

Evidence submitted by CIH Scotland 07 December 2020

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The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple – to provide housing professionals with the advice, support and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world including over 2,000 in Scotland.

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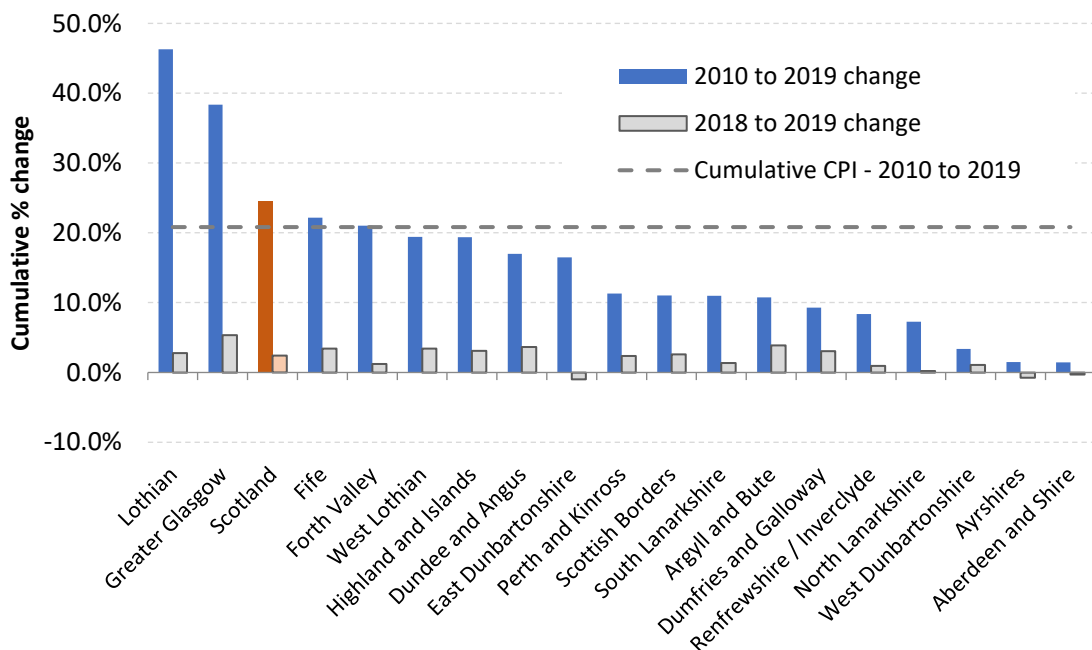
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1. **The Member in Charge thinks there is a need to make private rents fairer for tenants and to create a better balance of power between private landlords and tenants. Do you agree with this overall policy aim? If so, do you think the Bill will help achieve this outcome?**

We agree that a well-functioning private rented sector (PRS) needs to balance the rights of landlords and tenants. The PRS is an important part of the housing sector and provides a home for 340,000 households across Scotland¹. It is essential that the sector is regulated to ensure that homes are of a high quality and that they meet the needs of the wide variety of people who live in them.

We agree that there are affordability issues within the PRS but Scottish Government rent statistics show that significant rent increases are limited to a small number of areas. The cumulative change in average rent for a two bedroom home in Scotland between 2010 and 2019 has been 3.8 percent above CPI over this period. Rents have only increased significantly in two areas over this time, Lothian at 25.5 percent above CPI and Greater Glasgow at 17.5 percent. All other areas have increased at around or below CPI².

Table1: Cumulative % Change in Average (mean) Rents from 2010 to 2019 (years to end-Sept), by Broad Rental Market Area - 2-Bedroom Properties



Source: Scottish Government PRS rent statistics 2010 - 2019

¹ Scottish Household Survey 2018 <https://www.gov.scot/publications/scotlands-people-annual-report-results-2018-scottish-household-survey/pages/3/>

² Scottish Government PRS rent statistics <https://www.gov.scot/publications/private-sector-rent-statistics-2010-2019/pages/4/>

For this reason, we do not think that a blanket rent cap is necessary. In addition, it is not clear how a blanket rent cap that allows increases above inflation will result in greater affordability for tenants and the proposals could result in a number of unintended consequences:

- If the amount that rent can be increased by is limited, it is more likely that landlords will increase rent each year in line with restrictions rather than waiting until the end of a tenancy. This could lead to higher rents for long term tenants than they could otherwise have expected.
- Landlords may be less likely to offer flexibility on rent to support a tenant during a tenancy. For example, many landlords have temporarily reduced rents for tenants experiencing difficulties during the current pandemic. Under the proposed legislation, if landlords would not be able to increase rent again when financial circumstances improved, they may not have been able to offer the same support.
- The financial impact may result in some landlords deciding to reduce their portfolio or leave the sector which could result in some tenants being made homeless. It could also further increase pressure on supply and make it more difficult for tenants to find a home that meets their needs.
- The proposals would require additional regulations to be introduced to allow rent to be increased above the cap to cover the cost of improvements as is the case for a cap imposed in a Rent Pressure Zone (RPZ) under the Private Housing (Tenancies)(Scotland) Act 2016³. This will make it very difficult for some landlords to cover the cost of improvements such as minimum energy efficiency requirements and so may result in poorer quality homes, particularly at the lower end of the market where it is likely that tenants would benefit most from improvements to their homes.
- A rent cap was introduced in Berlin earlier this year. While this has led to a reduction in rent for some tenants, early analysis by online property portal Immoscout24 suggests there has been a significant drop in availability of rented accommodation of 25 percent across the city and 47.4 percent for apartments built before 2014 and subject to the cap⁴.

Rather than introduce blanket caps on rent increases, we recommend a review of the existing RPZ measures which, if working as intended, would allow local authorities to target rent caps to areas where rents have been increasing significantly and causing hardship for tenants. Unfortunately, the strict criteria for

³ Private Housing (Tenancies)(Scotland) Act 2016, Section 42
<https://www.legislation.gov.uk/asp/2016/19/section/42/enacted>

⁴ See <https://www.bloombergquint.com/global-economics/berlin-rent-freeze-cuts-prices-but-it-s-harder-to-find-a-flat> and original article published by Wirtschafts Woche (translated)
<https://translate.google.com/translate?hl=en&sl=de&u=https://www.wiwo.de/politik/deutschland/berliner-mietendeckel-25-prozent-weniger-mietwohnungen-/26099082.html&prev=search&pto=au>

having an RPZ designated and lack of robust data to support applications means that to date, no local authority has been able to make use of this power.

The proposal to require landlords to provide more data on rents and properties would go some way to supporting valid RPZ applications and is therefore welcome.

A number of other actions should be prioritised to improve affordability in the PRS:

- Increasing supply of housing across all tenures will increase choice for households and ensure that homes are more affordable.
 - In particular, research published by CIH Scotland, Shelter Scotland and SFHA calls for 53,000 affordable homes to be delivered over the next five years to meet housing need. This would help to ensure that lack of supply does not exclude people from the social rented sector.
 - CIH research⁵ has shown that local housing allowance (LHA) rates do not reflect the actual cost of renting in the majority of areas. LHA should be reviewed to ensure that private tenants on a low income are better supported to meet their housing costs.
 - Better regulation of short term lets (currently being implemented by the Scottish Government) should help to stop residential property being converted into short term lets in areas of high concentration. However, the regulation will need to be adequately resourced in order to be effective.
2. **Section 1 of the Bill it prevents a landlord of a private residential tenancy from increasing rent in any year by more than the Consumer Price Index plus 1%? Do you agree with this? Section 1 also gives the Scottish Government a power to vary the cap by order. Do you agree with this?**

As above, it is not clear that a blanket rent cap is necessary, or that it would address affordability issues.

We recommend that the existing RPZ rules are revised to allow local authorities to make use of more targeted powers and that other drivers affecting affordability (supply, social security and short term lets) are addressed as a priority.

3. **Section 2 allows a tenant in a private residential tenancy to apply to have a “fair open market rent” determined by a Rent Officer. Do you agree with section 2?**

We agree that tenants should be able to appeal the rent they are being charged if they think it is unreasonable. If, as suggested by the policy memorandum, the proposed changes would result in an increase in appeals as tenants exercise their right to appeal, the tribunal would need to be resourced adequately to deal with this.

4. **Section 3 requires the following to be entered into the Scottish Landlord Register: the monthly rent charged for a property, the number of occupiers, and the number**

⁵ Frozen Out, CIH <https://www.cih.org/media/nypi2ki0/frozen-out-nov-2019.pdf>

of bedrooms and living apartments. The MSP who introduced the Bill thinks this change will help ensure we have more public data about private rent levels. Do you agree with section 3?

We welcome the proposals and agree that they would help to provide more robust data about the PRS which could help to inform future policy direction, enable local authorities to make a valid RPZ application and provide more accurate data to inform LHA rates.

However, the proposal to collect data on rent every three years will have limitations in that it will provide a snapshot of rents at the time of registration or renewal and will not indicate whether rents have been increased during or between tenancies.

In addition, the legislation does not make clear the reason for collecting the specified data or how it will be used. It is unclear for example what data on the number of occupiers will be used for, except to monitor overcrowding. As landlords have a legal duty to ensure that homes are not overcrowded, it is unlikely that they would voluntarily provide accurate data to show overcrowding.

5. What financial impact do you think the Bill will have – on private tenants, on landlords in the private rented sector, on local authorities, on Rent Services Scotland, on the First-tier Tribunal, or on anyone else.

Private tenants

As already stated, annual increases above inflation will not make homes more affordable for private tenants and there is a risk that introducing a cap on increases will incentivise landlords to increase rent more often than they otherwise would have.

Private landlords

As outlined above, the impact of a blanket rent cap would have a varied impact on private landlords as rent increases vary significantly in different areas. Some landlords may face a significant loss of projected income and some may choose to reduce their portfolio or leave the sector.

Not allowing rent to be increased above the cap to cover the cost of improvements such as energy efficiency measures may mean that landlords avoid making improvements or reduce investment in other areas such as minor repairs and maintenance and decoration which could lead to poorer quality homes.

Social landlords

Mid market rent (MMR) homes play an increasingly important role in the Scottish Government's Affordable Housing Supply Programme (AHSP) accounting for 3,288

completions between 2015/16 and 2018/19⁶. MMR homes use Private Rented Tenancies (PRTs) and so would be subject to the rent cap as proposed in this Bill.

While MMR homes funded by the Scottish Government are managed by social landlords with a focus on providing good quality, affordable homes, limiting rent increases to CPI plus 1 percent (or lower if agreed by ministers) could affect long term business plans. This could reduce investment in managing and improving existing homes or plans to deliver new affordable housing.

Local authorities

If landlords decide to reduce their portfolio or leave the sector as a result of rent caps, sitting tenants may be evicted and made homeless. This would increase pressure on local authority homeless services and increase already significant demand for social housing.

First Tier Tribunal

Any increase in eviction notices or rent appeals would increase workloads for the tribunal service and would require additional resources.

- 6. We welcome any other comments you may have on the Bill that you think are relevant and important, including its likely impact (positive or negative) on equalities, human rights and quality of life issues.**

No further comments

⁶ AHSP Out-turn reports 2015/16 – 2018/19 <https://www.gov.scot/policies/more-homes/affordable-housing-supply/>