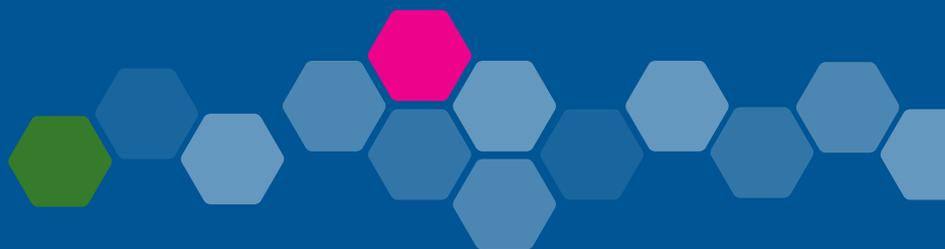


Second Consultation on a New Tenancy for the Private Sector: Analysis of Consultation Responses



PEOPLE, COMMUNITIES AND PLACES

Second Consultation on a New Tenancy for the Private Sector

Analysis of Consultation Responses

**Lucy Robertson
Craigforth**

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Executive Summary

Introduction

This second consultation on a new tenancy regime for the private sector follows a 2014 consultation that set out the Scottish Government's initial proposals. As the first consultation paper noted, 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 Scottish Government has also made a commitment to developing a 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.

In the second consultation, the Scottish Government set out those areas in which it intended to proceed with its initial proposals. Further detail has been provided about some proposals (particularly in relation to grounds for repossession), and in some cases proposals have been amended. Having invited views and gathered information about rent levels in the first consultation, the Scottish Government has now made specific proposals in this area. They also considered an approach which would enable Ministers to limit the levels of rent increases for sitting tenants in hot-spot areas.

The consultation ran from 30 March to 10 May 2015 and asked 26 questions. A total of 7,689 consultation responses were received. Of these 340 were standard responses and 7,349 supported one of the campaigns that were organised. The petition and postcard campaigns addressed only a small number of the issues covered by the consultation.

Type of respondent	Number
Standard, organisation respondents	147
Standard, individual respondents	193
Living Rent Campaign petition (e-petition and postcards)	2,127
Living Rent Campaign postcards (alternative text)	364
Scottish Association of Landlords e-petition	3,215
Scottish Association of Landlords form-based campaign	65
PRS4Scotland petition	1,553
Letting Agent campaign	25
TOTAL	7,689

Length of tenancy

The proposal is to introduce a statutory Scottish Private Rented Tenancy (SPRT) for all Private Rented Sector (PRS) lets. For the first six months of a tenancy a tenant would be unable to give notice and a landlord would be unable to regain possession of the property unless specified circumstances arose of the tenant being at fault or the landlord's mortgage lender intending to sell because the landlord had broken their loan conditions.

Although the standard would be for a six-month initial period, a tenant and landlord could agree a longer period. Alternatively, where the tenant has requested it and the landlord agrees, a shorter initial period could be agreed. After the initial period had expired, the tenancy would continue indefinitely. Both the tenant and landlord would then be able to give notice to end the tenancy at any time, with the required notice periods.

The majority of respondents (86%) disagreed with there being an initial tenancy period during which tenants and landlords would be unable to give notice unless certain specified circumstances existed. Those disagreeing included those supporting the Living Rent petition. However, the majority of standard respondents (77%) and those supporting the SAL form-based and the letting agent campaigns agreed.

The most frequently made point overall - and put forward by those supporting the Living Rent petition - was that there should be no initial period during which a tenant cannot leave and that tenants should be able to serve notice at any time. The most frequently raised issue amongst those agreeing with the proposal, including the SAL form-based campaign, was that the six-month period would be long enough to justify the resources required, in terms of both time and money, to set up a tenancy and lead to a reasonable rental income.

There was strong support for the proposal that, after the initial period, a tenant or landlord would be able to serve notice at any time with the relevant notice periods. A substantial majority of respondents (91%) agreed, including the majority of standard responses and those supporting the SAL form-based and the letting agent campaigns. Further comments tended to be limited, often focusing on the approach offering flexibility and/or clarity.

Notice to Leave

The proposal is that instead of two separate notices (Notice to Quit and Notice of Proceedings) only one notice would be required (Notice to Leave). The content of the Notice to Leave would be set out in secondary legislation rather than in the forthcoming Bill. This would allow stakeholders to be consulted during its development.

There was strong support (95%) for the proposal to combine the two separate notices into one Notice to Leave. Those agreeing tended to make only limited further comments that focused on the proposed change offering a simpler and

easier to understand alternative to the current arrangements. The concerns of those disagreeing with the proposal, or who did not know, included that the change could erode rights of tenants.

Notice periods from landlord to tenant

The first consultation proposed there would be four notice periods from landlord to tenant. The revised proposal is for two notice periods as follows:

- Six months or less in the property = 28 days' notice (four weeks).
- More than six months = 84 days' notice (12 weeks).

The substantial majority of respondents (95%) disagreed with the proposed notice periods, including the majority of standard respondents (67%) and those supporting the Living Rent petition and the SAL form-based campaign.

Those who disagreed with the proposal often suggested alternatives. These were many and varied, although there were three most frequently made suggestions. These were that:

- Tenants should receive a minimum of 12 weeks' notice. This was the most frequently made suggestion overall and was made by those supporting the Living Rent petition amongst others. Other respondents suggested an eight week minimum.
- There should be three notice periods. A specific suggestion was: up to six months - four weeks; six to 24 months - eight weeks; and over 24 months - 12 weeks. This was the second most frequently made suggestion and was raised by those supporting the SAL form-based campaign amongst others.
- The longer notice period should be reduced to eight weeks. This was the third most frequently made suggestion and was raised by a number of standard respondents.

Those agreeing with the proposed notice periods sometimes noted their agreement with the issues discussed in the consultation paper, including that the first consultation's proposal for four notice periods may have been overly complicated and/or that the 16-week notice period may have been too long.

Accelerated notice period for rent arrears

An accelerated process for rent arrears cases is proposed. If a tenant has failed to pay any amount of rent lawfully due for a period of two consecutive months, then before taking any repossession action, the landlord would have to send the tenant a Notice to Leave saying they have fallen into rent arrears. If the tenant fails to pay the rent lawfully due by the end of the following month, repossession may be sought at the First-tier Tribunal. If after three consecutive months the tenant is still in rent arrears, further notice will not be required. Instead, a landlord would be able to immediately refer the case to the First-tier Tribunal. The amount of rent arrears

would determine whether the mandatory or discretionary repossession ground would apply.

The majority of respondents (86%) disagreed with a landlord being able to serve a Notice to Leave when a tenant has been in rent arrears for two consecutive months. Those disagreeing included those supporting the Living Rent petition. However, the majority of standard respondents (77%) and those supporting the SAL form-based and the letting agent campaigns agreed with the proposal.

The period and/or extent of the rent arrears was the most frequently raised issue amongst those disagreeing with the proposal. Those supporting the Living Rent petition suggested that tenants should always receive a minimum of 12 weeks' notice of eviction, including in rent arrears-related cases. A concern of some standard respondents was that tenants could be required to leave their tenancy because only a small amount of their rent had not been paid or because of delays in processing benefit payments.

The most frequently given reasons for supporting the proposal were that it represents a fair compromise between offering security to tenants and giving confidence to landlords and that it is important to offer landlords sufficient safeguards to encourage them to remain in the market.

Both amongst those agreeing or disagreeing with the proposal, some respondents sought clarification about how the provision would work in practice. Specific queries included whether a landlord could serve a Notice to Leave as soon as the second month's rent fell due but was not fully paid or would need to wait until the end of the rental period.

The majority of respondents (76%) agreed that a landlord should be able to refer a case to the First-tier Tribunal when a tenant has reached three consecutive months of rent arrears. Those agreeing included the majority of standard respondents (70%) and those supporting the SAL form-based and letting agent campaigns.

The most frequently raised point by those supporting the proposal made support conditional on it being possible to issue the Notice to Leave as soon as the second month's rent falls due with the referral to the First-tier Tribunal being possible as soon as the third month's rent falls due. The next most frequently raised point noted the importance of landlords being able to rely on a secure and steady income stream.

Those who disagreed were most likely to be concerned that the three month period is too long and could result in landlords suffering significant financial losses, including because of the time taken to take a case to the First-tier Tribunal.

Another view amongst those disagreeing was that the First-tier Tribunal should always be able to exercise an element of discretion and particularly in cases where the amount of the arrears is relatively low.

Grounds for Repossession

The proposal is for there to be 11 grounds through which a landlord could seek repossession of their property. Eight of these would be mandatory grounds; this would mean that if the ground is established, the First-tier Tribunal would have to grant the landlord possession. However, there would be three grounds for which an element of discretion could be applied. The proposed grounds with a discretionary element are Grounds 6, 7 and 8. For Ground 6 the discretionary element would be if the arrears were less than one month's full rent or if failure to pay rent is due to a delay in housing benefit. For Ground 7 it would be less serious antisocial behaviour and for Ground 8 if the tenant has otherwise breached a non-mandatory tenancy agreement condition. Should these circumstances exist, the First-tier Tribunal would have discretion to consider whether wider circumstances justify ordering possession, even though the basic ground for possession is established.

The majority of respondents (71%) did not agree that the list of repossession grounds now covers all reasonable circumstances where a landlord may wish to recover possession. Those disagreeing included the majority of standard respondents (63%) and those supporting the SAL form-based and the letting agent campaigns. Respondents disagreeing with the exclusion of the no-fault ground appeared to be a key driver of disagreement that the proposed list covers all reasonable circumstances where a landlord may wish to recover possession.

Those who disagreed that the list of repossession grounds now covers all reasonable circumstances often pointed to other grounds required. The most frequently sought grounds (other than a no-fault ground) were to cover student lets or to allow a landlord who has received an Overcrowding Statutory Notice to be able to bring the tenancy to an end.

Those who agreed that the list of repossession grounds now covers all reasonable circumstances tended to make only limited further comments, generally focusing on the proposals appearing reasonable and likely to cover the majority of circumstances.

The majority of respondents (68%) disagreed that the First-tier Tribunal should have an element of discretion in grounds 6, 7 and 8. Those disagreeing included the majority of standard respondents (59%) and those supporting the SAL form-based campaign and the letting agent campaign.

Those who disagreed most frequently noted their disappointment that the grounds are no longer proposed as being entirely mandatory, particularly in the light of the decision not to include a no-fault ground for ending a tenancy. Further points raised by this group of respondents included that landlords should not be expected to and may not be able to cope with loss of rental income caused by delays in processing housing benefit.

Those who agreed with the proposal most frequently noted the importance of the First-tier Tribunal being able to exercise discretion. The next most frequently made

point was that discretion should apply to some, if not all, of the other eight proposed grounds.

Proposed Grounds for Repossession

Respondents were asked to comment on each of the 11 proposed grounds and consider whether, from the details provided in the consultation paper, they agreed that each of the repossession grounds will work effectively. The most frequent suggestion by some degree was that tenants should have the right to contest all evictions. Those supporting the Living Rent petition were of this view¹ and a number of standard respondents made a similar point about some or all of the 11 proposed grounds.

In terms of the specific grounds, the first five proposed grounds are all to be mandatory grounds and focus on the landlord or property. Respondents were relatively evenly divided on four of these grounds: Ground 1 (the landlord selling the home); Ground 3 (the landlord or a family member of the landlord wanting to move into the property as their principal home); Ground 4 (refurbishment); and Ground 5 (change of business use). The most frequently raised concern was around the reasonableness and practicality of expecting a landlord to contact a former tenant and offer them a new tenancy, or of requiring a landlord to cover a tenant's removal expenses. Those who agreed that these grounds would work effectively tended to make very limited further comments.

The clear majority of respondents agreed that Ground 2 (the mortgage lender is selling the home because the landlord has broken the loan conditions) would work effectively.

Grounds 6, 7 and 8 have a tenant focus and all are proposed as having both mandatory and discretionary elements. Ground 6 covers the tenant failing to pay full rent over three consecutive months. It would be a mandatory ground where the arrears equate to at least one month's full rent and discretionary if the arrears were less than one month's full rent or if failure to pay rent is due to a delay in housing benefit.

The majority of respondents (60%) did not agree that Ground 6 would work effectively. Those disagreeing included a little under half (48%) of standard respondents and those supporting the SAL form-based and the letting agent campaigns. The majority of advice service, industry body, legal body, letting agent, 'other' and individual respondents disagreed, while the majority of campaign body, landlord, local authority, tenant group and union respondents agreed.

One of the two most frequently raised issues by those disagreeing at Ground 6 was that the Ground will not work as currently proposed but would operate effectively if the Notice to Leave could be issued as soon as the second month's rent falls due, with the referral to the First-tier tribunal possible as soon as the third month's rent

¹ This was a general comment rather than a specific answer to one or all of the questions on each of the 11 proposed grounds.

falls due. The other most frequently raised point was that, as currently constituted, the Ground would not address or prevent persistent arrears that are less than one month's rent.

Others who disagreed that Ground 6 would work effectively did so for very different reasons. These respondents were tending to look for the First-tier Tribunal to be able to exercise much wider discretion, with some suggesting there should be no arrears-related circumstances under which it should be mandatory to grant possession.

Comments made by those supporting Ground 6 tended to be brief and included that the proposal seems fair or reasonable.

Ground 7 covers a tenant displaying antisocial behaviour and would be a mandatory ground where a tenant has a relevant conviction, and a discretionary ground where judgment must be exercised.

Respondents were again divided on Ground 7 with no clear majority in agreement or disagreement. The largest proportion of respondents (46%) thought that Ground 7 would work effectively. Of the remainder, 45% thought it would not and 8% did not know. However, a small majority of standard respondents (52%) did support the Ground.

Those agreeing with this proposal sometimes welcomed the introduction of a discretionary element at this Ground, although the most frequently made comment by those who agreed - including those supporting the letting agent campaign - was that the ground should be mandatory.

Those who disagreed most frequently pointed to the difficulties in proving that antisocial behaviour is taking place and suggested that it would be helpful to set clear parameters as to the evidence considered reasonable to secure an eviction. It was suggested that the mandatory element should be extended to cover cases where confirmation of at least two instances of antisocial behaviour by tenants or their visitors at the property is given by the police or a local authority noise or antisocial behaviour team.

Others also commented on the definitions to be used, including noting that antisocial behaviour is very difficult to prove and that this places extra importance on definitions being clear and watertight.

Ground 8 covers a tenant otherwise breaching the clauses of their tenancy agreement and would be mandatory or discretionary depending on which of the clauses had been breached. The majority of respondents (60%) agreed that Ground 8 would work effectively. However, a number of respondents, drawn from those who answered yes, no, don't know or gave a mixed answer, felt that they needed first sight of a draft model tenancy agreement in order to assess the viability and then give a clear view on this Ground.

The final three Grounds have been added at this second consultation stage. Ground 9 covers abandonment, Ground 10 covers a property which was let to the

tenant because they were employed by the landlord but the tenant is no longer employed by the landlord and Ground 11 covers a property normally needed to house a full-time religious worker of a religious denomination, and which is required for this purpose. In each case, a clear majority of those answering the relevant question agreed that these grounds would work effectively.

Rent reviews during a tenancy

The consultation paper comments that tenants need to be able to plan, and a system that provides greater predictability will enable them to do so and reduce the risk of them falling into rent arrears. To this end, The Scottish Government proposes that rent reviews should take place no more than once in any 12-month period. They also propose that, to help tenants to plan when managing their finances to cover the rent, landlords should have to give tenants 12 weeks' notice of a change in the rent.

It is also proposed that if a tenant thinks a rent increase would take their rent well over rents charged for comparable properties in the area, they should be able to refer the increase for adjudication, for example to the First-tier Tribunal.

Respondents were asked if they agreed that rent reviews should take place no more than once a year. There was very strong support for this proposal, with a substantial majority of all respondents (99%) being in agreement. Further comments were limited and frequently focused on the approach being fair, and reasonable and in line with normal current practice. The importance of the approach being clear and easily understood was also raised.

Some of those who disagreed with the proposal suggested that the reviews should be limited to no more than every 18 months. In contrast, it was suggested that landlords who have borrowed to purchase a property will be affected by changes to interest rates and may face increases to other costs and should not be constrained by an annual review.

A majority of respondents (72%) agreed that a tenant should receive 12 weeks' notice in advance of a change in the rent. Comments made by those supporting the proposals included that they are sensible and reasonable and would give tenants time to budget for any changes. Comments made by those who disagreed tended to suggest that the 12-week period is too long: the most frequently suggested alternative was that eight weeks' notice be required. Those supporting the Living Rent petition suggested that notice of increases must be no less than 12 weeks.

There was very strong support for the proposal that tenants should be able to refer what they regard as unreasonable rent increase for adjudication, with a substantial majority of all respondents (99%) in agreement. Further comments were limited and frequently focused on the approach being fair, and reasonable and in line with normal current practice. The importance of the approach being clear and easily understood was also raised. The most frequently made comment was that tenants should have the right to refer unfair rent levels and increases to a tribunal, where rents should be assessed on factors such as size, quality and location but not on

market levels. An alternative, and also frequently stated view, was that the First-tier Tribunal should be required to determine a market rent, as opposed to any form of 'capped', rent.

The possibility of introducing further regulation

The consultation paper stated that the Scottish Government is not proposing any further general regulation of rents, but is considering whether specific measures may be justified to protect tenants from excessive increases in hot-spot areas. If taken forward, a possible approach would enable Ministers to limit the levels of rent increases for sitting tenants in hot-spot areas. As this is intended to be a means of responding to a problem affecting tenants in a local area, it is proposed that this power would be triggered by a local authority applying to Ministers for an affected area to be designated a 'rent pressure area'.

Respondents were asked if they thought there was a role for the additional regulation for area-based rent limits and what they saw as the advantages and disadvantages of such an approach.

This question had the highest number of responses of all questions in the consultation. The majority of respondents (70%) did not see a role for additional regulation.

Those respondents who disagreed frequently stated their broader and categorical disagreement with any form of rent regulation and there was a broad consensus that the sector should remain market-led. This was the view of signatories to the SAL and PRS4Scotland petitions and of those supporting the SAL form-based campaign. It was also the most frequently made comment amongst standard respondents who disagreed.

The most frequently made comment by those who did think there is a role for the additional regulation of area-based rent limits was that local authorities should be able to implement special local measures when housing costs are more than a third of tenants' incomes. This was the view of those supporting the Living Rent petition. Others who thought there is a role for additional regulation gave examples of difficulties they or others experienced in accessing affordable private rented accommodation, especially in certain parts of Scotland's cities.

Respondents were then asked what types of evidence local authorities should have to present to Ministers if applying to designate an area as a 'rent pressure area'. A number of respondents simply reiterated their disagreement in their further comment here. Others made a brief comment that the range of evidence set out within the consultation paper seemed reasonable or appropriate.

Those who went on to make more detailed comments sometimes suggested additional evidence sources that could be considered. The most frequently made suggestion was that an independent assessment of the impact of the proposed designation should be required.

Partial EQIA and BRIA

The final two questions asked for comments on the partial Equality Impact Assessment (EQIA) and the partial Business and Regulatory Impact Assessment (BRIA). A total of 118 respondents commented on the partial EQIA and 245 respondents commented on the partial BRIA.

With regard to the partial EQIA, around 1 in 6 of the standard respondents who commented simply suggested the partial EQIA appeared reasonable or to have covered the necessary issues.

However, the most frequently raised issue did not refer to any of the protected characteristics but rather suggested that the proposals do not represent the interests of landlords and tenants equally and/or that the partial EQIA does not consider whether the proposals discriminate against landlords. Around 1 in 4 of the standard respondents who commented were of this view.

In terms of the impact on tenants, a small number of respondents agreed with the partial EQIA's suggestion that the proposals would benefit vulnerable tenants, although other respondents were unconvinced. Suggestions as to particular types of tenants who could be adversely affected included students, tenants with no renting history or those who have lost a tenancy under the proposed repossession Grounds 6, 7 or 8.

Many of the comments focused on the partial BRIA's coverage of the impact of the proposals on landlords and letting agents. Although a small number of respondents did not think the proposals would have any negative impact on businesses (around 1 in 20 standard respondents), one of the most frequently made comments by some degree was that the partial BRIA under-estimates the likely negative impact on one or both groups. More than 3 in 5 standard respondents and those supporting the SAL form-based campaign were of this view. Many of these comments focused specifically on coverage of the student and holiday let markets.

The other most frequently raised issue (also raised by more than 3 in 5 standard respondents and those supporting the SAL form-based campaign) focused on the potential impact of seeking possession through the First-tier Tribunal, particularly if using Grounds 6, 7 or 8. Common concerns included the financial cost to the landlord of tenants breaching the terms of the tenancy but being allowed to remain in the property, or of it taking a long time to evict a tenant.

With regard to letting agents, it was suggested that the impact of landlords choosing to exit the sector, with the follow-on impact on letting agents' turnover and profitability, has not been properly considered.

A small number of respondents commented on the coverage of the impact on tenants, with issues raised including that some of the identified benefits for tenants are debatable and that if some landlords exit the sector and/or further investment in the sector is curtailed, choice will be reduced, standards may fall and rents may rise.

Introduction

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

Background

The second consultation follows an earlier consultation that set out the Scottish Government's initial proposals for a new private tenancy system. The first consultation was held between October and December 2014, with 2,543 responses received.

As the first consultation paper noted, 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 Scottish Government has also made a commitment to developing a 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. All of these commitments remain in place at the time of the second consultation.

In the second consultation, the Scottish Government set out those areas in which it intended to proceed with its initial proposals. Further detail has been provided about some proposals (particularly in relation to grounds for repossession), and in some cases proposals have been amended. Having invited views and gathered information about rent levels in the first consultation, the Scottish Government has now made specific proposals in this area.

The consultation ran from 30 March to 10 May 2015 and asked 26 questions.

Profile of respondents

A total of 7,689 consultation responses were received. Of these 340 were standard responses and 7,349 were campaign responses. A profile of standard respondents by type is set out in Table 1 below. A list of the organisations that submitted a response to the consultation is included as Annex 1 to this report.

Points to note about the standard respondents are:

- A number of respondents drew on text from one of the campaigns but amended that text in some way. Most of these respondents were landlord or letting agent respondents drawing on the text from the Scottish Association of Landlords campaign (discussed below).
- A small number of respondents included supporting statements or letters from others as part of their response or noted that their submission was supported by others.
- Although all respondents have been assigned a single respondent type group, some have a dual interest. In particular, a small number of

respondents who have been classified as landlords noted that they also offer advice or support or have a general interest in the well-being of those living in the private rented sector. This group included both third sector and university respondents.

Table 1: Standard responses received by type of respondent

Type of respondent	Number
Advice, Information & Ombudsman Services	7
Campaign Body or Group	10
Industry Body	14
Landlord	44
Legal Body or Firm	5
Letting Agent and/or Property Management	37
Local Authority	17
Tenant and/or Resident Group	3
Union or Political Party	4
Other	6
	<i>Total Organisations (147)</i>
Individuals	193
TOTAL	340

Campaigns connected with four different groups were organised:

- Living Rent Campaigns: A total of 2,491 respondents supported the Living Rent Campaign. Of these, 2,127 respondents either signed an e-petition (1,036 signatories) or submitted a postcard containing equivalent text to the e-petition (1,091 respondents). This is referred to as the Living Rent petition. In addition, another 364 postcards setting out an alternative text were submitted. This is referred to as the Living Rent postcards.
- Scottish Association of Landlords Campaigns: A total of 3,280 respondents made a submission related to the Scottish Association of Landlords (SAL). Of these, 3,215 were signatories to an e-petition organised by SAL. This is referred to as the SAL petition. In addition, 65 respondents made a submission on the standard consultation response form but containing the same set of answers as each other. This set of answers reflected the main group responses made by SAL and the Council of Letting Agents. This group of responses is referred to as the SAL form-based campaign.

- PRS4Scotland Campaign: A total of 1,553 respondents were signatories to an e-petition organised by PRS4Scotland. This is referred to as the PRS4Scotland petition.
- Letting Agent Campaign: A total of 25 respondents submitted a response identical to that of a letting agency. These responses came from different branches of that organisation. This is referred to as the letting agent campaign.

Please note that each of the four organisations connected with a campaign have also been included as a group respondent (the Living Rent Campaign and PRS4Scotland as campaign bodies, SAL as an industry body and the letting agent company as a letting agent).

Structure of the report

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.

The results from the 'Yes/No' questions contained within the written consultation are presented in tabular form. The consultation response form set out three possible responses (Yes, No and Don't know). A small number of respondents amended the form to give a mixed response (such as 'Yes and No' or 'Yes but only if...'). These responses have been recorded as 'Mixed' within the tables set out below.

A small number of respondents did not make a submission on the consultation response form 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. This approach has also been taken to the analysis of further comments made by those using the standard response form.

Given the scale of the response, this report focuses on presenting the overall balance of opinion and the most frequently raised points. However, many of the responses did contain detailed comments or suggestions and all materials have been given close scrutiny by the Scottish Government. In addition, the responses of all those who agreed to publication are available on the Scottish Government's website.

Length of tenancy and Notice to Leave

The first six consultation questions covered the length of tenancies and arrangements for leaving a tenancy, the Notice to Leave.

Length of tenancy

The proposal is to introduce a statutory Scottish Private Rented Tenancy (SPRT) for all PRS lets. For the first six months of a tenancy a tenant would be unable to give notice and a landlord would be unable to regain possession of the property unless the specified circumstances arose of the tenant being at fault or the landlord's mortgage lender intending to sell because the landlord had broken their loan conditions.

Although the standard would be for a six-month initial period, a tenant and landlord could agree a longer initial period. Alternatively, where the tenant has requested it and the landlord agrees, a shorter initial period could be agreed.

After the initial period had expired, the tenancy would continue indefinitely. Both the tenant and landlord would then be able to give notice to end the tenancy at any time, with the required notice periods.

Question 1a: Do you agree there should be an initial tenancy period during which tenants and landlords would be unable to give notice unless one of the specified circumstances existed?

Summary Findings

The majority of respondents (86%) disagreed with there being an initial tenancy period during which tenants and landlords would be unable to give notice unless certain specified circumstances existed. Those disagreeing included those supporting the Living Rent petition. However, the majority of standard respondents (77%) and those supporting the SAL form-based and the letting agent campaigns agreed.

The most frequently made point overall - and put forward by those supporting the Living Rent petition - was that there should no initial period during which a tenant cannot leave and that tenants should be able to serve notice at any time. The most frequently raised comment from those agreeing with the proposal, including the SAL form-based campaign, was that the six-month period would be long enough to justify the resources required, in terms of both time and money, to set up a tenancy and lead to a reasonable rental income.

Responses by respondent type are set out in Table 2 below. Please note that the percentages set out in the tables below may not always sum to 100% due to rounding.

Table 2: Question 1a - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	4	1	1	0	6
Campaign Body or Group	3	4	0	2	9
Industry Body	9	1	0	1	11
Landlord	30	8	1	2	41
Legal Body or Firm	4	0	0	1	5
Letting Agent and/or Property Management	32	3	1	0	36
Local Authority	14	1	2	0	17
Tenant and/or Resident Group	2	1	0	0	3
Union or Political Party	3	1	0	0	4
Other	2	1		2	5
<i>Total Organisations</i>	<i>(103)</i>	<i>(21)</i>	<i>(5)</i>	<i>(8)</i>	<i>(137)</i>
Individuals	144	35	1	4	0
Total (excl. campaigns)	247	56	6	12	321
Percentage (excl. campaigns)	77%	17%	2%	4%	100%
Living Rent petition	0	2127	0	0	2127
SAL form-based campaign	65	0	0	0	65
Letting Agent campaign	25	0	0	0	25
TOTAL	337	2183	6	12	2538
% of those answering the question	13%	86%	0%	0%	100%

The majority of respondents (86% of those answering the question) disagreed, including those who supported the Living Rent petition. However, the majority of standard respondents (77% of those answering) and those supporting the SAL form-based campaign and the letting agent campaign were in agreement. The majority of all types of standard respondent agreed, with the exception of campaign body respondents.

The most frequently made point overall - and suggested by those supporting the Living Rent petition - was that there should be no initial period during which a tenant cannot leave and that tenants should be able to serve notice at any time.

The standard respondents who disagreed were most likely to suggest the approach lacks flexibility and/or that a no-fault repossession ground should be included. Individual and landlord respondents were amongst those raising these issues. A number of respondents, including landlords and letting agents, expressed particular concerns about the impact on the student market and suggested there is a need to be able to enter into fixed-term leases that end at the expiry of the agreed period.

An alternative view was that there is no need for an initial tenancy period and tenancies should simply be indefinite with either party able to end the tenancy according to the relevant provisions and within the specified notice periods. Some advice service and campaign bodies were amongst those taking this view.

Those who agreed with the proposal sometimes pointed to it being clear and straightforward, as offering some security to tenants, or noted that it will be well-understood because it reflects current practice under the Short Assured Tenancy (SAT) regime. The most frequently made comment by those who agreed was that the six-month tenancy would be long enough to justify the resources required, in terms of both time and money, to set up a tenancy and lead to a reasonable rental income.

Some of those agreeing with the proposal commented on the circumstances under which a landlord or lender should be able to regain possession during the initial tenancy term. This was also a frequently raised issue, particularly among industry bodies, landlords, letting agents and individual respondents. Specific suggestions tended to refer to the proposed grounds for repossession and to grounds 2, 6, 7, 8 or 9 in particular. Conversely, a small number of respondents (including industry body, legal body and individual respondents) identified the grounds under which a landlord should not be able to seek repossession during the initial tenancy period; suggestions included grounds 1, 3, 5 and 11.

Other comments made by those agreeing with the proposals highlighted the importance of tenants and landlords being able to agree to shorter or longer tenancies at the outset. Advice service, campaign body, landlord, union and individual respondents were amongst those raising this issue.

Question 1b: Do you agree that after the initial period, a tenant or landlord may serve notice at any time with the relevant notice periods?

Summary Findings

There was strong support for the proposal that, after the initial period, a tenant or landlord would be able to serve notice at any time with the relevant notice periods. A substantial majority of respondents (91%) agreed, including the majority of standard responses and those supporting the SAL form-based and the letting agent campaigns. Further comments tended to be limited, often focusing on the approach offering flexibility and/or clarity.

Responses by respondent type are set out in Table 3 below.

Table 3: Question 1b - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	5	1	0	0	6
Campaign Body or Group	6	1	0	1	8
Industry Body	10	0	0	1	11
Landlord	33	6	0	2	41
Legal Body or Firm	4	0	0	1	5
Letting Agent and/or Property Management	34	1	1	0	36
Local Authority	17	0	0	0	17
Tenant and/or Resident Group	3	0	0	0	3
Union or Political Party	4	0	0	0	4
Other	4	0	0	0	4
<i>Total Organisations</i>	<i>(120)</i>	<i>(9)</i>	<i>(1)</i>	<i>(5)</i>	<i>(135)</i>
Individuals	157	14	0	6	177
Total (excl. campaigns)	277	23	1	11	312
Percentage (excl. campaigns)	89%	7%	0%	4%	100%
SAL form-based campaign	65	0	0	0	65
Letting Agent campaign	25	0	0	0	25
TOTAL	367	23	1	11	402
% of those answering the question	91%	6%	0%	3%	100%

There was strong support for this proposal, with a substantial majority of all respondents (91% of those answering this question) in agreement. The majority of standard respondents of all types agreed, as did those supporting the SAL form-based campaign and the letting agent campaign.

Many of those agreeing with this proposal made limited comments; these often focused on the approach offering flexibility and/or clarity. Further comments included that the current process of serving notices is complicated and confusing for both tenants and landlords and that the proposed approach should help reduce the administrative burden for landlords.

Those who disagreed or did not know at this question sometimes referred back to their disagreement with the initial tenancy period; these respondents were disagreeing with only being able to serve notice after the initial period rather than the on-going arrangements once that period had expired. Others preferred an option where the tenancy agreement would terminate automatically at the end of the initial period without the requirement for a notice to be served by either party. As at Question 1a, particular reference was made to the student market.

A number of those who disagreed or did not know also referenced their disagreement with there not being a no-fault ground for ending a tenancy.

Notice to Leave

The proposal is that instead of two separate notices (Notice to Quit and Notice of Proceedings) only one notice would be required (Notice to Leave). The content of the Notice to Leave would be set out in secondary legislation rather than in the forthcoming Bill. This would allow stakeholders to be consulted during its development.

Question 2: Do you agree that Notice to Quit and Notice of Proceedings should be combined into one Notice to Leave?

Summary Findings

There was strong support (95%) for the proposal to combine the two separate notices into one Notice to Leave. Further comments tended to be limited and focused on the proposed change offering a simpler and easier to understand alternative to the current arrangements.

Responses by respondent type are set out in Table 4 below.

Table 4: Question 2 - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	5	0	0	1	6
Campaign Body or Group	7	1	0	1	9
Industry Body	11	0	0	0	11
Landlord	39	1	0	1	41
Legal Body or Firm	5	0	0	0	5
Letting Agent and/or Property Management	37	0	0	0	37
Local Authority	17	0	0	0	17
Tenant and/or Resident Group	1	2	0	0	3
Union or Political Party	3	0	0	0	3
Other	3	1	0	0	4
<i>Total Organisations</i>	<i>(128)</i>	<i>(5)</i>	<i>(0)</i>	<i>(3)</i>	<i>(136)</i>
Individuals	169	6	0	6	181
Total (excl. campaigns)	297	11	0	9	317
Percentage (excl. campaigns)	94%	3%	0%	3%	100%
SAL form-based campaign	65	0	0	0	65
Letting Agent campaign	25	0	0	0	25
TOTAL	387	11	0	9	407
% of those answering the question	95%	3%	0%	2%	100%

There was strong support for this proposal, with 95% of those who answered the question agreeing that the Notice to Quit and Notice of Proceedings should be combined into one Notice to Leave. The majority of standard respondents of all types agreed, as did those supporting the SAL form-based campaign and the letting agent campaign.

As at the previous question, those agreeing tended to make only limited further comments that focused on the proposed change offering a simpler and easier to understand alternative to the current arrangements. There was also a call for the Notice to Leave to be written in straightforward and easy to understand language and to be as user-friendly as possible. Other points raised by those agreeing with the proposal included that the Notice could include some form of pre-action

requirements of the kind which apply in the social rented sector; this was suggested with particular reference to rent arrears.

The concerns of those disagreeing with the proposal or who did not know included that the change could erode rights of tenants and undermine the ability of landlords and tenants to negotiate and reach a mutually acceptable solution.

Notice periods from landlord to tenant

The first consultation proposed there would be four notice periods from landlord to tenant. The revised proposal is for two notice periods as follows:

- Six months or less in the property = 28 days' notice (four weeks).
- More than six months = 84 days' notice (12 weeks).

Question 3: Do you agree with the proposed notice periods a landlord should give a tenant?

Summary Findings

The clear majority (95%) disagreed with the proposed notice periods. Those who disagreed often suggested alternatives. These were many and varied, although there were three most frequently made suggestions. These were that:

1. Tenants should receive a minimum of 12 weeks' notice. This was the most frequently made suggestion overall and was made by those supporting the Living Rent petition amongst others. Other respondents suggested an eight week minimum.
2. There should be three notice periods. A specific suggestion was: up to six months - four weeks; six to 24 months - eight weeks; and over 24 months - 12 weeks. This was the second most frequently made suggestion and was raised by those supporting the SAL form-based campaign amongst others.
3. The longer notice period should be reduced to eight weeks. This was the third most frequently made suggestion and was raised by a number of standard respondents.

Those agreeing with the proposed notice periods sometimes noted their agreement with the issues discussed in the consultation paper, including that the first consultation's proposal for four notice periods may have been overly complicated and/or that the 16-week notice period may have been too long.

Responses by respondent type are set out in Table 5 below.

Table 5: Question 3 - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	1	5	0	0	6
Campaign Body or Group	1	6	0	1	8
Industry Body	4	6	0	1	11
Landlord	11	26	0	3	40
Legal Body or Firm	2	2	0	1	5
Letting Agent and/or Property Management	8	27	0	1	36
Local Authority	12	3	0	1	16
Tenant and/or Resident Group	3	0	0	0	3
Union or Political Party	3	1	0	0	4
Other	1	1	1	1	4
<i>Total Organisations</i>	<i>(46)</i>	<i>(77)</i>	<i>(1)</i>	<i>(9)</i>	<i>(133)</i>
Individuals	42	131	1	4	178
Total (excl. campaigns)	88	208	2	13	311
Percentage (excl. campaigns)	28%	67%	1%	4%	100%
Living Rent petition	0	2127	0	0	2127
SAL form-based campaign	0	65	0	0	65
Letting Agent campaign	25	0	0	0	25
TOTAL	113	2400	2	13	2528
% of those answering the question	4%	95%	0%	1%	100%

The substantial majority of respondents (95% of those answering this question) disagreed with the proposed notice periods, including the majority of standard respondents (67% of those answering) and those supporting the Living Rent petition and the SAL form-based campaign. However, the majority of local authority, tenant group and union respondents agreed as did those supporting the letting agent campaign. Legal body and 'other' respondents were evenly divided.

Those who disagreed with the proposal made both general points and specific alternative suggestions. In terms of the general points, the comments included that the shortest notice period would give tenants insufficient time to find alternative accommodation; advice services and campaign bodies were those most likely to

raise this issue. A number of respondents raised a similar issue to some of those who had agreed – namely that notice periods should be the same for landlords and tenants. Landlord, letting agent and individual respondents were most likely to make this comment.

Alternatives to the current proposals were many and varied, although there were three most frequently made suggestions. These were that:

- Tenants should receive a minimum of 12 weeks' notice. This was suggested by those supporting the Living Rent petition, along with some campaign body, advice service and individual respondents. This was the most frequently made suggestion by some degree being suggested by around 85% of those commenting at this question. A small number of other respondents - also including some campaign body and advice service respondents - suggested that an 8 week minimum should be considered.
- There should be three notice periods. A specific suggestion was: up to six months - four weeks; six to 24 months - eight weeks; and over 24 months - 12 weeks. This was the next most frequently made suggestion, with industry body, landlord, letting agent and individual respondents most likely to propose this alternative, along with those supporting the SAL form-based campaign. This group equated to around 4% of those commenting at this question.
- The longer notice period should be reduced to eight weeks. This was also a frequently suggested option, with a number of landlords, letting agents and individual respondents of this view. This group equated to around 1% of those commenting at this question.

Other suggested alternatives included that there should be four notice periods (as proposed in the first consultation) or that the shorter notice period should be reduced under certain circumstances (for example, if repossession is being sought using the proposed Grounds 7 or 8). Under such circumstances, a small number of respondents suggested a 14-day notice period should apply.

Some respondents also commented on tenant notice periods, with those supporting the Living Rent petition amongst those suggesting that landlords need only receive four weeks' notice.

Those agreeing with the proposed notice periods sometimes noted their agreement with the issues discussed in the consultation paper, including that the first consultation's proposal for four notice periods may have been overly complicated and/or that the 16-week notice period may have been too long. Some respondents suggested that the 12-week notice period offers even an established tenant sufficient time to find alternative accommodation.

Accelerated notice period for rent arrears

An accelerated process for rent arrears cases is proposed. If a tenant has failed to pay any amount of rent lawfully due for a period of two consecutive months, then before taking any repossession action, the landlord would have to send the tenant a Notice to Leave saying they have fallen into rent arrears. If the tenant fails to pay the rent lawfully due by the end of the following month, repossession may be sought at the First-tier Tribunal. If, after three consecutive months, the tenant is still in rent arrears, further notice will not be required. Instead, a landlord would be able to immediately refer the case to the First-tier Tribunal. The amount of rent arrears would determine whether the mandatory or discretionary repossession ground would apply.

Question 4a: Do you agree that a landlord may serve a Notice to Leave when a tenant has been in rent arrears for two consecutive months?

Summary Findings

The majority of respondents (86%) disagreed with a landlord being able to serve a Notice to Leave when a tenant has been in rent arrears for two consecutive months. Those disagreeing included those supporting the Living Rent petition. However, the majority of standard respondents (77%) and those supporting the SAL form-based and the letting agent campaigns agreed with the proposal.

The period and/or extent of the rent arrears was the most frequently raised issue amongst those disagreeing with the proposal. Those supporting the Living Rent petition suggested that tenants should always receive a minimum of 12 weeks' notice of eviction, including in rent arrears-related cases.

The most frequently given reasons for supporting the proposal were that it represents a fair compromise between offering security to tenants and giving confidence to landlords and that it is important to offer landlords sufficient safeguards to encourage them to remain in the market.

Both amongst those agreeing or disagreeing with the proposal, some respondents sought clarification about how the provision would work in practice. Specific queries included whether a landlord could serve a Notice to Leave as soon as the second months' rent fell due but was not fully paid or would need to wait until the end of the rental period.

Responses by respondent type are set out in Table 6 below.

Table 6: Question 4a - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	5	2	0	0	7
Campaign Body or Group	3	4	0	2	9
Industry Body	8	0	0	1	9
Landlord	37	2	0	2	41
Legal Body or Firm	3	0	0	1	4
Letting Agent and/or Property Management	34	1	1	0	36
Local Authority	15	1	0	1	17
Tenant and/or Resident Group	1	2	0	0	3
Union or Political Party	1	1	0	1	3
Other	3	1	0	0	4
<i>Total Organisations</i>	<i>(110)</i>	<i>(14)</i>	<i>(1)</i>	<i>(8)</i>	<i>(133)</i>
Individuals	132	43	1	7	183
Total (excl. campaigns)	242	57	2	15	316
Percentage (excl. campaigns)	77%	18%	1%	5%	100%
Living Rent petition	0	2127	0	0	2127
SAL form-based campaign	65	0	0	0	65
Letting Agent campaign	25	0	0	0	25
TOTAL	332	2184	2	15	2533
% of those answering the question	13%	86%	0%	1%	100%

The majority of respondents (86% of those answering this question) disagreed; this group included those supporting the Living Rent petition. However, the majority of standard respondents (77% of those answering) and those supporting the SAL form-based campaign and the letting agent campaign agreed with the proposal. Campaign body and tenant groups were the only types of standard respondents within which the majority disagreed, while union respondents were evenly divided.

The most frequently made comment at this question was that tenants should always receive a minimum of 12 weeks' notice of eviction, including in rent arrears-related cases. Those supporting the Living Rent petition were amongst making this suggestion.

The period and/or extent of the rent arrears was also an issue raised frequently by others who disagreed with the proposal. A concern of some standard respondents, including some advice service and campaign body respondents, was that tenants could be required to leave their tenancy because only a small amount of their rent had not been paid. There were also concerns about the impact on tenants who develop arrears because of delays in processing benefits. Some of those raising these concerns were amongst those preferring what they understood as the proposal from the first consultation, namely that a tenant would need to be a full three months in arrears. There was also disagreement with there being circumstances under which it would be mandatory for the First-tier Tribunal to grant an arrears-related possession order. Advice service and campaign body respondents were amongst those taking this view.

An alternative position, put forward by some of those disagreeing as well as some of those agreeing was that the two-month period is too long. This was most likely to be raised by landlord, letting agent or individual respondents and was also the view of those supporting the letting agent campaign. Those supporting the letting agent campaign suggested that mandatory possession should be granted if the tenant is two months in arrears.

Both amongst those agreeing or disagreeing with the proposal, a significant number of respondents, sought clarification about how the provision would work in practice. Industry body, landlord, letting agent and individual respondents were most likely to have queries, along with those supporting the SAL form-based campaign. Specific queries included whether a landlord could serve a Notice to Leave as soon as the second months' rent fell due but was not fully paid or would need to wait until the end of the rental period? It was suggested that it should be possible to serve the Notice as soon as some of a second month's rent is outstanding. This query was the most frequently made comment amongst those supporting the proposal.

Other comments made by those supporting the proposal - and raised by a broad range of types of respondent - included that it represents a fair compromise between offering security to tenants and giving confidence to landlords. The importance of offering landlords sufficient safeguards to encourage them to remain in the market was also raised by a range of those agreeing with the proposal.

Question 4b: Do you agree that when a tenant has reached three consecutive months of rent arrears, a landlord should be able to refer a case to the First-tier Tribunal?

Summary Findings

The majority of respondents (76%) agreed that a landlord should be able to refer a case to the First-tier Tribunal when a tenant has reached three consecutive months of rent arrears.

Those who agreed with the proposal sometimes noted the importance of landlords being able to rely on a secure and steady income stream. A number of respondents made their agreement conditional on it being possible to issue the Notice to Leave as soon as the second month's rent falls due with the referral to the First-tier Tribunal being possible as soon as the third month's rent falls due.

Those who disagreed sometimes suggested that the First-tier Tribunal should always be able to exercise an element of discretion and particularly in cases where the amount of the arrears is relatively low. Others who disagreed were concerned that taking a case to the First-tier Tribunal would take too long and could result in landlords suffering significant financial losses.

Responses by respondent type are set out in Table 7 below.

Table 7: Question 4b - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	4	3	0	0	7
Campaign Body or Group	8	1	0	0	9
Industry Body	8	1	1	0	10
Landlord	29	9	0	3	41
Legal Body or Firm	3	1	0	1	5
Letting Agent and/or Property Management	27	9	0	0	36
Local Authority	16	0	0	1	17
Tenant and/or Resident Group	3	0	0	0	3
Union or Political Party	3	0	0	1	4
Other	3	1	0	0	4
<i>Total Organisations</i>	<i>(104)</i>	<i>(25)</i>	<i>(1)</i>	<i>(6)</i>	<i>(136)</i>
Individuals	115	56	1	7	179
Total (excl. campaigns)	219	81	2	13	315
Percentage (excl. campaigns)	70%	26%	1%	4%	100%
SAL form-based campaign	65	0	0	0	65
Letting Agent campaign	25	0	0	0	25
TOTAL	309	81	2	13	405
% of those answering the question	76%	20%	0%	3%	100%

The majority of respondents (76% of those answering this question) agreed with the proposal, including the majority of standard respondents (70% of those answering) and those supporting the SAL form-based campaign and the letting agent campaign. The majority of each type of respondent supported the proposal.

Further comments made at this question reflected many of the same themes as covered at Question 4a above. Those who agreed with the proposal frequently noted the importance of landlords being able to rely on a secure and steady income stream, including to cover possible mortgage repayments on their property. A number of respondents (including industry body, landlord, letting agent and individual respondents and those supporting the SAL form-based campaign) made their agreement conditional on it being possible to issue the Notice to Leave as soon as the second month's rent falls due, with the referral to the First-tier Tribunal

being possible as soon as the third month falls due. This was the most frequently raised issue by those agreeing with this proposal. Other issues raised by those who supported the proposal included that it will be important for the First-tier Tribunal to operate efficiently and impartially, and this will require it to be adequately resourced.

The importance of the First-tier Tribunal being able to exercise an element of discretion was raised by a small number of respondents, including some advice service and campaign bodies. Similar issues were raised by a number of those who disagreed with the proposal. Some of these respondents also restated their view that the First-tier Tribunal should be able to exercise discretion, particularly in cases where the amount of the arrears is relatively low.

Others who disagreed were concerned that the process would take too long and result in landlords suffering significant financial losses. Those taking this view, who included landlord, letting agent and individual respondents, sometimes suggested that landlords should be able to make a referral to the First-tier Tribunal once the tenant has been in arrears for one or two months or if all the arrears have not been paid at the end of the Notice to Leave.

Grounds for repossession

The next 13 consultation questions covered the grounds according to which a landlord would be able to regain possession of their property.

The proposal is for there to be 11 grounds through which a landlord could seek repossession of their property. Eight of these would be mandatory grounds; this would mean that if the ground is established, the First-tier Tribunal would have to grant the landlord possession. However, there would be three grounds for which an element of discretion could be applied. The proposed grounds with a discretionary element are Grounds 6, 7 and 8. The discretionary element at Ground 6 would be when rent arrears are due to housing benefit delay. At Ground 7 it would be less serious antisocial behaviour and at Ground 8 if the tenant has otherwise breached a non-mandatory tenancy agreement condition. Should these circumstances exist, the First-tier Tribunal would have discretion to consider whether wider circumstances justify ordering possession, even though the basic ground for possession is established.

Question 5a: Do you agree that the list of repossession grounds now covers all reasonable circumstances where a landlord may wish to recover possession?

Summary Findings

The majority of respondents (71%) did not agree that the list of repossession grounds now covers all reasonable circumstances where a landlord may wish to recover possession. Those disagreeing included the majority of standard respondents (63%) and those supporting the SAL form-based and the letting agent campaigns.

The exclusion of the no-fault ground appeared to be a key driver of disagreement that the proposed list covers all reasonable circumstances where a landlord may wish to recover possession.

Those who disagreed that the list of repossession grounds now covers all reasonable circumstances often pointed to other grounds required. The most frequently sought grounds were to cover student lets or to allow a landlord who has received an Overcrowding Statutory Notice to be able to bring the tenancy to an end.

Those who agreed that the list of repossession grounds now covers all reasonable circumstances tended to make only limited further comments, generally focusing on the proposals appearing reasonable and likely to cover the majority of circumstances.

Responses by respondent type are set out in Table 8 below.

Table 8: Question 5a - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	6	1	0	0	7
Campaign Body or Group	4	4	0	1	9
Industry Body	2	11	0	0	13
Landlord	10	32	0	2	44
Legal Body or Firm	1	3	0	0	4
Letting Agent and/or Property Management	6	28	1	0	35
Local Authority	16	1	0	0	17
Tenant and/or Resident Group	2	1	0	0	3
Union or Political Party	3	0	0	1	4
Other	0	4	0	0	4
<i>Total Organisations</i>	<i>(50)</i>	<i>(85)</i>	<i>(1)</i>	<i>(4)</i>	<i>(140)</i>
Individuals	53	120	0	15	188
Total (excl. campaigns)	103	205	1	19	328
Percentage (excl. campaigns)	31%	63%	0%	6%	100%
SAL form-based campaign	0	65	0	0	65
Letting Agent campaign	0	25	0	0	25
TOTAL	103	295	1	19	418
% of those answering the question	25%	71%	0%	5%	100%

The majority of respondents (71% of those answering this question) disagreed with the proposal, including the majority of standard respondents (63% of those answering) and those supporting the SAL form-based campaign and the letting agent campaign. The majority of industry body, landlord, legal body, letting agent, 'other' and individual respondents disagreed. However, the majority of advice service, local authority, tenant group and union respondents were in agreement. Campaign body respondents were evenly divided.

Respondents raised a broad range of issues at this question and, as noted earlier, further comments on certain frequently raised issues have also been included within the analysis presented here. In particular, although this consultation did not

ask about a no-fault ground, a number of respondents commented on this issue, either at Question 5a or elsewhere within their response. The very substantial majority of those raising this issue called for its inclusion. Many of the further comments made raised similar issues as at the first consultation, namely that not including a no-fault ground will add to the risks for those investing in properties for private rent and could have an adverse effect on the overall health of the sector. The exclusion of the no-fault ground appeared to be a driver of disagreement that the proposed list covers all reasonable circumstances where a landlord may wish to recover possession.

In terms of additional grounds required (other than a no-fault ground) the most frequently made suggestions were that provision be made for the following:

- Regaining possession of properties being let to the student market. It was suggested this should apply beyond purpose-built student accommodation. This was the most frequently made suggestion and was put forward by those supporting the SAL form-based campaign as well as a number of standard respondents. Industry bodies, landlords, letting agents and individual respondents were amongst those making this suggestion.
- Allowing a landlord who has received an Overcrowding Statutory Notice to be able to bring the tenancy to an end thereby allowing them to comply with the notice. This was the next most frequently made suggestion and was put forward by those supporting the SAL form-based campaign as well as a number of standard respondents. Industry bodies, landlords, letting agents and individual respondents were amongst those making this suggestion.
- Regaining possession if a property is required to house an employee or worker. This was sometimes connected with an expansion of the proposed Ground 11 and tended to be raised with reference to the rural economy, and agriculture and tourism in particular. Industry bodies, landlords, letting agents and individual respondents were amongst those making this suggestion.

Other suggestions included dealing with the type of antisocial behaviour that may not lead to conviction, dealing with sub-letting, addressing persistent late payment of rent or dealing with damage to the property or making changes to the property without permission.

Those who agreed that the list of repossession grounds now covers all reasonable circumstances tended to make only limited further comments. They sometimes welcomed the inclusion of one or more of the grounds which have been added since the first consultation or suggested that the grounds as proposed appear fair and reasonable and likely to cover the majority of circumstances. It was also suggested that a specific ground to cover the student letting market would have been unnecessary.

Question 5b: Do you agree that the First-tier Tribunal should have an element of discretion in grounds 6, 7, and 8?

Summary Findings

The majority of respondents (68%) disagreed that the First-tier Tribunal should have an element of discretion in grounds 6, 7 and 8. Those disagreeing included the majority of standard respondents (59%) and those supporting the SAL form-based campaign and the letting agent campaign.

Those who disagreed most frequently noted their disappointment that the grounds are no longer proposed as being entirely mandatory, particularly in the light of the decision not to include a no-fault ground for ending a tenancy. Further points raised by this group of respondents included that landlords should not be expected to and may not be able to cope with loss of rental income caused by delays in processing housing benefit.

Those who agreed with the proposal most frequently noted the importance of the First-tier Tribunal being able to exercise discretion. The next most frequently made point was that discretion should apply to some, if not all, of the other eight proposed grounds.

Responses by respondent type are set out in Table 9 below.

Table 9: Question 5b - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	7	0	0	0	7
Campaign Body or Group	9	0	0	0	9
Industry Body	5	6	1	0	12
Landlord	13	24	1	3	41
Legal Body or Firm	3	1	0	0	4
Letting Agent and/or Property Management	9	25	0	1	35
Local Authority	17	0	0	0	17
Tenant and/or Resident Group	2	1	0	0	3
Union or Political Party	4	0	0	0	4
Other	1	3	0	0	4
<i>Total Organisations</i>	<i>(70)</i>	<i>(60)</i>	<i>(2)</i>	<i>(4)</i>	<i>(136)</i>
Individuals	36	126	1	16	179
Total (excl. campaigns)	106	186	3	20	315
Percentage (excl. campaigns)	34%	59%	1%	6%	100%
SAL form-based campaign	0	65	0	0	65
Letting Agent campaign	0	25	0	0	25
TOTAL	106	276	3	20	405
% of those answering the question	26%	68%	1%	5%	100%

The majority of respondents (68% of those answering this question) disagreed with the proposal, including the majority of standard respondents (59% of those answering) and those supporting the SAL form-based campaign and the letting agent campaign. The majority of industry body, landlord, letting agent, 'other' and individual respondents disagreed. However, the majority of advice service, campaign body, legal body, local authority, tenant group and union respondents were in agreement.

Respondents who disagreed that the First-tier Tribunal should be able to exercise an element of discretion at Grounds 6, 7 and 8 sometimes noted their disappointment that the initial proposals had been changed, particularly in the light of the decision not to include a no-fault ground for ending a tenancy. General concerns included that introducing a mandatory element will inevitably lead to many

more cases going to the First-tier Tribunal and that the Tribunal is unlikely to have the necessary resources to cope with the volume of work in an efficient and timely manner. There were also concerns that the legal costs associated with taking a mandatory ground to the First-tier Tribunal could increase overall management costs and result in reduced yields.

More detail on concerns raised about each of the individual grounds is set out under the relevant questions below, but the most frequently raised issues at Question 5b were:

- Concerns about the delays in housing benefit turning what would otherwise be a mandatory arrears case into a discretionary one. It was suggested that many landlords do not have the necessary financial buffer to cover the possibly lengthy delays that could be involved.
- That Ground 7 will not give landlords confidence that they will be able to evict a tenant who is committing antisocial behaviour.
- That it is difficult to comment on Ground 8 until further information is available as to which elements would be mandatory and which discretionary.

Those who agreed with the proposal sometimes welcomed the changes to the earlier proposals, which had suggested that all of the proposed grounds would be mandatory. These respondents sometimes stated that they had been concerned that the previous approach would have been too inflexible and could have led to people losing their homes based on relatively small infringements. However, a number of those agreeing that Grounds 6, 7 and 8 should be discretionary also went on to suggest that discretion should apply to some, if not all, of the other eight proposed grounds.

Another frequently raised issue was what is meant by discretion, with some respondents voicing their concern that the term is too vague. However, the proposal that clauses setting out whether a particular breach of the tenancy would be mandatory or discretionary be included in the proposed model tenancy agreement was also welcomed. Other comments suggested that it would be sensible to frame the discretion broadly in line with the 'test of reasonableness' set out in the Scottish Secure Tenancy regime. It was noted that this approach would allow the First-tier Tribunal to draw on existing case law.

Proposed Grounds for Repossession

Question 6 asked respondents to consider each of proposed repossession grounds in turn and asked whether, from the details provided in the consultation paper, respondents agreed that each of the repossession grounds will work effectively. In addition to, or instead of, commenting on each ground, a small number of respondents made an overarching comment at Question 6.

Ground 1: The landlord is selling the home

Ground 1 covers the landlord selling the home and would be a mandatory ground. In summary, the landlord would be required to give the tenant a written statement explaining they intended to start actively trying to sell the property. A tenant who was not satisfied that the landlord wished to sell the property would be able to refer the case to the First-tier Tribunal. The Tribunal would be able to award a former tenant a maximum of three months' rent if it decided the landlord had acted inappropriately. If a landlord put a property up for sale but was unable to sell it and wished to re-let it within six months of the tenant leaving, they would have to offer the original tenant first refusal of a further tenancy.

Summary Findings

Respondents were relatively evenly divided on Ground 1, with no clear majority in agreement or disagreement. The largest proportion of respondents (49%) did not think that Ground 1 would work effectively. Of the remainder, 42% thought it would, 7% did not know and 1% held a mixed view.

A number of respondents, principally but not exclusively amongst those disagreeing that the Ground would work effectively, commented on the requirement to offer 'first refusal' to the former tenant if the property is not sold. Most of those raising this issue did not think this requirement was workable.

Those who agreed that Ground 1 would work effectively made a range of further comments, including that landlords should be required to provide clear and robust evidence that they are taking steps to sell the property.

Responses by respondent type are set out in Table 10 below.

Table 10: Question 6, Ground 1 - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	2	3	0	1	6
Campaign Body or Group	3	5	0	1	9
Industry Body	5	5	0	2	12
Landlord	31	5	0	4	40
Legal Body or Firm	1	1	0	1	3
Letting Agent and/or Property Management	12	19	2	2	35
Local Authority	11	1	0	4	16
Tenant and/or Resident Group	2	1	0	0	3
Union or Political Party	2	1	0	0	3
Other	1	1	0	2	4
<i>Total Organisations</i>	<i>(70)</i>	<i>(42)</i>	<i>(2)</i>	<i>(17)</i>	<i>(131)</i>
Individuals	99	65	1	12	177
Total (excl. campaigns)	169	107	3	29	308
Percentage (excl. campaigns)	55%	35%	1%	9%	100%
SAL form-based campaign	0	65	0	0	65
Letting Agent campaign	0	25	0	0	25
TOTAL	169	197	3	29	398
% of those answering the question	42%	49%	1%	7%	100%

Respondents were relatively evenly divided on Ground 1, with no clear majority in agreement or disagreement. The largest proportion of respondents (49% of those answering this question) did not think that Ground 1 would work effectively. Of the remainder, 42% thought it would, 7% did not know and 1% held a mixed view. However, a small majority of standard respondents did support the Ground, including the majority of landlord, local authority, tenant group, union and individual respondents. The majority of advice service, campaign body and letting agent respondents disagreed, as did those supporting the SAL form-based campaign and the letting agent campaign.

The most frequently raised issue (raised principally but not exclusively amongst those disagreeing that the Ground would work effectively) was that the requirement to offer 'first refusal' to the former tenant if the property is not sold would not be

workable. Frequently raised concerns included that the landlord may not know the whereabouts of their former tenant (who may move several times in a six-month period) and that tracing them could prove both difficult and time consuming. Other reservations included that, in all likelihood, the tenant will have found another home and would not wish to return. A suggested compromise was that the landlord should only have to offer the former tenant a new tenancy if the former tenant specifically requests it.

A smaller number of the respondents who disagreed with Ground 1 being a mandatory ground² were of the view that all repossessions should be subject to a Tribunal process and a Notice to Leave. For this particular Ground, it was suggested that in all cases the First-tier Tribunal should have to be satisfied that the landlord is genuinely selling the home before granting possession and allowing the Notice to Leave to be issued.

Those who agreed that Ground 1 would work effectively made a range of further comments, many of which noted points or made suggestions about how the Ground should work in practice. The most frequently raised issues were that:

- Landlords should be required to provide clear and robust evidence that they are taking steps to sell the property.
- The property owner may want or need to refurbish or improve the property before putting it onto the market and this would mean they would need vacant possession before commissioning an estate agent or a Home Report.
- A property could be sold on as a privately rented property. Suggestions included that a tenant should only be required to leave if the purchaser does not intend to rent the property out. However, it was also noted that in some cases sale may require vacant possession.

Ground 2: The mortgage lender is selling the home because the landlord has broken the loan's conditions
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Ground 2 covers the mortgage lender selling the property because the landlord has broken their loan conditions. A lender's letter would have to be provided to the tenant, showing that the property must be sold to repay the lending secured on it. The landlord or lender would have to provide sufficient proof that the ground is met.

² As noted earlier, general comments made by those supporting the Living Rent petition also suggested that none of the grounds should be mandatory.

Summary Findings

The majority of respondents (85%) agreed that Ground 2 would work effectively and tended to make only limited further comments. These included that it is important to give lenders confidence that they can take action if loan terms have been breached. Suggestions made by those agreeing the Ground would work effectively included that consideration should be given to allowing lenders to sell the property with the tenant *in situ*.

Responses by respondent type are set out in Table 11 below.

Table 11: Question 6, Ground 2 - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	4	2	0	0	6
Campaign Body or Group	3	5	0	1	9
Industry Body	8	0	0	2	10
Landlord	32	1	0	4	37
Legal Body or Firm	3	1	0	0	4
Letting Agent and/or Property Management	31	1	2	1	35
Local Authority	15	1	0	0	16
Tenant and/or Resident Group	2	1	0	0	3
Union or Political Party	1	1	0	1	3
Other	1	0	0	3	4
<i>Total Organisations</i>	<i>(100)</i>	<i>(13)</i>	<i>(2)</i>	<i>(12)</i>	<i>(127)</i>
Individuals	143	18	0	12	173
<i>Total (excl. campaigns)</i>	243	31	2	24	300
<i>Percentage (excl. campaigns)</i>	81%	10%	1%	8%	100%
SAL form-based campaign	65	0	0	0	65
Letting Agent Campaign	25	0	0	0	25
TOTAL	333	31	2	24	390
% of those answering the question	85%	8%	1%	6%	100%

The majority of respondents (85% of those answering) agreed that Ground 2 would work effectively, including the majority of standard respondents (81% of those answering) and those supporting the SAL form-based campaign and the letting agent campaign. Campaign body respondents were the only group of respondents in which the majority did not agree that Ground 2 would work effectively, although union respondents were evenly divided on the issue.

Those agreeing that Ground 2 would work effectively tended to make only limited further comments. These included that it is important to give lenders confidence that they can take action if loan terms have been breached. Suggestions made by those agreeing the Ground would work effectively included that consideration should be given to allowing lenders to sell the property with the tenant *in situ*.

As at other grounds, some respondents sought further clarification and/or guidance setting out detail on how the Ground will work. Examples of information sought included what will constitute sufficient proof.

Those who did not believe Ground 2 would work effectively most frequently suggested that the Ground should be discretionary. Proposed changes to the Ground included that there is no need to end the tenancy in order to sell the property, which should be re-sold as a business.

Ground 3: The landlord or a family member of the landlord wants to move into the property as their principal home

Ground 3 covers the landlord or a family member of the landlord wanting to move into the property as their principal home. The definition of 'family member' would be similar to that at Section 128 of the Housing (Scotland) Act 2006 (updated). The Notice to Leave would specify: the intended occupant's identity; his or her relationship to the landlord (if not the landlord); and the expected duration of the occupancy (which must be at least three months).

The landlord would have to offer the former tenant a further tenancy of the property if it is vacated by the person referred to in the Notice to Leave within six months from the end of the relevant notice period. If the tenant is not satisfied that the landlord wants the property for themselves or a family member, they would be able to refer a case to the First-tier Tribunal. The tenant would still be able to refer a case to the First-tier Tribunal after moving out. If the tenant has already moved out of the property, the First-tier Tribunal could award the former tenant up to a maximum of three months' rent.

Summary Findings

Respondents were relatively evenly divided on Ground 3, with no clear majority in agreement or disagreement (48% agreed and 43% disagreed). Those agreeing that Ground 3 would work effectively sometimes made only brief further comments, including that defining 'family member' will provide the basis for clear and consistent decisions.

As at some other grounds, a number of respondents suggested the Ground should be discretionary. Also as at other grounds the practicality and value of the requirement to offer the former tenant another tenancy was questioned.

Responses by respondent type are set out in Table 12 below.

Table 12: Question 6, Ground 3 - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	3	3	0	0	6
Campaign Body or Group	3	4	0	2	9
Industry Body	5	5	0	2	12
Landlord	31	3	0	5	39
Legal Body or Firm	3	0	0	0	3
Letting Agent and/or Property Management	14	16	1	3	34
Local Authority	11	2	0	3	16
Tenant and/or Resident Group	2	1	0	0	3
Union or Political Party	1	1	0	1	3
Other	1	0	1	2	4
<i>Total Organisations</i>	<i>(74)</i>	<i>(35)</i>	<i>(2)</i>	<i>(18)</i>	<i>(129)</i>
Individuals	92	71	0	14	177
Total (excl. campaigns)	166	106	2	32	306
Percentage (excl. campaigns)	54%	35%	1%	10%	100%
SAL form-based campaign	0	65	0	0	65
Letting Agent campaign	25	0	0	0	25
TOTAL	191	171	2	32	396
% of those answering the question	48%	43%	1%	8%	100%

As on Ground 1, respondents were relatively evenly divided on Ground 3, with no clear majority in agreement or disagreement. The largest proportion of respondents (48% of those answering this question) did think that Ground 3 would work effectively. Of the remainder, 43% thought it would not, 8% did not know and 1% held a mixed view. However, a small majority of standard respondents did support the Ground (54% of those answering) including the majority of landlord, legal body, local authority, tenant group, 'other' and individual respondents and those supporting the letting agent campaign. The majority of campaign body and letting agent respondents did not, along with those supporting the SAL form-based campaign. Advice service, industry body and union respondents were evenly divided.

Those agreeing that Ground 3 would work effectively generally made only brief further comments, including that it will be important to ensure the definition of family member is clear, along with the proofs required to demonstrate that the Ground has been met.

The most frequently made point by some margin questioned the practicality and value of offering the former tenant another tenancy. This issue was usually raised by those who disagreed but was also raised by a small number of those who agreed. Another frequently raised issue by those who disagreed was the possibility of tenants making unreasonable referrals to the First-tier Tribunal and that this could lead to very considerable hardship for some landlords.

As at some other grounds, a small number of respondents suggested that Ground 3 should be discretionary. This was more likely to be suggested by those who had disagreed but was also suggested by a small number of those who had agreed. There was a similar pattern among the small number who suggested that it would be preferable for the initial tenancy to run its length before a landlord is able to regain possession using this Ground.

Ground 4: Refurbishment

Ground 4 covers refurbishment and would be similar to the provisions for refurbishment that currently exist under the Assured Tenancy system. These are specifically that the landlord intends to demolish or reconstruct the whole or a substantial part of the house or to carry out substantial works and these works cannot reasonably be carried out without the tenant giving up possession of the property.

Under Ground 4, the landlord would have to pay the tenant's reasonable removal expenses. If the parties cannot agree on the sum, a case could be referred to the First-tier Tribunal for a decision on what expenses are reasonable. If the tenant is not satisfied that the landlord wants to refurbish the property, they could also refer a case to the First-tier Tribunal and they would still be able to do so after moving out. If the tenant has already moved out of the property, the First-tier Tribunal could award them a maximum of three months' rent.

Summary Findings

Respondents were again relatively evenly divided on Ground 4, with no clear majority in agreement or disagreement (48% agreed and 45% disagreed). The most frequently made comment by those agreeing that Ground 4 would work effectively was that it is important to ensure that properties are maintained and that there will be occasions on which this requires vacant possession. The most frequently raised issue by those who disagreed that Ground 4 would work effectively was that the landlord should not have to cover removal expenses.

Responses by respondent type are set out in Table 13 below.

Table 13: Question 6, Ground 4 - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	4	2	0	0	6
Campaign Body or Group	4	4	0	0	8
Industry Body	2	5	1	3	11
Landlord	26	8	1	4	39
Legal Body or Firm	3	1	0	0	4
Letting Agent and/or Property Management	13	21	1	1	36
Local Authority	15	1	0	0	16
Tenant and/or Resident Group	2	1	0	0	3
Union or Political Party	1	2	0	0	3
Other	1	1	0	2	4
<i>Total Organisations</i>	<i>(71)</i>	<i>(46)</i>	<i>(3)</i>	<i>(10)</i>	<i>(130)</i>
Individuals	91	67	0	15	173
Total (excl. campaigns)	162	113	3	25	303
Percentage (excl. campaigns)	53%	37%	1%	8%	100%
SAL form-based campaign	0	65	0	0	65
Letting Agent campaign	25	0	0	0	25
TOTAL	187	178	3	25	393
% of those answering the question	48%	45%	1%	6%	100%

Respondents were again relatively evenly divided on Ground 4, with no clear majority in agreement or disagreement. The largest proportion of respondents (48% of those answering this question) did think that Ground 4 would work effectively. Of the remainder, 45% thought it would not, 6% did not know and 1% held a mixed view. However, a small majority of standard respondents did support the Ground (53% of those answering) including the majority of advice service, landlord, legal body, local authority, tenant group and individual respondents, along with those supporting the letting agent campaign. The majority of industry body, letting agent and union respondents did not, along with those supporting the SAL form-based campaign. Campaign body and 'other' respondents were evenly divided.

Those agreeing that Ground 4 would work effectively made a diverse range of further comments, the most frequently made of which was that it is important to

ensure that properties are maintained and that there will be occasions on which this requires vacant possession. Further points made by small numbers of those who agreed included that adequate safeguards will need to be built in to ensure that the Ground is not abused. In particular, it was suggested that care will need to be taken in drawing up key definitions, such as what constitutes substantial works.

Disagreeing with a landlord having to cover removal expenses was the most frequently made comment by those who did not think Ground 4 would work effectively. There was an associated concern that this approach could act as a disincentive to carry out essential repairs or improvement work.

As at other grounds, a small number of respondents (primarily those who disagreed) were of the view that the ground should be discretionary, with factors such as whether there is a proven need for the refurbishment or the potential hardship resulting to the tenant taken into account.

Ground 5: Change of business use, e.g. from home to shop (from residential to non-residential)

Ground 5 covers change of business use. The consultation paper notes that the evidence landlords would be able to use to demonstrate this Ground will be covered in the proposed guidance for the First-tier Tribunal. At this stage, it is suggested that it may include proof of a planning application or planning permission.

Under this ground, the landlord would have to pay the tenant's reasonable removal expenses and, if the parties were unable to agree on the sum, a case could be referred to the First-tier Tribunal for a decision on what would be reasonable. The tenant would also be able to refer the case to the First-tier Tribunal if they were not satisfied that the landlord wants to change the use of the property and they could still make that referral after moving out. If the tenant has already moved out of the property, the First-tier Tribunal could award the former tenant up to a maximum of three months' rent.

Summary Findings

Respondents were divided on this question, although a very small majority (51%) agreed that Ground 5 would work effectively. Those agreeing that Ground 5 would work effectively tended to make relatively limited further comments. The most frequently raised issue by those disagreeing was that a landlord should not be required to cover a tenant's removal expenses.

Responses by respondent type are set out in Table 14 below.

Table 14: Question 6, Ground 5 - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	3	3	0	0	6
Campaign Body or Group	5	3	0	0	8
Industry Body	5	3	0	2	10
Landlord	29	4	0	6	39
Legal Body or Firm	3	1	0	0	4
Letting Agent and/or Property Management	14	18	1	2	35
Local Authority	15	1	0	1	17
Tenant and/or Resident Group	2	1	0	0	3
Union or Political Party	2	1	0	0	3
Other	1	0	0	3	4
<i>Total Organisations</i>	<i>(79)</i>	<i>(35)</i>	<i>(1)</i>	<i>(14)</i>	<i>(129)</i>
Individuals	97	60	0	20	177
Total (excl. campaigns)	176	95	1	34	306
Percentage (excl. campaigns)	58%	31%	0%	11%	100%
SAL form-based campaign	0	65	0	0	65
Letting Agent campaign	25	0	0	0	25
TOTAL	201	160	1	34	396
% of those answering the question	51%	40%	0%	9%	100%

Respondents were divided on this issue, although a very small majority (51% of those answering this question) agreed that Ground 5 would work effectively. A slightly higher proportion of standard respondents (58% of those answering) thought the Ground would work effectively, as did those supporting the letting agent campaign. Those supporting the SAL form-based campaign did not. Amongst the standard respondents, the majority of campaign body, industry body, landlord, legal body, local authority, tenant group, 'other' and individual respondents agreed. Advice service respondents were evenly divided, while letting agents were the only group in which a majority disagreed.

Those agreeing that Ground 5 would work effectively tended to make relatively limited further comments. Issues raised included that this Ground is likely to be

used rarely but that it will nevertheless be important to ensure that clear proofs are required.

The most frequently raised issue by those disagreeing that Ground 5 would work effectively was that landlords should not be expected to cover removal expenses.

As at other grounds which are proposed as mandatory, a small number of respondents suggested that a discretionary approach should be adopted. Further comments made by those who did not agree that Ground 5 would work effectively included that a landlord should have to wait until their tenant ends the tenancy before changing the property's use.

Ground 6: The tenant has failed to pay full rent over three consecutive months

Ground 6 covers the tenant failing to pay full rent over three consecutive months. It would be a mandatory ground where the arrears equate to at least one month's full rent. It would be discretionary if the arrears are less than one month's full rent or if failure to pay rent is due to a delay in housing benefit. If a tenant has failed to pay in full over two consecutive months, then before taking any repossession action, the landlord would send a Notice to Leave informing the tenant that if they fail to clear the arrears by the end of the following month then mandatory repossession may be sought. If on reaching the end of the three-month period, the tenant is still in rent arrears, the landlord would be able to refer the case to the First-tier Tribunal immediately.

If at the date the First-Tier Tribunal is considering the case, the tenant is still in rent arrears and the amount of rent arrears equates to at least one full month's rent, or if the tenant has at any point during the tenancy been in rent arrears over a period of three consecutive months and the amount of those arrears at any point in that period equated to at least one full month's rent, the First-tier Tribunal would have to order possession. If this is not the case, or if the tenant's rent arrears have fully or partly been caused by a delay in housing benefit, the tribunal may order possession.

Summary Findings

The majority of respondents (60%) did not agree that the Ground would work effectively. Those disagreeing included 48% of standard respondents and those supporting the SAL form-based campaign and the letting agent campaign.

One of the two most frequently raised issues by those disagreeing at Ground 6 was that the Ground will not work as currently proposed but would operate effectively if the Notice to Leave could be issued as soon as the second month's rent falls due, with the referral to the First-tier tribunal possible as soon as the third month's rent falls due. The other most frequently raised point was that, as currently constituted, the Ground would not address or prevent persistent arrears that are less than one month's rent.

Others who disagreed that Ground 6 would work effectively did so for very different reasons. These respondents were tending to look for the First-tier Tribunal to be able to exercise much wider discretion, with some suggesting there should be no arrears-related circumstances under which it should be mandatory to grant possession.

Responses by respondent type are set out in Table 15 below.

Table 15: Question 6, Ground 6 - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	2	3	0	0	5
Campaign Body or Group	4	3	0	0	7
Industry Body	3	7	0	1	11
Landlord	24	14	0	1	39
Legal Body or Firm	1	2	0	1	4
Letting Agent and/or Property Management	12	21	1	2	36
Local Authority	12	3	0	2	17
Tenant and/or Resident Group	3	0	0	0	3
Union or Political Party	1	0	0	1	2
Other	1	2	0	1	4
<i>Total Organisations</i>	<i>(63)</i>	<i>(55)</i>	<i>(1)</i>	<i>(9)</i>	<i>(128)</i>
Individuals	75	88	0	6	169
Total (excl. campaigns)	138	143	1	15	297
Percentage (excl. campaigns)	46%	48%	0%	5%	100%
SAL form-based campaign	0	65	0	0	65
Letting Agent campaign	0	25	0	0	25
TOTAL	138	233	1	15	387
% of those answering the question	36%	60%	0%	4%	100%

The majority of respondents (60% of those answering this question) did not agree that the Ground would work effectively. Those disagreeing included 48% of standard respondents and those supporting the SAL form-based campaign and the letting agent campaign. The majority of advice service, industry body, legal body, letting agent, 'other' and individual respondents disagreed, while the majority of campaign body, landlord, local authority, tenant group and union respondents agreed.

One of the two most frequently raised issues by those disagreeing at Ground 6 was that the Ground will not work as currently proposed but would operate effectively if the Notice to Leave could be issued as soon as the second month's rent falls due, with the referral to the First-tier tribunal possible as soon as the third month's rent

falls due. Industry bodies, landlords, letting agents, individual respondents and those supporting the SAL form-based campaign were amongst those making this suggestion. Those supporting the letting agent campaign were amongst those suggesting Ground 6 should be mandatory for two rather than three month's rent arrears.

The other most frequently raised point was that as currently constituted the Ground would not address or prevent persistent arrears that are less than one month's rent. The issue of persistent late payment of rent was also raised by a small number of those agreeing with the proposal, with further comments including a concern that the proposals could allow for a tenant to be in constant arrears for the entirety of their tenancy agreement. The suggested solutions included that Ground 6 should be mandatory if the tenant owes any amount of rent for a consecutive period of three months or more, or that the three months in which rent is not paid in full should not have to be consecutive.

A small number of respondents commented specifically on arrears arising from delays in receiving housing benefit at this question, although a much larger number of respondents had already raised this concern at Question 5b. Some took the view that this is not an area in which discretion should be exercised; in other words landlords should not have to accommodate the late payment of housing benefit for whatever reason. An alternative perspective was that the tenant should be required to evidence that any delay in payment of housing benefit is not through actions of their own and housing benefit is due to be paid.

Other comments concerning how the Ground could work effectively included that regaining possession using Ground 6 must be quick and cost-effective or that the First-tier Tribunal should be obliged to provide a decision within set timescales.

Others who disagreed that Ground 6 would work effectively did so for very different reasons. These respondents, including a number of advice agencies and campaign bodies, were tending to look for the First-tier Tribunal to be able to exercise much wider discretion, with some suggesting there should be no arrears-related circumstances under which it should be mandatory to grant possession. Other suggestions included that there should be discretion whenever the cause of the rent arrears is not the tenant's fault and that in seeking to use Ground 6, a landlord should have to undertake similar 'pre-action requirements' to those required of a social landlord. Other suggestions included that the equivalent of three full months' rent arrears should be required before it would be mandatory for the First-tier Tribunal to grant possession.

Comments made by those supporting this ground tended to be brief and included that the proposal seems fair or reasonable. Some of those who agreed suggested that the situations under which discretion can be exercised should be as widely drawn as possible. Others made similar points to some of those who had disagreed, including when it should be possible to serve the Notice to Leave and whether housing benefit related arrears should or should not be taken into account. There were also concerns that while the definition takes into account delays as a

result of housing benefit, it does not make reference to tenants in receipt of Universal Credit.

Ground 7: The tenant has displayed antisocial behaviour

Ground 7 covers a tenant displaying antisocial behaviour and would be a mandatory ground where a tenant has a relevant conviction, and a discretionary ground where judgment must be exercised.

If a tenant, a person living in the property or a person visiting the property has been convicted of using the property or allowing it to be used for immoral or illegal purposes, or has been convicted of an offence punishable by imprisonment committed in, or in the locality of, the property, the First-tier Tribunal would have to order possession.

If a tenant, a person living in the property or a person visiting the property has acted in an antisocial manner towards a person residing in, visiting or otherwise engaged in lawful activity in the locality, or has pursued a course of conduct amounting to harassment of such a person or a course of conduct that is otherwise antisocial conduct towards such a person, then the First-tier tribunal may order possession.

Summary Findings

Respondents were again divided on Ground 7 with no clear majority in agreement or disagreement. The largest proportion of respondents (46%) thought that Ground 7 would work effectively. Of the remainder, 45% thought it would not and 8% did not know. However, a small majority of standard respondents did support the Ground (52% of those answering).

Those agreeing with this proposal sometimes welcomed the introduction of a discretionary element at this Ground, although the most frequently made comment by those who agreed - including those supporting the letting agent campaign - was that the ground should be mandatory.

Those who disagreed most frequently pointed to the difficulties in proving that antisocial behaviour is taking place and suggested that it would be helpful to set clear parameters as to the evidence considered reasonable to secure an eviction. It was suggested that the mandatory element should be extended to cover cases where confirmation of at least two instances of antisocial behaviour by tenants or their visitors at the property is given by the police or a local authority noise or antisocial behaviour team.

Others also commented on the definitions to be used, including noting that antisocial behaviour is very difficult to prove and that this places extra importance on definitions being clear and watertight.

Responses by respondent type are set out in Table 16 below.

Table 16: Question 6, Ground 7 - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	3	2	0	0	5
Campaign Body or Group	4	4	0	1	9
Industry Body	2	7	0	2	11
Landlord	23	12	0	4	39
Legal Body or Firm	1	2	0	1	4
Letting Agent and/or Property Management	18	12	1	3	34
Local Authority	14	1	0	2	17
Tenant and/or Resident Group	3	0	0	0	3
Union or Political Party	0	2	0	1	3
Other	1	1	0	2	4
<i>Total Organisations</i>	<i>(69)</i>	<i>(43)</i>	<i>(1)</i>	<i>(16)</i>	<i>(129)</i>
Individuals	89	71	0	15	175
Total (excl. campaigns)	158	114	1	31	304
Percentage (excl. campaigns)	52%	38%	0%	10%	100%
SAL form-based campaign	0	65	0	0	65
Letting Agent campaign	25	0	0	0	25
TOTAL	183	179	1	31	394
% of those answering the question	46%	45%	0%	8%	100%

Respondents were again divided on Ground 7 with no clear majority in agreement or disagreement. The largest proportion of respondents (46% of those answering this question) thought that Ground 7 would work effectively. Of the remainder, 45% thought it would not and 8% did not know. However, a small majority of standard respondents did support the Ground (52% of those answering) including the majority of advice service, landlord, letting agent, local authority, tenant group and individual respondents, along with those supporting the letting agent campaign. The majority of industry body, legal body and union respondents disagreed, as did those supporting the SAL form-based campaign. Campaign body and 'other' respondents were evenly divided.

A small number of those agreeing with this proposal welcomed the introduction of a discretionary element at this Ground, particularly given the possible vulnerability of

some of those who may be involved. However, the most frequently made comment by those who agreed - including those supporting the letting agent campaign - was that the ground should be mandatory.

A small number of the respondents who disagreed that the Ground would work effectively suggested that the Ground should be discretionary in all cases. Others who disagreed took a different view and, as with some of those who had agreed, suggested that Ground 7 should always be mandatory.

However, those who disagreed most frequently pointed to the difficulties in proving that antisocial behaviour is taking place and suggested that it would be helpful to set clear parameters as to the evidence considered reasonable to secure an eviction. These respondents - who included industry bodies, landlords, letting agents, individual respondents and those supporting the SAL form-based campaign – suggested that the mandatory element should be extended to cover cases where confirmation of at least two instances of antisocial behaviour by tenants or their visitors at the property is given by the police or a local authority noise or antisocial behaviour team.

Others also commented on the definitions to be used, including noting that antisocial behaviour is very difficult to prove and that this places extra importance on definitions being clear and watertight. A number of those who neither agreed nor disagreed that the Ground would work effectively also commented on the importance of creating effective, workable definitions. Some of those raising these concerns suggested that the inclusion of a no-fault ground would provide the obvious solution to the problem.

Additional issues highlighted by those disagreeing that Ground 7 would work effectively included that being unable to address antisocial behaviour can have a detrimental effect on a landlord's business, particularly if they are operating in the HMO sector.

Ground 8: The tenant has otherwise breached the clauses of their tenancy agreement

Ground 8 covers a tenant otherwise breaching the clauses of their tenancy agreement. The Ground would be mandatory or discretionary depending on which of the clauses has been breached.

The model tenancy agreement will contain mandatory and discretionary clauses and a statutory guidance note that outlines the clauses in plain language. The content of the model tenancy agreement will be set out in secondary legislation rather than in the forthcoming Bill. The Scottish Government intends to consult stakeholders while developing the model agreement and seek views on which of the clauses should attract either the mandatory or the discretionary parts of the ground.

Summary Findings

The majority of respondents (60%) agreed that Ground 8 would work effectively. However, a number of respondents, drawn from those who answered yes, no, don't know or gave a mixed answer, felt that they needed first sight of a draft model tenancy agreement in order to assess the viability and then give a clear view on this Ground.

Responses by respondent type are set out in Table 17 below.

Table 17: Question 6, Ground 8 - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	1	2	0	2	5
Campaign Body or Group	4	1	0	3	8
Industry Body	5	1	0	3	9
Landlord	19	7	2	12	40
Legal Body or Firm	1	1	0	2	4
Letting Agent and/or Property Management	12	11	2	10	35
Local Authority	11	1	0	5	17
Tenant and/or Resident Group	2	1	0	0	3
Union or Political Party	1	1	0	1	3
Other	1	0	0	3	4
<i>Total Organisations</i>	<i>(57)</i>	<i>(26)</i>	<i>(4)</i>	<i>(41)</i>	<i>(128)</i>
Individuals	87	48	3	37	175
Total (excl. campaigns)	144	74	7	78	303
Percentage (excl. campaigns)	48%	24%	2%	26%	100%
SAL form-based campaign	65	0	0	0	65
Letting Agent campaign	25	0	0	0	25
TOTAL	234	74	7	78	393
% of those answering the question	60%	19%	2%	20%	100%

The majority of respondents (60% of those answering this question) agreed that Ground 8 would work effectively. Those supporting the SAL form-based campaign

and the letting agent campaign agreed with the proposal. The largest proportion of standard respondents agreed (48% of those answering) although not the majority. The remaining standard respondents were relatively evenly divided between those who disagreed (24%) and those who did not know (26%). This pattern tended to be reflected broadly across the groups of standard respondents, with the proportion of respondents who disagreed or did not know often broadly equivalent to the proportion who agreed. However, local authority respondents tended to be more likely to agree while letting agent respondents tended to be more likely to disagree or not know.

The pattern of responses to the 'yes/no' question was reflected in the focus of further comments. A number of respondents, drawn from those who answered yes, no, don't know or gave a mixed answer, felt that they needed first sight of a draft model tenancy agreement in order to assess the viability and then give a clear view on this Ground. This was the most frequently made comment by some degree.

Further comments included a small number of respondents being pleased with the introduction of a discretionary element or considering that the Ground should only be discretionary. Other issues or concerns raised by small numbers of respondents (both amongst those who agreed or disagreed) included:

- Will it be possible to address rent arrears-related issues that are not covered under Ground 6 using this Ground?
- It will be important to allow discretionary clauses within the model tenancy to reflect the diverse range of circumstances that may need to be covered.

Ground 9: Abandonment

Ground 9 covers abandonment and is one of the new grounds added at the second consultation. It is proposed as mandatory. Broadly, if a landlord has good reason for believing that their property is unoccupied and the tenant does not intend to occupy it as their home, they would be entitled to serve a Notice to Leave on the tenant. The Notice to Leave would require the tenant to inform the landlord in writing within four weeks whether or not they intend to occupy the property as their home. The Notice would also inform the tenant that, if it appears to the landlord at the end of the four-week notice period that the tenant does not intend to occupy the property, the landlord could refer a case immediately to the First-tier Tribunal. If the First-tier Tribunal was satisfied that the property has been abandoned, it would have to order possession.

Summary Findings

The majority of respondents (87%) agreed that Ground 9 would work effectively. Further comments tended to be brief, often welcoming the inclusion of the new ground and the parity with the legislation applying to the social rented sector.

Responses by respondent type are set out in Table 18 below.

Table 18: Question 6, Ground 9 - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	3	2	0	0	5
Campaign Body or Group	5	3	0	1	9
Industry Body	9	0	0	1	10
Landlord	34	5	0	1	40
Legal Body or Firm	2	1	0	1	4
Letting Agent and/or Property Management	33	1	1	1	36
Local Authority	16	0	0	1	17
Tenant and/or Resident Group	3	0	0	0	3
Union or Political Party	2	1	0	0	3
Other	3	0	0	1	4
<i>Total Organisations</i>	<i>(110)</i>	<i>(13)</i>	<i>(1)</i>	<i>(7)</i>	<i>(131)</i>
Individuals	143	24	0	8	175
<i>Total (excl. campaigns)</i>	253	37	1	15	306
<i>Percentage (excl. campaigns)</i>	83%	12%	0%	5%	100%
SAL form based campaign	65	0	0	0	65
Letting Agent Campaign	25	0	0	0	25
TOTAL	343	37	1	15	396
% of those answering the question	87%	9%	0%	4%	100%

The majority of respondents (87% of those answering) agreed that Ground 9 would work effectively, including the majority of standard respondents (83% of those answering) and those supporting the SAL form-based campaign and the letting agent campaign. The majority of standard respondents of all types agreed.

Further comments tended to be brief, with those agreeing often welcoming the inclusion of the new ground and the parity with the legislation applying to the social rented sector.

The most frequently made comments by those disagreeing were that the four-week notice period proposed is not long enough and that the Ground should be

discretionary. An alternative point of view was that this Ground should not need to be referred to the First-tier Tribunal at all.

As at other grounds, the importance of clarity, including around the types of evidence which can be presented to demonstrate that a property has been abandoned, was raised by small numbers of those agreeing and disagreeing that the Ground would work effectively. Specific areas in which respondents sought clarification or further information included whether the Notice Leave could be for as long as 12 weeks and the timescales from making a referral to the landlord obtaining vacant possession. It was suggested that it will be important for the First-tier Tribunal to be able to act quickly and efficiently.

Ground 10: The property was let to the tenant because they were employed by the landlord, and the tenant is no longer employed by the landlord

Ground 10 covers a property which was let to the tenant because they were employed by the landlord but the tenant is no longer employed by the landlord. The evidence that could be used to demonstrate this Ground will be covered in the Scottish Government's proposed guidance for the First-tier Tribunal but could include an employment contract.

Summary Findings

The majority of respondents (84%) agreed that Ground 10 would work effectively. Further comments were very limited and most frequently simply welcomed the Ground's inclusion or suggested the Ground seemed reasonable.

Responses by respondent type are set out in Table 19 below.

Table 19: Question 6, Ground 10 - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	3	1	1	0	5
Campaign Body or Group	5	3	0	1	9
Industry Body	8	0	0	2	10
Landlord	31	0	0	6	37
Legal Body or Firm	4	0	0	0	4
Letting Agent and/or Property Management	31	0	1	4	36
Local Authority	17	0	0	0	17
Tenant and/or Resident Group	2	1	0	0	3
Union or Political Party	2	1	0	0	3
Other	1	0	0	3	4
<i>Total Organisations</i>	<i>(104)</i>	<i>(6)</i>	<i>(2)</i>	<i>(16)</i>	<i>(128)</i>
Individual	137	14		26	177
Total (excl. campaigns)	241	20	2	42	305
Percentage (excl. campaigns)	79%	7%	1%	14%	100%
SAL form-based campaign	65	0	0	0	65
Letting Agent campaign	25	0	0	0	25
TOTAL	331	20	2	42	395
% of those answering the question	84%	5%	1%	11%	100%

The majority of respondents (84% of those answering) agreed that Ground 10 would work effectively, including the majority of standard respondents (79% of those answering) and those supporting the SAL form-based campaign and the letting agent campaign. The majority of standard respondents of all types agreed.

Further comments were very limited and those who agreed with Ground 10 most frequently simply welcomed the Ground's inclusion or suggested the Ground seemed reasonable.

Those who disagreed were sometimes of the view that the Ground should be discretionary or that the tenant should have the right to continue living in the property if they so wish.

Ground 11: The property is normally needed to house a full-time religious worker of a religious denomination, and is required for this purpose

Ground 11 covers a property normally needed to house a full-time religious worker of a religious denomination, and which is required for this purpose. The landlord would need to demonstrate that a full-time religious worker requires the property for work purposes. This Ground would be mandatory.

Summary Findings

The majority of respondents (76%) agreed that Ground 11 would work effectively. Although further comments tended to be brief, a frequently raised issue was that the Ground should be expanded to cover other workers or employees of landlords.

Responses by respondent type are set out in Table 20 below.

Table 20: Question 6, Ground 11 - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	4	1	0	0	5
Campaign Body or Group	6	2	0	1	9
Industry Body	9	0	0	1	10
Landlord	28	5	0	5	38
Legal Body or Firm	4	0	0	0	4
Letting Agent and/or Property Management	29	2	1	2	34
Local Authority	16	0	0	1	17
Tenant and/or Resident Group	1	2	0	0	3
Union or Political Party	2	1	0	0	3
Other	2	1	0	2	5
<i>Total Organisations</i>	<i>(101)</i>	<i>(14)</i>	<i>(1)</i>	<i>(12)</i>	<i>(128)</i>
Individuals	107	28	3	38	176
<i>Total (excl. campaigns)</i>	208	42	4	50	304
<i>Percentage (excl. campaigns)</i>	68%	14%	1%	16%	100%
SAL form-based campaign	65	0	0	0	65
Letting Agent campaign	25	0	0	0	25
TOTAL	298	42	4	50	394
% of those answering the question	76%	11%	1%	13%	100%

The majority of respondents (76% of those answering) agreed that Ground 11 would work effectively, including the majority of standard respondents (68% of those answering) and those supporting the SAL form-based campaign and the letting agent campaign. Tenant group respondents were the only type of respondents in which the majority did not agree.

Although further comments tended to be brief, the most frequently raised issue was that the Ground should be expanded to cover other workers or employees, with examples given including farm workers or school caretakers. There was a concern that if this is not the case, some landlords will not make vacant properties available for occupation in case they are needed in the future. Both those agreeing and disagreeing raised this issue.

A small number of religious organisations raised specific issues, including that if the term ‘full-time religious worker’ only refers to those who have the employment status of a ‘worker’ (as defined by employment law) it excludes a large number of church ministers in denominations that regard the minister as an office holder rather than an employee.

Grounds-related themes

As noted earlier, there were certain key themes to emerge from the comments made at each of the separate grounds and in some additional or further comments made. These were that:

- Some respondents suggested it was difficult to comment on how effective each of the Grounds would be without having further information about how key parts of the proposed regime will function. Particular reference was made to the circumstances under which a referral to the First-tier Tribunal would or would not be required and what the timescales would be from referral, to the case being considered, to an order being granted, to vacant possession being obtained.
- The need for definitions to be clear and precise and for guidance to give all parties a detailed and consistent understanding of how the Grounds and the First-tier Tribunal will operate was a frequently raised issue across all of the Grounds. Similar comments were made about the model tenancy agreement.
- Some respondents were of the view that most if not all Grounds should be discretionary. This included those supporting the Living Rent petition who suggested that every ground for eviction should be discretionary and subject to a test of reasonableness. There was also a view that it is not reasonable for someone to lose their home without the involvement of a Court or Tribunal and that the Court or Tribunal should be permitted to take all relevant circumstances into account when coming to a decision.
- There were frequent concerns about the reasonableness and practicality of expecting a landlord to contact a former tenant and offer them a new tenancy or of expecting landlords to cover removal expenses if a tenant was being required to leave.
- Others had concerns about the onus being placed on the tenant to take a case to the First-tier Tribunal and whether that was a reasonable expectation. The issue of who would monitor whether landlords were complying with the new tenancy regime was also raised frequently.

Rent levels

The consultation paper asked five questions about rent levels. The first three questions covered rent reviews during a tenancy and the remaining two questions covered the possibility of introducing further rent regulation.

Rent reviews during a tenancy

The consultation paper comments that tenants need to be able to plan, and a system that provides greater predictability will enable them to do so and reduce the risk of them falling into rent arrears. To that end, the Scottish Government proposes that rent reviews should take place no more than once in any 12-month period. They also propose that, to help tenants to plan when managing their finances to cover the rent, landlords should have to give tenants 12 weeks' notice of a change in the rent.

It is also proposed that if a tenant thinks a rent increase would take their rent well over rents charged for comparable properties in the area, they should be able to refer the increase for adjudication, for example to the First-tier Tribunal.

Question 7a: Do you agree that rent reviews should take place no more than once a year?

Summary Findings

There was very strong support for this proposal, with a substantial majority of all respondents (99%) in agreement. Further comments were limited and frequently focused on the approach being fair, and reasonable and in line with normal current practice. The importance of the approach being clear and easily understood was also raised.

Some of those who disagreed with the proposal suggested that the reviews should be limited to no more than every 18 months. In contrast, it was suggested that landlords who have borrowed to purchase a property will be affected by changes to interest rates and may face increases to other costs and should not be constrained by an annual review.

Responses by respondent type are set out in Table 21 below.

Table 21: Question 7a - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	4	1	0	0	5
Campaign Body or Group	7	2	0	0	9
Industry Body	10	1	0	0	11
Landlord	39	2	0	0	41
Legal Body or Firm	5	0	0	0	5
Letting Agent and/or Property Management	32	2	1	1	36
Local Authority	17	0	0	0	17
Tenant and/or Resident Group	3	0	0	0	3
Union or Political Party	4	0	0	0	4
Other	4	0	0	0	4
<i>Total Organisations</i>	<i>(125)</i>	<i>(8)</i>	<i>(1)</i>	<i>(1)</i>	<i>(135)</i>
Individuals	138	35	1	4	178
Total (excl. campaigns)	263	43	2	5	313
Percentage (excl. campaigns)	84%	14%	1%	2%	100%
Living Rent petition	2127	0	0	0	2127
SAL form-based campaign	65	0	0	0	65
SAL e-petition	3215	0	0	0	3215
Letting Agent campaign	25	0	0	0	25
TOTAL	5695	43	2	5	5745
% of those answering the question	99%	1%	0%	0%	100%

There was very strong support for this proposal, with a substantial majority of all respondents (99% of those answering this question) in agreement. The majority of standard respondents of all types agreed, as did those supporting the Living Rent petition, the SAL petition, the SAL form-based campaign and the letting agent campaign.

Further comments were limited and most frequently focused on the approach being fair, reasonable and in line with normal current practice. The most frequently made comment was that the industry agrees that rent reviews should take place no more

than once a year to ensure that tenants are not subject to unreasonable or unexpected rises. This was the view of those supporting the SAL petition. Those supporting the Living Rent petition commented that rents must not increase more than once a year. The importance of the approach being clear and easily understood was also raised. A number of respondents noted the advantages for both tenants and landlords of being able to plan their finances over a reasonable period.

A small number of respondents commented on the difference between a rent review and a rent increase. In particular, it was noted that a review needs to commence three months prior to the anniversary date to allow sufficient time to negotiate and introduce any changes. It was also noted that a rent can be reviewed but an increase not effected at that time. Other comments made about rent reviews and/or changes to the rent included that:

- It should be possible to increase the rent within the annual period if the landlord has made substantial improvements during that year. However, 'substantial' would need to be defined.
- There should be no specific timing required for the increase date. For example, if a lease begins on 1st January 2019, the landlord should be able to increase the rent at any point on or after 1st January 2020, and not be restricted to having to increase it on that specific date. This was the third most frequently made comment.

A small number of respondents commented on the basis on which it should or should not be possible to change the rent charged. There was a suggestion that any rent increases should not be more than the average for the area in which the property is located. However, an alternative perspective was that rents should continue to be market-driven and that there should be no constraints beyond the annual review arrangements.

Some of those who disagreed with the proposal suggested that the reviews should be limited to no more than every 18 months. In contrast, it was suggested that landlords who have borrowed to purchase a property will be affected by changes to interest rates and may face increases to other costs. Further, it was suggested that landlords will have to consider whether costs are likely to rise during the forthcoming 12 months and that annual rental reviews may mean landlords will set rents at a higher level to ensure that any potential increased costs are covered.

Question 7b: Do you agree that a tenant should receive 12 weeks' notice in advance of a change in the rent?

Summary Findings

A majority of respondents (72%) agreed that a tenant should receive 12 weeks' notice in advance of a change in the rent. Comments made by those supporting the proposals included that they are sensible and reasonable and would give tenants time to budget for any changes. Comments made by those who disagreed tended to suggest that the 12-week period is too long: the most frequently suggested alternative was that eight weeks' notice be required. Those supporting the Living Rent petition suggested that notice of increases must be no less than 12 weeks.

Responses by respondent type are set out in Table 22 below.

Table 22: Question 7b - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	2	2	0	1	5
Campaign Body or Group	7	1	0	1	9
Industry Body	11	0	0	0	11
Landlord	22	15	0	4	41
Legal Body or Firm	5	0	0	0	5
Letting Agent and/or Property Management	22	14	0	0	36
Local Authority	16	0	0	1	17
Tenant and/or Resident Group	3	0	0	0	3
Union or Political Party	2	2	0	0	4
Other	2	1	0	1	4
<i>Total Organisations</i>	<i>(92)</i>	<i>(35)</i>	<i>(0)</i>	<i>(8)</i>	<i>(135)</i>
Individuals	106	64	0	7	177
<i>Total (excl. campaigns)</i>	198	99	0	15	312
<i>Percentage (excl. campaigns)</i>	63%	32%	0%	5%	100%
SAL form-based campaign	65	0	0	0	65
Letting Agent campaign	25	0	0	0	25
TOTAL	288	99	0	15	402
% of those answering the question	72%	25%	0%	4%	100%

A majority of respondents (72% of those answering this question) agreed with the proposal. The majority of standard respondents agreed (63% of those answering), as did those supporting the SAL form-based and the letting agent campaigns. The majority of all groups of respondents agreed, with the exception of advice service and union respondents. These two groups were evenly divided on this question.

Comments made by those supporting the proposals included that they are sensible and reasonable and would give tenants time to budget for any changes. Other issues raised included that:

- Landlords should be able to inform tenants of a planned increase at month 9 of the 12-month period thus allowing the increase to come into effect at the end of the 12-month period. This was the second most frequently made

comment with industry bodies, landlords, letting agents, individual respondents and those supporting the SAL form-based campaign amongst those making this point.

- Tenants should be required to dispute any increase within four weeks of notification.

Comments made by those who disagreed tended to suggest that the 12-week period is too long – the most frequently suggested alternative was that eight weeks' notice be required, although some respondents suggested four weeks would be sufficient.

An alternative view was that the implementation of any increase should reflect the duration of the initial period; in other words if a tenant has a six-month initial period, they should be given six months' notice of an increase to their rent. Another view was that tenants should be given at least 16 weeks' notice. Those supporting the Living Rent petition commented that notice of increases must be no less than 12 weeks³.

Question 7c: Do you agree that tenants should be able to refer what they regard as unreasonable rent increases for adjudication?

Summary Findings

There was very strong support for this proposal with a substantial majority (97%) of those answering in agreement.

The most frequently made comment was that tenants should have the right to refer unfair rent levels and increases to a tribunal, where rents should be assessed on factors such as size, quality and location but not on market levels. An alternative, and also frequently stated view, was that the First-tier Tribunal should be required to determine a market rent, as opposed to any form of 'capped', rent.

Responses by respondent type are set out in Table 23 below.

³ The standard response submitted by the Living Rent Campaign disagreed at Question 7b and suggested notice periods should be no less than 16 weeks. It is assumed, therefore, that the campaign response should not be taken as a statement in support of the 12 week period proposed.

Table 23: Question 7c - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	5	0	1	0	6
Campaign Body or Group	9	0	0	0	9
Industry Body	8	0	1	0	9
Landlord	30	7	1	3	41
Legal Body or Firm	4	0	0	1	5
Letting Agent and/or Property Management	28	7	0	1	36
Local Authority	17	0	0	0	17
Tenant and/or Resident Group	3	0	0	0	3
Union or Political Party	4	0	0	0	4
Other	4	0	0	0	4
<i>Total Organisations</i>	<i>(112)</i>	<i>(14)</i>	<i>(3)</i>	<i>(5)</i>	<i>(134)</i>
Individuals	119	41	1	18	179
Total (excl. campaigns)	231	55	4	23	313
Percentage (excl. campaigns)	74%	18%	1%	7%	100%
Living Rent petition	2127	0	0	0	2127
SAL form-based campaign	65	0	0	0	65
Letting Agent campaign	25	0	0	0	25
TOTAL	2448	55	4	23	2530
% of those answering the question	97%	2%	0%	1%	100%

Again, there was very strong support for this proposal, with a substantial majority of all respondents (97% of those answering this question) in agreement. The majority of standard respondents of all types agreed, as did those supporting the Living Rent petition, the SAL form-based campaign and the letting agent campaign.

The most frequently made comment - supported by signatories to the Living Rent petition - was that tenants should have the right to refer unfair rent levels and increases to a tribunal, where rents should be assessed on factors such as size, quality and location but not on market levels.

Other comments often suggested this proposal seemed fair, although in contrast to supporters of the Living Rent petition, many others went on to suggest that, in line with the operation of the Private Rented Housing Panel (PRHP), the First-tier Tribunal should be required to determine a market, as opposed to any form of ‘capped’, rent. This was the view of a number of industry bodies, landlords, lettings agents, individual respondents and those supporting the SAL form-based campaign.

It was also suggested that a structured and transparent adjudication process, using clear and publically available assessment criteria, will be required. In particular it was suggested that:

- What is meant by ‘comparable properties in the area’ will need to be clarified, with consideration of properties of similar standard and amenity offering a possible approach.
- The assessment should recognise the costs associated with the provision of services (such as sewerage or private water supply) to rural properties and that this is often undertaken by the landlord.

Other proposals included that:

- It should be possible to make a referral about an unreasonable rent level and not just an unreasonable rent increase.
- The model tenancy agreement should provide guidelines around what is an acceptable increase, with the rate of inflation +1% suggested as a possibility. Those supporting the letting agent campaign were amongst those making this proposal.

As under Question 7b, a number of respondents also suggested that the tenant should be required to make any referral to the First-tier Tribunal within four weeks of being notified of an increase. It was also stressed that tenants should be required to continue paying the original rent pending the adjudication and that, if a higher rent is awarded, the tenant should be required to pay it from the original increase date proposed by the landlord.

The importance of the First-tier Tribunal being adequately resourced to deal with appeals was commented on, with some respondents suggesting that efforts should be made to deter unfounded or frivolous referrals, not least because of the resource implications for the First-tier Tribunal.

Those who disagreed with the proposal raised many of the same issues as some of those who had agreed, including raising concerns about the volume of referrals and the ‘clogging up’ of the First-tier Tribunal system. Further clarification was sought as to how a ‘reasonable’ increase would be determined, while some objected to the proposal as an interference with the operation of the market and as equivalent to a form of rent control.

The possibility of introducing further regulation

In the consultation paper, the Scottish Government is not proposing any further general regulation of rents, but is considering whether specific measures may be justified to protect tenants from excessive increases in hot-spot areas.

If taken forward, a possible approach would enable Ministers to limit the levels of rent increases for sitting tenants in hot-spot areas. As this is intended to be a means of responding to a problem affecting tenants in a local area, it is proposed that this power would be triggered by a local authority applying to Ministers for an affected area to be designated a 'rent pressure area'. Local authorities would have to present evidence to show that rents for sitting tenants in the area were increasing excessively. It would be for Ministers to decide whether, in the light of the evidence presented, to limit the rate of increase in a designated area for a time-limited period. To safeguard the interests of responsible landlords, Ministers would be under duties to ensure that the limit took account of inflation and other reasonable costs and to consult tenants, landlords and other relevant stakeholders before bringing it into force. As an additional safeguard, landlords would be able to challenge at the First-tier Tribunal the use of the limit on their properties in the area if they thought it did not allow them to recover their legitimate costs – for example if they had recently invested heavily in their property.

The details of these proposals would be given effect through secondary legislation following successful passage of the Bill through Parliament. The details would therefore be subject to further consultation on how they would work in practice.

Question 7d: Do you think there is a role for the additional regulation for area based rent limits we discussed above? Please explain your answer setting out what you view as the advantages and disadvantages of such an approach.

Summary Findings

This question had the highest number of responses of all questions in the consultation. The majority of respondents (70%) did not see a role for additional regulation.

Those respondents who disagreed frequently stated their broader and categorical disagreement with any form of rent regulation and there was a broad consensus that the sector should remain market-led. This was the view of signatories to the SAL and PRS4Scotland petitions and of those supporting the SAL form-based campaign. It was also the most frequently made comment amongst standard respondents who disagreed.

The most frequently made comment by those who did think there is a role for the additional regulation of area-based rent limits was that local authorities should be able to implement special local measures when housing costs are more than a third of tenants' incomes. This was the view of those supporting the Living Rent petition. Others who thought there is a role for additional regulation gave examples of difficulties they or others experienced in accessing affordable private rented accommodation, especially in certain parts of Scotland's cities.

Responses by respondent type are set out in Table 24 below.

Table 24: Question 7d - responses by respondent type

Type of respondent	Yes	No	Mixed view	Don't know	TOTAL
Advice, Information & Ombudsman Services	2	0	1	2	5
Campaign Body or Group	7	1	1	0	9
Industry Body	1	12	0	0	13
Landlord	2	34	0	2	38
Legal Body or Firm	0	3	0	1	4
Letting Agent and/or Property Management	0	35	1	0	36
Local Authority	9	1	0	6	16
Tenant and/or Resident Group	3	0	0	0	3
Union or Political Party	3	0	0	1	4
Other	0	4	0	0	4
<i>Total Organisations</i>	<i>(27)</i>	<i>(90)</i>	<i>(3)</i>	<i>(12)</i>	<i>(132)</i>
Individuals	17	151	1	17	186
Total (excl. campaigns)	44	241	4	29	318
Percentage (excl. campaigns)	14%	76%	1%	9%	100%
Living Rent petition	2127	0	0	0	2127
SAL form-based campaign	0	65	0	0	65
SAL e-petition	0	3215	0	0	3215
Letting Agent campaign	0	25	0	0	25
PRS4 Scotland campaign	0	1553	0	0	1553
TOTAL	2171	5099	4	29	7303
% of those answering the question	30%	70%	0%	0%	100%

This question had the highest number of responses of all questions in the consultation. The majority of respondents (70% of those answering) did not see a role for additional regulation. Those taking this view included the majority of standard respondents (76% of those answering) and those supporting the SAL petition, the SAL form-based campaign, the PRS4Scotland petition and the letting agent campaign. The majority of industry body, landlord, legal body, letting agent, 'other' and individual respondents did not see a role for additional regulation.

However, the majority of advice service, campaign body, local authority, tenant group and union respondents did, along with those supporting the Living Rent petition.

Those respondents who disagreed frequently stated their broader and categorical disagreement with any form of rent regulation and there was a broad consensus that the sector should remain market-led. This was the view of signatories to the SAL and PRS4Scotland petitions and of those supporting the SAL form-based campaign. It was also the most frequently made comment amongst standard respondents who disagreed.

Concerns about the introduction of any rent controls generally focused on the potential to reduce current or future investment in the sector, which in turn could increase rents, reduce tenant mobility and lead to a deterioration in the condition of the stock. It was also suggested that the Scottish Government's own data does not support the introduction of rent controls. Specific concerns included that:

- Rent 'hot-spots' would be the very areas in which demand outstrips supply and where much-needed investment should be encouraged. However, that investment would be threatened by the imposition of rent limits.
- Rent controls could restrict the amount landlords are willing or able to invest in improving their properties, with a knock-on effect on the standard of accommodation available to tenants.
- It is not clear how any measures would or could take account of the considerable variety of properties available in the private rented market. For example, it was suggested that both social care accommodation and student accommodation offer a very particular package of services, which differ from that generally offered and, as a result, the rents cannot be compared to others simply on the basis of the size and location of the accommodation.
- Taking measures forward through secondary legislation will mean they will be subject to a lower level of scrutiny.

The most frequently made comment by those who did think there is a role for the additional regulation of area-based rent limits was that local authorities should be able to implement special local measures when housing costs are more than a third of tenants' incomes. This was the view of those supporting the Living Rent petition. Others who thought there is a role for additional regulation gave examples of difficulties they or others experienced in accessing affordable private rented accommodation, especially in certain parts of Scotland's cities. In particular, it was suggested that in some areas rent levels make it very difficult for working households to find accommodation they can afford.

A number of the respondents who supported the proposal commented on the complexity of the market place and the need for any proposal taken forward to be well thought through and to reflect that complexity. It was also suggested that the issue needs to be considered as part of a wider housing affordability problem and

that the primary focus needs to be on tackling the wider issues of shortage of supply, particularly within the social rented sector.

Local authority respondents generally supported the proposal, although one disagreed and a number did not know. Local authorities went on to comment on how or if they could envisage the measure being implemented in their own area. Further comments suggest that the strength of support for the proposal varied and that while most local authorities saw possible benefits, a number could also identify possible problems. In terms of possible advantages, some local authorities could see the value in being able to introduce targeted measures to tackle particular unaffordability problems in clearly defined areas. However, there were also concerns that such an intervention could have a negative impact on the level of supply in those areas if landlords divert investment into 'non-capped' areas. The resources implications for local authorities were also highlighted.

Question 7e: If we were to legislate for this proposal, what types of evidence should local authorities have to present to Ministers when applying to designate an area as a 'rent pressure area'?

Summary Findings

A number of respondents simply reiterated their disagreement in their further comment here. Others made a brief comment that the range of evidence set out within the consultation paper seemed reasonable or appropriate.

Those who went on to make more detailed comments sometimes suggested additional evidence sources that could be considered. The most frequently made suggestion was that an independent assessment of the impact of the proposed designation should be required.

A total of 246 standard respondents commented at this question. Of these 246 respondents, a clear majority (177 respondents) disagreed with area-based limits being possible. A number of these respondents simply reiterated their disagreement in their further comment here. Others made a brief comment that the range of evidence set out within the consultation paper seemed reasonable or appropriate. The paper suggested that evidence might include: statistics on average rent rises, income growth and general price inflation; an increase in the number of rent increases being referred to the First-tier Tribunal; and an increase in the number of PRS tenants approaching the local authority with concerns over their ability to afford excessive and unjustified increases.

Those who went on to make more detailed comments sometimes suggested additional evidence sources that could be considered. The most frequently made suggestion was that an independent assessment of the impact of the proposed designation should be required. It was suggested that such an assessment would conclude that the benefits will outweigh the costs, taking into account the impact on landlords, investors, current/future tenants and the wider economy.

Other suggestions included:

- Evidence that private rents have risen disproportionately faster than both the Retail Price Index, local house prices, social rents and average incomes.
- Affordability assessments, such as a comparison between rent levels and average wages or spending power. A specific suggestion was to consider if housing costs exceed 30% of a tenant's income.
- Comparisons between rent levels and Local Housing Allowance rates.
- Increased applications for Discretionary Housing Payments.
- Information about the number of rent-related cases (rather than just increases in numbers) and other types of cases referred to the First-tier Tribunal or The Property Ombudsman.
- Statutory homeless presentations from households who have lost private rented sector accommodation.
- Evidence from tenants themselves, Rent Officers or from suitably qualified property professionals.

Further comments included that there is not sufficient, reliable data to evidence the case for a rent pressure area. Suggestions around improving data capture included that the role of Rent Officers in each Scottish local authority area could be expanded to include further information gathering and provision.

Partial EQIA and BRIA

The final two questions asked for comments on the partial Equality Impact Assessment (EQIA) and the partial Business and Regulatory Impact Assessment (BRIA).

Question 8: Do you have any comments on the partial Equality Impact Assessment?

Summary Findings

Around 1 in 6 of the standard respondents who commented simply suggested the partial EQIA appeared reasonable or to have covered the necessary issues.

However, the most frequently raised issue did not refer to any of the protected characteristics but rather suggested that the proposals do not represent the interests of landlords and tenants equally and/or that the partial EQIA does not consider whether the proposals discriminate against landlords. Around 1 in 4 of the standard respondents who commented were of this view.

In terms of the impact on tenants, a small number of respondents agreed with the partial EQIA's suggestion that the proposals would benefit vulnerable tenants, although other respondents were unconvinced. Suggestions as to particular types of tenants who could be adversely affected included students, tenants with no renting history or those who have lost a tenancy under the proposed repossession Grounds 6, 7 or 8.

A total of 118 respondents commented at Question 8 (93 standard respondents and those supporting the letting agent campaign). A number of these respondents (around 1 in 6 standard respondents) simply stated that they agreed with the partial EQIA or that they did not expect the proposals would have any negative equality-related impacts.

However, the most frequently raised issue overall did not refer to any of the protected characteristics but rather suggested that the proposals do not represent the interests of landlords and tenants equally and/or that the partial EQIA does not consider whether the proposals discriminate against landlords⁴. Around 1 in 4 standard respondents raised these issues. Specific elements of the partial EQIA with which small numbers of these respondents disagreed included:

- The weighting given to e-petition or postcard responses to the previous consultation on the new private tenancy regime.

⁴ The partial EQIA does consider how the proposals would affect landlords who fall into one of the protected characteristics groups.

- The statements that the new grounds cover every eventuality where a landlord may reasonably require repossession or that the proposed notice periods are shorter.
- The failure to recognise the distinction between the professional private rented sector and the minority 'rogue' element.

In terms of the impact on tenants, a small number of respondents agreed with the partial EQIA's suggestion that some vulnerable tenants need more stable housing circumstances and that the proposals would benefit these vulnerable tenants. However, a small number of others were unconvinced that there are no negative effects for vulnerable tenants or for tenants more widely. In terms of the wider body of tenants, it was suggested that they could all be affected if overall supply is reduced, good and professional landlords exit the sector, rent levels rise and standards (both in terms of property condition and management) fall.

Small numbers of respondents suggested particular types of tenants who could be adversely affected. There were concerns that students may not be able to access suitable accommodation if the absence of a no-fault ground means that it has not been vacated by the previous occupant and that rental charges may increase if it is not possible to generate income from renting to tourists outwith term time. The other most frequently made comment about specific types of tenants being affected was that landlords will become more selective and that this will have an especially negative impact on tenants with no renting history or who have lost a tenancy under the proposed repossession Grounds 6, 7 or 8.

Small numbers of other respondents suggested that the discretionary elements of the proposed repossession grounds do not go far enough to protect vulnerable tenants, that all the grounds should be discretionary or that there should be a 'Hardship Defence' if repossession may cause undue hardship for a tenant due, for example, to pregnancy, lone-parenting, old age, illness, poverty, or disability.

Amongst the small number of other protected characteristic-focused comments it was suggested that the disability section of the partial EQIA focuses on the needs of disabled tenants who require modifications to their homes but that the Equality Act definition of disability is much wider than this.

Question 9: Do you have any comments on the partial Business and Regulatory Impact Assessment?

Summary Findings

Many of the comments focused on the partial BRIA's coverage of the impact of the proposals on landlords and letting agents. Although a small number of respondents did not think the proposals would have any negative impact on businesses (around 1 in 20 standard respondents), one of the most frequently made comments by some degree was that the partial BRIA under-estimates the likely negative impact on one or both groups. More than 3 in 5 standard respondents and those supporting the SAL form-based campaign were of this view. Many of these comments focused specifically on coverage of the student and holiday let markets.

The other most frequently raised issue (also raised by more than 3 in 5 standard respondents and those supporting the SAL form-based campaign) focused on the potential impact of seeking possession through the First-tier Tribunal, particularly if using Grounds 6, 7 or 8. Common concerns included the financial cost to the landlord of tenants breaching the terms of the tenancy but being allowed to remain in the property, or of it taking a long time to evict a tenant.

A small number of respondents commented on the coverage of the impact on tenants, with issues raised including that some of the identified benefits for tenants are debatable and that if some landlords exit the sector and/or further investment in the sector is curtailed, choice will be reduced, standards may fall and rents may rise.

A total of 245 respondents commented at Question 9 (155 standard respondents and those supporting the SAL form-based and letting agent campaigns).

Many of the further comments focused on the partial BRIA's coverage of the impact of the proposals on landlords and letting agents. Although a small number of respondents did not think the proposals would have any negative impact on businesses (around 1 in 20 standard respondents), one of the most frequently made comments by some degree was that the partial BRIA under-estimates the likely negative impact on one or both groups. More than 3 in 5 standard respondents and those supporting the SAL form-based campaign were of this view.

Many of these comments focused specifically on coverage of the student and holiday let markets. It was suggested that the partial BRIA has under-estimated the likely impact on landlords and letting agents who operate student lets of the exclusion of a no-fault ground. In particular, it was suggested that the exclusion of a no-fault ground for possession means that a landlord cannot ensure that properties are available for let at the time when the vast majority of students are looking for accommodation (before the start of the academic year). It was further suggested that properties becoming vacant at any other time will be very difficult to re-let and

that this could result in significant losses for those specialising in student accommodation.

Similar concerns were raised in relation to the impact on landlords and letting agents who operate holiday lets. As with landlords operating in the student market, it was suggested that not being able to guarantee possession of a property during the period when there is strong demand for holiday accommodation could affect the viability of their business. The connection was also made with student accommodation being available for the tourist market outwith term time- and in particular to meet demand during the Edinburgh Festival.

The other most frequently raised issue (also raised by more than 3 in 5 standard respondents and those supporting the SAL form-based campaign) focused on the potential impact of seeking possession through the First-tier Tribunal, particularly if using Grounds 6, 7 or 8. Common concerns included:

- The financial cost to the landlord of tenants breaching the terms of the tenancy but being allowed to remain in the property, or of it taking a long time to evict a tenant. The types of costs identified included: legal costs; administration costs; and the cost of repairing any damage to the property.
- The likely impact of and scale to which rent arrears could build up during longer notice periods.
- The costs associated with taking a case to the First-tier Tribunal or of defending a case which has been taken to the First-tier Tribunal. In particular, legal costs, especially since the proposed new grounds are open to interpretation and may require some development before a body of case law exists to interpret the provisions.
- The possible impact of introducing rent controls. This could include restricting a landlord's ability to maintain or improve their property.

With regard to the potential impact on letting agents, a small number of respondents suggested that insufficient consideration has been given to the impact of landlords choosing to exit the sector, with the follow-on impact on letting agents' turnover and profitability.

A small number of respondents commented on the coverage of the impact on tenants, with issues raised including that:

- Some of the identified benefits for tenants are debateable. In particular, it is not clear that the plan for some grounds for repossession to be mandatory or have a mandatory component will afford greater security to tenants.
- Tenants without a record in renting and good references may struggle to access accommodation if landlords become more selective in their choice of tenants because of the absence of a no-fault ground.

- If some landlords exit the sector and/or further investment in the sector is curtailed, choice will be reduced, standards may fall and rents may rise.

Finally, a small number of respondents suggested that the partial BRIA does not consider the impact on two other groups, those who live in communities in which there are privately rented properties and local authorities. With regard to communities, it was suggested that the social cost to neighbours in the event that the reason for eviction is nuisance-related should be considered. In terms of local authorities, it was suggested that the BRIA should consider the resource implications for local authorities, particularly in relation to the designation of 'rent pressure areas'.

Annex - Group Respondents

1LET

A FLAT IN TOWN

A MCNICOL PROPERTIES

ABERDEENSHIRE COUNCIL

ALACHO

ALLSOP RESIDENTIAL INVESTMENT MANAGEMENT (ARIM) LIMITED

ANGUS COUNCIL

ARGYLL & BUTE COUNCIL

ASHINGTON BROOKE LTD

ASPECT RESIDENTIAL

ASSOCIATION OF RESIDENTIAL LETTING AGENTS

AT HOME IN EDINBURGH LTD

AUCHENBACK TENANTS & RESIDENTS ASSOCIATION

BELVOIR EDINBURGH

BELVOIR LETTINGS

BETHANY CHRISTIAN TRUST

BRAEMORE

BRODIES LLP

BROUGHTON PROPERTY MANAGEMENT

THE BUCCLEUCH ESTATES LIMITED

THE CAWDOR MAINTENANCE TRUST

CENTRAL LETS

CHARTERED INSTITUTE OF HOUSING SCOTLAND

THE CHURCH OF SCOTLAND GENERAL TRUSTEES

CHURCH OF SCOTLAND HOUSING AND LOAN FUND

CHURCHES LEGISLATION ADVISORY SERVICE

CIRCLE CITY PROPERTIES

CITIZENS ADVICE EDINBURGH

CITIZENS ADVICE SCOTLAND

CITY OF EDINBURGH COUNCIL

CLICK-LET LTD

COLFIN COTTAGES

COLINTON LETTINGS LTD

COMMON WEAL

CONFEDERATION OF BRITISH INDUSTRY

COUNCIL OF LETTING AGENTS

COUNCIL OF MORTGAGE LENDERS

COUNTRYWIDE RESIDENTIAL LETTINGS

CRISIS

CULLEN PROPERTY HOLDINGS LTD

CULLEN PROPERTY LIMITED

DJ ALEXANDER

DOVE DAVIES & PARTNERS

DOWANHILL HYNDLAND AND KELVINSIDE COMMUNITY COUNCIL
DUNDEE CITY COUNCIL
DUNDEE UNIVERSITY STUDENTS' ASSOCIATION
DUNECHT ESTATES
DUNEDIN CANMORE ENTERPRISE
DUPPLIN ESTATE
EAST DUNBARTONSHIRE COUNCIL
EDINBURGH HOUSING ADVICE PARTNERSHIP (EHAP)
EDINBURGH NAPIER UNIVERSITY AND ASSOCIATION FOR STUDENT RESID'L
ACCOMMODATION
EDINBURGH UNIVERSITY STUDENTS' ASSOCIATION
FACULTY OF ADVOCATES
THE FLAT COMPANY
FRONTLINE FIFE HOMELESSNESS SERVICES
GENERATION RENT
GLASGOW AND WESTERN ISLES REGIONAL NETWORK (REGION 9)
GLASGOW CITY COUNCIL
GLASGOW HOMELESSNESS NETWORK
GLASGOW UNIVERSITY STUDENTS REPRESENTATIVE COUNCIL
GOVAN LAW CENTRE
GRAINGER PLC
THE GRANDHOME TRUST
GROSVENOR DEVELOPMENTS LIMITED
GSB PROPERTIES
HACKING AND PATERSON MANAGEMENT SERVICES
HADDO ESTATE
HAVEN FOUND PROPERTY MANAGEMENT LTD
THE HIGHLAND COUNCIL
HISTORIC HOUSES ASSOCIATION SCOTLAND
HOMELESS ACTION SCOTLAND
HOMES FOR SCOTLAND
HOPETOUN ESTATES
IQ LETTING PROPERTY PARTNERSHIP
KINCARDINE ESTATE
LANGSTANE HOUSING ASSOCIATION
THE LAW SOCIETY OF SCOTLAND
LEGAL SERVICES AGENCY
LET IT
LETSCOTLAND
LIVING RENT CAMPAIGN
LOWTHER HOMES
MACTAGGART & MICKEL
MAJESTIC WINE
THE MORAY COUNCIL
MORAY ESTATES DEVELOPMENT COMPANY LIMITED

THE NATIONAL TRUST FOR SCOTLAND
NORTH AYRSHIRE COUNCIL
NORTH LANARKSHIRE COUNCIL
NORTHERN HOUSING COMPANY LIMITED
NOVANTIE LTD
NOXOTA LIMITED
NUS SCOTLAND
ORKNEY LEASING
PENNY LANE FRANCHISING LTD
PERTH AND KINROSS COUNCIL
PERTHSHIRE PROPERTY SERVICES
PLACES FOR PEOPLE
PORT OF LEITH HOUSING ASSOCIATION
THE PROPERTY OMBUDSMAN
PRS CHAMPION
PRS4SCOTLAND
QUEEN MARGARET UNIVERSITY
REAM
RED BOX PROPERTY LTD
RENFREWSHIRE COUNCIL
RETTIE & CO
THE RICHMOND FELLOWSHIP SCOTLAND
RICS
ROSS DEVELOPMENTS & RENEWABLES LTD
RURAL HOUSING SCOTLAND
SALTOUNS
THE SALVATION ARMY
SANCTUARY STUDENTS
SAVILLS (UK) LTD
SCOTTISH AGRICULTURAL ARBITERS AND VALUERS ASSOCIATION (SAAVA) AND
CENTRAL ASSOCIATION OF AGRICULTURAL VALUERS (CAAV)
SCOTTISH ASSOCIATION OF LANDLORDS
THE SCOTTISH CHURCHES COMMITTEE
SCOTTISH CHURCHES HOUSING ACTION
SCOTTISH FEDERATION OF HOUSING ASSOCIATIONS (SFHA)
SCOTTISH FUTURES TRUST
SCOTTISH LAND & ESTATES
SCOTTISH PROPERTY FEDERATION
SEAFIELD ESTATE
SHELTER SCOTLAND
SHEPHERD AND WEDDERBURN LLP
SIMPLY LET
SMITHS GORE
SOUTH AYRSHIRE HOUSING POLICY AND STRATEGY TEAM
SOUTH LANARKSHIRE COUNCIL

SPEIRS GUMLEY RESIDENTIAL LETTING
SPLENDID PROPERTY MANAGEMENT
TALPHA INVESTMENT CO LTD
TORWOODLEE & BUCKHOLM ESTATES CO LTD
TOWN AND GOWN PROPERTY LETTING SERVICES LTD
TURCAN CONNELL
UNITE STUDENTS
UNIVERSITY OF ABERDEEN
UNIVERSITY OF ABERDEEN STAFF HOUSING OFFICE
THE UNIVERSITY OF EDINBURGH
VICTORIA HALL LIMITED
WARDHAUGH PROPERTY (MAROCO LTD)
WEST LOTHIAN COUNCIL
WHITEBURN PROJECTS LTD
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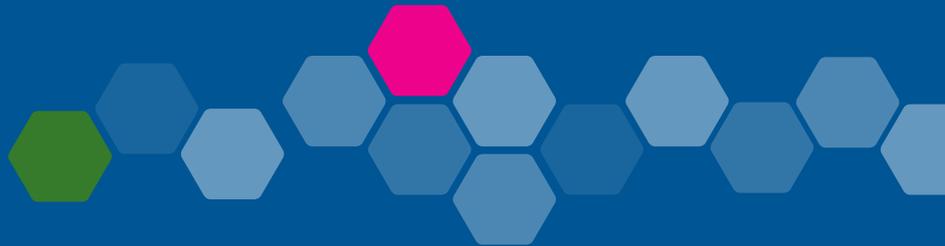
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