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Consultation on a New Tenancy for the Private Sector: Analysis of Consultation Responses



**CONSULTATION ON A NEW TENANCY FOR THE
PRIVATE SECTOR**

ANALYSIS OF CONSULTATION RESPONSES

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EXECUTIVE SUMMARY

Introduction

1. In 2013 a Private Rented Sector Tenancy Review Group was tasked with examining how suitable and effective the current private rented sector system was, and considering whether changes in the law were needed. The Review Group produced a report for Ministers in May 2014. The report's main recommendation was *'that the current tenancy for the Private Rented Sector, the Short Assured Tenancy and the Assured Tenancy, be replaced by a new private tenancy that covers all future PRS lets'*.
2. The consultation paper sets out the Scottish Government's proposal for a new private tenancy system. As the paper notes, the overall aim of the proposed new system is to improve security of tenure for tenants, while giving suitable safeguards for landlords, lenders and investors. The paper further notes the Scottish Government's commitment to developing a new system that strikes a fair balance between the interests of tenants and landlords and supports a professionally-run sector that is managed for the long-term benefit of landlords and lenders, as well as tenants.
3. Twenty questions were asked. The first set of questions covered four themes relating to improving tenants' security of tenure. These were: a no-fault ground for regaining possession; tenancy roll-over arrangements; length of tenancy; and Notices to Quit – from landlords to tenants. Six themes were covered in relation to safeguarding landlords, lenders and investors. These were: grounds for repossession; shorter Notice to Quit period in certain circumstances; pre-tenancy notices; notice of proceedings; Notices to Quit - from tenants to landlords; and a model tenancy agreement. The consultation also included 3 questions about rent levels and asked whether the proposals strike the right balance between the interests of tenants and landlords. Each of these issues is covered in turn within the summary analysis below.
4. The consultation ran from the 6 October to the 28 December 2014. The final number of responses included within the analysis was 2,543. Of these 561 were standard responses and 1,982 were campaign responses.
5. In addition to undertaking an analysis of written responses to the consultation, Craigforth was also commissioned to gather views on the proposals from a number of private sector tenants. Focus groups were held in the Aberdeen, Edinburgh, Falkirk, Glasgow, Paisley, Scottish Borders and Stirlingshire areas in December 2014. A total of 35 private tenants participated.

No-fault ground for regaining possession

6. Under the current Short Assured Tenancy (SAT) arrangements, a landlord may reclaim possession of the property and does not need to give a reason except that the fixed term is ending. The proposal is that there should not be 'no-fault' grounds for regaining possession, meaning that a landlord would no longer be able to ask the tenant to leave the property simply because the tenancy

agreement had reached its end date. Instead, the landlord would have to use one of the proposed new grounds for recovering possession.

7. The clear majority of respondents (81%) agreed that a no-fault ground should be excluded from the new tenancy system. However, the majority of non-campaign respondents (79%) disagreed.
8. Those agreeing that the no-fault ground should be excluded included respondents to the Living Rent campaign and a number of local authorities, campaign body, tenant group and union respondents. Key issues raised by these respondents included the extent to which the PRS now provides long-term housing for many households, including households containing children. There was a suggestion that longer-term tenancies will allow people to put down roots and will support the development of stable, balanced communities. There was also a common view that the potential for a tenancy to be ended for no reason leaves some tenants unable or reluctant to assert their rights.
9. However, the majority of non-campaign respondents supported the inclusion of a no-fault ground. Individual, letting agent, landlord and industry body respondents tended to take this view. These respondents raised a number of concerns about the likely impact on the health of the PRS market and the potential for current or future investment to be lost. It was suggested that investors dislike uncertainty, are risk-averse and lack confidence in being able to regain possession other than through the no-fault route. It was also suggested that losing this mechanism for managing their business efficiently and at a reasonable cost could lead some landlords to become more selective in the tenants they are willing to rent to.

Tenancy roll-over arrangements

10. The current system enables tenancies to roll over on a month-to-month basis, after the end of the initial lease period, if stated in the tenancy agreement. The proposal is that the new system will not enable tenancies to roll over on a monthly basis or indeed any other basis that offers a shorter duration than the current tenancy agreement. This means that at the end of the initial lease period, if no Notice to Quit has been issued, either automatic renewal will apply or a new contractual tenancy will be needed.
11. The clear majority of respondents (79%) did not agree that the monthly roll-over should be excluded. Groups in which the majority disagreed were industry bodies, landlords, lettings agents, others and individual respondents.
12. Many respondents suggested that both landlords and tenants like the flexibility offered by the arrangement. Many referred to the type of tenant who might need or prefer the monthly roll-over approach (such as those with short term working arrangements) or to the circumstances under which the monthly roll-over can be useful (such as those looking to buy a home in the near future). A particular concern was that such tenants could find themselves liable for the rent to cover the remainder of the tenancy period and/or that the number of abandonments (and associated problems for landlords) could increase.

13. Although in the minority overall, a majority of advice, campaign, local authority and tenant respondents did agree that the monthly roll-over should not form part of the new tenancy regime. They tended to refer to the need to boost security of tenure and ensure that tenants have sufficient notice that the tenancy will be coming to an end. In particular, it was noted that a month is insufficient time to find a new property in many housing markets.

Length of tenancy

14. The proposal is that all future lets would have a minimum duration of six months. However, the consultation paper notes that some tenants, such as travelling or seasonal workers, may want a tenancy of less than six months; they would be able to request a shorter tenancy period from the landlord, who would be able to decide whether to accept the request. However, a landlord would not be able to offer a tenancy shorter than six months unless the tenant specifically requests it.
15. The clear majority of respondents agreed that tenancies should be for a minimum of 6 months (76%). Those who agreed tended to make relatively limited further comments, which often suggested the approach seemed: reasonable; continues with an approach which is valued for its flexibility; and is well-understood by tenants, landlords and agents. A small number of other respondents suggested that the minimum term could or should be longer, or that there should be no minimum term.
16. A majority (69%) also agreed that tenancies should have no maximum period. However, it appeared that the proposal and question were interpreted broadly in one of two ways. Some respondents have understood the proposal to be that there would be no prescribed maximum tenancy length - in other words that there would be no 'cap' on the length of tenancies. However, some respondents have interpreted the question as asking whether a tenancy should have no fixed term, in other words whether tenancies should be indefinite.
17. Some respondents suggested that an approach whereby landlords and tenants can agree to a longer tenancy if they both so choose works well for both landlords and tenants. Other respondents were of the view that the need for the length of a tenancy to be defined would depend on whether there is a no-fault ground. A contrasting view was that tenancies should not have a fixed term and that Scotland should adopt the more open-ended lease periods common in some other European countries.
18. There was also strong support for a tenant being able to request a shorter tenancy (74% agreed). Many respondents simply confirmed that the landlord would not have to agree. As at earlier questions, a substantial number of respondents also noted the advantages of building flexibility into the new system. However, there was a concern that tenants could be 'forced' into accepting shorter tenancies, with appropriate safeguards required to ensure this does not happen.

Notice to Quit – from landlords to tenants

19. Currently if a tenancy lasts for more than four months, the minimum notice period is 40 days; and if the tenancy lasts for four months or less, the notice period is at least 28 days. The proposal is to link the notice period for tenants with how long the tenant has been living in the property using the following sliding scale:
- Less than six months in the property = 28 days' notice (four weeks).
 - Six months or more, but less than two years in the property = 56 days' notice (eight weeks).
 - Two years or more, but less than five years in the property = 84 days' notice (12 weeks).
 - Five years or more in the property = 112 days' notice (16 weeks).
20. The majority of respondents (60%) agreed with linking notice periods to the time the tenant has lived in the property. Those agreeing often referred to it seeming appropriate, reasonable or fair. A number of respondents also noted that a longer tenancy suggests that the tenant may have established strong connections to the local area and in these circumstances it is likely that they would need longer to find alternative accommodation which meets their needs.
21. However, some respondents suggested that, irrespective of circumstances, the 28 day notice period is too short; it was felt it gave insufficient time to make alternative arrangements, including finding the money necessary to fund a move. Other issues or concerns raised, including by those agreeing or disagreeing with the proposal, included that there could be issues with tenants with long notice periods abandoning or failing to pay the rent during that period.
22. The issues most frequently raised by those who disagreed with the proposal were that the approach would be complicated or that it simply is not necessary or appropriate for landlords to need to give longer notice.
23. Respondents were relatively evenly divided on the 4 notice periods proposed, although a small majority (54%) did agree with them. Both those agreeing and disagreeing raised many of the same issues as at the previous question with those agreeing suggesting the proposal appeared fair and reasonable and those disagreeing suggesting the approach would be complicated and unfair.
24. There were particular concerns about the 16 week notice period being too long. Alternatively some respondents disagreed with the shortest notice period (of 28 days' for someone who had been in a property for less than six months).

Grounds for repossession

25. There are currently 17 grounds under which a landlord can regain possession of their property; some grounds attract a mandatory court order and others a discretionary order. The proposal is for these to be replaced by 8 grounds, all of which would be mandatory. The proposed grounds are:

1. Landlord wants to sell.
 2. Mortgage lender wants to sell because the landlord has broken the loan's conditions.
 3. Landlord or family member wants to live in the property.
 4. Refurbishment.
 5. Change of use.
 6. Tenant has failed to pay full rent over three months.
 7. Tenant has displayed antisocial behaviour.
 8. Tenant has otherwise broken their tenancy agreement.
26. The majority of respondents (78%) agreed that all the proposed repossession grounds should be mandatory, although the majority of advice and campaign group respondents did not agree.
27. Those who agreed that all the proposed grounds should be mandatory often focused their comments on the need for repossession grounds to be mandatory and 'watertight', particularly if they are the only route through which a landlord will be able to regain possession of their property.
28. In contrast, a small number of both those who agreed or disagreed identified certain grounds which they considered should be discretionary rather than mandatory. Respondents were most likely to suggest that Grounds 6, 7 and 8 should be discretionary. Many of those who disagreed with all grounds being mandatory stated explicitly that no grounds should be mandatory.
29. A small majority (56%) of respondents agreed with the proposed list of grounds for repossession. General comments made by those who agreed with the proposed grounds often referred to them being fair, reasonable and straightforward. A common theme, both amongst those agreeing, and disagreeing with the proposal, was the need for further information and detail. Other general concerns raised or comments made by those disagreeing with the proposals included the requirement for a no-fault ground or that the current system works well, or reasonably well, and no change is required.
30. In terms of specific grounds, Ground 6 (Tenant has failed to pay full rent over three months) attracted the highest number of specific comments. The principle concerns were that 3 months is too long for a landlord to wait and that the ground does not appear to, but should acknowledge the potential for persistent and significant failure to pay rent.
31. The majority of respondents (60%) also thought there are other possession grounds which should be included in the list. The most frequently made suggestion in terms of additional grounds was that a no-fault ground should be included. Other additional grounds proposed included a property being required for an employee, persistent late payment or non-payment of rent and the tenant having abandoned the property.

Shorter Notice to Quit period in certain circumstances

32. The proposal is that the new tenancy regime will enable landlords to recover their property by giving tenants 28 days' Notice to Quit, regardless of how long the tenant has lived in the property, if the tenant has:
- Failed to pay full rent over three months.
 - Displayed antisocial behaviour.
 - Otherwise breached their tenancy agreement.
33. The majority of respondents (67%) agreed that landlords should be able to recover possession of their property with a 28-day notice period if the tenant has failed to pay full rent over three months, displayed antisocial behaviour or otherwise breached their tenancy agreement. However, advice services, campaign bodies, industry bodies and legal body respondents were relatively evenly divided on this issue.
34. Comments made included that the proposal seemed reasonable and that there will be some circumstances when a landlord will need to be regain possession of a property quickly. However, some of those supporting the proposal did so provided that a test of reasonableness would be applied.
35. It was also suggested, again including by those who agreed and disagreed with the proposal, that there should be some circumstances in which a shorter notice period should apply. However, some of those who disagreed with the proposal took the opposite view and suggested that 28 days was too short a time to find alternative accommodation.

Pre-tenancy notices

36. Under the current assured tenancy system, landlords must provide advance notice to tenants if they intend to use the current repossession grounds 1 to 5 to regain possession of their property. The proposal is that a landlord would not need to issue a pre-tenancy notice to a tenant to say they may intend to recover possession under any of the new grounds.
37. The clear majority of respondents (87%) agreed that landlords should no longer have to issue pre-tenancy notices to recover possession of their property. Those agreeing with the proposal often suggested that the notices are unnecessary and that the current system is complicated and not widely understood.
38. Concerns raised by those who disagreed with the proposal included that the current system works well, or that it is important for tenants to be informed at the outset as to how possession can be obtained.

Notice of proceedings

39. A Notice of Proceedings is a document telling the tenant that their landlord wants to start legal proceedings to get their property back. Under the current system, the length of notice needed before the landlord can take legal action will depend

on which of the 17 grounds the landlord has stated. A notice period of either two weeks or two months will apply. The proposal is to simplify this process by introducing a four-week minimum notice period that a landlord must give a tenant before raising proceedings under any of the new grounds.

40. Respondents were relatively evenly divided on whether the notice period for all proceedings should be 4 weeks, with 52% of respondents agreeing. Those supporting the 4 week proposal frequently referred to the advantages of simplicity and creating an approach which is easy to understand for landlord and tenant alike. However, some also suggested this period could be too long in certain circumstances, with these respondents referencing antisocial behaviour in particular.
41. There was a considerable consensus amongst those disagreeing with the proposal – the view was that the 28-day notice period is too long (either overall or under certain circumstances). These respondents sometimes referred to occasions when the tenant is at fault, to Grounds 6, 7 and 8 of the proposed repossession grounds, or specifically to rent arrears and antisocial behaviour. The common view was that a 14-day notice period is sufficient and appropriate under these circumstances.

Notice to Quit - from tenants to landlords

42. The proposal is that tenants will have to give the following notice to quit the tenancy:
 - Less than six months in the property = 28 days' notice (four weeks).
 - Six months or more in the property = 56 days' notice (eight weeks).

This would mean that, if a tenant wishes to leave the property at the end of their tenancy agreement, the tenant will need to tell their landlord either four or eight weeks in advance. If a tenant wishes to leave the property before their tenancy agreement expires, and this is not covered in the tenancy agreement, they will need to get the landlord's permission, as now.

43. A small majority of respondents (57%) agreed with the proposed timescales. Those who agreed with the proposal tended to suggest the approach seemed reasonable, fair and as striking a good balance between the interests of landlords and tenants.
44. Many of those disagreeing with the proposal suggested that notice periods should be the same for both landlords and tenants. Other comments tended to focus on either notice periods being shorter and/ or there being one single notice period. It was also suggested that having to give 8 weeks' notice could make it more difficult for the tenant to find alternative accommodation.

Model Tenancy Agreement

45. The proposal is to introduce a requirement to use a model tenancy document for all future private rented sector lets. The consultation paper suggests this could provide consistency of practice across the sector and help ensure that it provides

good-quality and well-managed housing. It could also help promote landlords' and tenants' knowledge of their rights and responsibilities.

46. The clear majority of respondents (79%) agreed with the introduction of a model tenancy agreement. Although there was strong support, respondents did note that any model tenancy agreement will need to be sufficiently flexible to work for a diverse range of circumstances and properties. The principal concern of those who did not support the proposal was that it will not be possible to develop a model that is flexible enough to deal with all circumstances that can arise in such a diverse sector.

Rent levels

47. The consultation also asked three open questions about rent levels. The consultation paper notes that rent setting currently forms part of the existing assured tenancy system, and hence it seems sensible to consider rent setting and how this might work with the proposed new system. The first question asked for views on rent levels in the private rented sector in Scotland.
48. A number of respondents noted that rents are market-led and will determine their own level based on supply and demand. This was the most frequently raised issue by some extent. A number went on to note that this market-led approach should continue.
49. Other general comments included that there are significant variations in rent levels across Scotland including at a small area level. More generally, a number of respondents pointed to the complexity of the market and, in particular, the relationship between supply and demand. The wider issue of supply of affordable housing was also raised and it was suggested that availability of good quality, affordable housing is an issue across much, or the whole of Scotland.
50. Other respondents focused their comments on tenants' capacity to afford current or future rent levels with the particular affordability problems those on low income and/or in receipt of Local Housing Allowance (LHA) can have in accessing the sector.
51. The second question asked what action, if any, the Scottish Government should take on rent levels in the private rented sector in Scotland. Overall, 2,508 respondents commented on whether the Scottish Government should take any action on rent levels. Around 3 out of 4 respondents favoured the Scottish Government taking some form of action, including the 1,908 signatories to Campaign 3 (the Living Rent campaign), who called on the Scottish Government to bring rents under control, noted that in other countries there are laws that limit how much landlords can charge, and stated that this was the approach they wanted for Scotland.
52. However, the majority of non-campaign respondents did not think the Scottish Government should take any action with regard to rent levels in the PRS. Around 2 out of 3 non-campaign respondents made a comment which suggested the Scottish Government should take no action, sometimes noting that it is not for

Government to interfere in the market and that to do so could have significant, negative consequences.

53. The final rent-related question asked what rent review conditions, if any, the new tenancy system should include. A number of respondents simply re-stated their opposition to Government intervention regarding rent levels, with some respondents suggesting that there is no need to make changes to the current system. The other frequently raised issue was that annual rent reviews are either current practice and/or would be an acceptable way forward.
54. Other respondents commented more generally on what any rent review conditions should be aiming to achieve. For example, it was suggested that the focus should be on bringing a degree of predictability and certainty to the frequency and nature of subsequent rent increases. As with the principle of introducing rent regulation, some respondents noted that this is a complex issue and should be considered in more detail as part of a wider review of rents and affordability in the private rented sector.

Balance between the interest of tenants and landlords

55. The majority of respondents (70%) did not feel that the proposals have struck the right balance between the interest of tenants and landlords, although the majority of local authority, tenant and union respondents did. General observations made by those agreeing that the proposals were balanced tended to refer to the proposed new system being simpler, clearer, offering consistency or being fairer. They sometimes pointed to the need for more detail and for consideration to be given to how each element of the proposed new system would work in practice.
56. Amongst those disagreeing that the proposals were balanced overall, around 9 out of 10 considered that the proposals favoured tenants. Industry bodies, landlords, letting agents and individual respondents tended to take this view. Respondents frequently referred to their concerns about specific proposals and in particular: the exclusion of a no fault ground; the removal of the monthly roll-over; and consideration being given to rent controls. More generally, it was suggested that some of these proposals undermine one of the key strengths of the sector, namely the flexibility it offers to both tenants and landlords.
57. The remaining 1 out of 10 felt the proposals favour the landlord. Those taking this view tended to be advice services, campaign bodies and a small number of individuals. These respondents tended to be most concerned about the proposal to make all repossession grounds mandatory; this led to the suggestion that the proposed new system would actually provide less security of tenure and protection for tenants than under the current system.

Next steps

58. Informed by this analysis, the Scottish Government intends to consult on developed policy proposals this spring. This will be a short public consultation, which will seek further views. The consultation document will be available on the Scottish Government website: <http://www.gov.scot/Publications/Recent>

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ANNEX 1: GROUP RESPONDENTS
ANNEX 2: FOCUS GROUP SCRIPT

1 INTRODUCTION

- 1.1 This report presents an analysis of responses to the Scottish Government's consultation on the new tenancy for the private sector.

Background to the consultation

- 1.2 In 2013 a Private Rented Sector (PRS) Tenancy Review Group was tasked with examining how suitable and effective the current private rented sector system was, and considering whether changes in the law were needed.
- 1.3 The Review Group produced a report for Ministers in May 2014. The report's main recommendation was *'that the current tenancy for the Private Rented Sector, the Short Assured Tenancy and the Assured Tenancy, be replaced by a new private tenancy that covers all future PRS lets'*.
- 1.4 The consultation paper sets out the Scottish Government's proposal for a new private tenancy system. As the consultation paper notes, the overall aim of the proposed new system is to improve security of tenure for tenants, while giving suitable safeguards for landlords, lenders and investors. The paper further notes the Scottish Government's commitment to developing a new system that strikes a fair balance between the interests of tenants and landlords, and supports a professionally-run sector that is managed for the long-term benefit of landlords and lenders, as well as tenants.
- 1.5 The consultation also explored issues related to rents in the PRS. As rent setting currently forms part of the existing Assured Tenancy regime, the Scottish Government wanted to explore how this might operate in the proposed new system.
- 1.6 The consultation asked 20 questions and ran from the 6 October to the 28 December 2014.

Overview of written responses

- 1.7 The final number of responses included within the analysis was 2,543. Of these 561 were standard responses¹ and 1,982 were campaign responses.

¹ There were two organisations that submitted two responses each, with the information contained within those responses equivalent or complementary. The information contained within these responses was merged to form a single response for each of the two organisations.

- 1.8 A profile of standard respondents by type is set out in Table 1 below². A list of the organisations that submitted a response to the consultation is included as Annex 1 to this report.

Table 1: Responses Received by Type of Respondent	
Respondent Type	Number
Advice, Information & Ombudsman Services	9
Campaign Body or Group	11
Industry Body	16
Landlord	49
Legal Body or Firm	10
Lettings Agent and/or Property Management	54
Local Authority	21
Tenant and/or Resident Group	11
Union or Political Party	8
Other	9
<i>Total Organisations</i>	<i>(198)</i>
Individuals	363
TOTAL	561

- 1.9 The three campaigns were as follows:

Campaign 1: This campaign was connected with an estate and lettings agency company with branches across Scotland. A total of 29 responses were received, with the standard consultation response form used. The format of the response followed the consultation form, with a combination of answers to the Yes/No questions followed by explanatory comments.

Campaign 2: This campaign appeared to have connections to the lettings agency industry and private landlords, although many of the responses were submitted by individuals. A total of 45 responses were received, with the standard consultation response form used. The format of the response followed the consultation form, with a combination of answers to the Yes/No questions followed by explanatory comments.

Campaign 3: This was the Living Rent Campaign. A total of 1,908 responses were received, 1,208 on postcards and 700 as signatories to an E-Petition. Both the postcards and the E-Petition offered support for a short, standard statement which called on the Scottish Government to bring rents under control, protect tenants from eviction and provide flexibility and security.

² The consultation response form did not ask respondents to identify the type of organisation they were. The classification used within this report is based on a combination of organisation name, comments made within the response and internet searches.

Private tenant focus groups

- 1.10 In addition to undertaking an analysis of written responses to the consultation, Craigforth was also commissioned to gather views on the proposals from a number of private sector tenants. The Scottish Government was aware that tenants might not be aware of, or be less likely to respond to, the consultation than other groups and wished to ensure that the tenant perspective was also available to them. A copy of the facilitator's script for the focus groups is appended to this report as Annex 2.
- 1.11 A purposive sampling approach was used, in which the research participants and the areas in which fieldwork is conducted are selected in order to achieve a sample that has the particular features or characteristics required. Participants came from a range of household types, including working and non-working households, households containing children and older households or households which included someone with a disability. Around 1 in 3 of the participants took part in Craigforth's 2014 qualitative research study with private sector tenants and landlords for the Scottish Government³. The remaining participants were recruited through social media or through contacts of members of the research team.
- 1.12 Focus groups were held in the Aberdeen, Edinburgh, Falkirk, Glasgow, Paisley, Scottish Borders and Stirlingshire areas in December 2014. A total of 35 private tenants participated.

Structure of the report

- 1.13 The remainder of this report presents a question-by-question analysis of responses given at each of the questions set out in the consultation document.
- 1.14 The results from the 'Yes/No' questions contained within the written consultation are presented in tabular form. Please note that a small number of respondents did not make their submission on the consultation questionnaire, but submitted their comments in a statement-style format. When these responses contained clear answers to one or more of the 'Yes/No' questions these have been recorded. The remaining content was analysed qualitatively under the most directly relevant consultation question.
- 1.15 Where the issue covered at a question was also discussed at the focus groups, this has been noted and the main findings included within the qualitative analysis at that question. Given the scale of the response to the consultation (both in terms of number of responses received but also the length of some comments made), the analysis generally presents a broad overview of the range of opinions expressed.

³ Qualitative research to explore the implications for private rented sector tenants and landlords of longer term and more secure tenancy, Craigforth, 2014. Available at: <http://www.scotland.gov.uk/Publications/2014/03/7326>

1.16 Other points to note about the analysis of further comments made are:

- In a small number of instances (particularly at Question 1) the further comments did not appear to match the answer given to the Yes/No question, suggesting the question may have been misinterpreted. However, the number of responses where this may have been the case was not sufficient to have any significant impact on the overall balance of opinion.
- There were also occasions on which either proposals or questions appeared to have been open to interpretation. This applied particularly in relation to the maximum length of tenancy (at Question 3b) but also to a lesser extent at some other questions.
- There was some variation in the overall approach taken by respondents in their comments on the proposal: while some tended to address each of the individual proposals as part of a whole package of proposals that would make up the new tenancy regime, others tended to address each proposal as a single change to the current tenancy regime. Those who took the former approach sometimes caveated their agreement or disagreement based on whether or not certain of the other proposals (particularly that relating to the no-fault ground) were to be included.

2 IMPROVING TENANTS' SECURITY OF TENURE

- 2.1 The consultation paper covers four themes relating to improving tenants' security of tenure: a no-fault ground for regaining possession; tenancy roll-over arrangements; length of tenancy; and notices to quit.

No-fault ground for regaining possession

- 2.2 Under the current Short Assured Tenancy (SAT) arrangements, a landlord may reclaim possession of the property and does not need to give a reason except that the fixed term is ending. The Review Group's report suggested that the new tenancy system should contain 'a modernised and simplified right of possession...'.
2.3 The Scottish Government's proposal is that there should not be 'no-fault' grounds for regaining possession, meaning that a landlord would no longer be able to ask the tenant to leave the property simply because the tenancy agreement had reached its end date. Instead, the landlord would have to use one of the proposed new grounds for recovering possession listed in paragraph 52 of the consultation paper and covered at Question 5 in this report.

Question 1: Do you agree that the no-fault ground for a landlord to repossess their property should be excluded from the new tenancy system?

- 2.4 Question 1 asked respondents if they agreed that the no-fault ground should be excluded from the new tenancy system. Responses to Question 1 by respondent type are set out in Table 2 below. At 99% of all respondents, the number responding to this question was the highest for the consultation as a whole.
2.5 The clear majority of those who answered this question (81%) agreed that a no-fault ground should be excluded from the new tenancy system. Those agreeing included those who supported Campaign 3 and the majority of advice, campaign group, local authority, tenant and union respondents. However, the majority of non-campaign respondents (79%), including the majority of industry body, landlord, letting agent, legal and individual respondents, did not agree with the exclusion of a no-fault ground. Those supporting Campaigns 1 and 2 also disagreed.
2.6 A total of 491 non-campaign respondents made a further comment at this question and the text from all 3 campaigns also included a relevant comment. The issue was also discussed with focus group participants.

Table 2: Question 1 - Response by Respondent Type				
Respondent Type	Yes	No	Don't Know	Total
Advice, Information & Ombudsman Services	8	1	-	9
Campaign Body or Group	10	-	-	10
Industry Body	1	11	2	14
Landlord	8	39	2	49
Legal Body or Firm	-	8	1	9
Lettings Agent and/or Property Management	6	45	3	54
Local Authority	18	3	-	21
Tenant and/or Resident Group	10	1	-	11
Union or Political Party	7	1	-	8
Other	2	5	-	7
<i>Total Organisations</i>	<i>(70)</i>	<i>(114)</i>	<i>(8)</i>	<i>(192)</i>
Individuals	63	274	11	348
<i>Total (excl. campaign responses)</i>	<i>(133)</i>	<i>(388)</i>	<i>(19)</i>	<i>(540)</i>
<i>Percentage (excl. campaign responses)</i>	<i>18%</i>	<i>79%</i>	<i>3%</i>	<i>100%</i>
Campaigns	1908	74	-	1982
TOTAL	2041	462	19	2522
Percentage of those answering	81%	18%	1%	100%

2.7 Those who agreed that the no-fault ground should be excluded raised a broad range of issues in support of their position, with some noting that they considered the exclusion of the no-fault ground as essential to the reform of the tenancy regime. A broad range of respondents also noted the increased role the PRS plays in providing long-term housing for many households, including households containing children and/or which have experienced homelessness; this was sometimes connected with the need to provide greater security of tenure to these types of household in particular.

2.8 However, some who did support the exclusion of a no-fault ground (including a small number of campaign body or advice service respondents), also voiced concerns about the overall package of proposals and the extent to which they would actually provide proper and proportionate levels of security of tenure. Comments and concerns tended to focus on the proposed new grounds for repossession which are discussed further within the analysis at Question 5.

2.9 Potential benefits identified as flowing from the exclusion of a no-fault ground included that longer-term tenancies will allow people to put down roots and will support the development of stable, balanced communities. Some focus group participants raised a similar issue, and those with children tended to be particularly keen on an approach that allowed them to remain in their current home for as long as possible. Small numbers of focus group participants were also amongst those noting that frequent moves are not only costly but can also have a negative impact on the health and well-being of those involved.

- 2.10 A common view was that the potential for a tenancy to be ended for no reason leaves some tenants unable or reluctant to assert their rights because of concerns that their lease will be terminated. Advice service, campaign body, local authority and tenant group respondents were amongst those raising this issue. Most focus group participants also reported being aware at least of the possibility that a landlord might terminate a tenancy if they reported all repairs and insisted on them being carried out in a timely manner. In addition to the tenancy being terminated, there were particular concerns that a landlord or letting agent might either withhold or give a poor reference if they asserted their rights, and that this would jeopardise their ability to secure accommodation in the future. This was a particular concern for those operating in high-cost markets (such as Edinburgh or Aberdeen) and also for those in receipt of Local Housing Allowance.
- 2.11 Some respondents, amongst them a small number of campaign body or advice service respondents, reported that some landlords do use the no-fault route as a means to bring tenancies to an end for what the respondent identified as unfair or vindictive reasons. There was a corresponding hope that if this were no longer possible, tenants would assert their rights and that empowered tenants could drive a culture of continuous improvement in the sector. Some focus group participants (around 1 in 3), felt they would be more inclined to assert their rights if a landlord could not end their tenancy without giving a reason.
- 2.12 Some of those who agreed with the exclusion of the no-fault ground (including a number of local authority respondents), also noted the importance of ensuring that the grounds which a landlord could use to bring a tenancy to an end are fit for purpose and, for example, cover all reasonable business-related eventualities. Other respondents noted the potential difficulties that landlords could face if they needed to bring a tenancy to an end, for example if the tenant was behaving badly. These types of issues were also raised frequently by those respondents who favoured the inclusion of a no-fault ground in the new private tenancy regime.
- 2.13 As noted above, the majority of non-campaign respondents supported the inclusion of a no-fault ground with many questioning the fundamental premise underpinning the proposal, namely that tenants want or need extra security. In particular, a number of respondents, including many individual respondents and some industry body, landlord and letting agent respondents, suggested that good landlords do not end tenancies for no reason. A number of others (again including individual, landlord and letting agent respondents), suggested that the current system generally works well and is well understood and that the Scottish Government is proposing a major change to the whole sector to address a problem that only affects a very small proportion of the market - namely 'rogue landlords' carrying out 'retaliatory evictions'.
- 2.14 Those opposing the exclusion of the no-fault ground raised a number of concerns about the likely impact of following through with the proposal. Frequent amongst these, and particularly likely to be referenced by industry body, letting agent, landlord and individual respondents, was how the exclusion of a no-fault ground will impact on the health of the PRS market and

the extent to which the Government's strategic aim of enabling growth and investment in the sector will be undermined. It was suggested that the exclusion of a no-fault ground would act as a barrier to future investment or result in current investment being withdrawn.

- 2.15 An industry body respondent noted that a survey of their own members suggested that around 1 in 2 would be less likely to invest further and around 1 in 3 would leave the sector entirely. Another industry body also noted that members have reported that they would be re-assessing their property portfolios, with some saying they will look to sell properties. It was suggested that this may have a particular impact on the affordable rental market – for example if currently affordable rural lets are converted into holiday lets. In terms of further investment, it was suggested that the uncertainty created by the consultation process has already led some institutional investors to decide against committing funds at this time.
- 2.16 Respondents suggested a number of reasons why the exclusion of a no-fault ground would lead to disinvestment or lack of future investment. These included that investors dislike uncertainty and are risk-averse, and would see the exclusion of a no-fault ground as increasing their exposure to risk.
- 2.17 Respondents who suggested they might disinvest (including both some landlord and individual respondents), were amongst those who referred to people's right to manage their private property as they saw fit and to take possession of it if they so wished, without having to justify that decision. Included amongst these were some who noted that their rental properties provide a vital source of current or future income and that a 'high-risk' investment strategy is not an option for them. The connection between risk and the exclusion of the no-fault ground was sometimes explained as landlords lacking confidence in being able to regain possession of their property through any route other than the no-fault end of the tenancy.
- 2.18 On a connected point, a number of letting agent and landlord respondents (either group respondents or individual respondents who could be identified as landlords), pointed out that being able to bring a tenancy to an end using the no-fault route is important to a landlord's ability to manage their business efficiently and at a reasonable cost. There were particular concerns that the exclusion of a no-fault ground could result in landlords becoming involved in long and costly proceedings to regain possession of their property. Those raising this concern sometimes gave examples of the difficulties and delays that a landlord or letting agent can experience when trying to gain possession under the current system.
- 2.19 In terms of regaining possession, some respondents noted their concern that the proposed grounds for repossession (as at paragraphs 47-52 of the consultation paper and discussed further at Question 5 below), are unlikely to be workable as currently drafted. There were also concerns that the PRS Tribunal system could be overwhelmed by a high number of referrals or that there is no evidence to show that the First-tier PRS Tribunal will be quicker, cheaper and more effective than the current system. By extension, it was

suggested that the Tribunal system does not give landlords confidence that a system which excludes the no-fault ground would be workable.

2.20 Other concerns about regaining possession other than through a no-fault route included that:

- If a landlord has to gather evidence and give a reason that relates to a tenant's behaviour this could cause conflict or tension where it was perhaps not otherwise present. Landlord or individual respondents were most likely to raise this concern.
- Even in cases of breach of tenancy, most landlords evict using the 'no-fault' route because of the difficulties of proving a breach; antisocial behaviour is one of the most difficult breaches to prove with neighbours often reluctant to report the problem to the proper authorities for fear of retaliatory abuse. Communities could be subjected to antisocial behaviour if landlords are unable to evict tenants until the necessary proofs are in place. Letting agent and individual respondents were most likely to raise this concern.
- If tenants are evicted for a reason which relates to their behaviour, as opposed to their tenancy simply being terminated at its end, this could make it difficult for them to find a new tenancy. This concern was also raised by some focus group participants.

2.21 As noted above, some respondents suggested that supply within the affordable rental market could decrease if landlords withdraw from that part of the market in response to the exclusion of the no-fault ground. Equally, it was suggested that landlords may become more selective in the tenants they choose, with any change having the biggest impact on categories of tenant that landlords perceive to be more risky, including those on lower incomes, single parents, those on benefits and young people who are entering the PRS for the first time without a proven track record. Industry body and letting agent respondents were amongst those likely to raise this prospect. A small number of focus group participants also highlighted this possibility, although their concerns generally focused on the approach being taken by letting agents rather than the landlords themselves. A further concern raised by a small number of focus group participants and respondents was that landlords might take action to remove 'riskier' tenants before the new tenancy regime came into force.

2.22 Specific types of rental properties or markets which respondents suggested could be adversely affected by the exclusion of a no-fault ground included the following:

- Rentals for the student market. It was suggested, including by some landlords or letting agents who identified themselves as operating in this section of the market, that the proposal could lead to significant difficulties for both landlords and students. In particular, it was noted that the market relies on being able to offer tenancies that have start and end dates that are aligned to academic years etc. It was also noted that many students want to be able to 'pre-book' their accommodation

but that landlords would not be able to offer these guarantees if they did not have a mechanism which ensured they would have possession of the property.

- Accommodation that is or could be required as staff accommodation. This was sometimes raised with particular reference to accommodation for agricultural workers and accommodation in rural areas, but was also identified as an issue for property owned and/or managed by religious bodies or academic institutions and used to accommodate staff.
- Other types of accommodation identified as requiring particular attention were Houses of Multiple Occupation (HMOs), short-term lets relating to specific events (such as the Edinburgh Festival), properties rented through private sector leasing schemes and supported accommodation for potentially very vulnerable tenants.

Summary – Question 1

The clear majority of respondents (81%) agreed that a no-fault ground should be excluded from the new tenancy system. However, the majority of non-campaign respondents (79%) disagreed.

Those agreeing that the no-fault ground should be excluded included respondents to the Living Rent campaign and a number of local authority, campaign body, tenant group and union respondents.

Key issues raised by these respondents included the extent to which the PRS now provides long-term housing for many households, including households containing children. There was a suggestion that longer-term tenancies will allow people to put down roots and will support the development of stable, balanced communities. There was also a common view that the potential for a tenancy to be ended for no reason leaves some tenants unable or reluctant to assert their rights.

However, the majority of non-campaign respondents supported the inclusion of a no-fault ground. Individual, letting agent, landlord and industry body respondents tended to take this view. These respondents raised a number of concerns about the likely impact on the health of the PRS market and the potential for future or current investment to be lost. It was suggested that investors dislike uncertainty, are risk-averse and lack confidence in being able to regain possession other than through the no-fault route. It was also suggested that losing this mechanism for managing their business efficiently and at a reasonable cost could lead some landlords to become more selective in the tenants they are willing to rent to.

Tenancy roll-over arrangements

- 2.23 The current system enables tenancies to roll over on a month-to-month basis, after the end of the initial lease period, if stated in the tenancy agreement. The Scottish Government's view is that one month's notice offers tenants little time to make other arrangements and that, if a tenancy has been working well, it seems reasonable to offer a tenant the extra security of at least another six month tenancy.
- 2.24 The proposal is that the new system will not enable tenancies to roll over on a monthly basis or indeed any other basis that offers a shorter duration than the current tenancy agreement. This means that at the end of the initial lease period, if no Notice to Quit has been issued, either automatic renewal will apply or a new contractual tenancy will be needed.
- 2.25 However, a small number of legal respondents noted that the proposal is based on the part-assumption that the tenant is given a period of only one month to make alternative accommodation arrangements. They suggested this is not necessarily correct as the tenant will have received two months' notice of termination of tenancy.

Question 2: Do you agree that the ability to roll over tenancies on a monthly basis should be excluded from the new tenancy system?

- 2.26 Question 2 asked respondents if they agreed that the ability to roll over tenancies on a monthly basis should be excluded from the new tenancy system. Responses by respondent type are set out in Table 3 below.
- 2.27 The clear majority of all respondents (79%) and non-campaign respondents (76%) did not agree that the monthly roll-over should be excluded. Groups in which the majority disagreed were industry bodies, landlords, lettings agents, others and individual respondents. Those supporting Campaigns 1 and 2 also disagreed. However, a majority of advice, campaign, local authority and tenant respondents did agree. Union or political party respondents were evenly divided.
- 2.28 A total of 483 non-campaign respondents went on to make an additional comment, and the text from Campaigns 1 and 2 also included a relevant comment. This issue was also discussed with focus group participants.
- 2.29 A small number of comments referred to the relationship between the exclusion of a no-fault ground and the exclusion of a monthly roll-over option. It was also suggested that removing the monthly roll-over would be consistent with the removal of the no-fault recovery route. Others saw no advantage or need to remove the roll-over if the no-fault ground is excluded, as security of tenure would not be affected.

Table 3: Question 2 - Response by Respondent Type				
Respondent Type	Yes	No	Don't Know	Total
Advice, Information & Ombudsman Services	4	3	2	9
Campaign Body or Group	6	3	-	9
Industry Body	1	14	-	14
Landlord	9	40	-	49
Legal Body or Firm	-	7	1	9
Lettings Agent and/or Property Management	2	52	-	54
Local Authority	11	7	2	20
Tenant and/or Resident Group	7	4	-	11
Union or Political Party	3	3	1	7
Other	-	5	2	7
<i>Total Organisations</i>	<i>(43)</i>	<i>(138)</i>	<i>(8)</i>	<i>(189)</i>
Individuals	56	276	21	353
<i>Total (excl. campaign responses)</i>	<i>(99)</i>	<i>(414)</i>	<i>(29)</i>	<i>(542)</i>
<i>Percentage (excl. campaign responses)</i>	<i>18%</i>	<i>76%</i>	<i>5%</i>	<i>100%</i>
Campaigns	-	74	-	74
TOTAL	99	488	29	616
Percentage of those answering	16%	79%	5%	100%

2.30 Those who agreed with the exclusion of the monthly roll-over often referred to the need to boost security of tenure and ensure that tenants have sufficient notice that the tenancy will be coming to an end. Some local authority, advice service and campaign body respondents were amongst those raising this issue. In particular, it was noted that a month is insufficient time to find a new property in many housing markets – including highly pressured urban markets and in rural areas where supply will be limited. This was very much the view of the majority of focus group participants; those living in Aberdeen and Edinburgh reported particular difficulties in accessing a new tenancy because of competition from other renters. Those living in rural areas, and particularly those with school age children, noted the need to stay within a local community which may have few if any tenancies coming up for rent.

2.31 Many respondents (principally those who disagreed with the exclusion of the roll-over provision, but also a small number who agreed with its exclusion or had not reached a firm view), pointed to the advantages that come with the monthly roll-over approach. In particular, a number of industry body, letting agent, landlord and individual respondents suggested that, along with landlords, many tenants like the flexibility offered by the monthly roll-over arrangements and may not necessarily wish to renew the lease for the same length of time as the original tenancy agreement. A small number of letting agent respondents reported that, in their experience, it is tenants rather than landlords who ask for a tenancy that rolls over month by month.

- 2.32 Many referred to the type of tenant who might need or prefer the monthly roll-over approach or to the type of circumstances under which the monthly roll-over is useful. Examples given included:
- Those looking to move in the near future - for example those moving into owner occupation or the social rented sector and needing to honour a specific date of entry. Lettings agent respondents were particularly likely to highlight this issue.
 - Those with short-term or transient work arrangements who may need or want to move regularly and at relatively short notice. A small number of focus group participants were in this position and all said they would have concerns about an approach which tied them in for longer fixed periods.
- 2.33 A particular concern was that tenants who needed or wanted to leave a tenancy 'mid-term' could find themselves liable for an early exit fee or the rent to cover the remainder of the tenancy period; this could mean they would either suffer a potentially significant financial loss or might be unable to move at all. An associated concern was that the number of abandonments (and associated problems for landlords) could increase; this was a particular concern amongst individual, letting agent and industry body respondents. More generally, there was a suggestion that mid-tenancy administration costs could increase, either because agents would charge each time the tenancy is renewed or because of the time taken for the landlord to create and get the lease signed again.
- 2.34 Other comments on the potential impact of excluding the monthly roll-over included that, as with the exclusion of the no-fault ground, this could deter investment into the sector, with particular concerns about the likely impact on the student market. It was also suggested that 'potential landlords', such as people who are moving away for a fixed period for employment, may be reluctant to rent out their property if they would have to commit to extensions of a minimum of 6 months. Similarly, there was a view that an approach which creates second or subsequent tenancies in line with the initial tenancy length will discourage landlords from offering longer leases; rather, it was suggested, landlords will stick to the minimum period possible. Industry body and letting agent respondents were most likely to raise this range of issues.
- 2.35 Suggested alternatives or additions to the proposed approach (suggested by those agreeing, disagreeing or of no fixed view), included:
- The tenant (but not the landlord) should be offered the choice of second and subsequent tenancies of the same length as the first tenancy or the month to month roll-over.
 - Tenancies could roll over for less than 6 months, but for longer than under the current system – for example, in 2 or 3 month blocks.

Summary – Question 2

The clear majority of respondents (79%) did not agree that the monthly roll-over should be excluded. Groups in which the majority disagreed were industry bodies, landlords, lettings agents, others and individual respondents.

Many respondents suggested that both landlords and tenants like the flexibility offered by the arrangement. Many referred to the type of tenant who might need or prefer the monthly roll-over approach (such as those who with short term working arrangements) or to the circumstances under which the monthly roll-over can be useful (such as those looking to buy a home in the near future). A particular concern was that such tenants could find themselves liable for the rent to cover the remainder of the tenancy period and/or that the number of abandonments (and associated problems for landlords) could increase.

Although in the minority overall, a majority of advice, campaign, local authority and tenant respondents did agree that the monthly roll over should not form part of the new tenancy regime. They tended to refer to the need to boost security of tenure and ensure that tenants have sufficient notice that the tenancy will be coming to an end. In particular, it was noted that a month is insufficient time to find a new property in many housing markets.

Length of tenancy

- 2.36 The proposal is that all future lets would have a minimum duration of six months. However, the consultation paper notes that some tenants, such as travelling or seasonal workers, may want a tenancy of less than six months; they would be able to request a shorter tenancy period from the landlord, who would be able to decide whether to accept the request. However, a landlord would not be able to offer a tenancy shorter than six months unless the tenant specifically requests it.

Question 3a: Do you agree that the new type of tenancy should have a minimum duration of six months?

- 2.37 Question 3a asked respondents if they agreed that the new type of tenancy should have a minimum duration of 6 months. Responses by respondent type are set out in Table 4 below.
- 2.38 The clear majority of respondents who answered this question (76%) agreed that tenancies should be for a minimum of 6 months, as did the majority of non-campaign respondents (73%). The majority of advice, campaign body, industry body, landlord, letting agent, local authority, and tenant group, other and individual respondents agreed with the proposal. Union respondents were evenly divided while legal body or firm respondents were the only type of respondent in which the majority disagreed.

Table 4: Question 3a - Response by Respondent Type				
Respondent Type	Yes	No	Don't Know	Total
Advice, Information & Ombudsman Services	8	1	-	9
Campaign Body or Group	6	3	-	9
Industry Body	13	1	-	14
Landlord	34	14	1	49
Legal Body or Firm	3	5	1	9
Lettings Agent and/or Property Management	41	11	2	54
Local Authority	19	1	-	20
Tenant and/or Resident Group	9	2	-	11
Union or Political Party	3	3	1	7
Other	4	3	-	7
<i>Total Organisations</i>	<i>(140)</i>	<i>(44)</i>	<i>(5)</i>	<i>(189)</i>
Individuals	252	75	22	349
<i>Total (excl. campaign responses)</i>	<i>(392)</i>	<i>(119)</i>	<i>(27)</i>	<i>(538)</i>
<i>Percentage (excl. campaign responses)</i>	<i>73%</i>	<i>22%</i>	<i>5%</i>	<i>100%</i>
Campaigns	74	-	-	74
TOTAL	466	119	27	612
Percentage of those answering	76%	19%	4%	100%

- 2.39 A total of 426 non-campaign respondents went on to make an additional comment, and the text from Campaigns 1 and 2 also included a relevant comment. This issue was also discussed with focus group participants.
- 2.40 Those who agreed with the 6 month minimum tended to make relatively limited further comments, which often suggested the approach seemed: reasonable; reflects current practice; continues with an approach which is valued for its flexibility; is well-understood by tenants, landlords and agents; and allows both parties time to decide if the tenancy is working out well. This was also very much the view of the focus group participants. Industry body, landlord and letting agent respondents were amongst those who noted that the majority of landlords want tenancies of no less than 6 months to ensure that the time and money spent arranging the tenancy are worthwhile and lead to reasonable rental income.
- 2.41 A small number of respondents noted the benefits of allowing flexibility, including that longer tenancies remain an option which could be agreed between landlord and tenant. These respondents also suggested that they would like to see longer term tenancies being used more frequently, including the suggestion that a 'good practice code' approach could be set out that would encourage the adoption of longer leases, whilst retaining the potentially attractive option of shorter term leases.

- 2.42 A small group of respondents, including some local authorities, also explicitly agreed with or welcomed the option for shorter tenancies under certain circumstances. In addition to the work-related examples referenced in the consultation paper, respondents (including a small number who had disagreed with the proposal), suggested other circumstances in which shorter minimum terms could be required and appropriate would be:
- For student lets, and particularly purpose-built student accommodation.
 - In relation to properties that are otherwise used as holiday lets but are being let out-of-season. It was also noted that when operating as holiday lets properties will require to be excluded from the provisions.
- 2.43 Other points raised by those who supported the 6 month minimum included that care will have to be taken to ensure that the ability to choose a shorter period is not exploited and misused as a loophole by landlords or their agents. A small number of focus group participants also raised this as a possibility, particularly if someone was desperate for accommodation and felt they had few if any other options available to them.
- 2.44 A small number of other respondents (principally those who had disagreed at Question 3a), suggested that the minimum term could or should be longer, or that there should be no minimum term. Alternative proposals included:
- 12 month minimum tenancies.
 - Indefinite tenancies with clearly defined notice period arrangements, possibly in line with those for assured and protected tenancies.
- 2.45 Finally, a small number of respondents, including some letting agent and legal firm respondents, suggested that there should be no minimum term; rather they took the view that shorter terms should simply be an option and that both landlord and tenant should be able to suggest a shorter lease term. One legal body respondent suggested that a minimum term would impose upon the freedom of contract which each party to the proposed tenancy should have and the terms should remain open for negotiation between the parties.

Summary – Question 3a

The clear majority of respondents agreed that tenancies should be for a minimum of 6 months (76%).

Those who agreed with the 6 month minimum tended to make relatively limited further comments, which often suggested the approach seemed: reasonable; continues with an approach which is valued for its flexibility; and is well-understood by tenants, landlords and agents.

A small number of other respondents suggested that the minimum term could or should be longer, or that there should be no minimum term.

Question 3b: Do you agree that the tenancy should have no maximum period?

2.46 Question 3b asked respondents if they agreed that the new type of tenancy should have no maximum period. Responses by respondent type are set out in Table 5 below.

2.47 The clear majority of all respondents who answered this question (69%) and of non-campaign respondents (70%) agreed that tenancies should have no maximum period. A majority of all types of respondent agreed with the proposal, although some landlord, letting agent and individual respondents disagreed as did those supporting Campaign 1.

Respondent Type	Yes	No	Don't Know	Total
Advice, Information & Ombudsman Services	8	-	1	9
Campaign Body or Group	7	-	1	8
Industry Body	12	1	-	13
Landlord	34	9	5	48
Legal Body or Firm	9	-	-	9
Lettings Agent and/or Property Management	37	9	8	54
Local Authority	20	-	-	20
Tenant and/or Resident Group	10	-	1	11
Union or Political Party	5	-	2	7
Other	6	1	-	7
<i>Total Organisations</i>	<i>(148)</i>	<i>(20)</i>	<i>(18)</i>	<i>(186)</i>
Individuals	226	87	37	350
Total (excl. campaign responses)	(374)	(107)	(55)	(536)
Percentage (excl. campaign responses)	70%	20%	10%	100%
Campaigns	45	29	-	74
TOTAL	419	136	55	610
Percentage of those answering	69%	22%	9%	100%

2.48 A total of 390 non-campaign respondents went on to make an additional comment, and the text from Campaigns 1 and 2 also included a relevant comment. This issue was also discussed with focus group participants.

2.49 It should be noted that the further comments suggest that the proposal and question have been interpreted broadly in one of two ways. Some respondents have understood the proposal to be that there would be no prescribed maximum tenancy length - in other words that there would be no 'cap' on the length of tenancies. However, some respondents have interpreted the question as asking whether a tenancy should have no fixed term, in other

words whether tenancies should be indefinite. Given this, the subsequent commentary simply sets out the range of issues raised⁴.

- 2.50 Some respondents suggested that an approach whereby landlords and tenants can agree to a longer tenancy if they both so choose works well for both landlords and tenants. Letting agent, industry body and individual respondents were particularly likely to highlight this as a strength of the current system.
- 2.51 Other respondents, including many individual, landlord and local authority respondents simply stated that they saw no reason or need for a maximum tenancy period (although, as noted above, it was not always clear exactly what was meant by this). Sometimes respondents qualified their comment with the need for reasonable notice provisions.
- 2.52 Some respondents were of the view that the need for the length of a tenancy to be defined would depend on whether there is a no-fault ground. The small but diverse group of respondents raising this point tended to suggest that tenancies would need to be of a fixed term if a no-fault ground is excluded. A contrasting view (generally expressed by respondents who had supported the exclusion of a no-fault ground and including some campaign body respondents), was that tenancies should not have a fixed term and that Scotland should adopt the more open-ended lease periods common in some other European countries.
- 2.53 Suggested advantages of this open-ended approach included giving tenants a greater sense of security and greater sense of 'belonging' to their neighbourhood or community. Tenant and resident group respondents were particularly likely to have highlighted this issue. It was also suggested that this approach offers advantages to landlords in terms of consistent income streams.
- 2.54 Those proposing that tenancies should have no fixed terms expressed varying views on whether possible exceptions should be allowed. Issues raised included:
- A lease must be for a fixed term in order to be a contractual agreement.
 - Any action which substantially limits the landlord's discretion may discourage further investment into the sector. It was also noted that many mortgage companies will not allow long fixed tenancies.
 - Student accommodation may or does require fixed tenancy terms in order to establish availability for the next academic period.
 - It will be important to avoid tenants being required to enter into much longer contracts than they might want or being tied in to unreasonably long notice periods.

⁴ This also suggests that the results of the 'Yes/No' question should be viewed with caution.

Summary – Question 3b

The clear majority of respondents (69%) agreed that tenancies should have no maximum period. However, it appeared that the proposal and question were interpreted broadly in one of two ways. Some respondents have understood the proposal to be that there would be no prescribed maximum tenancy length - in other words that there would be no 'cap' on the length of tenancies. However, some respondents have interpreted the question as asking whether a tenancy should have no fixed term, in other words whether tenancies should be indefinite.

Some respondents suggested that an approach whereby landlords and tenants can agree to a longer tenancy if they both so choose works well for both landlords and tenants. Other respondents, simply stated that they saw no reason or need for a maximum tenancy period.

Some respondents were of the view that the need for the length of a tenancy to be defined would depend on whether there is a no-fault ground. A contrasting view was that tenancies should not have a fixed term and that Scotland should adopt the more open-ended lease periods common in some other European countries.

Question 3c: Do you agree that a tenant should be able to request a shorter tenancy?

- 2.55 Question 3c asked respondents if they agreed that a tenant should be able to request a shorter tenancy. Responses by respondent type are set out in Table 6 below.
- 2.56 The clear majority of all respondents who answered this question (74%) and of non-campaign respondents (75%) agreed that a tenant should be able to request a shorter tenancy. There were no types of respondent within which the majority did not agree with this proposal.
- 2.57 A total of 452 written respondents went on to make an additional comment, and the text from Campaigns 1 and 2 also included a relevant comment. This issue was also discussed with focus group participants.
- 2.58 Many of those who supported this proposal, including a number of individual, landlord and letting agent respondents, simply confirmed that the landlord would not have to agree to a shorter tenancy and in some cases made their support conditional on that being the case. As at earlier questions, a substantial number of respondents also noted the advantages of building flexibility into the new system, not least because this is what many tenants want and need.

Table 6: Question 3c - Response by Respondent Type				
Respondent Type	Yes	No	Don't Know	Total
Advice, Information & Ombudsman Services	9	-	-	9
Campaign Body or Group	5	1	2	8
Industry Body	12	-	-	12
Landlord	36	9	4	49
Legal Body or Firm	9	1	-	10
Lettings Agent and/or Property Management	38	15	-	53
Local Authority	20	-	-	20
Tenant and/or Resident Group	9	2	-	11
Union or Political Party	6	1	-	7
Other	7	-	-	7
<i>Total Organisations</i>	<i>(151)</i>	<i>(29)</i>	<i>(6)</i>	<i>(186)</i>
Individuals	255	82	15	352
<i>Total (excl. campaign responses)</i>	<i>(406)</i>	<i>(111)</i>	<i>(21)</i>	<i>(538)</i>
<i>Percentage (excl. campaign responses)</i>	<i>75%</i>	<i>21%</i>	<i>4%</i>	<i>100%</i>
Campaigns	45	29	-	74
TOTAL	451	140	21	612
Percentage of those answering	74%	23%	3%	100%

2.59 Again, respondents noted the types of tenants who may particularly benefit by being able to request a shorter tenancy, including gypsy/travellers, seasonal workers, those on short-term or probationary work contracts and students. A small number of focus group participants recalled occasions on which they would have found a shorter tenancy to have been helpful and most could envisage future circumstances in which it might offer a useful option.

2.60 However, a significant concern (raised by both those agreeing and disagreeing with the proposal), was that tenants could be 'forced' into accepting shorter tenancies. This was a particular concern amongst local authority and advice service respondents. It was suggested that appropriate safeguards will be required to ensure that the tenant's request is genuine and that the procedure is not used to evade a new minimum length for renewed tenancies. There were particular concerns that shorter tenancies could be misused to operate like a probationary tenancy and that vulnerable tenants would be particularly open to such an abuse.

2.61 The majority of the group respondents who did not agree and went on to comment were either landlords or letting agents. Their principle concern, echoed by a number of the individual respondents, was that shorter tenancies result in increased costs and are not financially viable for landlords. A small number of those who had agreed with the proposal also noted the cost implications for landlords and in some cases noted that rental charges may need to be higher as a result.

- 2.62 Some respondents (including a small number who had agreed with the proposal), thought that ‘the same rules’ should apply to both tenant and landlord, in other words that if a landlord cannot offer a shorter tenancy a tenant should not be able to request one.

Summary – Question 3c

The clear majority of respondents (74%) agreed that a tenant should be able to request a shorter tenancy.

Many respondents simply confirmed that the landlord would not have to agree. As at earlier questions, a substantial number of respondents also noted the advantages of building flexibility into the new system. However, there was a concern that tenants could be ‘forced’ into accepting shorter tenancies, with appropriate safeguards required to ensure this does not happen.

Notice to Quit – from landlords to tenants

- 2.63 Currently if a tenancy lasts for more than four months, the minimum notice period is 40 days; and if the tenancy lasts for four months or less, the notice period is at least 28 days.
- 2.64 The proposal is to link the notice period for tenants with how long the tenant has been living in the property using the following sliding scale:
- Less than six months in the property = 28 days’ notice (four weeks).
 - Six months or more, but less than two years in the property = 56 days’ notice (eight weeks).
 - Two years or more, but less than five years in the property = 84 days’ notice (12 weeks).
 - Five years or more in the property = 112 days’ notice (16 weeks).

Question 4a: Do you agree that the notice period should be linked to how long the tenant has lived in the property?

- 2.65 Question 4a asked respondents if they agreed that the notice period should be linked to how long the tenant has lived in the property. Responses by respondent type are set out in Table 7 below.
- 2.66 The majority of all respondents who answered this question (60%) and of non-campaign respondents (59%) agreed with linking notice periods to the time the tenant has lived in the property. A majority of all types of respondent were in agreement, although a significant minority of campaign body, landlord, letting agent and individual respondents disagreed with the proposal.

Table 7: Question 4a - Response by Respondent Type				
Respondent Type	Yes	No	Don't Know	Total
Advice, Information & Ombudsman Services	8	-	1	9
Campaign Body or Group	7	3	-	10
Industry Body	11	2	1	14
Landlord	30	19	-	49
Legal Body or Firm	6	1	2	9
Lettings Agent and/or Property Management	33	19	1	53
Local Authority	15	4	1	20
Tenant and/or Resident Group	9	2	-	11
Union or Political Party	6	1	-	7
Other	6	1	-	7
<i>Total Organisations</i>	<i>(131)</i>	<i>(52)</i>	<i>(6)</i>	<i>(189)</i>
Individuals	191	143	19	353
<i>Total (excl. campaign responses)</i>	<i>(322)</i>	<i>(195)</i>	<i>(25)</i>	<i>(542)</i>
<i>Percentage (excl. campaign responses)</i>	<i>59%</i>	<i>36%</i>	<i>5%</i>	<i>100%</i>
Campaigns	45	29	-	74
TOTAL	367	224	25	616
Percentage of those answering	60%	36%	4%	100%

- 2.67 A total of 446 non-campaign respondents went on to make an additional comment, and the text from Campaigns 1 and 2 also included a relevant comment. This issue was also discussed with focus group participants.
- 2.68 Those agreeing with the proposal often referred to it seeming appropriate, reasonable or fair; letting agent, local authority, industry body and individual respondents were particularly likely to make a comment of this type. Three industry body respondents were amongst those suggesting that the system should recognise those who have been resident for longer, not least because of the benefits to landlords of tenancies lasting for longer.
- 2.69 A number of respondents also noted that a longer tenancy suggests that the tenant may have established strong connections to the local area and in these circumstances it is likely that they would need longer to find alternative accommodation which meets their needs. This was very much the view of focus group participants and particularly those living in rural areas and/or with children. In particular, they pointed to the difficulties children can experience if they need to make frequent changes of school. The difficulty of re-arranging childcare was also highlighted.
- 2.70 However, some focus group participants were amongst those (including both those agreeing or disagreeing with the proposal), who suggested that, irrespective of circumstances, the 28 day notice period is too short; it was felt it gave insufficient time to make alternative arrangements, including finding the money necessary to fund a move.

- 2.71 Industry body and letting agent respondents were amongst the small number of respondents who raised questions about how the proposal would work in practice. These tended to focus on the definition of notice periods and, in particular, how 'month' should be interpreted. It was suggested that there will need to be clear guidance on the relevant periods for those serving the notices to avoid any confusion.
- 2.72 Other issues or concerns raised, including by those agreeing or disagreeing with the proposal, included that there could be issues with tenants with long notice periods abandoning or failing to pay the rent during that period. Where it suited both parties, a minimum notice period with clear rules regarding mutual renunciation was proposed.
- 2.73 The issues most frequently raised by those who disagreed with the proposal were that the approach would be complicated, confusing and less transparent or that it simply is not necessary or appropriate for landlords to need to give longer notice, or that the longer notice periods suggested are too long. Some of those making this point suggested that the (current) 2 month period is sufficient for a tenant to find a new property, or that the time taken to find a new property is not affected by how long a tenant has lived in their current home.
- 2.74 Other comments made included that:
- The proposal is inequitable and there should be equivalent notice periods for landlords and tenants. Those raising this issue included a small number of those agreeing with the proposal as well as many who did not. This specific issue of the notice tenants would give is discussed further under Question 9.
 - Circumstances change and this proposal would remove the flexibility to respond to those changes including for tenants who wish to move quickly, or for landlords who need their property back within a manageable period. Landlords and individual respondents were most likely to raise this concern.
- 2.75 Finally, two campaign body respondents suggested that notice periods should be linked to the grounds for repossession and that where the grounds for repossession are not linked to the tenant's actions (essentially grounds 1-5), the landlord should give the tenant 16 weeks' notice. Where the grounds for repossession relate to the tenant's action (grounds 6, 7 and 8), they suggested the notice period should be 28 days. These issues are covered further under Question 5.

Summary – Question 4a

The majority of respondents (60%) agreed with linking notice periods to the time the tenant has lived in the property.

Those agreeing often referred to it seeming appropriate, reasonable or fair. A number of respondents also noted that a longer tenancy suggests that the tenant may have established strong connections to the local area and in these circumstances it is likely that they would need longer to find alternative accommodation which meets their needs.

However, some respondents suggested that, irrespective of circumstances, the 28 day notice period is too short; it was felt it gave insufficient time to make alternative arrangements, including finding the money necessary to fund a move. Other issues or concerns raised, including by those agreeing or disagreeing with the proposal, included that there could be issues with tenants with long notice periods abandoning or failing to pay the rent during that period.

The issues most frequently raised by those who disagreed with the proposal were that the approach would be complicated or that it simply is not necessary or appropriate for landlords to need to give longer notice.

Question 4b: Do you agree with the four proposed notice periods?

- 2.76 Question 4b asked respondents if they agreed with the four notice periods proposed. Responses by respondent type are set out in Table 8 below.
- 2.77 Respondents were relatively evenly divided on this issue, although a small majority of all respondents who answered this question (54%) and of non-campaign respondents (56%) disagreed with the notice periods proposed. The majority of campaign body, industry body, legal body, local authority, union and other respondents agreed with the proposal. However, the majority of individuals, advice services, landlords and letting agent respondents disagreed.
- 2.78 A total of 388 non-campaign respondents commented at this question, and the text from Campaigns 1 and 2 also included a relevant comment. This issue was also discussed at the focus groups.
- 2.79 Both those agreeing and disagreeing raised many of the same issues as already covered at Question 4a. More particularly, those who agreed sometimes referred to the proposal appearing fair and reasonable. Those who disagreed suggested the approach would be complicated and unfair.

Table 8: Question 4b - Response by Respondent Type				
Respondent Type	Yes	No	Don't Know	Total
Advice, Information & Ombudsman Services	2	5	2	9
Campaign Body or Group	5	4	-	9
Industry Body	6	4	2	12
Landlord	16	28	3	47
Legal Body or Firm	5	2	1	8
Lettings Agent and/or Property Management	22	29	3	54
Local Authority	11	8	1	20
Tenant and/or Resident Group	8	2	-	10
Union or Political Party	5	2	-	7
Other	4	2	1	7
<i>Total Organisations</i>	<i>(84)</i>	<i>(86)</i>	<i>(13)</i>	<i>(183)</i>
Individuals	116	212	18	346
<i>Total (excl. campaign responses)</i>	<i>(200)</i>	<i>(298)</i>	<i>(31)</i>	<i>(529)</i>
<i>Percentage (excl. campaign responses)</i>	<i>38%</i>	<i>56%</i>	<i>6%</i>	<i>100%</i>
Campaigns	45	29	-	74
TOTAL	245	327	31	603
Percentage of those answering	41%	54%	5%	100%

- 2.80 Of those who disagreed with the notice periods, letting agent, landlord and individual respondents were most likely to suggest that the longer notice periods, and particularly the 16 week period, are excessive. A number of those raising this concern suggested that a 12 week notice period should be the maximum. Others suggested an 8 week maximum.
- 2.81 Focus group participants were relatively evenly divided on this issue; some were of the view that 12 weeks would be sufficient but others thought that 16 weeks would be better. There was also a suggestion that the time of year should be taken into account and that there are some periods (principally over the summer and Christmas and New Year holidays) when tenants need longer notice periods.
- 2.82 Alternatively (and as at Question 4a) some respondents (primarily advice service, campaign body or individual respondents), disagreed with the shortest notice period (of 28 days' for someone who had been in a property for less than six months). Those disagreeing with this part of the proposal also included many of the focus group participants. Various alternatives were suggested, including that the minimum notice period should be 40 days irrespective of how long the tenant had lived in the property.

Summary – Question 4b

Respondents were relatively evenly divided on the 4 notice periods proposed, although a small majority (54%) did agree with them. Both those agreeing and disagreeing raised many of the same issues as at the previous question, with those agreeing suggesting the proposal appeared fair and reasonable and those disagreeing suggesting the approach would be complicated and unfair.

There were particular concerns about the 16 week notice period being too long. Alternatively some respondents disagreed with the shortest notice period (of 28 days' for someone who had been in a property for less than six months).

3 SAFEGUARDS FOR LANDLORDS, LENDERS AND INVESTORS

3.1 The consultation paper notes the need for the new tenancy system to strike the right balance between the interests of landlords, lenders, tenants and investors. Six themes are covered: grounds for repossession; shorter Notice to Quit period in certain circumstances; pre-tenancy notices; notice of proceedings; Notice to Quit - from tenants to landlords; and a model tenancy agreement.

Grounds for repossession

3.2 There are currently 17 grounds under which a landlord can regain possession of their property; some grounds attract a mandatory court order and others a discretionary order⁵. The proposal is for these to be replaced by 8 grounds, all of which would be mandatory. The proposed grounds are:

1. Landlord wants to sell.
2. Mortgage lender wants to sell because the landlord has broken the loan's conditions.
3. Landlord or family member wants to live in the property.
4. Refurbishment.
5. Change of use.
6. Tenant has failed to pay full rent over three months.
7. Tenant has displayed antisocial behaviour.
8. Tenant has otherwise broken their tenancy agreement.

3.3 In future all private rented sector civil cases will be heard by the PRS Tribunal not the sheriff courts. The PRS Tribunal will be part of the new First-tier Tribunal, created under the Tribunals (Scotland) Act 2014.

Question 5a: Do you agree that all the proposed repossession grounds should be mandatory?

3.4 Question 5a asked respondents if they agreed that all the proposed repossession grounds should be mandatory. Responses by respondent type are set out in Table 9 below.

3.5 The clear majority of all those who answered this question (78%) and of non-campaign respondents (75%) agreed that all the proposed repossession grounds should be mandatory. The majority of industry body, landlord, legal body, letting agent, local authority, tenant group, individual respondents and those supporting Campaigns 1 and 2 agreed. However, the clear majority of advice and campaign group respondents did not agree.

⁵ Further detail on the current arrangements can be found at pp.15-17 of the consultation document, available at: <http://www.scotland.gov.uk/Publications/2014/10/9702>

Table 9: Question 5a - Response by Respondent Type				
Respondent Type	Yes	No	Don't Know	Total
Advice, Information & Ombudsman Services	1	8	-	9
Campaign Body or Group	1	8	-	9
Industry Body	8	2	2	12
Landlord	43	5	-	48
Legal Body or Firm	8	1	-	9
Lettings Agent and/or Property Management	45	7	2	54
Local Authority	12	6	1	19
Tenant and/or Resident Group	8	3	-	11
Union or Political Party	3	4	-	7
Other	7	-	-	7
<i>Total Organisations</i>	<i>(136)</i>	<i>(44)</i>	<i>(5)</i>	<i>(185)</i>
Individuals	261	52	29	342
<i>Total (excl. campaign responses)</i>	<i>(397)</i>	<i>(96)</i>	<i>(34)</i>	<i>(527)</i>
<i>Percentage (excl. campaign responses)</i>	<i>75%</i>	<i>18%</i>	<i>6%</i>	<i>100%</i>
Campaigns	74	-	-	74
TOTAL	471	96	34	601
Percentage of those answering	78%	16%	6%	100%

3.6 There was a strong correlation between views on the inclusion of a no-fault ground and views on whether the proposed grounds should be mandatory. Overall, those who favoured the inclusion of a no-fault ground tended to believe the grounds should be mandatory. Those who did not favour the inclusion of a no-fault ground also tended to disagree with the proposed 8 grounds being mandatory. However, the profile differed for local authority and tenant group respondents, with the majority in these groups both agreeing with the exclusion of a no-fault ground and that all the proposed grounds should be mandatory.

3.7 A total of 355 non-campaign respondents made a further comment at this question, and the text from Campaigns 1 and 2 also included a relevant comment. The question was also discussed at the focus groups.

3.8 Those who agreed that all the proposed grounds should be mandatory often focused their comments on the need for repossession grounds to be mandatory and 'watertight', particularly if they are the only route through which a landlord will be able to regain possession of their property. Many respondents, including letting agent, landlord and individual respondents, noted that they favoured simplification and the system being easy to understand for both landlords and tenants. This point was often connected to the need to make sure the grounds are clear and concise but that there is sufficient detail to ensure they are workable and robust. A number of respondents suggested that further detail is required or noted that the current

consultation provides insufficient detail to allow them to make a judgment as to whether the proposals are workable. This issue was also raised by respondents who did not agree that the grounds should be mandatory or did not have a view.

- 3.9 Issues raised by those supporting the mandatory approach included:
- The Tribunal process will need to be sufficiently resourced to ensure that landlords can repossess their properties in a timely manner.
 - The grounds could, but must not, become 'diluted' during the legislative process.
- 3.10 A small number of both those who agreed or disagreed at Question 5a identified certain grounds which they considered should be discretionary rather than mandatory. Advice service, campaign body, local authority and union and individual respondents were amongst those commenting on this issue. A case was made that some grounds being discretionary would be in the interest of both tenants and landlords; the suggestion was that it may be simpler for a landlord to prove on the balance of probabilities that they require possession of the property, rather than strictly adhering to the specific evidential requirements of a tightly defined mandatory ground for possession. From the tenant's perspective it was suggested that discretion would reduce the risk of an eviction order being granted for relatively minor technical breaches of the tenancy agreement.
- 3.11 Respondents were most likely to suggest that Ground 6 (Tenant has failed to pay full rent over three months), Ground 7 (Tenant has displayed antisocial behaviour), and Ground 8 (Tenant has otherwise broken their tenancy agreement), should be discretionary. A small number of respondents also questioned whether Ground 4 (Refurbishment), should be discretionary. This overall position was similar to that taken by most focus group respondents; they tended to the view that purely business-related grounds should be mandatory, with the possible exception of Ground 4, but that those relating to the tenant should be discretionary. Further analysis of respondents' views on the specific grounds is set out at Question 5b below.
- 3.12 Many of those who disagreed with all grounds being mandatory stated explicitly that no grounds should be mandatory. More widely, there was a view that making all grounds mandatory would represent a serious weakening of the rights of tenants in Scotland's private rented sector by removing the defence of 'reasonableness'. There were also concerns about eviction cases being dealt with by the First-tier PRS Tribunal rather than by the Sheriff Court. Advice service and campaign body respondents were most likely to voice these concerns.

Summary – Question 5a

The majority of respondents (78%) agreed that all the proposed repossession grounds should be mandatory, although the majority of advice and campaign group respondents did not agree.

Those who agreed that all the proposed grounds should be mandatory often focused their comments on the need for repossession grounds to be mandatory and ‘watertight’, particularly if they are the only route through which a landlord will be able to regain possession of their property.

In contrast, a small number of both those who agreed or disagreed identified certain grounds which they considered should be discretionary rather than mandatory. Respondents were most likely to suggest that Grounds 6, 7 and 8 should be discretionary. Many of those who disagreed with all grounds being mandatory stated explicitly that no grounds should be mandatory.

Question 5b: Do you agree with the proposed list of new repossession grounds?

- 3.13 Question 5b asked respondents if they agreed with the proposed list of repossession grounds. Responses by respondent type are set out in Table 10 below. This was also a question which was discussed at the tenant focus groups.
- 3.14 A small majority of all those who answered the question (56%) and half of non-campaign respondents (50%) agreed with the proposed new list of repossession grounds. Although most types of respondent were relatively evenly divided, the clear majority of local authority, tenant group and union respondents agreed, as did those supporting Campaigns 1 and 2.
- 3.15 A total of 412 non-campaign respondents made a further comment at this question, and the text from Campaigns 1 and 2 also included a relevant comment. This issue was also discussed at the focus groups.
- 3.16 As reflected in the analysis below, some respondents made general points whilst others focused on specific grounds. The analysis covering specific grounds also captures some of the comments made at Question 5a (which were often cross-referenced within responses).
- 3.17 General comments made by those who agreed with the proposed grounds often referred to them being fair, reasonable, simple and straightforward, particularly compared to the current approach. This was also the view of the majority of focus group participants. However, a small number of those who supported the proposal did note that their support was based on the grounds being mandatory and/or suggested there should also be a no-fault ground.

Table 10: Question 5b - Response by Respondent Type				
Respondent Type	Yes	No	Don't Know	Total
Advice, Information & Ombudsman Services	5	3	1	9
Campaign Body or Group	3	1	4	8
Industry Body	7	4	1	12
Landlord	22	23	3	48
Legal Body or Firm	4	4	1	9
Lettings Agent and/or Property Management	27	23	4	54
Local Authority	13	5	2	20
Tenant and/or Resident Group	10	1	-	11
Union or Political Party	5	-	1	6
Other	5	2	-	7
<i>Total Organisations</i>	<i>(101)</i>	<i>(66)</i>	<i>(17)</i>	<i>(184)</i>
Individuals	163	159	24	346
<i>Total (excl. campaign responses)</i>	<i>(264)</i>	<i>(225)</i>	<i>(41)</i>	<i>(530)</i>
<i>Percentage (excl. campaign responses)</i>	<i>50%</i>	<i>42%</i>	<i>8%</i>	<i>100%</i>
Campaigns	74	-	-	74
TOTAL	338	225	41	604
Percentage of those answering	56%	37%	7%	100%

3.18 A common theme, both amongst those agreeing, and disagreeing with the proposal, was the need for further information and detail. In particular, many respondents sought clarification as to the definitions of key terms being used (such as what is meant by a landlord's family, what is considered to be antisocial behaviour etc). Other respondents noted that it will be important to have clear information and guidance as how the processes associated with repossession will work, and particularly the supporting evidence that will be required. Some went on to call for involvement of key partners in developing definitions and processes, or for further consultation to be undertaken once these have been developed.

3.19 Other general concerns raised or comments made by those disagreeing with the proposals included the requirement for a no-fault ground or that the current system works well, or reasonably well, and no change is required. Individual respondents were most likely to raise this last point.

3.20 The other principal concern raised (as at Question 5a) was that the approach represents a serious weakening of the rights of tenants because of the proposal to make all grounds mandatory.

Ground 1: Landlord wants to sell the house

3.21 Around 40 respondents made a specific comment about Ground 1.

- 3.22 A small number, including some focus group participants, expressly stated that this should be a discretionary ground, with consideration given to proportionality and reasonableness; in particular, it was suggested that while landlords have obvious ownership rights, these have to be balanced against the tenants' rights to security of tenure. A small number of focus group participants were of the view that a landlord should only be able to sell because they were retiring or in the event of an unpredictable change in their circumstances; they did not think a landlord should be able to sell for purely financial and/or business reasons, such as because the property was worth more than they had paid for it.
- 3.23 Otherwise, comments tended to focus on at what stage in the process of a landlord wanting to sell this ground would apply, and how it would be evidenced that the landlord genuinely was seeking to sell the accommodation. Suggested examples given included the appointment of a solicitor to handle the sale or evidence that the property has been marketed at a reasonable price. A small number of respondents asked what penalties would be in place should landlords abuse this ground. The question as to whether the purchaser could immediately re-let the property was also raised.
- 3.24 Finally, a small number of respondents asked what would happen if:
- The landlord had a genuine change of mind or circumstances and no longer wished to sell.
 - It was not possible to sell the property (as in no-one wished to buy) or a sale falls through.

Ground 2: Mortgage lender wants to sell because the landlord has broken the loan's conditions

- 3.25 Few respondents (around 20) commented specifically on Ground 2. As at Ground 1, many of the comments made focused on the timing of any repossession. Otherwise, respondents tended to focus on whether the mortgage lender should be required to step in directly as landlord or sell the property with a sitting tenant. For example, it was noted that in some other countries if a landlord sells a property, the tenants remain with the terms of their lease intact, and the new landlord must 'buy them out' by giving a financial incentive to leave.

Ground 3: Landlord or family member wants to live in the property

- 3.26 Around 45 respondents commented specifically on Ground 3. A small number of respondents suggested that this ground did not offer a strong enough reason for the need to repossess to be mandatory and that the circumstances of the tenant should be taken into account.
- 3.27 Many of the comments focused on the need for further information as to how this ground would be applied, and in particular how 'family member' would be defined. A suggestion was that it should include a spouse/civil partner,

parents, siblings or children including step or half relatives and such relatives by marriage.

3.28 Other comments or suggestions included:

- That the landlord or family member must have occupied the property immediately prior to it being let. Some focus group participants took a similar view and felt that this ground should only apply if someone wanted to move (back) into a property which had been their family home rather than bought as an investment.
- The ground should be expanded to include employees or helpers. Landlord respondents were particularly likely to have highlighted this issue.
- How long would the landlord or family member need to live in the property for this ground not to have been misused?

Ground 4: Refurbishment

3.29 Around 55 respondents commented specifically on Ground 4 and there were particular concerns that this ground would be open to abuse.

3.30 Again, definitions were seen as key, with a number of respondents questioning how 'refurbishment' would be defined and the extent and type of work which would be included. Suggestions made included that the landlord should need to demonstrate that they require vacant possession in order to carry out the work.

3.31 Other suggestions relating to Ground 4 included:

- The landlord should be required to provide evidence that no reasonable alternative arrangements can be made with the tenant such as alternative housing for a period, partial use of the property, rent abatement etc.
- The previously sitting tenant should be given 'first refusal' when the newly refurbished property is available for rent. This suggestion was made by a small number of focus group participants.

Ground 5: Change of use

3.32 Around 30 respondents commented specifically on Ground 5, with issues raised being very similar to those in relation to Ground 4 (Refurbishment), namely what is meant by 'change of use'.

Ground 6: Tenant has failed to pay full rent over three months.

3.33 Around 210 respondents commented specifically on Ground 6. The majority of respondents raised one or both of two concerns. These were that:

- 3 months is too long for a landlord to wait. Those raising this concern sometimes also noted that the tenant would be at least 5-6 months in

arrears before a possession order could be granted (assuming a wait of 1-2 months for a First-tier PRS Tribunal hearing) and that there is a delay beyond this before eviction takes place. This means that even in simple, quick cases there could be a full 7-8 months of arrears before repossession takes place. Industry body, landlord, letting agent and individual respondents were particularly likely to raise these concerns.

- The ground does not appear to, but should acknowledge the potential for persistent and significant failure to pay rent; those raising this concern sometimes suggested that unscrupulous tenants would 'play the system' by avoiding ever being 3 full months in arrears.

3.34 Alternative proposals included that:

- The landlord should be able to issue 14 days' notice after 1 full month of rent is in arrears.
- Further, if the arrears remain after the notice period has elapsed the landlord can begin tribunal proceedings. If at the point the tribunal hearing takes place the tenant is 3 months in arrears (or has at any point during the tenancy been 3 months in arrears) the Tribunal must award possession.
- 2 months full rent arrears would be more appropriate. This would mirror the current maximum of two months deposit.

3.35 However, other respondents, including a small number of advice service and campaign body respondents, suggested that Ground 6 would be in conflict with the Homelessness etc. (Scotland) Act 2003's requirement to provide a reasonableness defence for the current 3 months' arrears of rent (Ground 8, schedule 5, Housing (Scotland) Act 1988). A particular connection was made to arrears which resulted from delays or errors in the processing of Local Housing Allowance (LHA) or Universal Credit payments. This was also a clear concern for focus group participants; they were almost unanimously of the view that someone should be evicted if they had not paid their rent for 3 months, unless those arrears were connected with delays or mistakes concerning LHA. Some noted that they themselves would have been vulnerable in the past if this were not the case.

Ground 7: Tenant has displayed antisocial behaviour.

3.36 Around 55 respondents commented specifically on Ground 7, with issues of definition again being a primary concern. In particular, the term was seen as highly subjective, including by focus group participants. One suggestion was that any antisocial behaviour would need to be serious and ongoing to ensure that tenants did not lose their homes as a result of a single incident that may be trivial. The legal body respondent making this point suggested that if the definition of antisocial behaviour is to be the same as that currently stated in the 2001 Act, the threshold is low and would allow landlords to insist on eviction based on a relatively trivial incident.

- 3.37 Further, landlord respondents were amongst those noting that behaviour which may not cause any problems in an entirely self-contained tenancy can be profoundly disruptive in a complex or in shared accommodation. It was also suggested that antisocial behaviour is very difficult to prove and hence clear guidance would be needed as to the evidence required to secure an eviction.
- 3.38 A number of respondents, including some campaign body respondents, were strongly of the view that the ground should be discretionary, not least because of the possible circumstances that could lead to antisocial behaviour. Examples given included if the behaviour was a symptom of an illness or if it was actually a visitor who had behaved antisocially.
- 3.39 Finally, a small number of tenant group respondents were amongst those pointing to the importance of being able to evict swiftly because of the need to protect neighbours and the wider community.

Ground 8: Tenant has otherwise broken their tenancy agreement.

- 3.40 Around 50 respondents commented specifically on Ground 8. Many of those commenting noted or were concerned that this ground could result in tenants being evicted for relatively minor infringements. Advice service, campaign body and local authority respondents were particularly likely to have raised this concern. These concerns led some to conclude that the Tribunal might need to rule on the reasonableness of the case – in other words that the ground should be discretionary. It was also suggested that the ground should be limited to sufficiently serious breaches of a term of the model tenancy agreement or any other term which is reasonable in the circumstances of the case.

Summary – Question 5b

A small majority (56%) of respondents agreed with the proposed list of grounds for repossession.

General comments made by those who agreed with the proposed grounds often referred to them being fair, reasonable and straightforward. A common theme, both amongst those agreeing, and disagreeing with the proposal, was the need for further information and detail. Other general concerns raised or comments made by those disagreeing with the proposals included the requirement for a no-fault ground or that the current system works well, or reasonably well, and no change is required.

In terms of specific grounds, Ground 6 (Tenant has failed to pay full rent over three months) attracted the highest number of specific comments. The principle concerns were that 3 months is too long for a landlord to wait and that the ground does not appear to, but should acknowledge the potential for persistent and significant failure to pay rent.

Question 5c: Are there other repossession grounds we should include in the list?

3.41 Question 5c asked respondents if there are other repossession grounds which should be included. Responses by respondent type are set out in Table 11 below.

Respondent Type	Yes	No	Don't Know	Total
Advice, Information & Ombudsman Services	1	6	1	8
Campaign Body or Group	3	2	3	8
Industry Body	11	1	-	12
Landlord	37	8	3	48
Legal Body or Firm	7	1	-	8
Lettings Agent and/or Property Management	38	6	8	52
Local Authority	9	8	3	20
Tenant and/or Resident Group	-	7	4	11
Union or Political Party	1	4	2	7
Other	3	1	3	7
<i>Total Organisations</i>	<i>(110)</i>	<i>(44)</i>	<i>(27)</i>	<i>(181)</i>
Individuals	163	72	92	327
Total (excl. campaign responses)	(273)	(116)	(119)	(508)
Percentage (excl. campaign responses)	54%	23%	23%	100%
Campaigns	74	-	-	74
TOTAL	347	116	119	582
Percentage of those answering	60%	20%	20%	100%

3.42 The majority of those who answered this question (60%) and of non-campaign respondents (54%) thought there are other possession grounds which should be included in the list. Industry bodies, landlords, lettings agents and individual respondents were the groups in which the clear majority thought further grounds were required. The remaining respondents were evenly divided between those who did not think any other grounds were required and those who did not know.

3.43 A total of 354 non-campaign respondents made a further comment at this question, and the text from Campaigns 1 and 2 also included a relevant comment. As at Question 5b above, some of the comments made general points whilst others focused on specific grounds.

3.44 Those who did not think additional grounds were required tended to make only brief further comments which often focused on the current list of 8 grounds appearing comprehensive, and on the benefits of keeping the approach as simple as possible. Those who did not know sometimes

suggested that further detail on the proposed grounds and the model tenancy would be required to allow them to form a clear view.

- 3.45 General comments made by those who suggested further grounds were necessary sometimes suggested that the current approach (of 17 grounds) works sufficiently well and should be retained.
- 3.46 The most frequently made suggestion was that a no-fault ground should be included with landlord, letting agent and individual respondents most likely to make this point. Other additional grounds proposed included:
- A property being required for an employee, including for an employee of a religious body.
 - A property required for a holiday let.
 - The landlord cannot afford maintenance or works required under the tenancy.
 - Unauthorised work carried out or persistent damage to the property.
 - Persistent late payment or non-payment of rent.
 - The tenant has abandoned the property.
 - The property being used for illegal or immoral purposes.

Summary – Question 5c

The majority of respondents (60%) thought there are other possession grounds which should be included in the list.

The most frequently made suggestion in terms of additional grounds was that a no-fault ground should be included. Other additional grounds proposed included a property being required for an employee, persistent late payment or non-payment of rent and the tenant having abandoned the property.

Shorter Notice to Quit period in certain circumstances

- 3.47 The consultation paper notes that, for some of the proposed new grounds above, landlords are likely to want to regain repossession of their property as quickly as possible. The proposal is that the new tenancy regime will enable landlords to recover their property by giving tenants 28 days' Notice to Quit, regardless of how long the tenant has lived in the property, if the tenant has:
- Failed to pay full rent over three months.
 - Displayed antisocial behaviour.
 - Otherwise breached their tenancy agreement.

Question 6: Do you agree that landlords should be able to recover possession of their property with a 28-day notice period in the circumstances listed above?

3.48 Question 6 asked respondents if they agreed that landlords should be able to recover possession of their property with a 28-day notice period under the 3 circumstances set out above. Responses by respondent type are set out in Table 12 below.

Respondent Type	Yes	No	Don't Know	Total
Advice, Information & Ombudsman Services	4	4	1	9
Campaign Body or Group	3	2	1	6
Industry Body	7	6	-	13
Landlord	31	14	3	48
Legal Body or Firm	5	3	1	9
Lettings Agent and/or Property Management	37	16	1	54
Local Authority	14	5	-	19
Tenant and/or Resident Group	9	-	-	9
Union or Political Party	4	2	1	7
Other	6	1	-	7
<i>Total Organisations</i>	<i>(120)</i>	<i>(53)</i>	<i>(8)</i>	<i>(181)</i>
Individuals	255	77	13	345
Total (excl. campaign responses)	(375)	(130)	(21)	(526)
Percentage (excl. campaign responses)	71%	25%	4%	100%
Campaigns	29	45	-	74
TOTAL	404	175	21	600
Percentage of those answering	67%	29%	4%	100%

3.49 The majority of all those who answered this question (67%) and of non-campaign respondents (71%) agreed that landlords should be able to recover possession of their property with a 28-day notice period under the 3 circumstances listed. The clear majority of landlord, local authority, tenant group, other and individual respondents agreed with the proposals, as did those supporting Campaign 1. However, those supporting Campaign 2 disagreed and other types of respondent (advice services, campaign bodies, industry bodies and legal body respondents), were relatively evenly divided on this issue.

3.50 A total of 364 non-campaign respondents went on to make a further comment, and the text from Campaigns 1 and 2 also included a relevant comment. This issue was also discussed at the focus groups.

- 3.51 Comments made included that the proposal seemed reasonable and that there will be some circumstances when a landlord will need to be regain possession of a property quickly. This was very much the view of focus group participants who were generally of the view that if the tenant was 'at fault' the landlord should be able to repossess their property quickly. Reference was also made to difficulties for landlords associated with non-payment of rent or the negative impact on the wider community of antisocial behaviour.
- 3.52 Some respondents, including a number of landlord and individual respondents, referred back to previous comments (primarily at Question 5), on the definition of the proposed grounds or whether they should be mandatory. In particular, a number of those supporting the proposal did so provided that a test of reasonableness would be applied.
- 3.53 Other caveats made by those supporting the proposal included that:
- More detail should be given and/or a clear (acceptable) definition of each of the grounds provided.
 - The notice should run coterminously with the Notice to Quit.
- 3.54 It was also suggested, again including by those who agreed and disagreed with the proposal, that there should be some circumstances in which a shorter notice period should apply. Many of those disagreeing with the proposal suggested that the notice period should be shorter than suggested (generally 14 days), in each of the 3 circumstances identified. Industry body, landlord, letting agent and individual respondents were most likely to raise this issue. Many of those taking this view noted the timeframe for evicting a tenant on these grounds, once allowance has been made for the time it will take to get a hearing date and secure eviction following an order for possession.
- 3.55 However, some of those who disagreed with the proposal took the opposite view and suggested that 28 days was too short a time to find alternative accommodation. Advice service and campaign body respondents were most likely to raise this issue and a small number of focus group participants were also of this view. It was suggested, for example, that either a 6 or 8 week notice period would be fair.

Summary – Question 6

The majority of respondents (67%) agreed that landlords should be able to recover possession of their property with a 28-day notice period if the tenant has failed to pay full rent over three months, displayed antisocial behaviour or otherwise breached their tenancy agreement. However, advice services, campaign bodies, industry bodies and legal body respondents were relatively evenly divided on this issue.

Comments made included that the proposal seemed reasonable and that there will be some circumstances when a landlord will need to be regain possession of a property quickly. However, some of those supporting the proposal did so provided that a test of reasonableness would be applied.

It was also suggested, again including by those who agreed and disagreed with the proposal, that there should be some circumstances in which a shorter notice period should apply. However, some of those who disagreed with the proposal took the opposite view and suggested that 28 days was too short a time to find alternative accommodation.

Pre-tenancy notices

- 3.56 Under the current assured tenancy system, landlords must provide advance notice to tenants if they intend to use the current repossession grounds 1 to 5 to regain possession of their property. The proposal is that a landlord would not need to issue a pre-tenancy notice to a tenant to say they may intend to recover possession under any of the new grounds.

Question 7: Do you agree that landlords should no longer have to issue pre-tenancy notices to recover possession of their property?

- 3.57 Question 7 asked respondents if they agreed that landlords should no longer have to issue pre-tenancy notices to recover possession of their property. Responses by respondent type are set out in Table 13 below.
- 3.58 The clear majority of all respondents who answered this question (87%) and of all non-campaign respondents (85%) agreed that landlords should no longer have to issue pre-tenancy notices to recover possession of their property. The majority of advice service, campaign body, industry body, landlord, legal body, letting agent, local authority, union, other and individual respondents agreed, as did those supporting Campaigns 1 and 2. Tenant and resident group respondents were the only respondent type in which the majority did not agree.
- 3.59 A total of 331 respondents went on to make a further comment, and the text from Campaigns 1 and 2 also included a relevant comment. Further comments tended to be brief.

Table 13: Question 7 - Response by Respondent Type				
Respondent Type	Yes	No	Don't Know	Total
Advice, Information & Ombudsman Services	7	2	-	9
Campaign Body or Group	6	-	2	8
Industry Body	14	-	-	14
Landlord	45	3	-	48
Legal Body or Firm	9	1	-	10
Lettings Agent and/or Property Management	44	8	2	54
Local Authority	17	2	-	19
Tenant and/or Resident Group	5	6	-	11
Union or Political Party	6	1	-	7
Other	7	-	-	7
<i>Total Organisations</i>	<i>(160)</i>	<i>(23)</i>	<i>(4)</i>	<i>(187)</i>
Individuals	291	23	29	343
<i>Total (excl. campaign responses)</i>	<i>(451)</i>	<i>(46)</i>	<i>(33)</i>	<i>(530)</i>
<i>Percentage (excl. campaign responses)</i>	<i>85%</i>	<i>9%</i>	<i>6%</i>	<i>100%</i>
Campaigns	74	-	-	74
TOTAL	525	46	33	604
Percentage of those answering	87%	8%	5%	100%

- 3.60 Those agreeing with the proposal often suggested that the notices are unnecessary and that the current system is complicated and not widely understood. Further points raised by those supporting the proposal included that any future system should be as simple (to understand and administer) as possible.
- 3.61 It was suggested that the arrangements should be set out clearly in the proposed model tenancy agreement including informing tenants of where to look for legal advice and support. Other issues raised included that consideration should be given to the impact which the removal of the notices could have on the administration of student lets.
- 3.62 Concerns raised by those who disagreed with the proposal were that the current system works well, or that it is important for tenants to be informed at the outset as to how possession can be obtained. Tenant and resident group respondents tended to refer to good housing management practices being required, and that a legal letter threatening eviction should never be the first contact from a landlord.

Summary – Question 7

The clear majority of respondents (87%) agreed that landlords should no longer have to issue pre-tenancy notices to recover possession of their property. Those agreeing with the proposal often suggested that the notices are unnecessary and that the current system is complicated and not widely understood.

Concerns raised by those who disagreed with the proposal included that the current system works well, or that it is important for tenants to be informed at the outset as to how possession can be obtained.

Notice of proceedings

- 3.63 A Notice of Proceedings is a document telling the tenant that their landlord wants to start legal proceedings to get their property back. Under the current system, the length of notice needed before the landlord can take legal action will depend on which of the 17 grounds the landlord has stated. A notice period of either two weeks or two months will apply.
- 3.64 The proposal is to simplify this process by introducing a four-week minimum notice period that a landlord must give a tenant before raising proceedings under any of the new grounds (as covered under Question 5 above).

Question 8: Do you agree that the notice period for all proceedings should be four weeks?

- 3.65 Question 8 asked respondents if they agreed that the notice period for all proceedings should be four weeks. Responses by respondent type are set out in Table 14 below.
- 3.66 Respondents were relatively evenly divided on this issue, with 52% of all those who answered the question and 54% of non-campaign respondents agreeing that the notice period for all proceedings should be 4 weeks. Landlords, letting agents, industry bodies and legal bodies or firms, were relatively evenly divided on this issue. However, many other types of respondents (advice services, campaign bodies, local authorities, tenant groups, unions and individual respondents and those supporting Campaign 1), tended to agree that all notice periods should be 4 weeks. Those supporting Campaign 2 disagreed as did the majority of the 'other' respondent group.
- 3.67 A total of 370 respondents went on to make a further comment, and the text from Campaigns 1 and 2 also included a relevant comment.

Table 14: Question 8 - Response by Respondent Type				
Respondent Type	Yes	No	Don't Know	Total
Advice, Information & Ombudsman Services	7	2	-	9
Campaign Body or Group	6	-	1	7
Industry Body	7	5	-	12
Landlord	24	23	1	48
Legal Body or Firm	4	4	-	8
Lettings Agent and/or Property Management	25	26	3	54
Local Authority	17	2	-	19
Tenant and/or Resident Group	10	1	-	11
Union or Political Party	7	-	-	7
Other	1	5	1	7
<i>Total Organisations</i>	<i>(108)</i>	<i>(68)</i>	<i>(6)</i>	<i>(182)</i>
Individuals	173	137	32	342
<i>Total (excl. campaign responses)</i>	<i>(281)</i>	<i>(205)</i>	<i>(38)</i>	<i>(524)</i>
<i>Percentage (excl. campaign responses)</i>	<i>54%</i>	<i>39%</i>	<i>7%</i>	<i>100%</i>
Campaigns	29	45	-	74
TOTAL	310	250	38	598
Percentage of those answering	52%	42%	6%	100%

- 3.68 As with no longer issuing pre-tenancy notices, those supporting the 4 week proposal frequently referred to the advantages of simplicity and creating an approach which is easy to understand for landlord and tenant alike. Advice service and local authority respondents were particularly likely to highlight this issue.
- 3.69 Other respondents noted their understanding that it would be possible to serve the Notice to Quit and Notice of Proceedings for Possession contemporaneously. A similar suggestion was that the Notice to Quit and the Notice of Proceedings are incorporated into a single statutory notice. A legal body respondent was one of those raising this issue; they noted that an alternative would be to move to a statutory system for repossession, akin to that in the social rented sector, with the tenancy continuing unchanged until a court order is granted and with the statutory notice having no effect beyond entitling the landlord to raise proceedings.
- 3.70 Some of those who supported the 4 week proposal did suggest this period could be too long in certain circumstances, with these respondents referencing antisocial behaviour in particular. Tenant group respondents were particularly likely to raise this issue.
- 3.71 There was a considerable consensus of view amongst those disagreeing with the proposal – the view was that the 28-day notice period is too long (either overall or under certain circumstances). Those who expanded on their position often suggested that there are certain circumstances when the

landlord needs to be able to act more swiftly (either to minimise their financial losses or the impact on a wider community). Industry body, landlord, letting agent and individual respondents were particularly likely to raise this issue. These respondents sometimes referred to occasions when the tenant is at fault, to Grounds 6, 7 and 8 of the proposed repossession grounds, or specifically to rent arrears and antisocial behaviour. The common view was that a 14-day notice period is sufficient and appropriate under these circumstances.

Summary – Question 8

Respondents were relatively evenly divided on whether the notice period for all proceedings should be 4 weeks, with 52% of respondents agreeing.

Those supporting the 4 week proposal frequently referred to the advantages of simplicity and creating an approach which is easy to understand for landlord and tenant alike. However, some also suggested this period could be too long in certain circumstances, with these respondents referencing antisocial behaviour in particular.

There was a considerable consensus amongst those disagreeing with the proposal – the view was that the 28-day notice period is too long (either overall or under certain circumstances). These respondents sometimes referred to occasions when the tenant is at fault, to Grounds 6, 7 and 8 of the proposed repossession grounds, or specifically to rent arrears and antisocial behaviour. The common view was that a 14-day notice period is sufficient and appropriate under these circumstances.

Notice to Quit - from tenants to landlords

3.72 The proposal is that tenants will have to give the following notice to quit the tenancy:

- Less than six months in the property = 28 days' notice (four weeks).
- Six months or more in the property = 56 days' notice (eight weeks).

3.73 This would mean that, if a tenant wishes to leave the property at the end of their tenancy agreement, the tenant will need to tell their landlord either four or eight weeks in advance. If a tenant wishes to leave the property before their tenancy agreement expires, and this is not covered in the tenancy agreement, they will need to get the landlord's permission, as now.

Question 9: Do you agree with the proposed timescales for a tenant giving notice to a landlord to leave the property?

3.74 Question 9 asked respondents if they agreed with the proposed timescales for a tenant giving notice to a landlord. Responses by respondent type are set out in Table 15 below.

3.75 As at Question 8, respondents were relatively evenly divided on this issue, although the majority of all those who answered this question (57%) and of non-campaign respondents (51%) did agree with the proposed timescales. Those supporting Campaigns 1 and 2 agreed, as did the majority of tenant group respondents. Otherwise, views were relatively evenly balanced between those agreeing and disagreeing with the proposal.

Respondent Type	Yes	No	Don't Know	Total
Advice, Information & Ombudsman Services	5	4	-	9
Campaign Body or Group	3	5	-	8
Industry Body	7	5	-	12
Landlord	22	22	3	47
Legal Body or Firm	5	3	1	9
Lettings Agent and/or Property Management	24	24	4	52
Local Authority	11	9	-	20
Tenant and/or Resident Group	8	3	-	11
Union or Political Party	4	3	-	7
Other	4	3	-	7
<i>Total Organisations</i>	<i>(93)</i>	<i>(81)</i>	<i>(8)</i>	<i>(182)</i>
Individuals	175	150	15	340
Total (excl. campaign responses)	(268)	(231)	(23)	(522)
Percentage (excl. campaign responses)	51%	44%	4%	100%
Campaigns	74	-	-	74
TOTAL	342	231	23	596
Percentage of those answering	57%	39%	4%	100%

3.76 A total of 371 respondents went on to make a further comment, and the text from Campaigns 1 and 2 also included a relevant comment. This issue was also discussed at the focus groups.

3.77 Those who agreed with the proposal - which included the considerable majority of focus group participants - tended to suggest the approach seemed reasonable, fair and as striking a good balance between the interests of landlords and tenants.

3.78 Other points raised by those agreeing with the proposal included:

- There were some concerns as to whether tenants would understand and adhere to the notice periods and the longer notice period in particular.
 - More specifically, clarification was sought as to the exact meaning of “6 months” to avoid confusion as to the length of tenant notice required.
 - This could make it more difficult for a tenant to secure a new property to move into.
- 3.79 A small number of those agreeing with the proposed notice periods also suggested that there should be longer notice periods where the tenant has been in occupation for longer, or that the notice periods should be the same for both landlords and tenants. Many of those disagreeing with the proposal, and landlord and individual respondents in particular, made the same point.
- 3.80 Other comments tended to focus on either notice periods being shorter and/or there being one single notice period. For example, it was suggested that there should be one standardised notice period for tenants and sometimes that 28 days would be appropriate. It was also suggested that the length of time a tenant has been resident does not affect the time it will take the landlord to re-let the property.
- 3.81 As by some of those supporting the proposal, some of those who disagreed with the proposal also suggested that having to give 8 weeks’ notice could make it more difficult for the tenant to find alternative accommodation. More specifically, it was noted that in areas where supply is constrained, most obviously in rural areas, tenants are unlikely to be in a position to pass up the opportunity of accessing suitable alternative accommodation. It was also noted that in many areas competition for properties is fierce and they come onto the market and are let in relatively short periods; in such a situation someone may have to pay ‘double rent’ in order to secure a new home whilst still serving out the notice period on their former accommodation. This was a particular concern for those attending the Aberdeen and Glasgow focus groups.
- 3.82 It was also noted that tenants would need to know well in advance that they wished to leave the property and that this could restrict people’s ability to move for work or study or because they either wished to buy or move into the social rented sector.
- 3.83 A small number of respondents favoured a 6-week or 8-week notice period. Finally, some respondents were of the view that there should be no fixed periods but that tenants and landlords should be given the flexibility to come to their own mutually agreed arrangements.

Summary – Question 9

Respondents were relatively evenly divided on this issue, although the majority (57%) did agree with the proposed timescales.

Those who agreed with the proposal tended to suggest the approach seemed reasonable, fair and as striking a good balance between the interests of landlords and tenants.

Many of those disagreeing with the proposal suggested that notice periods should be the same for both landlords and tenants. Other comments tended to focus on either notice periods being shorter and/ or there being one single notice period. It was also suggested that having to give 8 weeks' notice could make it more difficult for the tenant to find alternative accommodation.

Model Tenancy Agreement

3.84 The proposal is to introduce a requirement to use a model tenancy document for all future private rented sector lets. The consultation paper suggests this could provide consistency of practice across the sector and help ensure that it provides good-quality and well-managed housing. It could also help promote landlords' and tenants' knowledge of their rights and responsibilities.

Question 10: Do you agree that a model tenancy agreement should be introduced?

3.85 Question 10 asked respondents if they agreed that a model tenancy agreement should be introduced. Responses by respondent type are set out in Table 16 below.

3.86 The clear majority of all respondents who answered this question (79%) and of non-campaign respondents (76%) agreed with the introduction of a model tenancy agreement. There were no respondent groups in which the clear majority did not agree.

3.87 A total of 444 respondents went on to make a further comment, and the text from Campaigns 1 and 2 also included a relevant comment.

3.88 Those supporting the proposal occasionally pointed out that there are already various models which are widely used in the industry (including that provided by the Scottish Association of Landlords). Some respondents, including both those who did and did not support the proposal, noted that a 'one size fits all' approach would not be successful. Those who supported the proposal tended to stress that the model tenancy agreement will need to be sufficiently flexible to work for a diverse range of circumstances and properties. Landlord and individual respondents were particularly likely to highlight this requirement.

Table 16: Question 10 - Response by Respondent Type				
Respondent Type	Yes	No	Don't Know	Total
Advice, Information & Ombudsman Services	9	-	-	9
Campaign Body or Group	10	-	-	10
Industry Body	13	-	1	14
Landlord	34	7	5	46
Legal Body or Firm	7	1	1	9
Lettings Agent and/or Property Management	41	6	7	54
Local Authority	20	-	-	20
Tenant and/or Resident Group	11	-	-	11
Union or Political Party	7	-	-	7
Other	6	2	-	8
<i>Total Organisations</i>	<i>(158)</i>	<i>(16)</i>	<i>(14)</i>	<i>(188)</i>
Individuals	249	54	47	350
<i>Total (excl. campaign responses)</i>	(407)	(70)	(61)	(538)
<i>Percentage (excl. campaign responses)</i>	76%	13%	11%	100%
Campaigns	74	-	-	74
TOTAL	481	70	61	612
Percentage of those answering	79%	11%	10%	100%

3.89 Many also pointed to the benefits that (further) standardisation could bring tenants, landlords and lenders. From the landlord's perspective, possible benefits identified included:

- It would provide landlords with reassurance that their lease is legally watertight.
- Tenant Information Packs would no longer be required.

3.90 From the tenant's perspective, possible benefits identified included:

- It would provide tenants with piece of mind that the lease is fair and does not contain any unreasonable contract terms.
- Tenants will become increasingly informed and knowledgeable about their rights and responsibilities.

3.91 A number of respondents sought clarifications as to how aspects of the proposed approach would work and/or what would be included in the model tenancy agreement. Points or questions raised included:

- Would extra property/party-specific clauses be partially prescribed or would the landlord have free reign to include whatever they wish? It was noted that, if prescribed, then the list of discretionary grounds will need to be comprehensive so as to ensure that all situations are catered for. Industry body respondents were particularly likely to pose this question.

- What would happen if the landlord fails to include mandatory clauses or introduces discretionary clauses that misrepresent the correct legal position?
- 3.92 Specific suggestions relating to the content of the model tenancy agreement or how it would be implemented included that the model should come with a covering document explaining each of the terms in plain English.
- 3.93 A number of respondents suggested that a range of stakeholders (including tenants, landlords and letting agents) should be involved in developing the model tenancy agreement. Some also noted that they would welcome the opportunity to be involved themselves and/or suggested that the Scottish Government should consult on the draft once it is prepared.
- 3.94 As noted earlier, a small number of respondents disagreed with the introduction of a model tenancy agreement. Their principle concern (along with a number of respondents who were undecided), was that it will not be possible to develop a model that is flexible enough to deal with all circumstances that can arise in such a diverse sector.

Summary – Question 10

The clear majority of respondents (79%) agreed with the introduction of a model tenancy agreement.

Although there was strong support, respondents did note that any model tenancy agreement will need to be sufficiently flexible to work for a diverse range of circumstances and properties. The principal concern of those who did not support the proposal was that it will not be possible to develop a model that is flexible enough to deal with all circumstances that can arise in such a diverse sector.

4 RENT LEVELS

- 4.1 The consultation also asked three open questions about rent levels. The consultation paper notes that rent setting currently forms part of the existing assured tenancy system, and hence it seems sensible to consider rent setting and how this might work with the proposed new system.

Question 11a: What are your views on rent levels in the private rented sector in Scotland?

- 4.2 A total of 522 non-campaign respondents answered this question, and the text from Campaigns 1 and 2 also included a relevant comment. Comments varied in both length and focus, with some commenting on Scotland and/or the market as a whole, and others commenting on a particular area or part of the market with which they are familiar.
- 4.3 A number of respondents noted that rents are market-led and will determine their own level based on supply and demand. This was the most frequently raised issue by some degree, with around 1 out of 2 who commented making this point. Individuals, industry bodies, landlords, legal bodies and letting agents were particularly likely to have highlighted this issue and a number went on to note that this market-led approach should continue.
- 4.4 Some landlord and letting agent respondents commented on their own rent review policy, frequently reporting that they review rent levels on an annual basis to ensure they are in line with current market levels, and that a landlord cannot charge more than someone is prepared to pay. Respondents also noted that market level is not only a function of demand but also of property prices and associated mortgage costs.
- 4.5 The wider issue of supply of affordable housing was also raised and it was suggested that availability of good quality, affordable housing is an issue across much, or the whole of Scotland. Others highlighted the challenges that undersupply can create for local authorities seeking to comply with their obligations under homelessness legislation. Concerns of this type led some to conclude that increasing supply (both within the private rented sector but also more widely), will be key to achieving affordability.
- 4.6 Other general comments made about private rented sector rent levels included that there are significant variations across Scotland including at an area level. Local authority respondents were particularly likely to note these variations.
- 4.7 Other points raised or views expressed included:
- Rent levels are acceptable, reasonable, adequate or fair. Around 1 out of 6 of those commenting made this point; letting agents and individual respondents were most likely to say this.
 - Rent levels have not, in the main, increased beyond levels of inflation or at a rate that exceeded that for the social rented sector. It was noted, for example, that rents increased at an average of less than 1%

per year from 2008-13. Some of those raising this issue expressed some frustration that information about market 'hot spots', such as Aberdeen, can sometimes be used to suggest rents across the country are rising at a rate that is simply not the case. Industry bodies were particularly likely to raise these issues.

- In contrast, it was reported that recent figures suggest that rents in 2014 increased by 11.7% compared to 2013, and that the gap between private and social rented sector rents continues to grow. Overall, they are generally high and in some areas extremely high, particularly compared to the social rented sector. Campaign body, tenant group and union respondents were amongst those raising this concern.

4.8 More generally, a number of respondents pointed to the complexity of the market and, in particular, the relationship between supply and demand. It was noted that in some markets (with Aberdeen, Edinburgh and rural markets tending to be cited as examples), overall demand for housing exceeds supply and this will impact on costs across both the private rented and owner occupied sectors.

4.9 A number of respondents identified areas with particularly high cost markets more generally. Suggestions included Aberdeen, Aberdeenshire, City of Edinburgh, East Lothian, Midlothian, Moray, Shetland and the West End of Glasgow. Other area-related information supplied by respondents included:

- Areas in which rent levels were identified as reasonable, including being comparable to LHA rates, included Tayside and Angus.
- Areas identified as having experienced relatively static or some falls in rent levels included Clackmannanshire, Dumfries and Galloway, Dundee, North Lanarkshire, Renfrewshire and West Dunbartonshire.

4.10 Many other respondents focused their comments on tenants' capacity to afford current or future rent levels. For example, a campaign body respondent referred to their own analysis which suggests that a household with one full-time earner on median wage would need to spend 35% of net income to rent a 2 bedroom property in a number of Scottish local authority areas.

4.11 A number of respondents highlighted the particular affordability problems those on low income and/or in receipt of LHA can have in accessing the sector. Campaign body, advice service, local authority and individual respondents were amongst those raising this issue.

4.12 It was also suggested that the levels of LHA used to calculate Housing Benefit and Universal Credit are not reflective of the market, and that the under-35, shared room rate causes particular problems. It was also suggested that LHA rate caps are too inflexible as they are set for too wide an area; specific examples given were in relation to the 'Lothian' rate applying to the Edinburgh market and the 'Ayrshire' rate applying to South Ayrshire. This was a particular concern for local authority respondents.

Summary – Question 11a

A number of respondents noted that rents are market-led and will determine their own level based on supply and demand. This was the most frequently raised issue by some degree, with around 1 out of 2 who commented making this point. A number went on to note that this market-led approach should continue.

Other general comments included that there are significant variations in rent levels across Scotland including at a small area level. More generally, a number of respondents pointed to the complexity of the market and, in particular, the relationship between supply and demand. The wider issue of supply of affordable housing was also raised and it was suggested that availability of good quality, affordable housing is an issue across much, or the whole of Scotland.

Other respondents focused their comments on tenants' capacity to afford current or future rent levels with the particular affordability problems those on low income and/or in receipt of Local Housing Allowance (LHA) can have in accessing the sector.

Question 11b: What action, if any, should the Scottish Government take on rent levels in the private rented sector in Scotland?

- 4.13 A total of 526 non-campaign respondents made a comment at this question, and the text from all three campaigns also included a relevant comment. Overall, therefore, 2,508 respondents commented on this question.
- 4.14 Around 3 out of 4 respondents favoured the Scottish Government taking some form of action, including the 1,908 signatories to Campaign 3 (the Living Rent campaign), who called on the Scottish Government to bring rents under control, noted that in other countries there are laws that limit how much landlords can charge, and stated that this was the approach they wanted for Scotland.
- 4.15 Other suggestions tended to focus on the possibility or parameters of any 'rent control' type interventions. A small number of respondents, including both campaign body and local authority respondents, simply suggested it was appropriate to consider or begin discussions on rent setting or controls. A small number of others, including advice service respondents, stated that rent controls should be introduced. The importance of taking an approach which does not have significant negative consequences for landlords and tenants alike was highlighted, with some respondents noting the potential complexity of introducing rent controls. Local authority respondents were amongst those highlighting this issue.
- 4.16 Other actions which respondents suggested the Scottish Government could take included:
- Considering ways in which LHA rates could be made more sensitive to local market conditions.

- Continuing to allow the Private Rented Housing Panel and then allow the First-tier PRS Tribunal to rule on rent levels in the event of a dispute.
- 4.17 In recognition of the complexity of the issue and the importance of ‘getting it right’, some suggested that any rent regulation proposals must be subject to detailed modelling and further consultation before being introduced. It was also noted that there are good examples of rent regulation in other countries from which Scotland could learn; particular reference was made to the approach taken in the Netherlands.
- 4.18 Specific approaches or proposals put forward included:
- An approach which not only controls rents during a tenancy but also between tenancies. A suggested approach (as in the Netherlands) determines rents on a points system, with points given to a property based on characteristics such as size, condition, facilities and proximity to local services. Location and desirability are not taken into account. Rents can only be increased by a Government-set percentage.
 - Protecting renters from unreasonable or unpredictable increases in their housing costs.
 - Consider establishing bands for rent levels similar to Council Tax, with rents based on condition, standards and services of the property and the location.
- 4.19 Although the majority of all respondent’s called for action, the analysis of further comments suggests that a clear majority of non-campaign respondents did not think the Scottish Government should take any action with regard to rent levels in the PRS. Around 2 out of 3 non-campaign respondents and those who supported Campaigns 1 and 2 made a comment which suggested the Scottish Government should take no action. More specifically, many respondents, particularly landlord, letting agent, industry body and individual respondents, simply stated that the Scottish Government should take no action, sometimes noting that it is not for Government to interfere in the market and that to do so could have significant, negative consequences.
- 4.20 Further reasons given for the Scottish Government not acting included that any intervention is likely to drive landlords out of the market, creating greater shortages of supply and causing rent levels to rise. Some respondents suggested that it would deter larger, institutional investors in particular. A small number of respondents also referred to the outcome of previous UK rent control interventions and suggested that the evidence points to them not working. In particular, it was noted that they stifled the market and arguably kept rent levels artificially high. Reference was also made to experience in other European countries (Denmark and France), and to recent work by the Institute of Economic Affairs which identified a range of negative consequences likely to flow from introducing mid-tenancy rent controls.

- 4.21 The potential complexity of introducing any form of rent control or cap was also noted, not least because of the diversity of the sector, both across different areas of Scotland and in terms of different types of property.
- 4.22 Another possible consequence of intervention highlighted was that landlords will be able to invest less into property maintenance, with an inevitable impact on the condition of the housing stock.
- 4.23 Those who opposed or made no specific reference to any intervention on rent levels sometimes suggested that the Government's focus should be on encouraging or facilitating investment in the housing sector more widely or the private rented sector specifically. Within the rural context, the example of the Rural Homes for Rent Scheme pilot was cited. It was also suggested that the focus should be on increasing supply in the social rented sector in particular. Some of those supporting some form of intervention also highlighted this need.
- 4.24 Some respondents pointed to the need for further information to be gathered. Suggestions included collecting and publishing rent level data, including local averages. In terms of an approach, it was suggested that consideration could be given to linking rent data collection to the landlord registration process and reports from the Scottish Rent Service.

Summary – Question 11b

Overall, 2,508 respondents commented on whether the Scottish Government should take any action on rent levels. Around 3 out of 4 respondents favoured the Scottish Government taking some form of action, including the 1,908 signatories to Campaign 3 (the Living Rent campaign), who called on the Scottish Government to bring rents under control, noted that in other countries there are laws that limit how much landlords can charge, and stated that this was the approach they wanted for Scotland.

However, the majority of non-campaign respondents did not think the Scottish Government should take any action with regard to rent levels in the PRS. Around 2 out of 3 non-campaign respondents, and those who supported Campaigns 1 and 2, made a comment which suggested the Scottish Government should take no action, sometimes noting that it is not for Government to interfere in the market and that to do so could have significant, negative consequences.

Question 11c: What rent review conditions, if any, should the new tenancy system include?

- 4.25 A total of 490 non-campaign respondents commented at this question, and the text from Campaigns 1 and 2 also included a relevant comment. Around 1 out of 3 respondents simply re-stated their opposition to Government intervention regarding rent levels. This group of respondents included some who noted that this should be an arrangement between the landlord and the tenant and set out in the lease.
- 4.26 Some respondents suggested that there is no need to make changes to the current system. Similarly, respondents frequently made reference to an annual review of some kind⁶. This group also consisted of around 1 out of 3 of those who commented.
- 4.27 With regard to the basis on which rents would be reviewed or the processes which would be required, the following points were raised:
- The proposed model tenancy should contain a set mechanism or wording to ensure a consistent approach is taken and prevent potentially unfair rent review clauses being inserted.
 - The annual review should have a minimum notice period. Suggested periods were 12, 8 or 4 weeks.
 - The rent should be reviewed by comparison to the current market rent, the change in CPI/RPI since the last increase or based on an RPI benchmark.
 - Increases should be constrained to RPI unless there has been significant investment in or refurbishment of the property.
 - There should be an appeal to the PRHP or Rent Assessment Committee when parties cannot agree. More specifically, it was suggested that a tenant should be able to have their rent reviewed by an independent panel which can assess the rent according to any rent regulations in force.
 - Other factors which respondents suggested could be taken into account as part of a rent review process included property condition. In particular, it was suggested that account should be taken of whether the property meets a minimum housing standard.
- 4.28 Other respondents commented more generally on what any rent review conditions should be aiming to achieve. For example, it was suggested that the focus should be on bringing a degree of predictability and certainty to the frequency and nature of subsequent rent increases.
- 4.29 Finally, as with the principle of introducing rent regulation, some respondents noted that this is a complex issue and should be considered in more detail as

⁶ It should be noted that some of these respondents had explicitly stated their opposition to other forms of intervention at Questions 11a and/or b.

part of a wider review of rents and affordability in the private rented sector. Local authority respondents were particularly likely to raise this issue.

Summary – Question 11c

Around 1 out of 3 respondents simply re-stated their opposition to Government intervention regarding rent levels, with some respondents suggesting that there is no need to make changes to the current system.

The other frequently raised issue - also by around 1 out of 3 who commented - was that annual rent reviews are either current practice and/or would be an acceptable way forward.

Other respondents commented more generally on what any rent review conditions should be aiming to achieve. For example, it was suggested that the focus should be on bringing a degree of predictability and certainty to the frequency and nature of subsequent rent increases. As with the principle of introducing rent regulation, some respondents noted that this is a complex issue and should be considered in more detail as part of a wider review of rents and affordability in the private rented sector.

5 GENERAL QUESTIONS

5.1 The final section of the consultation paper posed two general questions.

Question 12: Overall, do you feel that the proposed new tenancy system strikes the right balance between the interests of landlords and tenants?

5.2 Question 12 asked respondents if they felt that the proposed new tenancy system strikes the right balance between the interests of landlords and tenants. Responses by respondent type are set out in Table 17 below.

Respondent Type	Yes	No	Don't Know	Total
Advice, Information & Ombudsman Services	3	5	-	8
Campaign Body or Group	2	3	2	7
Industry Body	1	9	1	11
Landlord	10	36	1	47
Legal Body or Firm	1	5	1	7
Lettings Agent and/or Property Management	11	37	6	54
Local Authority	17	2	-	19
Tenant and/or Resident Group	9	2	-	11
Union or Political Party	4	2	-	6
Other	2	4	1	7
<i>Total Organisations</i>	<i>(60)</i>	<i>(105)</i>	<i>(12)</i>	<i>(177)</i>
Individuals	67	234	40	341
Total (excl. campaign responses)	(127)	(339)	(52)	(518)
Percentage (excl. campaign responses)	24%	66%	10%	100%
Campaigns	-	74	-	74
TOTAL	127	413	52	592
Percentage of those answering	21%	70%	9%	100%

5.3 The majority of all respondents who answered this question (70%) and of non-campaign respondents (66%) did not feel that the right balance has been struck. Those supporting Campaigns 1 and 2 disagreed, as did the majority of advice service, campaign body, industry body, landlord, legal firm, letting agent, other and individual respondents. However, the majority of local authority, tenant and union respondents did feel that the proposed new tenancy system strikes the right balance between the interests of landlords and tenants.

5.4 A total of 457 non-campaign respondents went on to make a further comment, and the text from Campaigns 1 and 2 also included a relevant comment.

- 5.5 General observations made by those agreeing that the proposals were balanced tended to refer to the proposed new system being simpler, clearer, offering consistency or being fairer. Respondents sometimes noted their support for an approach which they saw as providing more security for tenants. Some noted that they saw the proposals as giving landlords and potential investors sufficient safeguards to be confident that their investment is protected.
- 5.6 Components of the new system that respondents noted their particular support for included:
- The exclusion of a no-fault ground.
 - The introduction of a model tenancy agreement.
 - The simplification of various processes (Notice of Proceedings, Pre-tenancy Notices etc.), and the time and money savings to landlords that should result.
- 5.7 Those agreeing frequently noted that they were supportive of the proposals overall, but did have concerns about, or disagreed with, some of the proposals. This was sometimes voiced as feeling that the proposals were balanced, subject to comments they had made elsewhere within their response being taken on board. Elements of the proposed system which such respondents specifically noted they did not support included:
- The exclusion of a no-fault ground.
 - The longer notice periods for landlords to tenants.
 - Repossession grounds, and particularly Grounds 6, 7 and 8, being mandatory.
- 5.8 Finally, those who thought the proposals were balanced overall sometimes pointed to the need for more detail and for consideration to be given to how each element of the proposed new system would work in practice. It was also suggested that the impact of any changes (for example on levels and type of supply and ability to access tenancies), would need to be monitored or reviewed.
- 5.9 Analysis of the comments made by those disagreeing that the proposals were balanced overall suggests around 9 out of 10 considered the proposals favoured tenants whilst the remaining 1 out of 10 felt they favoured the landlord⁷. Those taking the latter view tended to be advice services or campaign bodies.
- 5.10 The considerable majority of those who felt the proposals favoured the tenant were industry bodies, landlords, letting agents or individual respondents and those supporting Campaigns 1 and 2; their position was sometimes summed up as the proposals emphasising the protection of tenants at the expense of

⁷ The analysis took account of all comments made by those who had answered No at Question 12 and was based on a clear balance of probability (including where necessary by referring to comments made at other questions).

encouraging and supporting landlords, including in dealing with problem tenants.

- 5.11 Respondents frequently referred to their concerns about specific proposals and in particular: the exclusion of a no fault ground; the removal of the monthly roll-over; and consideration being given to rent controls. More generally, it was suggested that some of these proposals undermine one of the key strengths of the sector, namely the flexibility it offers to both tenants and landlords. Industry body, landlord, letting agent, legal body and individual respondents were particularly likely to raise one or more of these concerns.
- 5.12 A small number of respondents suggested that the current system works well and there is no need for change. However, some of those who expressed concerns about some of the changes did welcome attempts to improve the operation of the private rented sector. Nevertheless, some were also concerned that, if adopted as a whole, the new tenancy system could both drive knowledgeable, experienced and professional landlords away and discourage further investment in Scotland's private rented sector. Some respondents also suggested that a resultant shortage of properties will impact on levels of choice and affordability for tenants. Again, it was industry body, landlord, letting agent, legal body and individual respondents who were likely to raise these concerns.
- 5.13 Equally, some of these respondents suggested that the proposals will not have the apparently desired effect of tackling bad practice in the sector and that there are other mechanisms - including rigorous enforcement of existing legislation - which would be more effective in achieving this objective.
- 5.14 Other issues raised by those who felt the proposals overall will disadvantage landlords included:
- The changes would have consequences for smaller buy-to-let investors who will largely hold covenant restrictions from their lender that does not allow them to offer leases of greater than 12 months; changes to tenancy law will incur immediate valuation issues for landlords and, depending on the specifics of reform, professional valuers may deem that there has been a transfer of risk and thus a diminution of value.
 - The proposals do not take into account or cater for the needs of the student market.
- 5.15 Those who felt the proposals favour the landlord tended to be most concerned about the proposal to make all repossession grounds mandatory; this led to the suggestion that the proposed new system would actually provide less security of tenure and protection for tenants than under the current system. Advice service, campaign body or union respondents were most likely to raise this concern.
- 5.16 Other parts of the proposals that respondents expressed concerns about included shortened Notice to Quit periods and any plans to intervene with rent levels.

Summary – Question 12

The majority of respondents (70%) did not feel that the right balance has been struck between the interest of tenants and landlords, although the majority of local authority, tenant and union respondents did. General observations made by those agreeing that the proposals were balanced tended to refer to the proposed new system being simpler, clearer, offering consistency or being fairer. They sometimes pointed to the need for more detail and for consideration to be given to how each element of the proposed new system would work in practice.

Amongst those disagreeing that the proposals were balanced overall, around 9 out of 10 considered the proposals favoured tenants. Industry bodies, landlords, letting agents and individual respondents tended to take this view. Respondents frequently referred to their concerns about specific proposals and in particular: the exclusion of a no fault ground; the removal of the monthly roll-over; and consideration being given to rent controls. More generally, it was suggested that some of these proposals undermine one of the key strengths of the sector, namely the flexibility it offers to both tenants and landlords.

The remaining 1 out of 10 felt the proposals favour the landlord. Those taking this view tended to be advice services, campaign bodies and a small number of individuals. These respondents tended to be most concerned about the proposal to make all repossession grounds mandatory; this led to the suggestion that the proposed new system would actually provide less security of tenure and protection for tenants than under the current system.

Question 13: Do you have any (other) suggestions/comments on the new tenancy system for the private rented sector?

- 5.17 The final question asked respondents if they had any other suggestions or comments on the new tenancy system for the private rented sector. A total of 373 respondents did so.
- 5.18 Comments varied enormously, both in length and focus. However, many respondents took the opportunity to restate or summarise views expressed elsewhere within their response. These comments often focused on key aspects of the proposals, such as the no-fault ground, or on the absence of measures that will support landlords to deal with some of the biggest challenges they face.
- 5.19 Other frequently raised points included that a 'one size fits all' approach has resulted in proposals which focus on dealing with a small 'rogue landlord' element at the expense of those who abide by the legislation and strive to provide good quality accommodation; there was some scepticism as to whether the proposals would achieve the first objective and serious concerns about the impact they would have on vast bulk of the sector. In particular, there were concerns that current investment could be withdrawn, new investment would not be attracted, and the Scottish Government's own strategic objectives for the sector would be undermined. There were calls for

the Scottish Government to give careful consideration to the recommendations relating to investor confidence set out in the *Building the Rented Sector in Scotland* report⁸.

- 5.20 An alternate position was the proposals do not go far enough to increase security of tenure for tenants and that certain aspects (in particular the proposal that all grounds for repossession should be mandatory), would actually lead to a serious diminution of existing rights for tenants. There were also concerns that the proposals will not tackle the problems of 'revenge evictions', with calls for the Scottish Government to do more to tackle this problem through reform of the legislation and policy and enforcement solutions.
- 5.21 The remainder of the analysis presented here focuses on issues not covered elsewhere within this report and/or not directly relevant to any of the other questions asked within the consultation document.

Varying forms of tenancy

- 5.22 The proposed new tenancy would replace Assured Tenancies and Short Assured Tenancies, with other types of tenancies (such as Protected Tenancies) continuing. It was suggested that retaining 'old' types of assured tenancies has the potential to cause confusion and that the new tenancy should replace all existing Assured and SATs after a transitional period.
- 5.23 Also in relation to the range of tenancy types it was suggested that other areas to be looked at in the medium term should include tenancies for shared accommodation, and the rights of tenants with a resident landlord. It was also recommended that, before deciding on the content of a new tenancy, the Scottish Government should speak to the growing number of Housing Associations that have subsidiaries operating mid-market and market rent properties, and that operate different financial models and National Housing Trust arrangements.
- 5.24 The potential for different types of tenancy, and particularly for an additional form of tenancy that offers much more security of tenure to tenants subject to agreed terms, was raised. It was also noted that the notion of three year or longer tenancies has been raised as part of the debate around tenancy reform. Whilst not ruling out this option, one of the respondents raising this issue cautioned that landlords could be deterred if the terms and processes by which either party can terminate the arrangement were not clearly detailed.
- 5.25 Specific suggestions regarding a longer-term or more secure option included:
- There could be a tenancy option which would allow PRS tenants to progress from a standard PRS tenancy (with limited security of tenure) to a long-term tenancy. Whilst noting that the proposal would require careful consideration, the outline approach suggested included tax

⁸ Available at:

http://www.homesforscotland.com/Portals/HomesForScotland/BRS/BRS%20Report_v6.pdf

adjustments or incentives which encourage landlords to move toward long-term lets and family lets.

- An approach which recognises the differences between furnished and unfurnished tenancies could be considered; it was noted that Continental European housing systems tend to differentiate in the way they deal with the two sub-sectors with regard to rent regulation and to length and security of tenure.
- Practice within the commercial sector could act as a starting point for delivering an approach which could be based on larger deposits and increased tenant responsibility for maintenance and improvement. It was also suggested that this approach would have the potential to encourage more institutional and long term investment into the PRS.

5.26 Other suggested approaches included the development of a private sector rent-to-buy option for tenants where both the landlord and the tenant enter a contract at the start of the tenancy which enables tenants to purchase the property that they occupy, subject to agreed terms.

5.27 Finally, it was suggested that any alternative tenancy type (or at least the capacity to vary the standard private tenancy), will be required to accommodate the student market. In particular, it was noted that the student market operates with a very small tenancy start window (generally in August or September) and that accommodation may be let up to 8 months in advance.

The First-tier PRS Tribunal

5.28 Some respondents focused their comments on aspects of the First-tier PRS Tribunal, sometimes noting that the effectiveness of the proposed tribunal will be absolutely central to the new system working. There were calls for the tribunal system to be as simple and clear as possible and for the Tribunal to be fully resourced so that case processing times are kept to a minimum.

5.29 There were concerns that repossession issues being heard by the Tribunal, rather than the Courts, may give rise to unforeseen access to justice consequences. It was suggested that the transfer of jurisdiction for repossession actions could lead to increased demands on housing advice services to provide representation at the Tribunal and that this could be an even greater issue if tenants cannot access legal aid. More specifically, an organisation which currently provides a 'Court Door' advice service for those tenants who appear at Edinburgh Sheriff Court unrepresented and without having sought prior advice, noted the practical challenges that may result from cases going to the Tribunal. At present, the service can be delivered because all such cases are heard in a regular weekly time slot; they were concerned that a less predictable and dispersed Tribunal system may make it impossible to deliver this type of late intervention for those at risk of losing their tenancy.

5.30 Other points raised in relation to the Tribunal included:

- Further guidance needs to be issued on the ability to appeal a decision; given that decisions would have a significant effect on tenants' lives, permission to appeal needs to be granted or refused as soon as possible.
- The Property Ombudsman noted their understanding that, aside from the formal regulatory approach contained in the Housing (Scotland) Act 2014, it is the intention of the Scottish Government to allow existing voluntary redress schemes to continue and to work alongside mandatory requirements. They suggested there may be an opportunity to generate significant costs savings if they dealt initially with complaints about an agent who was registered with them.
- At present tenants seeking compensation from landlords for not putting tenancy deposits into an approved tenancy deposit scheme have to use the summary application procedure, which is a full legal procedure requiring the use of a solicitor. Even if they are eligible for legal aid the possible cost implications can act as a disincentive to tenants, many of whom will be put off by the very need to employ a solicitor. A simple tenant-friendly procedure via the Tribunal would be preferable and, ideally, could be combined with an action for recovery of the deposit.
- On-line referral of a case to the Tribunal should be possible.

5.31 Finally, clarification was sought as to the anticipated cost to the landlord (if any) of taking a case to the Tribunal.

Other issues

5.32 Other suggestions put forward for changes or improvements to current practice or regulation included:

- Introducing a statutory obligation relating to the repair and condition of a property. More specifically, it was suggested there should be obligations to have properties redecorated between tenancies or every two years.
- Particular support being made available to smaller (including reluctant), or new landlords, for example by funding training on the correct interpretation and application of tenancy legislation.
- Better regulation of both letting agents and/or landlords, with policing and real enforcement action where there are breaches. It was suggested that lettings agents are relatively unregulated and it would be sensible to consider requiring regulation by a reputable body. It was also suggested that the industry lacks an authority body which tackles unregistered, unscrupulous, unofficial landlords who ignore all current legislation and give the sector a bad name while supplying substandard properties to possibly vulnerable tenants.
- Increased powers for the Scottish Housing Regulator to regulate the private rented sector and to exclude landlords, with the Private Sector Housing Panel having jurisdiction in such cases.

- The Scottish Government should support local authorities in their continued development of the voluntary landlord accreditation schemes.
- A single body able to give advice to both landlords and tenants was proposed. It was suggested that, at present, getting advice can be very difficult and many aspects of legislation seem open to interpretation. It was also suggested that updates to legislation (such as electrical safety, Legionnaires' Disease guidelines, tenancy deposit schemes etc), are being discussed and implemented without most landlords or tenants being aware of changes being proposed or made.
- Setting up a registration system, made public, for landlords to register details of "bad tenants". A register providing information of landlords' performance was also proposed.
- Addressing some of the issues with tenancy deposit schemes. Concerns included that the current system can be very difficult for smaller landlords to manage, particularly those who are not computer-literate. A specific suggestion was that the deposit should not be held in an assured scheme but in a secure, specific bank account organised by the tenant through their bank. The funds could only be accessed with both the landlord/agent and tenant's signature and would be released following an inspection carried out by a surveyor/contractor appointed by the landlord at the end of the tenancy.

5.33 A number of the other suggestions made related to further potential changes to clarify or simplify documentation and processes. Specific suggestions included:

- Providing clarification regarding Notice to Quit termination dates.
- Removing the need for the AT5 notice⁹.
- Being able to use electronic signatures for Tenancy Agreements and being able to serve documents, such as a Notice to Quit, via e-mail.
- In situations when both landlord and tenant are in agreement about renewing a tenancy agreement, it would be useful to have some form of mechanism within the new legislation to renew or extend that tenancy without the need to formally terminate the current agreement and issue a complete new agreement.

5.34 Finally, and in relation to funding arrangements for the sector, a Conditional Exemption for Affordable Rented Housing from Inheritance Tax, together with roll-over relief from Capital Gains Tax was proposed. It was suggested that these measures would allow landlords to operate as businesses and encourage only those who deliver affordable rented housing.

⁹ An AT5 is the form which must be issued to tenants before they sign their lease to create a short assured tenancy.

Next steps, transitional arrangements and monitoring

- 5.35 Some respondents suggested that the current proposals are under-developed and that further detail will be required before they are able to take a firm view on either some or all of the proposals for a new tenancy regime. As at Question 10, some respondents noted their willingness to assist in further development or that they wished to be consulted again once this detail is available.
- 5.36 Amongst the issues highlighted as requiring particular attention were: the relationship under the new regime between the tenancy contract and the statutory tenancy; the extent to which the legislation will impose contractual terms on the parties; and the relationship between the security of tenure provisions and any rent control measures to be included. It was also suggested that potential competition law and human rights implications of the proposals have not been fully addressed and that these could trigger possible claims against the State.
- 5.37 The issue of which tenancies would be brought under any new regime was also raised. One view was that there should be no retrospective elements to the legislation with current tenancies remaining as they are going forward. However, an alternate position was that current tenancies should be included, albeit there could perhaps be different transitional arrangements for each type of tenancy. The view was that all tenants would be advantaged by being within the new system and having the rights of access to the Tribunal and that having one system both simplifies regulation and promotes greater understanding of their rights amongst tenants.
- 5.38 Some respondents made suggestions or posed questions about the plans for the transition to any new tenancy regime. These included:
- There should be an extensive and continuing publicity campaign aimed at landlords, letting agents and tenants by central and local government before, during and after the transitional period.
 - There should be an initial transition period of at least 6 months with a focus on informing tenants and landlords, followed by a year during which tenancies would convert on renewal, including renewal by tacit relocation after the end date of a tenancy agreement. After that year it was suggested all tenancies would convert to the new tenancy and be deemed to be let under that new tenancy.
 - The legislation should give Scottish Ministers powers to delay any implementation stage for a specified period, if problems suggesting need for such a delay emerge.
 - Landlords should be given 3 years within which to dispose of their properties with vacant possession if they do not wish to be involved in the new regime.
- 5.39 Once implemented, it was suggested that changes to the tenancy regime will need to be carefully monitored to ensure that the changes do not have any long-term negative effect on the sector in terms of investment in properties or

delivery of new supply. More specifically, it was suggested that the changes should be evaluated, with the findings of that evaluation reported after the first year of operation.

ANNEX 1: GROUP RESPONDENTS

1Let Limited
A Flat In Town Ltd
Abbotsford Property
Aberdeen & Northern Estates Ltd
Aberdeenshire Council
Adie Hunter
Airlie Estates
ALACHO (Association of Local Authority Chief Housing Officers)
Allan Munro Lettings
Allsop Residential Investment Management Ltd (ARIM)
Almond Housing Association
Andrews Family Trust
Angus Council
Argyle and Bute Council
Association of Residential Letting Agents (ARLA)
Aspect Residential
At Home In Edinburgh
Ayr Housing Aid Centre
Ballogie Estate Enterprises
Balmoral Tenants Residents Association
Balnamoon Farms Company
Barwhillanty Estate
Belvoir Aberdeen
Belvoir Edinburgh
Belvoir Falkirk
Belvoir Lettings - Dundee
Bethany Christian Trust
Brodies LLP
(The) Buccleuch Estates Limited
Cadder Properties Ltd
Caesar & Howie
Carse Gray Estate
(The) Cawdor Maintenance Trust
Confederation Of British Industry
Central Regional Network Of Registered Tenant Organisations
Chapmans PM Ltd
Chartered Institute Of Housing Scotland
Chatham Discretionary Trust
(The) Church Of Scotland General Trustees
Church Of Scotland Housing & Loan Fund For Retired Ministers & Widows &
Widowers Of Ministers
Citizens Advice Edinburgh
Citizens Advice Scotland
(The) City Of Edinburgh Council

Clackmannanshire Council
Clyde Valley Property Services Ltd
Colfin Cottages
Collegiate AC
Collington Lettings
Competition And Markets Authority
Construction Scotland
Cornerstone Letting
Council Of Letting Agents
Council Of Mortgage Lenders
County Rentals (Scotland) Limited
Crichton Development Company Limited
Crisis
CSG Hamilton Place Ltd
Cyrenians
Cullen Property Holdings Ltd
Cullen Property Ltd
DJ Alexander Lettings
Dove Davies & Partners
Dumfries And Galloway Council
Dundee City Council
Dundee University Students Association
Dunecht Estates
Dunedin Canmore Residential (Part Of Dunedin Canmore Group)
Dupplin Estate
East Ayrshire Council
East Ayrshire Tenants And Residents Federation
East Dunbartonshire And Lanarkshire Regional Network
East Lothian Council
Edinburgh Housing Advice Partnership
Edinburgh Napier University / Assoc For Student Residential Accommodation
Edinburgh University Students Association (EUSA)
(The) Educational Institute Of Scotland
Electrical Safety First
Elsick Estate
EPM Letting
EPTAG
ESPC
Faculty Of Advocates
Falkirk Council
Firm of A & F Finlay
Fortis Property
Frontline Fife Homelessness Services
G M Thomson & Co, Chartered Surveyors
Glasgow & Eilean Siar Region 9 Network Committee
Glasgow City Council

Glasgow Homelessness Network
Glasgow Lets Ltd
Glasgow University Students' Representative Council
Glenham Property Management
Govan Law Centre
Grainger PLC
Grosvenor Development Limited
HBJ Gateley
(The) Highland Council
Homeless Action Scotland
Homes For Good (Scotland) CIC
Homes For Scotland
Hopetoun Estates
Housing And Social Welfare Law Campaign Group
IQ Letting Property Partnership
Isobel Young T/A Broughton Property Management
J Caird & A Jamieson
Lanarkshire Letting Ltd
Law Society Of Scotland - Property And Land Law Reform Committee
Ledingham Chalmers LLP
Leithbank Properties Ltd
Let It
Letscotland
Letting Solutions Ltd
Lickley Proctor Letting
Living Rent Campaign
Lowther Homes
(The) Macarthur Investment Group Ltd
Mactaggart & Mickel Homes
Managed Estates
Mains Estates
Marchside Property Ltd
Martin & Co (Aberdeen)
Martin & Co (Kinross)
Mcjerrow & Stevenson
Minority Ethnic Housing Project
(The) Moray Council
Moray Estates Development Company Limited
National Farmers Union Scotland
National Landlords Association
(The) National Trust For Scotland
North Lanarkshire Council
Northern Lights Regional Network Of Registered Tenant Organisations
Northwood Aberdeen Ltd
NUS Scotland
Orkney Islands Council

Orkney Leasing
Penny Lane Homes Johnstone Ltd
Pentland Property Management & Rental
Perthshire Property Services
Places For People/Castle Rock Edinvar
Port Of Leith Housing Association
Prime Student Living
Professional Propertay Ltd
(The) Property Ombudsman
PRS Champion
Renfrewshire Council
Rentolease
Rettie & Co
RICS
Ross & Cromarty Cab North Highland Housing And Homeless Project (SLAB
Funded)
Ross Developments And Renewables Ltd
Rural Housing Scotland
S&D Properties Group
Scottish Agricultural Arbiters And Valuers Association (SAAVA) And Central
Association Of Agricultural Valuers (CAAV)
(The) Salvation Army
Sanctuary Students
Scottish Association Of Landlords
Scottish Borders Council
(The) Scottish Churches Committee
Scottish Churches Housing Action
Scottish Future Trust
Scottish Labour
Scottish Land And Estates
Scottish Property Federation
Scottish Refugee Council
Seafield & Strathspey Estate
Seaford Developments Ltd
Shannon
Shelter Scotland
Shepherd And Wedderburn
SHER (Sheltered Housing East Renfrewshire)
Simply Let
SME Professional (Lyles Sutherland Limited)
Smiths Gore
South Ayrshire Council Housing Policy And Strategy Team
South Lanarkshire Council
South West Scotland Regional Network
Southesk Estate
Speirs Gumley Residential Letting

Splendid Property Management
Talpa Investment Co Ltd
Tayforth Regional Network
Tenancy Deposit Solutions
Torwoodlee & Buckholm Estates Co Ltd
Town And Gown Property Letting Services Ltd
Turcan Connell
Umega Lettings
UNISON Scotland
Unite Students
University Of Aberdeen
(The) Valentine Group Limited
Volbis Ltd
Wemyss And March Estate
Weslo Property Management
West Dunbartonshire Council
West Lothian Council
West Strathclyde Regional Network 7
Whiteburn Projects Ltd
Wm.Caola Properties
Woodlane Property Consultants Limited
Wordie Properties

ANNEX 2: Tenant Focus Group Script

Length of Tenancy (30 minutes)

At the moment most of you will probably have started out with a 6 month tenancy and, depending on how long you have been in your current home, it may now have been extended. The Scottish Government's proposal is that in the future, landlords would still have to offer a tenancy of at least 6 months, although it could be for longer. However, tenants would be able to request a shorter tenancy period and a landlord would be able to decide whether or not to agree.

1. What are your views on landlords having to offer tenancies of at least 6 months?

- What are the pros and cons of this approach?
- If you have concerns, is it about the 'principle' or about 6 months?
- If about 6 months, do they have an alternative timeframe in mind and why?

2. Bearing in mind that tenants would be able to end a tenancy by giving 4 or 8 weeks' notice (depending on how long they had lived in the property, what are your views on tenancies having no maximum period?

- What are the pros and cons of this approach?
- Do you think you would consider taking a longer tenancy? If not, what would be holding you back?
- Do you think tenancies should not have a specific length, in other words they should run until either the tenant wanted to move on or the landlord wanted to repossess the property?

3. What are your views on a tenant being able to request a shorter period, but that the landlord would be able to decide whether or not to agree?

- Does it seem reasonable that a tenant can ask for a shorter period?
- Does it seem reasonable that the landlord would be able to decide whether or not to agree to a shorter period?
- Is it something you might have taken advantage of in the past (if so why) or could you envisage circumstances when it might be useful to you in the future?

Tenancy roll over arrangements (15 minutes)

Under the current legislation, tenancies can roll over on a monthly basis after the initial lease period expires. The proposal is to change this so they cannot roll over for a duration of less than the length of the first tenancy offered. So, if you moved in with a 6 month tenancy, you would be offered a tenancy of at least 6 months when the first one comes to an end.

4. What are your views on this proposal?

- Does it seem reasonable? If so, why? If not, why not?
- Are there any alternative approaches you would prefer and why?
- In particular, (as we discussed above) would an 'indefinite' tenancy approach be better and if so, why?

Time to bring a tenancy to an end (20 minutes)

At the moment a landlord must give you at least 28 days' notice if the tenancy has lasted for 4 months or less, and at least 40 days if it has lasted for longer than 4 months. The proposal is to continue to link the notice period with the length of tenancy, but to change the detail
(Circulate cards outlining arrangements)

5. What are your views on the notice period being linked to how long the tenant has lived in the property?

- What might be the pros and cons of this approach?
- If you would prefer an alternative approach, what would you like to see and why?

6. What are your views on the four proposed notice periods that landlords would have to give?

- What might be the pros and cons of this approach?
- If you would prefer an alternative approach, which ones would you like to see changed and how?

7. What are your views on the two proposed notice periods that tenants would have to give?

- What might be the pros and cons of this approach?
- If you would prefer an alternative approach, which one would you like to see changed and how?

Reasons for bringing a tenancy to an end (25 minutes)

Under the current arrangements there are 17 grounds under which a landlord can repossess their property. About half of these are mandatory – in other words, the court must give a possession order if the ground is proved. The rest are discretionary, which allow the Sherriff discretion to consider how reasonable the request is. All grounds need a sheriff's court order for the landlord to repossess the home. The proposal is to reduce the number of grounds for possession to eight, all of which will be mandatory.

*One of the main proposals is to remove the 'No-fault' ground for repossession. Currently, a landlord may use this ground in order to reclaim their property simply because the tenancy term has ended. (**Circulate cards outlining arrangements**)*

In any case (this will already be happening) if a landlord did wish to repossess their property and there was any disagreement cases would be considered by a PRS Tribunal rather than a sheriff.

- 8. What are your views on removing the 'No Fault' ground?**
 - Can you see any pros or cons to this approach?
 - Does it seem to strike a fair balance between the rights of tenants and landlords?

- 9. What are your views on the suggestion that the (remaining) repossession grounds should be mandatory, in other words that a landlord should always be able to repossess their property if any of the final grounds applied?**
 - What do you like or dislike about this suggestion and why?
 - If you do not agree with the suggested change, do you have any alternative ideas or suggestions?

- 10. What are your views on the 8 proposed grounds?**
 - Do they seem to strike a fair balance between the rights of tenants and landlords?
 - Are there any you do not agree with? Why?
 - Are there any others that should be there?

- 11. What are your views on reducing the landlord's notice period to 28 days if any of grounds 6, 7, or 8 applied?**
 - Again, do they seem to strike a fair balance?
 - Should it apply to all 3 grounds, if you do not think so which ones should not be included and why?
 - Are there any of the other 5 remaining grounds you think should be included?

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