



The Scottish
Government
Riaghaltas na h-Alba

Housing, Regeneration and Planning

Better Dispute Resolution in Housing



**BETTER DISPUTE RESOLUTION IN HOUSING -
ANALYSIS OF RESPONSES TO THE
CONSULTATION ON THE INTRODUCTION OF A
NEW HOUSING PANEL FOR SCOTLAND**

CRAIGFORTH

Scottish Government Social Research
2013

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EXECUTIVE SUMMARY

1. This report presents an analysis of the responses submitted to the Scottish Government's *Better Disputes Resolution in Housing* consultation. The overall focus of the consultation is on improving the effectiveness and efficiency of dispute resolution for rented housing cases, and the potential for a Housing Panel as an alternative mechanism for making decisions about housing disputes.
2. Three principal options considered are: expanding the use of mediation and alternative dispute resolution; the creation of a pre-court housing panel to which housing disputes could be referred as an earlier stage for formal resolution; and the creation of a housing panel to replace courts as the main decision maker in certain housing dispute cases.
3. The consultation ran from 16 January 2013, with responses invited by 9 April 2013. A total of 116 responses were received by the Scottish Government, 101 submitted by groups or organisations and 15 by individual members of the public.

Preventative Action

4. A clear majority of respondents did not want the Scottish Government to consider legislative action to assist with the early resolution of disputes, with many suggesting the emphasis should be on ensuring effective implementation of the current regulations and that there are already a number of measures in place - such as pre-action requirements - which require landlords to take a proactive approach to dealing with disputes.
5. Those who did believe the Scottish Government should consider legislative action were often looking to create greater consistency in practice between landlords, along with easier and swifter resolution of some disputes.
6. Most respondents did not expect upstream action to achieve better outcomes than a new housing panel or reformed courts. However, a clear majority also considered there to be further non-legislative measures that could be taken to encourage the prevention and early resolution of housing disputes. A popular suggestion was the development of national standards and further good practice on early stage intervention and resolution techniques.
7. There was a considerable level of support for making mediation more widely available. The areas of dispute in which respondents thought mediation might have a role to play included: standards of service; a tenant's failure to meet their obligations; and low level neighbour disputes. Some respondents thought rent arrears cases could be mediated, although others felt this was not an issue for which mediation would be appropriate.

8. Views were mixed as to whether it would be better to expand existing provision or create a new housing mediation service. More respondents favoured expanding existing provision, although the balance of opinion did vary significantly depending on the respondent type. In particular, while a clear majority of local authority respondents favoured the expansion of existing services, a majority of RSL, tenant and resident group and individual respondents supported the development of a new service.
9. Respondents tended to take one of two broad positions on funding. Most respondents took the view that any service or services should be wholly or partially funded by the Scottish Government. Others suggested that funding should come from a broader range of organisations, most obviously those that could make savings if more effective dispute resolution was available.
10. Suggestions around improving public awareness of mediation as a way of solving housing disputes tended to focus on the need for a national and/or local publicity campaign. It was also suggested that mediation should be promoted not only to the public but also to relevant public agencies across Scotland and that appropriate guidance should be issued to encourage consistency in practice across all local authority areas.

A Pre-Court Housing Panel

11. A clear majority of respondents felt that a pre-court Housing Panel should not be established.
12. There was some suggestion that the more inquisitorial panel approach could be suited to the consideration of most or all housing dispute cases. However, most respondents suggested the pre-court Housing Panel's remit should be focused on specific types of dispute such as housing debts and antisocial behaviour, potentially taking into account whether mediation has failed or where tenants' needs may be better met via a less formal inquisitorial approach.
13. Respondents were divided on the range of parties who should be able to refer the case to the pre-court Housing Panel. Some suggested that third parties should be able to make a referral, including neighbours, mediation officers, local authority or other statutory bodies. Others suggested that a referral should only be made by those party to the dispute, potentially including mediation services or representatives/advocates involved in the case.
14. Most respondents suggested that pre-court Housing Panels would be most effective where members have a range of backgrounds, skills and qualifications – suggestions typically including lay person representation alongside members with housing and legal qualifications.
15. A range of specific timescales were suggested for pre-court Housing Panel orders to remain in place, including reference to ensuring consistency with other tribunals, courts and relevant legislation. There may be benefit in the panel tailoring the length of time an order should remain in place based on the specifics of the case.

16. Views on how and when cases should be escalated to court ranged from the pre-court Housing Panel being permitted some discretion in how cases are escalated to court, to those suggesting that fast-track escalation to court should occur immediately and automatically upon first breach of the panel order.
17. Those opposed to the creation of a pre-court Housing Panel made clear that they agree with the intended outcomes of the panel, particularly in terms of the need to address delays and inconsistencies in the current court-based housing dispute process. However, a pre-court Housing Panel was seen as less likely than other options to achieve these outcomes, and as risking further delay and cost to resolution of housing disputes.
18. Around half of those opposed to a pre-court Housing Panel felt that required improvements in the dispute resolution system would be better delivered through proposed civil court reforms. This was linked to a view that in the absence of a clear case for the panel delivering significantly better outcomes than reformed courts, the expense of the panel could not be justified. There is also a perceived need to allow court reforms to „bed in“, to allow an informed view on whether a pre-court Housing Panel would further improve dispute resolution.

A Housing Panel to Replace Courts as Decision Maker

19. Half of all respondents to the consultation were in favour of the creation of a Housing Panel to replace the courts as the main decision maker for housing disputes. This included a large majority of RSLs, local authorities, housing representative agencies and other representative agencies. In contrast, the majority of legal firms/representative groups, letting agents & private landlords and individual respondents were opposed to this option.
20. Those opposed to a Housing Panel to replace courts as a decision maker were broadly in support of the intended outcomes of a panel. However, respondents identified a number of issues which, in their view, undermine the case for a Housing Panel being the best way of achieving these outcomes. This included significant concerns about proposals to deal with an individual's tenancy status outwith the court system, the significant resource requirements to establish a new Housing Panel, and a need to allow civil court reforms to complete prior to making a decision on introduction of a Housing Panel.
21. The core suggestion for Housing Panel membership was for 3-5 members, including a legal professional, housing professional and lay person with suitable housing-related experience. It was also suggested that the broad range of cases to be considered by a Housing Panel may require representation of other qualifications or fields - as standing panel members, or the facility to draw in other qualified individuals as required by specific cases.
22. Views were divided on whether a Housing Panel should be created by expanding the caseload of the prhp (Private Rented Housing Panel). This was the case across most respondent groups, although the majority of housing representative agencies and local authorities answering the question were opposed to this option.

23. There was some suggestion that all civil cases that would normally be referred to the court should fall within the remit of a Housing Panel. However, most respondents suggested a panel's remit should be focused on specific types of dispute such as housing debts and antisocial behaviour, potentially taking into account whether mediation has failed or where tenants' needs may be better met via a less formal inquisitorial approach.
24. Views were divided on the issue of fee charging for a new Housing Panel. Nearly half of respondents to this part of the consultation (27 out of the 60 that answered this question) felt that one or more parties should be charged a fee for raising actions before a Panel. However, 20 respondents were opposed to fee charging. This mix of views was evident across all respondent groups.
25. A quarter of all consultation respondents felt that required improvements in the dispute resolution system would be better delivered through proposed court reforms. This profile of views was consistent across respondent types.

Table of Contents

EXECUTIVE SUMMARY

1	INTRODUCTION	1
2	OVERVIEW OF RESPONSES	3
3	OPTION 1: PREVENTATIVE ACTION	5
4	OPTION 2: PRE-COURT HOUSING PANEL	20
5	OPTION 3: HOUSING PANEL REPLACING COURTS AS DECISION MAKER	32
6	EQUALITY ISSUES & BUSINESS & REGULATORY IMPACT ASSESSMENT	44

ANNEX

GROUP RESPONDENTS	51
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1 INTRODUCTION

Background to the consultation

- 1.1 This report presents an analysis of the responses submitted to the Scottish Government's *Better Disputes Resolution in Housing* consultation. The overall focus of the consultation is on improving the effectiveness and efficiency of dispute resolution for rented housing cases, and the potential for a Scottish Housing Panel as an alternative mechanism for making decisions about housing disputes.
- 1.2 Three principal options are considered:
- Option 1 focuses on expanding the use of mediation and alternative dispute resolution (ADR);
 - Option 2 proposes the creation of a pre-court Housing Panel to which housing disputes could be referred at an earlier stage for formal resolution. The panel would make enforceable decisions and where these are not complied with cases would still be escalated to court. Under this option it would remain for the courts to end tenancies and evict tenants; and
 - Option 3 proposes the creation of a housing panel to replace courts as the main decision maker in certain housing dispute cases. This kind of panel would be a tribunal. This would involve transferring jurisdiction for specific types of housing dispute cases from the courts. A housing tribunal could have the ability to end tenancies and evict tenants.
- 1.3 The consultation document makes clear that the three options are not intended as mutually exclusive. Expanding use of mediation and ADR (Option 1) may be desirable irrespective of any form of housing panel that may be implemented.

The Consultation Process

- 1.4 The consultation ran from 16 January 2013, with responses invited by 9 April 2013.
- 1.5 The consultation document set out a total of 37 questions structured around the three proposed options, and including questions relating to Equality Issues and the Business and Regulatory Impact Assessment. This included a mix of 13 „closed“ questions where respondents were generally invited to indicate support or opposition to proposals, and 26 „open“ questions where respondents were asked to write in their response. Respondents were invited to respond to this set of questions, but also had the option to make a response which did not directly address specific consultation questions.

1.6 While the structure, length and format of consultation responses varied, in practice the great majority of responses directly addressed some or all of the consultation questions. In terms of the content and structure of consultation responses, the following points are of particular relevance to the analysis and reporting process:

- Some respondents provided covering letters or reports alongside a completed consultation response form. Where material related to the substance of the consultation, this has been incorporated in analysis and reporting.
- Where written material provided an unequivocal answer to a „closed“ question which the respondent had not answered directly, this was included in the quantitative analysis set out in this report. Where there was any ambiguity in the response to a closed question, this has been recorded as non-response.
- Few of the closed questions provided space for respondents to add written comments. However, a minority of responses included further written comments in support of response to closed questions – key issues raised are considered in the body of the report.
- Respondents were coded into one of eight respondent types (considered in more detail in the next section). This includes some sector-specific respondent types, such as Registered Social Landlords (RSLs), and letting agents, private landlords & their representative groups. Responses from these organisations tended to be framed with reference to the housing sector in which they operate – for example RSLs about social renting, letting agents about private renting – although this was not always explicitly stated. In contrast, other respondents had a dual or cross-tenure focus, such as local authorities (as a landlord, and as a statutory body in relation to homelessness and landlord registration). Our analysis has sought to identify where responses and issues appear to relate to a specific tenure, whether this is explicit or implicit in the response.

2 OVERVIEW OF RESPONSES

2.1 This section gives an overview of the responses received to the consultation, and considers the introductory and general comments submitted by some respondents.

Profile of respondents

2.2 A total of 116 responses were received by the Scottish Government, 101 submitted by groups or organisations and 15 by individual members of the public. A further breakdown by type of respondent is set out in the table below.

Respondent Type	Number	% of respondents
Registered Social Landlords	22	19%
Local Authorities	23	20%
Tenant and resident groups	18	16%
Campaign and third sector organisations, including advice and mediation services	15	13%
Legal firms or representative groups	7	6%
Lettings agents, private landlords and their representative groups	7	6%
Housing representative agencies and bodies	4	3%
Other representative agencies and bodies	5	4%
Individuals	15	13%
TOTAL	116	100%

2.3 Of particular note in terms of the profile of respondents is:

- Consultation responses were received from housing-related representative bodies across the public and third sectors (including the Association of Local Authority Chief Housing Officers, the Chartered Institute of Housing Scotland, the Scottish Federation of Housing Associations and the Glasgow and West of Scotland Forum of Housing Associations) and for the private rented sector (including the Scottish Association of Landlords, Scottish Land & Estates).
- 23 out of 32 local authorities submitted a consultation response, including transfer and non-stock transfer areas.
- 22 RSLs submitted a response (in addition to RSL representative bodies). This included a range of organisations in terms of geographic location, and focus (e.g. local, regional and national landlords). It is notable that most RSL respondents have a general needs focus.
- 18 responses were received from tenant and resident groups. This included a number of tenant networks, and one body representing private rented sector tenants specifically.

- 2.4 A list of the groups that responded to the consultation is included as an annex to this report.

General comments from respondents

- 2.5 Additional written comments provided by some respondents included general comments which did not relate directly to a specific consultation question, but which had relevance to the scope of the consultation. This included some comments welcoming the consultation, although a small number questioned the timing of the consultation as not having allowed time for civil court reforms to be implemented before considering a potential need for a housing panel. The majority of respondents agreed with the analysis set out in the consultation document, identifying a need for improvement to the current dispute resolution system. Specific reference was made to:
- The lack of relative priority given to housing-related dispute cases within the Sheriff courts;
 - A lack of consistency in the way that current legislation is being applied from Sheriff to Sheriff;
 - A lack of housing specialism and knowledge in consideration of housing dispute cases through Sheriff courts;
 - The length of time taken for some cases to be concluded, and the level of resources that may be required to see a case through. The impact on communities of lengthy delays in evicting tenants for antisocial behaviour offences was also noted;
 - The suitability of an adversarial approach to some housing dispute cases, and difficulties that some tenants have in engaging with the dispute resolution system as currently operated through courts; and
 - The potential for reduced availability of legal aid which could constrain individuals' access to justice in housing dispute cases.

3 OPTION 1: PREVENTATIVE ACTION

3.1 The first section of the consultation focused on the promotion of early preventative action and mediation in resolving housing disputes. As noted earlier, this approach is not seen as an alternative to the creation of a housing panel but as an approach that would bring benefits in its own right and form a key part of a whole-systems approach to resolving housing disputes more effectively.

Question 1: Do we need to consider legislative action to assist the early resolution of disputes, for example by imposing additional legal duties on landlords or other public bodies?

Q1a: If yes, in what areas should duties be imposed and for what purpose? E.g. should we impose wider pre-action requirements before landlords could raise eviction proceedings in any case?

3.2 Question 1 asked respondents to consider whether there is a case for introducing additional legal duties requiring landlords or other public bodies to undertake actions designed to prevent housing problems escalating and turning into serious housing disputes.

Table 2: Question 1 - Response by Respondent Type

Respondent Type	Yes	No	Don't know/ mixed	N/A	Total
Registered Social Landlords	4	15	2	1	22
Local Authorities	6	15	2	-	23
Tenant and resident groups	8	10	-	-	18
Campaign and third sector orgs	2	6	-	7	15
Legal firms or representative groups	1	5	-	1	7
Lettings agents, private landlords & groups	-	5	-	2	7
Housing representative agencies and bodies	-	4	-	-	4
Other representative agencies and bodies	2	1	-	2	5
Individuals	4	6	1	4	15
TOTAL	27	67	5	17	116

3.3 A clear majority of respondents (67 out of the 99 that answered this question) felt that the Scottish Government should not consider legislative action to assist with the early resolution of disputes. There was only one respondent type (Other representative agencies and bodies) in which a majority of respondents favoured legislative action, although tenant and resident group and individual respondents were more evenly divided on the issue. None of the four housing representative agencies saw the need to consider legislative action in this area.

- 3.4 The analysis of further comments made both at Question 1 and Question 1a suggests that generally respondents fell into one of three broad groups:
- Those that considered additional legal duties on landlords were not required and that the emphasis should be on ensuring effective implementation of the current regulations;
 - A small number that considered additional legal duties were not required for the social rented sector but that there was a case for considering additional duties for the private rented sector; and
 - Those that considered there to be a case for introducing additional duties for all landlords.
- 3.5 Many of those who did not see the need for further legislative action focused on the social rented sector in their further comments. The following points were made:
- There are already a number of measures in place which require landlords to take a pro-active approach to dealing with disputes. Pre-action requirements and the requirement to provide information via Section 11 notices were frequently cited as examples. The potential inclusion of additional measures relating to tenancies and allocations in the forthcoming Housing Bill was also raised;
 - In any case, responsible landlords will already be doing all they can to prevent a case reaching court, with legal action seen as a last resort for only the most serious cases;
 - Landlords will also be aware of the very significant costs that can be incurred by both landlord and tenant if legal proceedings are instigated. In essence, high quality tenancy sustainment practices are not only in the best interest of tenants but also equate to good business practice for landlords;
 - On a connected theme, from the landlord's perspective the length of time a court case is likely to take is also a considerable incentive to achieve resolution through other means. If anti-social behaviour is involved, landlords will also be aware of the considerable impact that lengthy court-related delays may have on the wider community; and
 - Social landlords are already subject to scrutiny, most obviously from the Scottish Social Housing Regulator (SSHR) and the Scottish Public Service Ombudsman (SPSO). The Scottish Social Housing Charter also already establishes a clear framework within which they should be operating.

- 3.6 In summary, a number of these respondents suggested that additional legislation simply would not assist in early resolution of housing disputes. However, as noted above, a small number of respondents made the case for a tenure-specific approach, with further legislation considered but only for the private rented sector. The different legislative and regulatory context in which the two rented tenures operate was seen as the issue, and specifically the potential for private landlords to serve a Notice to Quit rather than seek the resolution to any problems associated with a tenancy. However, other respondents took a very different position and suggested that the private rented sector is already highly regulated and further regulation could threaten its long term viability and potentially drive „good“ private landlords out of the sector.
- 3.7 The 27 respondents who did believe the Scottish Government should consider legislative action to assist the early resolution of disputes included tenant and resident groups, individuals and a small number of RSLs and local authorities. Reasons given included the need to create greater consistency in practice between landlords, the potential for further duties to result in easier and swifter resolution of some disputes and specifically the possible benefits of extending a pre-action requirement type system to include wider dispute cases and other tenures. Two RSL respondents noted that their attempts to seek early resolution can sometimes conflict with the objectives of other public bodies. These respondents suggested that a change to statutory grounds for repossession to include anti-social behaviour would strengthen their position. They would also welcome legal duties being applied to other public bodies.
- 3.8 Finally under Question 1, some specific concerns about how anti-social behaviour is dealt with were raised by tenant and resident group respondents in particular. Again, lack of consistency in practice between different landlords, in different areas of the country and between different tenures was seen as a problem that needs to be addressed.
- 3.9 In their further comments about areas in which should duties be imposed, many respondents raised similar points to those already set out above. Suggestions as to specific duties that could be considered included:
- Existing pre-action requirements that apply to rent arrears cases in the social rented sector could be extended to the private rented sector;
 - There should be specified pre-action requirements before a social and/or private landlord can seek repossession on the grounds of anti-social behaviour or for other breaches of tenancy conditions. However, some respondents disagreed and suggested such a move would translate into little more than a formalisation of existing practice and would potentially create delays to achieving a resolution. The development of a best practice guide was seen as a preferred route to improved and consistent practice;
 - Parties could be required to have considered mediation as a pre-action requirement. However, it would be important to ensure that if only one of the parties is willing to try mediation, the other party is not prevented from accessing the court system;

- The inclusion of mediation clauses in lease agreements could be made a statutory requirement;
- Landlords and/or local authorities should be required to make mediation services available - either through direct provision or through funding these services;
- Where appropriate, there should a duty for relevant partner agencies - such as the Police, NHS and Social Services - to work with the landlord in seeking a resolution to housing disputes;
- There should be a legal requirement for landlords to be explicit about the reasons why they are asking a tenant to leave their property – good reasons could include sale of the property, bankruptcy or death of the landlord, the landlord requiring the housing for their own permanent home or failure to pay rent; and
- Private landlords should be required to „signpost“ tenants to sources of housing and debt-related information and advice. This information could be included within Tenant Information Packs.

Question 2: Would this sort of upstream action be preferable and achieve better outcomes than a new Housing Panel or reformed courts?

3.10 Respondents' views on whether the type of upstream actions discussed above would achieve better outcomes than a new housing panel or reformed courts are set out in the table below.

Table 3: Question 2 - Response by Respondent Type					
Respondent Type	Yes	No	Don't know	N/A	Total
Registered Social Landlords	-	16	4	2	22
Local Authorities	5	16	2	-	23
Tenant and resident groups	8	6	2	2	18
Campaign and third sector orgs	5	1	-	9	15
Legal firms or representative groups	-	4	-	3	7
Lettings agents, private landlords & groups	1	1	1	4	7
Housing representative agencies and bodies	-	3	-	1	4
Other representative agencies and bodies	-	1	2	2	5
Individuals	5	3	1	6	15
TOTAL	24	51	12	29	116

3.11 A clear majority of those that answered this question (51 out of 87 respondents) did not expect upstream action to be preferable or likely to achieve better outcomes than a new housing panel or reformed courts. However, the balance of opinion did vary according to respondent type and a majority of tenant and resident group, campaign and third sector and individual respondents did believe upstream action would be more effective.

3.12 Although the standard response form did not invite further comment at this question, a number of respondents explained their position either within the form or through further comments submitted along with their response. Many of these respondents took the opportunity to clarify that they did not see this as an „either/or“ scenario, but rather that early preventative action had a vital role to play within a system that could and should still include a new housing panel or reformed courts.

“Access to justice is about the ability to access appropriate and proportionate justice from the whole spectrum of resolution. Advice, early dialogue, ADR and judicial means should all be available and accessible...”
Citizens Advice Scotland

Question 3: Are there non-legislative measures we could take to encourage the prevention and early resolution of housing disputes between parties?

Q3a: If yes, what measures would these be?

3.13 The final questions on preventative action asked respondents whether there are non-legislative measures that the Scottish Government could take, and if so what these might be. The balance of opinion at Question 3 is set out in the table below.

Table 4: Question 3 - Response by Respondent Type					
Respondent Type	Yes	No	Don't know	N/A	Total
Registered Social Landlords	11	6	2	3	22
Local Authorities	21	2	-	-	23
Tenant and resident groups	16	1	1	-	18
Campaign and third sector orgs	10	-	-	5	15
Legal firms or representative groups	2	4	-	1	7
Lettings agents, private landlords & groups	3	1	-	3	7
Housing representative agencies and bodies	3	-	-	1	4
Other representative agencies and bodies	2	1	-	2	5
Individuals	8	1	2	4	15
TOTAL	76	16	5	19	116

3.14 A clear majority of respondents that answered this question (76 out of 97) considered there are non-legislative measures that could be taken to encourage the prevention and early resolution of housing disputes. Some respondents went on to note that most social landlords already place a considerable emphasis on prevention and early intervention work. Nevertheless, suggestions for other measures that could be considered included:

- The introduction of the measures currently being considered to give social landlords greater flexibility when allocating properties and consider allowing the use of introductory/probationary tenancies;
- Development of national standards and further good practice on early stage intervention and resolution techniques, including mediation techniques. Good practice materials to include innovative approaches, best practice examples and a good practice checklist along the lines of the pre-action requirements for rent arrears cases;
- Requiring landlords to develop policies and procedures for dealing with housing disputes. Tenants and residents groups and other service users should be involved in both the development and the review of these policies and procedures;
- Funding (including continuing funding) of support organisations which contribute to tenancy sustainment, particularly offering support where mental health issues are preventing people from engaging with a problem;
- Making independent advocacy available, particularly for vulnerable tenants;
- Development of specialist advice and support services that cover the private rented sector;
- Encouraging initiatives that promote good practice in the private rented sector. For example, local authorities should be strongly encouraged to promote and support good practice among private landlords. In addition, they could offer a dedicated helpline which advised tenants about how to deal with disputes and also allowed tenants to report poor practice and problems with landlords or agents.
- Introducing a Landlord Registry, to include credit and reference checks on Landlords and Agents. This should be made available to tenants;
- Developing publicity materials and assisted marketing of accredited private landlords. Recognition of good practice around dispute prevention and resolution could form part of accreditation schemes;
- Making accessible, properly funded, cross-tenure, independent mediation services available to landlords, tenants and their families;
- Development of national standards for mediation and support for training staff of landlords to become high quality mediators;
- Introduction of initiatives to engage tenants (of both local authorities and RSLs) as members of their community, possibly linking into existing community planning or safety groups;
- Placing requirements on landlords to proactively "introduce" new tenants to their neighbours using an approach appropriate to the local context;
- Developing awareness raising initiatives which focus on tenants" (as well as landlords") rights and responsibilities and promote the concept and use of mediation services; and
- Including housing education and financial management within the school curriculum.

Question 4: Do you think mediation should be made more widely available for housing disputes?

Q4a: If no, please explain your views

3.15 A number of respondents commented on the potential for greater use of mediation in resolving housing disputes in their comments on early intervention. The consultation document also asked a number of specific questions about the use of mediation, starting by asking whether it should be made more widely available, with the balance of opinion amongst respondents set out in the table below.

Table 5: Question 4 - Response by Respondent Type					
Respondent Type	Yes	No	Don't know	N/A	Total
Registered Social Landlords	13	6	2	1	22
Local Authorities	21	1	-	1	23
Tenant and resident groups	18	-	-	-	18
Campaign and third sector orgs	8	1	-	6	15
Legal firms or representative groups	1	3	1	2	7
Lettings agents, private landlords & groups	5	1	-	1	7
Housing representative agencies and bodies	3	1	-	-	4
Other representative agencies and bodies	3	-	-	2	5
Individuals	10	-	1	4	15
TOTAL	82	13	4	17	116

3.16 There was a considerable level of support for making mediation more widely available with 82 out of the 99 respondents that answered this question in agreement. However, a small number of respondents also noted that mediation is a potentially broad concept.

3.17 Those that did not see a greater role for mediation (as well as a small number of respondents who did not give an answer at Question 4) gave the following reasons for disagreeing:

- Adequate mediation services and resources are already available. These include appropriately trained and resourced housing advisors, such as solicitors, who provide informal mediation. It is not clear what additional resources would add;
- Staff of social landlords already undertake informal mediation on a day-to-day basis and it is only on rare occasions that formal mediation with the assistance of external mediators is required;
- Providing more services would come at a cost and if the landlord and/or tenant has to pay for the mediation then this could be prejudicial;

- Mediation is not a solution that will suit in all cases - for example, the vast majority of breaches of tenancy relate to non-payment of rent lawfully due and in these circumstances mediation is not appropriate as the facts of the case are self-evident; and
- Not all parties may wish to use mediation services and it could not be made compulsory. It can be difficult to get tenants to engage with mediation, even if they have initially agreed to take part in the process.

Q4b: If yes, what sort of housing issues would mediation be most effective at resolving?

3.18 Respondents suggested a range of areas of dispute for which mediation might prove helpful, with one respondent noting that:

“Housing disputes are particularly well suited to mediation as there is usually a continuing relationship between the landlord and the tenant.....mediation would be most effective at resolving cases where communication breakdown is a contributory factor in the dispute.”

Scottish Mediation Network

3.19 Similarly, a small number of respondents suggested that it is the attitude of the parties concerned and their willingness to take part in a mediation that is the critical factor, rather than the nature of the issue being disputed.

3.20 The range of problems identified as being appropriate for mediation included those that fell exclusively within either the social rented or private sector, as well as a number of problems that could be cross-tenure. The importance of a „tenure-neutral“ approach was also raised explicitly by a small number of respondents.

3.21 The following specific areas of dispute were put forward for consideration:

- Rent arrears, although a number of other respondents felt this was not an issue for which mediation would be appropriate;
- Between landlords and tenants over standards of service, including quality of or requirement for repairs to the property;
- Over a tenant’s failure to meet obligations, such as cleaning of communal areas, keeping pets under control or the behaviour of children;
- Over the use of common areas, access issues or parking;
- Low level neighbour disputes, including lifestyle clashes, noise-related complaints, and outside maintenance issues (e.g. hedge or grass cutting);
- Boundary and water and drainage disputes, either between owners and owners or owners and tenants;
- Mutual maintenance agreements - it is important that assistance is given at an early stage to ensure owners and landlords set up proper arrangements for dealing with shared maintenance obligations;

- Around the imposition of non-rent charges such as a service charge or repair recharge;
- Between a social landlord and housing applicant over the assessment of their housing need or the need for an adaptation;
- Between a private landlord and tenant over the return of a deposit, including any dilapidations charges; and
- Family mediation could be employed before a young person is considered for social housing/their first tenancy.

3.22 Finally, although generally supportive of the greater use of mediation, some respondents raised notes of caution including that:

- A level of housing expertise will be required;
- There would need to be a comprehensive set of referral criteria to ensure referrals to mediation were appropriate. Appropriateness for mediation is complex and depends on a variety of factors;
- There will always be a range of cases for which mediation would not be suitable and, given this, the use of mediation might not significantly reduce the number of cases that reach the formal dispute stage;
- In particular, mediation would not be appropriate where any criminal activities may be involved or where the case has reached formal pre-court or court stages;
- The „power imbalance“ between landlord and tenant in the social rented sector needs to be considered and may make mediation less feasible;
- Other methods of alternative dispute resolution - such as arbitration - may be more appropriate or desirable to parties in some cases, particularly if a binding solution is required;
- Often the real issue is that the tenant is not engaging, either because they are unable to pay in rent cases, or they have an addiction or mental health issue which is making it difficult for them to engage; and
- Rather than simply increasing mediation services, greater benefit could be derived from taking a strategic overview, mapping of existing services and identifying gaps in provision. This exercise would also need to evaluate the quality of existing outcomes, accessibility of services and cost and charging issues.

Q4c: If yes, would it be better to do this by expanding existing provision or by creating a new housing mediation service?

3.23 Respondents' views on the most effective mechanism for making mediation more widely available are set out in the table below.

Table 6: Question 4c - Response by Respondent Type					
Respondent Type	Expanding Existing	New Service	Mixed	N/A	Total
Registered Social Landlords	4	9	1	8	22
Local Authorities	21	2	-	-	23
Tenant and resident groups	5	12	-	1	18
Campaign and third sector orgs	6	1	-	8	15
Legal firms or representative groups	1	1	-	5	7
Lettings agents, private landlords & groups	3	1	-	3	7
Housing representative agencies and bodies	2	1	-	1	4
Other representative agencies and bodies	-	1	-	4	5
Individuals	4	6	-	5	15
TOTAL	46	34	1	35	116

3.24 Views were mixed as to whether it would be better to expand existing provision or create a new housing mediation service. More respondents favoured expanding existing provision, although the balance of opinion did vary significantly depending on the respondent type. In particular, while a clear majority of local authority respondents favoured the expansion of existing services, a majority of RSL, tenant and resident group and individual respondents supported the development of a new service.

3.25 Although further comments were not invited at Question 4c, a small number of respondents did explain their position. Points raised included that the two proposed options are not mutually exclusive and that any decision taken must be informed by an exercise which maps existing services and identifies gaps (as proposed by some respondents at Question 4b). There were also concerns that a new national housing mediation service could: be cumbersome; not be responsive to local priorities; not have the area-specific knowledge that will be found within existing local services; and not be supported by the close partnership working that goes on in some areas.

Q4d: If yes, how can parties be encouraged to use mediation to resolve housing problems?

3.26 When considering how parties could be encouraged to use mediation to resolve housing problems, respondents' comments tended to focus either on the key characteristics that any services should have or on how to spread the message about mediation. In terms of the system itself, suggestions included that it should:

- Be impartial and confidential;
- Use experienced professionals, such as lawyers, housing professionals and experts in the area being disputed;
- Be purely voluntary, with no compulsion on unwilling parties to participate;
- Or, in contrast, work on similar principles to pre-action requirements with parties required to demonstrate they have attempted mediation before taking court action; and
- Be widely available across the country, free, easy to access and allow people to self-refer.

3.27 The other common theme was the need to raise awareness about mediation more generally, as well as the specific services available. This would apply not only to the general public but also to those working in housing, with further suggestions including that:

- The „mediation option“ should be imbedded in the relevant policies, procedures and practices of social landlords;
- Housing staff should be trained on the application and benefits of mediation; and
- Landlords should be encouraged to actively promote mediation services, by including information in Tenancy Handbooks or Tenant Information Packs, for example.

3.28 In addition, a number of respondents suggested a national awareness-raising publicity campaign would be required and could:

- Be targeted at the different groups that might consider using a housing focused mediation service – such as private and social landlords and critically tenants – and not assume a „one size fits all“ approach to publicity will be effective;
- Use real examples that highlight the potential benefits of using mediation. Examples could be housing-specific or could draw on the successful use of mediation within other sectors, such as Education;
- Create reasonable expectations of the mediation process and its potential outcomes; and
- Highlight the cost-effectiveness of mediation relative to other possible routes, such as courts with the need to engage legal representation.

Q4e: If yes, how might mediation be funded?

3.29 Moving on to look at how mediation might be funded, a small number of respondents noted that it was important to set up funding structures which allowed any service to be free at the point of use. It was also suggested that:

“An effective charging policy may help to share costs but this would have to be balanced against creating a barrier to the service for people on a low income.”
 Glasgow Housing Association

3.30 Respondents tended to take one of two broad positions on funding. Most respondents took the view that any service or services should be wholly or partially funded by the Scottish Government. The reasons respondents gave included that:

- The current Private Rented Housing Panel (prhp) mediation service receives funding from the Scottish Government;
- Services must be seen as „unbiased“, which might not be the case if landlords were contributing to costs;
- Work could be undertaken to look at the cost to the tax payer of disputes being handled by the court system and equivalent funding could be diverted to fund mediation services; and
- It would not be reasonable to fund such a service from tenants“ rents.

3.31 Other respondents felt that funding should come from a broader range of organisations, most obviously those that could make savings if more effective dispute resolution was available. Organisations would be likely to include the court service, local authorities, RSLs and private landlords. From the landlord“s perspective, it was noted that clear evidence would be needed to demonstrate the benefits of mediation as a "spend to save initiative".

3.32 Further suggestions included:

- There could be costs for the parties involved which varied according to who brought the case to mediation and the outcome of the process;
- Agencies should be encouraged to joint-fund services at a local level;
- There could be an annual levy on social and private landlords based on stock holding, with match funding provided by the Scottish Government;
- Contributions from private landlords could be gathered through the Landlord Registration system or through tenancy deposit schemes;
- National lottery funding could be sought; and
- If any local authority funding was required it should come from the General Fund not the Housing Revenue Fund.

3.33 Finally, there were again calls for an evaluation and cost-benefit analysis of existing services to ensure that funding is being targeted effectively. It was also pointed out that initial costs need not be prohibitive, as there would not be a need for vast numbers of mediators and in the short-term existing private mediators could be used.

Q4f: If yes, do you feel there are enough mediators across Scotland to deal with housing cases?

- 3.34 A number of respondents felt unable to comment about whether there are enough mediators and it was suggested that organisations and groups that specialise in mediation - such as SACRO and the Scottish Mediation Network (SMN) – are best placed to comment on capacity within the existing pool of trained mediators. In their responses, both of these organisations suggested that there are a sufficient number of mediators to deal with housing cases, although SMN noted that the number of housing-related cases seeking mediation will, of course, be a factor that will need to be taken into consideration. The Scottish Community Mediation Centre cited the lack of services in a number of local authorities as evidence of a lack of supply.
- 3.35 A number of other respondents noted that their comments were essentially based on anecdotal evidence or that they could only comment on levels of provision in their local area. The group of respondents that commented on local supply included those that found it to be sufficient. However, some respondents did consider that there are not, or are unlikely to be, sufficiently trained and experienced mediators, particularly to resource a national service. There were connected concerns that:

“Increasing pressure on mediation services which are not capable of dealing with increased demand will have a detrimental effect on mediation as a solution to housing disputes. The introduction of waiting lists for example, is likely to turn people off from considering mediation.”

East Lothian Council

- 3.36 A suggested solution was for any new mediation service to provide accredited training to housing professionals as part of its role. However, there were also concerns that any such „up-scaling“ would take time and that the lead-in time for any legislative changes would need to take this into account. The extent to which many existing services rely heavily on the use of volunteers was also raised and there was a suggestion that more salaried posts would be required.
- 3.37 There were also concerns that, whilst the number of trained mediators has increased over recent years, it is not always clear that these mediators have sufficient knowledge or understanding of the technical issues and laws associated with housing cases to be confident in taking on cases in this area.

Question 5: What can we do to improve public awareness of mediation as a way of solving housing disputes?

- 3.38 The final question within this section asked respondents for suggestions around improving public awareness of mediation as a way of solving housing disputes.
- 3.39 Many of the suggestions echoed those already given at Question 4d, with respondents tending to focus on the need for a national and/or local publicity campaigns. Specific suggestions about any campaign were that it should:

- Use a range of traditional media, such as TV, radio, and the press, but also make use of digital and social media. Include information on relevant national websites, such as Gov.uk and local websites, such as those of the local authority;
- Highlight how mediation has worked in other sectors. A specific example given was of The Education (Additional Support for Learning) (Scotland) Act 2004 which places a duty on local authorities to have access to a mediation service and which aims to encourage these authorities to mediate disputes with the families of children with additional support needs before using more formal approaches like the Additional Support Needs Tribunals for Scotland;
- Include real case examples of how mediation has helped in resolving housing disputes; and
- Focus on the potential cost savings associated with avoiding court action.

3.40 It was also suggested that mediation should be promoted not only to the public but also to relevant public agencies across Scotland and that appropriate guidance should be issued to encourage consistency in practice across all local authority areas.

3.41 Very much in line with the comment that it will be important for information to be available to people at the point they need it, many other suggestions focused on how local areas and services themselves could make a contribution, with examples including:

- Carrying out local mapping exercises to establish which services offer mediation and which services could distribute information about and refer clients to mediation. This could include not only public and third sector organisations but also local legal firms;
- Establishing clear referral frameworks for each local authority which ensure that people who could benefit from mediation are referred on or signposted to appropriate services;
- Undertaking awareness raising training about mediation for agencies such as Citizens Advice Bureaux and welfare rights agencies;
- Introducing a Tenancy Retention Officer for the Private Rented Sector (funding permitting);
- Social and private landlords actively promoting mediation services to tenants, including within their Tenants Handbooks and Tenant Information Packs, on their websites and through tenant newsletters; and
- If data protection compliant; allowing mediation services to pro-actively contact tenants to explain the benefits of mediation and invite them to use the service.

3.42 Finally, it was suggested that in time more services will translate into greater public awareness and that the most powerful promotional tool of all would be word of mouth.

Summary of Key Issues on Preventative Action

A clear majority of respondents did not want the Scottish Government to consider legislative action to assist with the early resolution of disputes, with many suggesting the emphasis should be on ensuring effective implementation of the current regulations and that there are already a number of measures in place - such as pre-action requirements - which require landlords to take a pro-active approach to dealing with disputes.

Those that did believe the Scottish Government should consider legislative action were often looking to create greater consistency in practice between landlords, along with easier and swifter resolution of some disputes.

Most respondents did not expect upstream action to achieve better outcomes than a new housing panel or reformed courts. However, a clear majority also considered there to be further non-legislative measures that could be taken to encourage the prevention and early resolution of housing disputes. A popular suggestion was the development of national standards and further good practice on early stage intervention and resolution techniques.

There was a considerable level of support for making mediation more widely available. The areas of dispute in which respondents thought mediation might have a role to play included: standards of service; a tenant's failure to meet their obligations; and low level neighbour disputes. Some respondents thought rent arrears cases could be mediated, although others felt this was not an issue for which mediation would be appropriate.

Views were mixed as to whether it would be better to expand existing provision or create a new housing mediation service. More respondents favoured expanding existing provision, although the balance of opinion did vary significantly depending on the respondent type. In particular, while a clear majority of local authority respondents favoured the expansion of existing services, a majority of RSL, tenant and resident group and individual respondents supported the development of a new service.

Respondents tended to take one of two broad positions on funding. Most respondents took the view that any service or services should be wholly or partially funded by the Scottish Government. Others suggested that funding should come from a broader range of organisations, most obviously those that could make savings if more effective dispute resolution was available.

Suggestions around improving public awareness of mediation as a way of solving housing disputes tended to focus on the need for a national and/or local publicity campaign. It was also suggested that mediation should be promoted not only to the public but also to relevant public agencies across Scotland and that appropriate guidance should be issued to encourage consistency in practice across all local authority areas.

4 OPTION 2: PRE-COURT HOUSING PANEL

- 4.1 The second option set out in the consultation document proposed the creation of a pre-court Housing Panel to which housing disputes could be referred before a case reached court. Such a panel could make enforceable decisions but where these are not complied with, cases could be escalated to court. It would also still be for courts to end tenancies and evict tenants.
- 4.2 As the consultation document makes clear, a pre-court Housing Panel is not intended as mutually exclusive from option 1 (promoting use of early preventative action and mediation) or option 3 (creating a Housing Panel to replace courts as the main forum for resolving some housing disputes). In consideration of option 1 in the previous section of this report, those in support of preventative action and mediation saw these as desirable options irrespective of any form of housing panel that may be implemented.

Question 6: Do you think there should be a Housing Panel as a pre-court dispute resolution forum for some housing disputes?

- 4.3 Question 6 asked respondents to consider whether there is a case for creation of a pre-court Housing Panel to consider some housing disputes and with powers to make enforceable interim decisions, but where cases would escalate to court if parties do not comply with these interim decisions. Courts would also retain sole powers to end tenancies and evict tenants.

Table 7: Question 6 - Response by Respondent Type

Respondent Type	Yes	No	Don't know/ mixed	N/A	Total
Registered Social Landlords	4	18	-	-	22
Local Authorities	1	22	-	-	23
Tenant and resident groups	12	5	-	1	18
Campaign and third sector orgs	5	5	-	5	15
Legal firms or representative groups	-	6	-	1	7
Lettings agents, private landlords & groups	3	3	-	1	7
Housing representative agencies and bodies	-	4	-	-	4
Other representative agencies and bodies	-	2	1	2	5
Individuals	7	3	-	5	15
TOTAL	32	68	1	15	116

- 4.4 A clear majority (68 of the 101 that answered this question) felt that a pre-court panel should not be established. Most respondent types felt that there is no case for a pre-court Housing Panel; indeed, all four of the housing representative agencies were opposed, as were a large majority of local authorities, RSLs, and legal firms/representative groups. In contrast, tenant/resident groups and individual respondents were broadly in favour of the creation of a pre-court Housing Panel.

4.5 A minority of consultation respondents – primarily those opposed to a pre-court Housing Panel - added their own comments in support of their response to Question 6 (the consultation response form did not provide space for written comments in response to this question). These comments made clear that respondents agreed with the intended outcomes of the pre-court panel, particularly in terms of the need to address delays and inconsistencies in the current court-based housing dispute process. However, respondents highlighted a number of factors in support of their view that a pre-court Housing Panel would not be an effective means of achieving the intended outcomes:

- A pre-court Housing Panel would add further stages to the existing dispute resolution process, with the associated potential for further delay and cost in dealing with cases:

“It would produce no obvious benefits and is likely to create confusion and further delay, with an additional process which would ultimately cost landlords and tenants more.”

Chartered Institute of Housing Scotland

- The potential for a pre-court Housing Panel to add further delay to the dispute resolution process is likely to be a particular issue in the context of the requirement for parties to evidence that they have attempted to resolve the dispute before it can be considered by the panel:

“Having tried and failed once, those on the receiving end of [antisocial behaviour] would be less than impressed with having to repeat the process in a marginally more formal way before the matter was heard in court.”

Homeless Action Scotland

- There is a question over the feasibility of resourcing a pre-court Housing Panel in terms of staff time and financial cost. This was highlighted particularly in relation to the very significant caseload likely to be borne by the panel:
- If a pre-court Housing Panel does not have the power to evict landlords, parties may not recognise it as a significant part of the dispute resolution process and may therefore fail to engage effectively. Respondents were also sceptical as to the likely efficacy of a pre-court Housing Panel in engaging a tenant who chooses not to engage with a landlord:

“The main disadvantage of a pre-court arrangement is that it may add to a lengthening of an already drawn out process, and may continue to be beset with the same problems of non-appearance and other delaying tactics.”

Glasgow City Council

- Current policies and procedures require an “escalation of intervention approach” (Antisocial Behaviour Lawyers Forum), and, for example, pre-court arrangements for many rent arrears cases appear to play a similar role to the proposed pre-court Housing Panel. Current court processes are sufficiently flexible to offer the benefits that the consultation document envisages for the pre-court Housing Panel – for example through issuing guidance and using courts’ preliminary hearings for rent arrears and antisocial behaviour cases.

- Concern about legal involvement and representation appears to be one of the motivations for proposing a pre-court Housing Panel. A panel dealing with housing where eviction may result either eventually or immediately will not reduce the need for representation in dispute cases. Vulnerable clients in particular are to require advice, assistance and representation by the relevant expert. More broadly, if landlords are likely to be represented by lawyers, for tenants not to be represented will introduce serious prejudice that has the potential to undermine the credibility of the panel process. Social landlords raised concerns where housing staff may be required to set out their case in close proximity to tenant(s), and the extent to which this may have a detrimental impact on landlord-tenant relationships.

Q6a: Which cases should the panel handle?

4.6 In considering which dispute cases a pre-court Housing Panel should consider, a number of comments suggested that the more inquisitorial approach could be suited to the consideration of most or all housing dispute cases. However, most comments at question 6a focused on specific categories of dispute case. Reference was made here to specific types of dispute – e.g. housing debts, antisocial behaviour, etc – but also to factors which may cut across types of dispute such as where mediation has failed, more „minor“ cases, where tenants’ needs may be better met via a less formal and inquisitorial approach. Particular types of cases suggested by respondents included:

- Dispute cases involving rent arrears or other housing debts, such as service charges. A pre-court Housing Panel may be a preferred option for less serious debt cases such as where tenants have incurred arrears for the first time, and there is a risk that any delay at the pre-court Housing Panel stage could lead to further arrears accruing by the time a case reaches court. Arrears cases are typically focused on determining facts, rather than considering differences of opinion, and as such the panel approach may need to be tailored accordingly.
- Antisocial behaviour cases, family and neighbour disputes would appear to suit a more inquisitorial approach. However, there is a risk that where cases have already been through well-developed dispute resolution and mediation services, a pre-court Housing Panel may add further delay and cost with relatively little chance of resolution being reached without recourse to the court. As is noted at question 6b, it was also suggested that a panel may not be suitable in cases involving issue of an Antisocial Behaviour Order (ASBO), where the breach of such an Order would be a criminal offence.
- Dispute cases associated with disrepair and property condition can be particularly frustrating and a cause of significant anxiety for tenants – a less adversarial, and potentially less formal environment would better suit these cases.

- Failure of landlords to meet statutory obligations, including the repairing standard, provision of Tenant Information Pack, providing lease, rent record, use of an authorised tenancy deposit scheme. A panel approach could offer significant benefits in these cases, as the current requirement to use (and associated costs of) legal representation in summary applications can dissuade tenants from pursuing this route.
- A pre-court Housing Panel would be most appropriate for more „minor“ cases, such as first-time cases of anti-social behaviour or rent arrears.
- Cases where prior mediation has failed would seem suitable for escalation to a pre-court Housing Panel. This could include cases which are not appropriate for mediation and/or do not meet referral criteria, where one or more parties are not willing to participate, or simply where mediation does not end in resolution.
- A panel environment may offer significant benefits where one or more parties may have difficulties engaging with other dispute resolution processes, for example those with numeracy or literacy difficulties.
- Cases which can be very costly and difficult for parties to take to court, for example failing to use the tenancy as the principal home, or allowing a property to deteriorate.

Q6b: Are there cases which would not be appropriate?

- 4.7 In addition to cases highlighted above which were considered appropriate for a pre-court Housing Panel, question 6b asked respondents to identify cases where a pre-court Housing Panel would not be a suitable forum. Again, a range of cases were suggested, including specific types of dispute (e.g. antisocial behaviour, rent arrears) and also reference to a case proceeding through prior mediation stages.
- 4.8 In terms of specific types of case it is also notable that respondent views were divided on the extent to which a pre-court Housing Panel would be an appropriate forum for antisocial behaviour and rent arrears cases. These were amongst the most commonly identified as not appropriate for a pre-court Housing Panel (Q6b), but were also amongst the most commonly identified as suitable (Q6a). To some extent this appears to reflect differing views on the likely success of a pre-court Housing Panel in resolving such cases.
- 4.9 In relation to cases which would not be appropriate for a pre-court Housing Panel, the following points were made:
- Antisocial behaviour cases, and particularly more serious cases, could take longer to resolve if a pre-court Housing Panel stage is introduced. This reflected some scepticism about the likely success of a pre-court Housing Panel in resolving more serious antisocial behaviour cases. The status of a pre-court Housing Panel could also raise issues in consideration of cases likely to involve issuing of an ASBO, as the breach of an interim Order issued by a pre-court Housing Panel would result in criminal prosecution. The greater level of scrutiny offered by the courts is required in making such Orders.

- Cases involving rent arrears and/or damage or deterioration to property would not be appropriate for a pre-court Housing Panel. From the landlords' perspective a pre-court Housing Panel may be seen as giving tenants an opportunity to further delay meeting their obligations, with any such delay likely to result in further cost to the landlord. For tenants, there is a risk that arrears could further accrue during the pre-court Housing Panel process, and individuals may find themselves incurring further debt if the panel simply delays the case proceeding to court.
- A pre-court Housing Panel would not be suitable for cases which may result in eviction of a tenant/repossession by a landlord. This view was related to one of two respondent perspectives. For tenants, the significance of the potential outcome of these cases in terms of losing their home requires a level of scrutiny and rigour that can only be offered by a court. For landlords, the entitlement to repossession should not be delayed by further stages in the resolution process prior to court.
- Cases where the dispute relates to Part 1 of Schedule 5 of the Housing (Scotland) Act 1988.
- Cases involving potentially criminal activity – such as violence, hate crimes, supply of drugs, arson. This included some overlap in respondent views in relation to the suitability of a pre-court Housing Panel for more serious antisocial behaviour cases.
- Cases which require a judgement to be made on a factual or point of law, where the inquisitorial approach of a pre-court Housing Panel is unlikely to bring significant benefit to the current court approach.
- Cases where parties have already met the pre-action requirement are less likely to be resolved at a pre-court Housing Panel, given the potential for one or both parties to see the panel as a further delay prior to court.

Q6c: Who should be able to refer cases to the panel?

- 4.10 Turning to the question of who should be able to refer dispute cases to the pre-court Housing Panel, views were divided on the extent to which this should be restricted. A minority of respondents suggested that any party connected to or affected by a dispute should be able to refer to the panel. This would include third parties. In relation to third parties who may be able to refer a case to the panel, specific reference was made to neighbours, mediation officers, health professionals, social work services, local authorities (as statutory body or landlord), property factors or agents and the Scottish Housing Regulator.
- 4.11 The suggestion of referral being open to all affected parties contrasts with a view that only those directly involved in the dispute should be able to refer the case. This could include mediation services and appointed representatives or advocates, but these respondents suggested it would be undesirable to allow third parties who are not involved in the dispute to refer the case. Indeed it was suggested that allowing third parties to refer a case could compromise the rights of the parties involved, who have the right to refer their case to the pre-court Housing Panel, but also the right not to do so.

- 4.12 In terms of specific parties that should be able to refer cases to the panel, the following points were made:
- Both parties to a dispute should be in agreement that the case should be referred to the panel, otherwise the case should proceed to court.
 - Local authorities may require the ability to refer a case to the panel to meet their statutory duties – for example undertaking common works to properties, protecting individuals at risk.
 - There may be benefits in use of a single gateway for referrals. This could help to streamline the dispute resolution process by ensuring that cases reach the appropriate forum – including referral to court if this is the more appropriate option. Experience of the prhp suggests that there may be significant benefit in a mechanism to assess the competency or appropriateness of cases being referred to the pre-court Housing Panel – this could apply irrespective of who has the power to refer cases.

Q6d: Who should be panel members and would they require particular qualifications?

- 4.13 Question 6d asked respondents to consider the most appropriate composition of a pre-court Housing Panel, including specific skills and qualifications that may be required.
- 4.14 Most respondents suggested that a pre-court Housing Panel would be most effective where members have a range of backgrounds, skills and qualifications. A large majority indicated that this should include lay person representation, for example alongside members with housing and legal qualifications. This included some reference to the composition of the prhp and other tribunals, comprising a legally qualified chair, suitably qualified members, and lay representation.
- 4.15 Respondents also made reference to other panels and tribunals in terms of the required number of pre-court Housing Panel committee members – in this regard, most suggested 3-5 members.
- 4.16 The following specific groups and issues were highlighted in relation to the composition of a pre-court Housing Panel:
- Legal professionals. There may be benefit in an independent legal professional to take the role of panel chair, as is the case for other similar tribunals. This could include, for example, a focus on ensuring European Convention on Human Rights compliance, and that decisions are properly recorded and sufficiently specific to be enforceable.
 - Trained and qualified housing professionals with adequate relevant experience in dispute handling were seen as crucial to the effectiveness of a pre-court Housing Panel, and a key element in ensuring that the consistency of decision making is improved. This included specific reference to housing practitioners and/or tenancy sustainment professionals. More broadly, reference was also made to residential property expertise including solicitors and rent assessment officers.

- Layperson members with suitable housing knowledge were recommended by the majority of respondents to this question. However, it was also suggested that enabling non-qualified panel members to make decisions on matters of law would be a mistake, and could have significant consequences in terms of potential miscarriages of justice and undermining the court system.
- An experienced tenant representative/activity and/or advocate, including specific reference to local tenant/resident associations, and to the Tenant Participation Advisory Service Scotland.
- The composition of a pre-court Housing Panel should be sufficiently flexible to take account of the requirements of specific cases. This primarily involved reference to a facility to draw on additional expertise that may be required for specific cases – including debt advisors (e.g. in arrears cases) and chartered surveyors (where cases relate to repairs or other technical issues). There may also be a need to vary the „core“ panel membership between social and private sector cases, effectively leading to separate but linked panels, with a single gateway for routing cases.
- There is likely to be a need for different panels to sit in different locations, presenting risks to the pre-court Housing Panel’s success in addressing current inconsistencies across Sheriff courts in dealing with housing dispute cases. There will be a requirement for continuous training and assessment to ensure consistency of outcomes throughout Scotland.
- Recruitment to the panel should be widely advertised to ensure the broadest and highest quality field for selection, and consideration should also be given to appropriate remuneration for panel members to ensure the required calibre of members can be secured and retained.

Q6e: How long should panel orders remain in place for?

- 4.17 Question 6e sought views on the length of time that orders issued by a pre-court Housing Panel should remain in place.
- 4.18 A range of specific timescales were suggested (as listed below), in many cases with reference to ensuring consistency with other tribunals, courts and relevant legislation. In addition to these specific time periods, respondents also made the more general point that there may be benefit in the panel having the option to determine the length of time an order should remain in place with reference to the specifics of the case (and possibly within some prescribed upper and lower limits). This would be important, for example, in arrears cases where the period of time over which arrears are to be cleared would be a key element of the panel’s order, and would clearly be relevant to the period of time the order should remain in place.
- 4.19 In terms of specific time periods for panel orders to remain in place, the following points were made:
- Two months, to be consistent with orders given to private sector landlords.

- Six months, to be consistent with the 2010 Act.¹
- 12 months following resolution of the issue – for example 12 months following arrears being cleared, or antisocial behaviour ceasing.
- 2-3 years.

Q6f: If panel orders (e.g. to pay rent arrears) were not complied with, how and when should the case be escalated to court for a final decision (e.g. on whether to evict the tenant)?

4.20 Respondents were somewhat divided on how and when cases should be escalated to court for a final decision where panel orders are not complied with. Views ranged from the panel being permitted some discretion in how cases are escalated to court, to those suggesting that fast-track escalation to court should occur immediately and automatically upon first breach of the panel order. The following points were made:

- The approach taken to escalation of cases to court may require to be tailored to specific cases. For example, procedures for rent arrears cases are subject to legislation and landlord policy, whereas the panel may be permitted to exercise more discretion in relation to other cases dependent on the nature of the dispute and Interim Order. In this regard, an approach where the case is referred back to the panel as soon as there is evidence of non-compliance would allow the panel (rather than any specific party) to remain in control of determination of whether an order has been breached and the appropriate next steps for escalation. This approach would also be consistent with the shift in emphasis to an inquisitorial tribunal approach to housing disputes, where court is used as a last resort.
- Cases should be fast-tracked to court immediately upon first breach of the Panel order, with no further consideration given by the panel.
- Escalation of cases should be automatically implemented at the end of the time period set by the panel for compliance with the order, where there has been no attempt to comply.
- Further clarification is required in relation to the notion of an „expedited path“ to court, particularly in the context of the requirement for parties to have sufficient time to prepare their case properly.

“It is difficult to see what sort of expedited procedure would be necessary when service of the required statutory forms (AT6/Notice to Quit) has taken place. Parties would also still need to be given sufficient time to consider any court papers served on them before the first calling in court.”

Turcan Connell

¹ It is assumed that this is a reference to the Housing (Scotland) Act 2010.

Q6g: In addition to the management activities of landlords and regulatory bodies, what added value would a Housing Panel provide?

4.21 Consultation respondents identified a range of anticipated benefits associated with a pre-court Housing Panel. A substantial number of comments here reiterated the intended outcomes of the proposals in terms of providing a speedier route to more effective resolution of housing disputes, one that involves more specialist housing knowledge and which is less intimidating for tenants. This included reference to the panel environment to be more accessible for tenants who may be less likely to engage with services, and thus the potential to preserve more tenancies. The following specific points were made:

- Potential reduction in the financial and resource costs associated with housing disputes, both in terms of providing a speedier resolution to disputes (e.g. reducing accrual of arrears) and reducing legal fees.
- Reducing pressure on courts, hopefully permitting more efficient and effective handling of those cases that do go to court.
- Providing a potential basis for expanding the role of a pre-court Housing Panel to include other disputes such as statutory notices of local authorities, Tenement (Scotland) Act 2004 appeals and other property related issues.
- A potentially strategic role in encouraging prevention and early resolution of housing disputes, and particularly within the private rented sector in terms of encouraging private landlords to try a range of preventative approaches prior to legal action.
- The potential for the panel to help “set the tone” (Royal Institute of Chartered Surveyors) in improving decision making in the private letting industry more widely.
- Improving intelligence on the context and reasons for housing disputes.

Q6h. If no, what alternative form of formal dispute resolution might better apply to the cases described here?

Q6i: If no, do you think improvements to the dispute resolution system would be better delivered through proposals for civil court reform as outlined in paragraphs 4.5 to 4.9 of the consultation document?

4.22 Question 6h asked those opposed to the creation of a pre-court Housing Panel, to identify any alternative forms of formal dispute resolution that might better apply to housing dispute cases. A number of comments provided at this question reinforced a preference for option 3 (a Housing Panel to replace the courts as a decision maker) as a more streamlined and effective option, alongside use of preventative work and mediation. Others suggested that proposed court reforms (addressed at question 6i), together with recently introduced pre-court requirements should provide a more effective alternative to a pre-court Housing Panel. It was suggested that allowing these proposals to „bed-in“ and for their effectiveness to be assessed, is required prior to any decision to introduce a Housing Panel.

4.23 In terms of alternative forms of dispute resolution, the following points were made:

- Arbitration should be considered as an option for resolution of disputes outside the courts, where parties to the dispute refer it to one or more arbitrators or an arbitral tribunal, by whose decision they agree to be bound. Specific reference was made to the Scottish Arbitration Rules in Schedule 1 to the Arbitration (Scotland) Act 2010, as a potential basis for an arbitration system for housing disputes. This option offers a number of specific benefits including:
 - Flexibility for parties to the dispute to select an arbitrator with appropriate expertise.
 - A speedier, less costly and, if required, less formal option than court.
 - More limited avenues for appeal reduces the duration of the dispute and any associated liability.
- The pre action requirements (PARs) process is currently an effective approach within the social rented sector, and ensures that tenants are given access to advice, information and support before court proceedings are raised. Extending PARs across other tenures would be a preferable option than introducing a pre-court Housing Panel.
- A legal basis for judicial mediation is already in place, with Summary Cause Rules enabling the Sheriff to determine the legal basis on which a case is to proceed, and to seek to negotiate settlement between the parties. Adapting the current court-based approach to housing disputes in this way could be as effective as introducing a new stage in resolution. Such flexibility, together with early action and mediation, and the pre-courts requirements, is sufficient to ensure an appropriate response to different types of housing dispute.

4.24 Question 6i asked those opposed to a pre-court Housing Panel, whether proposed civil court reforms would better deliver required improvements to the dispute resolution system. Responses are summarised in the table below.

Respondent Type	Yes	No	Don't know	N/A	Total
Registered Social Landlords	9	7	1	5	22
Local Authorities	11	7	5	-	23
Tenant and resident groups	4	2	1	11	18
Campaign and third sector orgs	5	1	-	9	15
Legal firms or representative groups	3	2	-	2	7
Lettings agents, private landlords & groups	2	2	-	3	7
Housing representative agencies and bodies	1	3	-	-	4
Other representative agencies and bodies	2	1	-	2	5
Individuals	3	4	-	8	15
TOTAL	40	29	7	40	116

- 4.25 A little more than half of respondents (40 out of the 76 that answered this question) felt that required improvements in the dispute resolution system would be better delivered through proposed civil court reforms. This profile of support amongst those answering the question was broadly similar across respondent groups, although most housing representative agencies felt that the required improvements would not be best delivered via civil court reforms.
- 4.26 As was evident at question 6, a minority of respondents added their own comments in support of their response to question 6i (the consultation response form did not provide space for written comments at this question). This included comments in support of a small number of „yes“ responses, and comments suggesting there is no reason to believe that a pre-court Housing Panel would deliver better housing dispute resolution than reformed civil courts. These respondents suggested that reformed courts *may* deliver better dispute resolution, but that in the absence of a clear case for a panel delivering significantly better outcomes, the expense of the panel could not be justified. This included reference to a need to allow court reforms to „bed in“, before an informed decision is taken on any Housing Panel.
- 4.27 The following points were made by those who felt that civil court reforms would better deliver the required dispute resolution improvements:
- Establishment of summary Sheriffs provide an opportunity to deal with the shortcomings of the current system, providing a streamlined process where decision makers have the time and expertise to deal with housing issues, and where all parties can be fully heard.
 - Civil court reform could deliver the same benefits as a pre-court Housing Panel, if appropriate housing expertise can be secured within courts.
 - The consultation process is somewhat premature as there has been no opportunity to assess the extent to which reforms to Sheriff courts will deliver the benefits anticipated for the proposed pre-court Housing Panel.
- 4.28 Those who did not feel that civil court reforms would deliver the required improvements made the following points:
- Some scepticism that summary sheriffs will have interest in a housing specialism, particularly in the context of a large and mixed caseload. The lack of specialism is highlighted as a key problem with the current approach to housing dispute resolution, and a “*critically important feature of a new housing panel*” (Chartered Institute of Housing Scotland).
 - Summary Sheriff court proposals still risk housing cases not being given sufficient priority within a mixed caseload. This included the suggestion that a separate summary Sheriff court specialising in housing only cases (including criminal cases) would be a more appropriate option.
 - The creation of a specific housing-focused forum for dispute resolution would ensure better resolution of housing disputes.
 - Proposed court reforms will not be sufficient to deliver the required streamlining and improvement in housing dispute resolution, but may still have benefit alongside some form of housing panel.

Summary of Key Issues on a Pre-Court Housing Panel

A clear majority of respondents felt that a pre-court Housing Panel should not be established.

There was some suggestion that the more inquisitorial panel approach could be suited to the consideration of most or all housing dispute cases. However, most respondents suggested the panel's remit should be focused on specific types of dispute such as housing debts and antisocial behaviour, potentially taking into account whether mediation has failed or where tenants' needs may be better met via a less formal inquisitorial approach.

Respondents were divided on the range of parties who should be able to refer the case to the panel. Some suggested that third parties should be able to make a referral, including neighbours, mediation officers, local authority or other statutory bodies. Others suggested that a referral should only be made by those party to the dispute, potentially including mediation services or representatives/advocates involved in the case.

Most respondents suggested that panels would be most effective where members have a range of backgrounds, skills and qualifications – suggestions typically including lay person representation alongside members with housing and legal qualifications.

A range of specific timescales were suggested for panel orders to remain in place, including reference to ensuring consistency with other tribunals, courts and relevant legislation. There may be benefit in the panel tailoring the length of time an order should remain in place based on the specifics of the case.

Views on how and when cases should be escalated to court ranged from the panel being permitted some discretion in how cases are escalated to court, to those suggesting that fast-track escalation to court should occur immediately and automatically upon first breach of the panel order.

Those opposed to the creation of a pre-court Housing Panel made clear that they agree with the intended outcomes of the panel, particularly in terms of the need to address delays and inconsistencies in the current court-based housing dispute process. However, a pre-court Housing Panel was seen as less likely than other options to achieve these outcomes, and as risking further delay and cost to resolution of housing disputes.

Around half of those opposed to a pre-court Housing Panel felt that required improvements in the dispute resolution system would be better delivered through proposed civil court reforms. This was linked to a view that in the absence of a clear case for the panel delivering significantly better outcomes than reformed courts, the expense of the panel could not be justified. There is also a perceived need to allow court reforms to „bed in“, to allow an informed view on whether a pre-court Housing Panel would further improve dispute resolution.

5 OPTION 3: HOUSING PANEL REPLACING COURTS AS DECISION MAKER

- 5.1 The third option set out in the consultation document proposes the creation of a Housing Panel to replace courts as the main decision maker in certain housing dispute cases. This type of panel would be a tribunal. This would involve transferring jurisdiction for specific types of housing dispute cases from the courts. A Housing Panel could also make the same kind of binding orders as a court, including the power to end tenancies and evict tenants.
- 5.2 The consultation document makes clear that option 3 is not necessarily mutually exclusive from option 1 (promoting use of early preventative action and mediation) or option 2 (creating a pre-court Housing Panel). As is discussed in previous sections of this report, those in support of preventative action and mediation saw these as preferred options irrespective of any form of Housing Panel that may be implemented. However, consultation responses suggest that those in favour of some form of Housing Panel generally see options 2 and 3 as alternatives, rather than as potentially complementary.

Question 7: Should there be a new housing tribunal, to be called the Housing Panel?

- 5.3 Question 7 asked respondents to consider whether there is a case for creation of a Housing Panel to replace the courts as the main decision maker for housing dispute cases. Table 9 below summarises responses.

Respondent Type	Yes	No	Don't know/ mixed	N/A	Total
Registered Social Landlords	17	4	1	-	22
Local Authorities	14	5	3	1	23
Tenant and resident groups	9	6	2	1	18
Campaign and third sector orgs	5	4	2	4	15
Legal firms or representative groups	2	4	1	-	7
Lettings agents, private landlords & groups	2	5	-	-	7
Housing representative agencies and bodies	3	1	-	-	4
Other representative agencies and bodies	3	-	1	1	5
Individuals	3	6	2	4	15
TOTAL	58	35	12	11	116

- 5.4 The majority of respondents to this question (58 out of 105) were in favour of the creation of a Housing Panel to replace the courts as the main decision maker for housing disputes. This represents half of the respondents to the consultation as a whole.

- 5.5 While those in favour of option 3 included responses from all respondent types, there was some variation in the balance of views across these categories. The majority of RSLs, local authorities, housing representative agencies and other representative agencies were in favour of this option. In contrast, the majority of legal firms/representative groups, lettings agents/private landlords and individual respondents were opposed.
- 5.6 Comments added in relation to respondents' support of option 3 included reference to a range of anticipated benefits, many of which were included in the rationale set out in the consultation document:
- Ensuring required housing specialism is brought to the dispute resolution system, resulting in better and more consistent decision making.
 - A more accessible, inquisitorial approach with a greater emphasis on problem-solving, and with a less circumscribed role for lay representation.
 - Ensuring appropriate prioritising of housing dispute cases.
 - Reducing delays and costs in dealing with dispute cases.
 - Mitigating the potential impact of any potential reduction in legal aid by promoting access to justice in housing dispute cases.
- 5.7 As was evident in relation to option 2, those opposed to a Housing Panel to replace courts as a decision maker were broadly in support of the intended outcomes of the Panel. However, respondents identified a number of considerations which in their view undermine the case for a Housing Panel being the best way of achieving these outcomes:
- Some respondents expressed significant concerns about proposals to deal with an individual's tenancy status outwith the court system. Indeed, some of those in support of option 3 noted that placing all rented housing disputes under the jurisdiction of a Housing Panel *"is a decision that should not be taken lightly"* (Crisis).

"[Option 3] would fundamentally alter the careful balance of rights and responsibilities in tenancy law to give greater power to landlords while weakening the position of tenants."

Homeless Action Scotland
 - Shortcomings of the current dispute resolution system will be better resolved through court reforms; at the very least, time is required to assess the extent to which court reform will deliver required improvements before a decision is taken to introduce any form of Housing Panel.
 - There may be a case for extending pre-court requirements to private landlords, and for an increased focus on prevention and mediation work – however this does not require a new Housing Panel which would only add further bureaucratic stages to the dispute resolution process.

- An effective Panel would require the resources and power of the court, and resources would be better spent ensuring that court reforms are properly implemented, rather than “*recreating a court by another name*” (Turcan Connell). This included reference to significant resources being required for the creation and ongoing administration of a new Panel.
- Existing tribunal models suggest that a Housing Panel is unlikely to be free of delays and increasing costs. It is noted that the volume of cases handled by the prhp represents a very small proportion of all housing cases, while Employment Tribunals (which do handle a significant volume of cases) are often subject to considerable delays in considering cases.

5.8 A range of respondents – including those opposed to and those in support of option 3 - suggested that significant further work is required to specify how a Housing Panel would be established, detailed procedures for its operation (including routes for referral), and how it will be resourced (including fee structures). These details are highly relevant to any judgement of whether a Panel would deliver the required improvements in dispute resolution.

Q7a: Who should be members of this type of Housing Panel?

5.9 In relation to members of a Housing Panel to replace the courts, responses were very similar to those in relation to a pre-court Housing Panel (see Q6d).

5.10 The core suggestion for Panel membership was for 3-5 members, including a legal professional, housing professional and layperson with suitable housing-related experience. This included reference to the composition of other tribunals, including the Children’s Panel specifically. It was also suggested that the broad range of cases to be considered by the Panel may require representation of other qualifications or fields - as standing members, or the facility to draw on other qualified individuals as required by specific cases.

5.11 The following specific points were made in relation to Housing Panel membership:

- Legal professionals will be required, and may be the most appropriate chair for the Housing Panel. Legal members will be particularly important in the context of the ability to evict tenants.
- Trained and qualified housing professionals will be required to ensure that a Housing Panel improves the quality and consistency of decisions on housing disputes. There may be benefit in specifying a minimum period of relevant experience for these members. Specific areas of housing experience included practice experience of tenancy management, working with those in acute housing need, housing advice, debt advice or support services for tenants, and residential property expertise (e.g. solicitors).
- Laypersons with suitable, demonstrable experience of housing services.
- Experienced representative or advocate from the voluntary sector, including reference to Citizens’ Advice, Tenant Participation Advisory Services and/or Registered Tenant Organisation representation.

- Qualified professionals with experience of working in a related field who may be able to bring a wider perspective to housing dispute cases – for example social care, community regeneration, academics or researchers.
- Members with the experience and knowledge required to consider the equality impact of cases and Panel decisions.
- Panel composition should recognise the very different contexts for private and social rented sector dispute cases, and have access to a sufficient breadth of knowledge on specific aspects of legislation or services - such as repair and property condition/building standards, antisocial behaviour, health, mental health, money advice/welfare.
- Procedures will be required to ensure that there is no conflict of interest for Panel members in relation to each case being heard.
- For the Panel to function effectively, significant training and resources are likely to be required to ensure members have the necessary skills and knowledge to take on the role. A robust training programme will also be required to ensure the required consistency in decision making, as will appropriate monitoring arrangements.

Q7b: Should the Housing Panel be created by expanding the caseload of the Private Rented Housing Panel?

5.12 Table 10 below summarises respondent views on whether a Housing Panel should be created by expanding the caseload of the prhp.

Table 10: Question 7b - Response by Respondent Type					
Respondent Type	Yes	No	Don't know	N/A	Total
Registered Social Landlords	6	6	5	5	22
Local Authorities	9	6	4	4	23
Tenant and resident groups	2	8	1	7	18
Campaign and third sector orgs	1	2	-	12	15
Legal firms or representative groups	2	-	1	4	7
Lettings agents, private landlords & groups	2	-	-	5	7
Housing representative agencies and bodies	-	3	-	1	4
Other representative agencies and bodies	1	-	1	3	5
Individuals	2	1	2	10	15
TOTAL	25	26	14	51	116

5.13 Views were divided on whether a Housing Panel should be created by expanding the caseload of the prhp; 25 of the 65 responding to the question were in favour of this proposal, while 26 were opposed. This was the case across most respondent groups, although the majority of housing representative agencies and tenant and resident groups answering the question were opposed to this option.

- 5.14 A minority of respondents added comments in support of their response to question 7b, with the following points being made:
- The prhp could incorporate the role of the new Housing Panel, given some similarities in purpose and approach. However, the development of a separate fit for purpose Panel would bring greater benefit. In practice the volume of casework to be considered by a new Panel would be likely to overwhelm the prhp in its current form.
 - A new Panel would not be consistent with the prhp and hohp (homeowner housing panel) which were established to act in the interests of the consumer, and which do not charge a fee for access. The new Panel must be established to work for all parties equally.
 - Care is required to ensure that however the dispute resolution system is arranged, housing disputes are dealt with in a consistent and streamlined way – this may be best managed by a single body incorporating the prhp.
 - The argument for extending the remit of the prhp into a single Housing Panel for all sectors may now be appropriate. This approach may bring benefits in enabling the Panel to deal with disputes between social landlords and other owners, and between landlords and their tenants. Significant expansion of current prhp structures would be required, potentially using a “*group Panel approach*” (Glasgow City Council) with specialist committees to deal with specific types of disputes and/or tenures.

Q7c: Which housing cases should a new Housing Panel consider?

- 5.15 In terms of the housing dispute cases which should be considered by a Housing Panel, a number of respondents suggested that all civil cases that would normally be referred to the court should fall within the remit of a Panel. This included some suggestion that this should also include all cases which are currently referred to the prhp and hohp, in the context of a need for the dispute resolution process to be as simple as possible for all parties – “*a simplified system that provides a clear and accessible route to housing justice*” (Home Scotland). In particular, some suggested that having different procedures for different aspects of housing legislation could lead to confusion, potentially undermining the aim of improving tenant engagement in the dispute resolution process.
- 5.16 Other respondents suggested a more specific, circumscribed remit. The following cases were highlighted as being appropriate for a new Panel:
- Rent arrears cases, where a less adversarial approach is better suited. The more inquisitorial approach may help to address tenant difficulties in making their case in arrears cases, and may also be more conducive to taking household financial management into account (often the crucial element of arrears cases).

- Appeals against landlord decisions such as abandoned tenancies (in terms of section 18 & 20), succession, assignation, sub-letting, mutual exchange, granting a Scottish Short Secure Tenancy, and grounds covered by Schedule 2 of the Housing (Scotland) Act 2001, as amended. However, it will be important for a Panel to ensure that landlords' appeals processes have been exhausted in these cases.
- Failure of a landlord to comply with legal obligation.
- Disrepair disputes.
- Social rented sector disputes over legal rights where there is currently no established enforcement procedure, such as homelessness decisions, refusal of access to a housing register, failure to consult, standards of repair, access for inspection/repair.
- Antisocial behaviour cases. Some suggested that this should include eviction, interdict and ASBOs, although as is discussed at paragraph 5.18, the inclusion of such cases within the Panel's remit was not universally supported.
- Disputes concerning landlord registration, failure to provide a Tenant Information Pack and licensing of Houses in Multiple Occupancy (HMO) are broadly similar, and could be referred to a Housing Panel. Blanket exclusion of criminal cases from a Panel's remit would also exclude issues relating to landlord registration, etc and this issue requires further consideration.
- Failure to protect a deposit.
- Appeals against local authority use of private sector housing legislation.
- Applications to the Sheriff in terms of the Tenement (Scotland) Act 2004.
- Right to Buy appeals.
- Shared ownership arrears.
- Factoring and common repair disputes were suggested, although factoring disputes are currently considered by a tribunal.
- Housing disputes where there is an obligation to refer to Independent Arbitration - for example Section 5 referrals, Shared Ownership Occupancy Agreements.
- Consideration should be given to the feasibility of extending a Housing Panel's remit beyond disputes between tenants and landlords, to include, for example, repossession actions by mortgage lenders.

5.17 Notwithstanding these comments, some respondents urged caution in ensuring that a Panel is not faced with an unmanageable caseload from too broad a range of cases. In this regard it was noted that the current prhp caseload represents a very small proportion of all housing cases. Moreover, if the full range of potential cases were to be placed within a Panel's remit it is likely that caseload would increase over time as the number of cases involving landlord's decisions (currently relatively rare) may increase if a Panel is easier to access than courts.

- 5.18 In light of the potentially significant caseload burden, consideration should be given to phasing in specific types of case over time, potentially including use of issue or area-based pilots. This could allow testing of Panel composition and procedures, and go some way to allaying concerns about moving a large volume of housing dispute cases to an untested system.
- 5.19 Responses to question 7c also included suggested exclusions from a Housing Panel's remit:
- Eviction cases involving antisocial behaviour are typically adversarial in nature, involving conflicts of evidence which would be better addressed in a court setting. It was also suggested that cases which may involve the issue of an ASBO would not be appropriately considered by a Panel, as breach of such orders is a criminal offence.
 - Eviction cases involving grounds other than rent arrears or antisocial behaviour are so rare that there is potential for unusual legal considerations to be involved, and as such are better handled in court.
 - Summary Sheriff courts would be a more appropriate mechanism to handle enforcement legislation cases, such as HMO licensing, serious rent arrears and antisocial behaviour. Comments here included support for the establishment of a more specialist summary Sheriff court to deal exclusively with these housing disputes.

Q7d: Should parties be charged a fee for raising actions before a new Housing Panel?

- 5.20 Question 7d asked respondents to consider whether a charge should be levied on parties for raising actions before a new Housing Panel. Responses are summarised at Table 11 below.

Table 11: Question 7d - Response by Respondent Type					
Respondent Type	Yes	No	Don't know	N/A	Total
Registered Social Landlords	9	5	2	6	22
Local Authorities	5	5	8	5	23
Tenant and resident groups	5	5	-	8	18
Campaign and third sector orgs	1	2	-	12	15
Legal firms or representative groups	3	-	1	3	7
Lettings agents, private landlords & groups	2	-	-	5	7
Housing representative agencies and bodies	1	1	1	1	4
Other representative agencies and bodies	-	1	-	4	5
Individuals	1	1	1	12	15
TOTAL	27	20	13	56	116

- 5.21 Views were divided on the issue of fee charging for a new Housing Panel. Nearly half of respondents (27 out of the 60 that answered this question) felt that one or more parties should be charged a fee for raising actions before a Panel. However, there remained 20 of 60 responses who were opposed to fee charging. This mix of views was evident across all respondent groups.
- 5.22 A small number of respondents added further comments in support of their response to question 7d. This included a number of comments on the principle of fee charging, with these respondents suggesting that this is likely to be an essential element of an effectively resourced and sustainable Panel. However, respondents also urged caution in determining fee structures to ensure that a Panel is accessible to people on low incomes – for example through minimal fees for tenants, and/or a subsidy system.

Q7e. What do you see as the main difficulties and challenges in establishing a Housing Panel?

- 5.23 Question 7e asked respondents to identify the main difficulties and challenges for the establishment of a Housing Panel. The consultation question was focused on those who had indicated opposition to a Housing Panel, but in practice the full range of respondents raised a range of issues. This included reference to the considerable challenge of delivering a more streamlined dispute resolution system with better, more consistent and speedier decision making. Respondents broadly in favour of option 3 identified the following challenges and points for clarification:
- There are questions to be addressed in relation to the structure and operation of a Housing Panel that will be crucial to its success or otherwise. This includes whether regional Housing Panels will be the most appropriate approach, and if so how a panel will handle administration and resourcing of multiple committees, while ensuring consistency in decision making. There may be lessons to learn here from the experience of the prhp.
 - Ensuring that the composition and operation of a Housing Panel will provide the required consistency and quality of decision making.
 - Ensuring a Housing Panel can secure and retain an appropriate calibre of expert members, and associated questions of the need for – and feasibility of funding – competitive remuneration for panel members.
 - Clarity is required on how a Housing Panel will be resourced and funded. This included specific reference to the potentially large Housing Panel caseload, the requirement for a potentially significant number of qualified persons to sit on or contribute to a panel, and the need to ensure that any fee structure is not prohibitive to tenants seeking to raise action against tenants.
 - The challenge of ensuring all parties engage effectively with a Housing Panel, and particularly ensuring accessibility of a Housing Panel for individuals. This included reference to physical accessibility if a panel is to hear cases from across Scotland, and the need to ensure that a panel

provides an environment in which tenants feel able to engage with the dispute resolution process.

- The anticipated reduction in the use of legal representation in housing dispute cases is likely to place further pressure on landlords' resources in terms of staff training, preparation and attendance at hearings.

5.24 Those opposed to or undecided on option 3 also highlighted significant challenges facing a Housing Panel, and in particular the risk of a Housing Panel failing to deliver the intended improvements in housing dispute resolution.

5.25 Specific challenges and concerns raised by those opposed to or undecided on option 3 were:

- There are serious questions as to how a Housing Panel will be resourced in the context of a potentially very significant increase in caseload (as compared to current prhp cases), while ensuring that fee structures will not act as a barrier to individuals bringing cases. Some raised this issue in the context that the cost of establishing and sustaining a Housing Panel would be an unnecessary one as proposed court reforms should deliver many of the intended outcomes. Moreover, it was suggested that the cost of the court is unlikely to decrease proportionate to the decrease in volume of cases being handled, as some fixed costs will remain.
- Accessibility of a Housing Panel for all parties requires consideration, and may be reduced if it is unable to sit as regularly and as locally as the current court system. The geographical structure of a Housing Panel in particular was highlighted as a potential concern.
- A Housing Panel would require sufficient powers to ensure it is not simply an additional stage on the route to court action, and thus further delay the dispute resolution process.
- There will be challenges in striking the right balance between a more informal approach to dispute resolution than is currently the case within courts, and the need for robust procedures required to establish the truth behind housing disputes and ensure correct decisions are taken. This is a particular concern in the context of a Housing Panel potentially having to handle some cases involving very serious issues where a more informal approach is not appropriate.
- There is a risk that a Housing Panel will deliver inconsistent decisions, unless sufficiently detailed and robust procedures are in place.
- Some raised concerns that tenants and others may not view a Housing Panel as a sufficient deterrent, but rather as an interim step towards court action. This is likely to undermine the effectiveness of a Housing Panel in terms of securing resolution to housing disputes.
- The issue of a Housing Panel potentially dealing with ASBOs – the breach of which is a criminal offence – is not addressed by the consultation paper and requires consideration. There is also a risk that the wider experience of courts in dealing with ASBOs and the interface between the civil and criminal legislation will be lost if a Housing Panel handles these cases.

- Clarity is required on how a Housing Panel would interact with primary legislation, particularly in the context of overlap between housing legislation and other issues such as antisocial behaviour legislation.

Q7f: If no to question 7, do you think improvements to the dispute resolution system would be better delivered through proposals for civil court reform as outlined in paragraphs 4.5 to 4.9?

5.26 Finally in relation to option 3, respondents were asked to consider whether proposed civil court reforms would be a better means of improving the dispute resolution system. Table 12 below summarises responses.

Respondent Type	Yes	No	Don't know	N/A	Total
Registered Social Landlords	4	3	1	14	22
Local Authorities	5	4	3	11	23
Tenant and resident groups	2		3	13	18
Campaign and third sector orgs	6	1	-	8	15
Legal firms or representative groups	3	3	1	-	7
Lettings agents, private landlords & groups	3	1	1	2	7
Housing representative agencies and bodies	1	-	-	3	4
Other representative agencies and bodies	1	-	1	3	5
Individuals	2	3	3	7	15
TOTAL	27	15	13	61	116

5.27 Around half of respondents (27 out of the 55 that answered this question) felt that required improvements in the dispute resolution system would be better delivered through proposed court reforms. This profile was broadly consistent across respondent types, although this view was somewhat more common amongst Campaign and third sector organisations answering this question.

5.28 A small number of respondents added further comments in support of their answer at question 7f (the consultation form did not provide space for written comments at this question). These comments showed considerable overlap with the issues raised in relation to a pre-court Housing Panel (at question 6i):

- Proposed court reforms would produce a system much closer to the notion of housing-only civil courts, but there remains the risk of courts having to prioritise hearings within a mixed caseload, and in particular continuation of the situation where housing cases are deemed to be less urgent than non-housing cases.
- While more specialist decision makers within Sheriff courts would be welcome in the handling of housing disputes, a separate Housing Panel comprising experts with relevant skills and experience appears to be better suited to the objectives of ensuring speedier, better and more consistent decisions.

- A separate summary Sheriff court arrangement specialising only in housing cases – potentially including criminal cases – would be preferable to current proposed court reforms. Moreover, this may be better placed to enable „fast-tracking“ of arrears cases.

Summary of Key Issues on a Housing Panel to Replace Courts as Decision Maker

Half of respondents to the consultation were in favour of the creation of a Housing Panel to replace the courts as the main decision maker for housing disputes. This included a large majority of RSLs, local authorities, housing representative agencies and other representative agencies. In contrast, the majority of legal firms/representative groups, letting agents & private landlords and individual respondents were opposed to this option.

Those opposed to a Housing Panel to replace courts as a decision maker were broadly in support of the intended outcomes of a Panel. However, respondents identified a number of issues which, in their view, undermine the case for a Housing Panel being the best way of achieving these outcomes. This included significant concerns about proposals to deal with an individual's tenancy status outwith the court system, the significant resource requirements to establish a new Housing Panel, and a need to allow civil court reforms to complete prior to making a decision on the introduction of a Housing Panel.

The core suggestion for Panel membership was for 3-5 members, including a legal professional, housing professional and lay person with suitable housing-related experience. It was also suggested that the broad range of cases to be considered by a Panel may require representation of other qualifications or fields - as standing Panel members, or the facility to draw in other qualified individuals as required by specific cases.

Views were divided on whether a Housing Panel should be created by expanding the caseload of the prhp. This was the case across most respondent groups, although the majority of housing representative agencies and local authorities answering the question were opposed to this option.

There was some suggestion that all civil cases that would normally be referred to the court should fall within the remit of a Panel. However, most respondents suggested a Panel's remit should be focused on specific types of dispute such as housing debts and antisocial behaviour, potentially taking into account whether mediation has failed or where tenants' needs may be better met via a less formal inquisitorial approach.

Views were divided on the issue of fee charging for a new Housing Panel. Nearly half of respondents (27 out of the 60 that answered this question) felt that one or more parties should be charged a fee for raising actions before a Panel. However, 20 of those 60 responses were opposed to fee charging. This mix of views was evident across all respondent groups.

A quarter of consultation respondents felt that required improvements in the dispute resolution system would be better delivered through proposed court reforms. This profile of views was broadly consistent across respondent types.

6 EQUALITY ISSUES & BUSINESS AND REGULATORY IMPACT ASSESSMENT

6.1 The final section of the consultation asked a series of questions about equality issues and the possible business and regulatory impact of the possible changes. As is often the case with consultations, the proportion of respondents that answered these questions was generally lower than for earlier sections. Respondents also tended to cross-reference between comments made under each of the two topics or to refer back to answers given at the first question covering either equalities or the Business and Regulatory Impact Assessment (BRIA). The analysis below reflects this pattern of responding.

Question 8: Which equality groups, if any, do you think will be differently affected by each of the options in this consultation paper?

Question 9: How do you think they will be affected by each option (positively or negatively)?

Question 10: What changes could we make to each of the options to mitigate or remove any adverse effect on the equalities groups you have identified?

Question 11: What opportunities do the changes/options present for equality of opportunity advances, and/or fostering of good relations between and among different people?

6.2 In commenting on the possible impact of any changes, some respondents simply took the opportunity to express their support for the principle of equality. In terms of how any changes would impact on different groups, some respondents stated that all groups would be affected, others that there would be no groups which were differently affected.

6.3 Most respondents identified groups or types of people that could be affected positively, although they tended not to link their suggestions to any of the three main options covered in the consultation paper. Amongst the types of people or groups that respondents suggested might be affected positively were the following:

- Potentially vulnerable people – with specific suggestions including: children and young people; single parent households; older people; people with physical disabilities or mobility issues; people with learning disabilities; people with mental health problems; Transsexuals, Lesbian, Gay, Bi-Sexual people; Transgender people; people from ethnic minorities groups, including Gypsy/Travellers; former Service personnel; and tenants of unregistered private landlords;
- Any groups who require support when presenting to a panel or court , including those who do not have legal representation in the event of a court case; and
- All individuals and groups who are victims when others breach their tenancy conditions.

6.4 Some respondents also made comments which referred specifically to the three options set out within the consultation. Points raised about preventative services included the following:

- Investing in services to support the prevention of disputes arising in the first place would mean that many more people, and particularly those who are vulnerable, would receive the support that they need at an earlier stage to deal with potentially wide-ranging health, social and financial issues;
- Mediation is likely to be useful for all equality groups in terms of potentially reducing the trauma associated with a more formal procedure;
- Mediation is not suitable for parties who have substance abuse problems such as alcohol or drug dependences and may not be suitable if one of the parties has mental health problem(s);
- Facilitated mediation could result in vulnerable user groups feeling pressured into agreeing a settlement which may compromise on their rights. Landlords are likely to be more able and articulate to negotiate and they are better informed as to the likely outcomes if the case proceeds to court; and
- If victims are expected to face perpetrators as part of the mediation process this could be very traumatic.

6.5 Comments made about either the pre-court Housing Panel or Housing Panel to replace the court as decision maker options included:

- For the Housing Panel model, all groups will be adversely affected by lack of accessibility; the anticipated lack of legal representation; the transitional period disruption; time delay and the expense;
- If a pre-court Housing Panel resulted in delay and additional bureaucracy, this would disadvantage equalities groups, as it would the wider population;
- The pre-court Housing Panel option is likely to be more complex and may lead to confusion amongst those who are vulnerable;
- The benefits of a pre-court Housing Panel could be short-lived if a case was still referred on to a Sheriff court;
- A specialist Housing Panel could potentially lead to improved long-term outcomes for those involved in the system – it would offer a greater level of expertise and consequently more consistent decision making where disputes have arisen that could not be resolved through other means. Qualified practitioners taking a more interventionist problem solving approach may be of assistance to those who cannot participate in mediation or refuse to do so.

6.6 Some respondents identified groups or types of people that could be affected less positively, depending on how any new system is structured and resourced. Suggestions included:

- Individuals who fall into socially excluded or „hard to reach“ groups could be affected by lack of access or awareness or just not having the confidence to engage. Advocacy would be key in identifying and assisting people at an early stage and helping them through the process.
- Those in need of translation and interpretation services, including people for whom English is not a first language, if insufficient interpreting and support services are provided;
- Those living in rural areas or at some distance from the Central Belt. In response, consideration should be given to hearings based in Glasgow, Edinburgh, Aberdeen and possibly Inverness;
- Lower income groups if any charges are made for using any services put in place; and
- If a housing panel for the rented sector only were to be established, this could be unfair to those who have a dispute with a home owner.

6.7 A number of respondents commented on key characteristics any new system should have in order to avoid disadvantaging any particular groups or types of people. Issues raised about the decision-making process, type of system to be put in place, considerations that should be made and the specifics of how any system should be organised and resourced included the following:

- A full equalities impact assessment should be carried out on each of the options;
- Lessons from the Leicester Serious Case Reviews are not discussed as part of the Scottish Government’s consultation paper and Equality Impact Assessment.
- The proposals need to take account of the fact that victims can often be dealing with equality issues that make them more vulnerable to the negative impacts of antisocial behaviour;
- It will be important for those involved in a housing dispute to have access to good quality legal advice and support, along with any interpreting services that they may require. Some vulnerable participants may also need access to advocacy services;
- It will be important to ensure that any supporting information developed, including publicity materials and operational procedures, is accessible. It should be easy to understand and available in a range of different formats;
- Consideration should be given to how new information technologies can be used to enable greater accessibility for disabled users;
- The use of community halls and local government buildings for hearings in more remote communities could be considered;
- Decisions/orders should be capable of being issued with prescribed qualifications and actions, including time lines for compliance. These time lines should be subject to guidance developed by the Scottish Government in conjunction with an implementation steering group

consisting of regulator representatives; tenant representatives; legal advisors; housing/maintenance professionals; money advisors and mediation professionals;

- With any option taken forward, it will be important that the relevant professional standards and codes of conduct to be adhered to; and
- A panel system must operate without fees.

6.8 Finally under this theme, some respondents commented on how the various options might offer opportunities for equality of opportunity advances, and/or the fostering of good relations between and among different people. Many of the comments made about mediation are summed up by the following:

“One of the key tenets of mediation is that people are “equal” around the table and that regardless of the power dynamics that exist between tenants and landlords “outside the room”, mediators do not recognise these differences and approach each issue with the understanding that there is no privileging of positions. Thus, encouraging parties to mediation is an excellent opportunity to advance good relations between and among different people.”
Edinburgh Cyrenians

6.9 Other points raised included:

- This could be seen as a positive opportunity to raise awareness and break the cycle of hostility and negativity towards Gypsy/Travellers and other groups;
- Changes offer the opportunity to create a tenure-neutral framework for dispute resolution in which no-one is disadvantaged simply because of the housing sector they live in; and
- They offer the opportunity to improve relationships between landlords and tenants.

Business and Regulatory Impact Assessment (BRIA)

6.10 The BRIA focuses on how each of the policy options might impact on the public, private or third sectors – it is designed to help achieve the policy objectives while minimising costs and burdens, and avoiding unintended consequences.

Question 12: Are there businesses, public bodies or 3rd sector organisations not already listed in the BRIA that we should engage with in developing one or more of these policy options?

If yes, please provide details of these organisations

Table 13: Question 12 - Response by Respondent Type					
Respondent Type	Yes	No	Don't know	N/A	Total
Registered Social Landlords	5	8	5	4	22
Local Authorities	4	9	8	2	23
Tenant and resident groups	4	4	4	6	18
Campaign and third sector orgs	1	2	3	9	15
Legal firms or representative groups	1	1	2	3	7
Lettings agents, private landlords & groups	2	2	1	2	7
Housing representative agencies and bodies	-	1	1	2	4
Other representative agencies and bodies	2	-	-	3	5
Individuals	1	3	6	5	15
TOTAL	20	30	30	36	116

- 6.11 There were 20 respondents who thought there were additional organisations that the Scottish Government should consult with (over and above those already listed in the BRIA) in taking forward the proposals.
- 6.12 Some respondents suggested types of organisation or sectors that the Scottish Government should engage with, including:
- Regional Tenant Networks;
 - Registered Tenant Organisations;
 - Private landlords and commercial organisations who routinely deal with both tenants and landlords in the private sector – for example, some of the larger letting agents and particularly those with a national coverage;
 - Rural landlords and land agents;
 - The Police Service;
 - The National Health Service; and
 - Social Work Departments.
- 6.13 A number of specific organisations were also put forward. Only those groups not already consulted (and as set out at 7.10-7.11 of the consultation document) are included in the list below. Note also that a number of these groups have responded to this consultation (a full list of all group respondents is included as Appendix A to this report). Suggestions made included:
- Age Concern
 - Anti-Social Behaviour Lawyers Forum
 - Anti-Social Behaviour Officers Forum
 - Department of Work & Pensions
 - Homeless Action Scotland
 - Homes for Scotland
 - Positive Action in Housing
 - Royal Environmental Health Institute of Scotland (REHIS)
 - Scottish Association for Mental Health
 - Scottish Community Mediation Centre

- Scottish Housing Best Value Network (SHBVN)
- Scottish Mediation Network
- Scottish Public Services Ombudsman
- Shelter Scotland
- Sheriff Court Service
- Tenant Information Service
- The Scottish Property Federation
- TPAS Scotland
- Victim Support Scotland

Question 13: Which options will impact on these organisations and what would the impact be?

6.14 Respondents suggested a range of ways in which the proposals might impact on businesses, public bodies or third sector organisations, including:

- For some organisations or businesses, such as private landlords and advice agencies, the number of housing dispute cases they deal with may be increased and the way they deal with them may be effected;
- If the mediation option is taken forward, there will be potential opportunities for growth in that sector;
- The Scottish Court Service and members of the legal profession who undertake housing-related court work, could see a decreasing number of cases to deal with;
- Rural organisations in particular may find the provision of services to be costly;
- If any changes resulted in greater delays in achieving resolution to disputes, landlords may be exposed to increased administrative overheads or direct costs; and
- The Scottish Legal Aid Board may be stretched further financially.

6.15 A small number of respondents also noted that it is difficult to make an informed assessment of how any changes might impact on their own organisation until further detail is available.

Question 14: Could the enforcement, sanctions or monitoring of any of the options have a disproportionate impact on any organisation or group of organisations within the public, private or third sectors?

If yes, please explain what the impact will be

6.16 The final question of the consultation asked whether enforcement, sanctions or monitoring of any of the options could have a disproportionate impact on any organisations, with the balance of opinion set out in the table below.

Table 14: Question 14 - Response by Respondent Type					
Respondent Type	Yes	No	Don't know	N/A	Total
Registered Social Landlords	5	2	7	8	22
Local Authorities	4	7	7	5	23
Tenant and resident groups	2	1	3	12	18
Campaign and third sector orgs	2	-	2	11	15
Legal firms or representative groups	-	1	2	4	7
Lettings agents, private landlords & groups	1	3	1	2	7
Housing representative agencies and bodies	-	1	1	2	4
Other representative agencies and bodies	-	-	1	4	5
Individuals	1	2	4	8	15
TOTAL	15	17	28	56	116

6.17 Only a small proportion of respondents expressed a view at this question, with only 15 considering that there could be a disproportionate impact on certain types of organisation or sector. Organisations or types of organisation identified included:

- Advocacy agencies – if a Housing Panel is the agreed way forward, it may not always be necessary to have a legal advisor. The majority of tenants will seek an advocate/similar. It is likely advocates will be in high demand;
- Mediation Services – which again are also likely to see increased demand for their services;
- Third sector advice agencies – such as Citizens Advice Bureau – are likely to see a surge in demand for their advice services;
- However, third sector agencies that deliver legal services may experience a loss of demand and by extension experience a loss of income;
- The prhp – which is likely to see its role changed in some way;
- Private sector landlords and in particular individuals owning one or two properties and who may find any additional duties particularly difficult to comply with or burdensome; and
- Local authorities, for which the impact is likely to be considerable but is difficult to assess at this stage of the proposals.

ANNEX: GROUP RESPONDENTS

- Aberdeen City Council
- Aberdeen Soroptimist Housing Society Limited
- Aberdeenshire Council
- Aberdeenshire Housing Partnership and Moray Housing Partnership
- ALACHO
- Almond Housing Association
- Angus Council
- Antisocial Behaviour Lawyers Forum
- Antisocial Behaviour Officers Forum
- Argyll & Bute Council
- Association of Residential Letting Agents
- Atrium Homes
- Auchenback Tenants & Residents Association
- BEEM
- Belvoir Lettings - Dundee
- Breton & Corentin Courts Residents Association
- BTO solicitors
- Capability Scotland
- Cernach Housing Association Limited
- CHAP
- Chartered Institute of Housing Scotland
- Citizens Advice Scotland
- City of Edinburgh Council
- Clackmannanshire Council
- Clyde Valley Housing association
- Clydesdale Housing Association Ltd
- Crisis UK
- Cunninghame Housing Association
- Dumfries & Galloway Housing Partnership
- Dumfries and Galloway Citizens Advice Service
- Dunedin Canmore Housing Ltd
- East Ayrshire Council
- East Ayrshire Tenants & Residents Federation
- East Dunbartonshire Council
- East Lothian Council
- East Lothian Housing Association Ltd
- Edinburgh Cyrenians
- Edinburgh University Students" Association
- EPTAG
- Faculty of Advocates
- Falkirk Council
- Fife Council
- Fife Federation of Tenants & Residents Association
- Fife Housing Association Ltd
- Gardeen Housing Association
- Glasgow and West of Scotland Forum of Housing Associations
- Glasgow City Council
- Glasgow Housing Association
- Herriet Court Residents Association
- Home Scotland
- Homeless Action Scotland
- Inverclyde Council
- Legal Services Agency
- Lindsays
- Lister Housing Co-operative
- Lochmaben TARA
- Maxwellton Court Tenant Association
- Morton Fraser LLP
- North Ayrshire Council
- North Lanarkshire Council
- North View Housing Association Ltd
- Parkhead Housing Association
- Perth & Kinross Council
- Port of Leith Housing Association
- Region 1 National Tenant Network
- Region 8 - East Dunbartonshire and Lanarkshire
- Regional Tenant Network 3 - Tayforth
- Regional Tenant Network 4 - Central Region
- Renfrewshire Council
- RICS Scotland
- SACRO

- Saltcoats High Flats TARA
- Scottish Arbitration Centre
- Scottish Association of Landlords
- Scottish Borders Council
- Scottish Committee of Administrative Justice and Tribunals Council
- Scottish Community Mediation Centre
- Scottish Federation of Housing Associations
- Scottish Independent Advocacy Alliance
- Scottish Land & Estates
- Scottish Mediation Network
- Scottish Property Federation
- Scottish Public Services Ombudsman
- Scottish Regional Networks - Northern Lights
- Shelter Scotland
- Shire Housing Association Ltd
- SLAB "housework" project
- South Lanarkshire Council
- South West Scotland RTO Regional Network
- TC Young
- The Argyll Tenants Panel
- The Dispute Service
- The Highland Council
- The Moray Council
- Thenue Housing Association
- Trinity Factoring Services Ltd.
- Turcan Connell
- West Dunbartonshire Council
- West Granton Housing Co-op
- West Lothian Council
- West Strathclyde Regional Network 7

Social Research series
ISSN 2045-6964
ISBN 978-1-78256-633-5

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

APS Group Scotland
DPPAS14370 (06/13)

