advice Line: 0800 300363

www.hse.gov.uk/contact/

OFGEM

Office of Gas and Electricity Markets
Regents Court
70 West Regent Street
Glasgow G2 2QZ
Tel 0141 331 2678

PRHP

Private Rented Housing Panel
3rd Floor, 140 West Campbell Street
Glasgow G2 4TZ
Tel: 0141 572 1170
www.prhpscotland.gov.uk

Scottish Association of Landlords

22 Forth Street
Edinburgh
EH1 3LH
Tel: 0131 270 4774
www.scottishlandlords.com

Shelter

Free advice helpline: 0808 800 4444
www.scotland.shelter.org.uk/

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