



RentBetter

Research on the impact of changes to the private rented sector tenancy regime in Scotland

Wave 2 Final Report | Executive Summary | May 2022

Indigo House Group

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Acknowledgements

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Foreword

The private rented sector has expanded significantly over recent decades and is now home to over five million households across the UK. Despite the increasing number of families with children, older people, and households in financial precarity who rent privately, housing in the sector remains unaffordable, insecure, and unsafe for many.

When major private renting reforms were introduced in Scotland from 2017, a key rationale of the new tenancy regime was to balance the power relations between landlords and tenants in Scotland, so that tenants could better assert their rights, challenge rent rises, and ask for repairs.

The Nationwide Foundation wants to understand how the changes in Scotland are impacting tenants and landlords and learn from the Scottish experience of renting reform. That's why we are pleased to fund the RentBetter research from Indigo House and see the wave two findings, which focus on the experiences of tenants on lower incomes and those in housing need. These findings come at a useful time, as Scottish Government develops plans for further tenancy legislation in 2024, and the government in Westminster prepares to reform private renting in England.

This report shows that more needs to be done to support low-income private renters to ensure that they are able to benefit in practice from increased rights in legislation. Local authorities and the tribunals system should ensure that renters' rights are upheld, but it's clear that they require more capacity and resources to meet demand. The private renting enforcement system needs to target poor standards at the bottom of the market, where low-income tenants have less power to challenge landlords.

While the same number of landlords interviewed expected to stay in the market as those that expected to leave, those renting to parts of the market considered to be riskier, in particular student housing and the low income/benefits market, were more likely to be considering leaving. Policymakers across the nations should also consider the implications of stock reduction, which could adversely impact on low-income tenants due to reduced housing options.

While the reforms in Scotland have improved the rights of private renters overall, the RentBetter research demonstrates that improving the rights and experiences of private renters is complex and requires addressing challenges that sit beyond the confines of private renting policy. These challenges include the enforcement and justice system, the benefit system, and social housing supply.

Five years on from tenancy reforms by Scottish Government, this report is a valuable barometer of the impact of changes for tenants and landlords. We look forward to learning from the final wave of RentBetter research in 2024.

Hannah Slater
Transforming the Private Rented Sector Programme Manager
The Nationwide Foundation



‘RentBetter’ is a research programme funded by the Nationwide Foundation to evaluate changes in the Scottish Private Rented Sector (PRS) regime, and in particular the impact of the Private Residential Tenancy (PRT) introduced in 2017. The Foundation commissioned Indigo House in 2019 to undertake research to learn from the experiences of households living in, and landlords providing, private rental properties in Scotland. The aim is to help identify any further changes that may be needed in Scotland, and to share lessons learned for the benefit of private tenants and landlords across the UK. The Foundation wants to understand the impact of change on security of tenure, access to justice, affordability, and landlord and tenant conduct. The focus of the research is on the impacts of these changes on tenants on a low income and/or in housing need. Findings from the Wave 1 Baseline (2019/20) were published in 2020 and the endpoint of the evaluation is projected as 2024.

This RentBetter Wave 2 Final Report is one of a series of reports published for Wave 2 of the research (2021-22), bringing together findings from secondary data analysis, and mainly qualitative research with tenants, landlords and letting agents, and wider stakeholders. The focus of the Wave 2 research is on supply - landlord ‘leavers and stayers’; rent affordability; disputes and access to justice; and the impacts of the pandemic. While the Wave 1 Baseline study considered the whole population of tenants, this Wave 2 research has an emphasis on the experiences of tenants on lower incomes, and those in housing need. Tenants interviewed had average incomes of net £17,000 per annum, most were claiming benefits, and were renting at the lower end of the market. The landlords and letting agents interviewed provided insights from across different parts of the market.

PRS housing supply, and the ‘leavers and stayers’

This Wave 2 research points to increasingly constrained PRS housing supply, and it is likely that the **PRS stock in Scotland is beginning to reduce**. Broadly equal numbers of landlords participating in this research said they were staying or leaving the PRS market over the next 2-5 years. Importantly, **new landlords are not joining the market** in the same volume as experienced a decade or so ago. ‘Hard-to-treat’ properties being sold due to unfeasible energy efficiency targets are less likely to be sold within the PRS onto other private landlords, and are more likely to be sold for ownership or may be sold into the ‘shadow PRS’ i.e. to unregistered landlords who have no intention of meeting climate change targets.

Reasons for landlords intending to leave the market showed a combination of factors: Scottish PRS reform with ‘constant tinkering’ increasing the weight of regulation; the less favourable UK PRS tax regime; the challenging energy efficiency requirements; the benefits system (for those in this market); the Coronavirus legislation impacts and prospect of more regulation; the “vilification” of landlords; personal decisions around ‘age and stage’ in landlords’ careers; and for some, personal experiences, perhaps around one ‘bad’ tenant with significant financial losses being the final straw. Bringing these factors together mean that for many, the risks in the PRS – financial and non-financial – are now too high.

While we can confidently conclude that landlords are leaving the market and new landlords are not joining at the same rate as a decade ago, **we cannot be confident about who the leavers are**. This Wave 2 qualitative research has shown the potential ‘leavers’ are diverse, reflecting the complexity of the market, ranging from 2 to 30 in portfolio size (median of 6), who were mainly ‘investment’ landlords. Some of the larger landlords may sell parts (not all) of their portfolio in markets which are now riskier e.g. student housing, or housing focused on the lower income/benefit market. The determining factors on whether landlords are staying or leaving the PRS market are around the balance of investment risk: the part of the market landlords are in; how all the various factors have impacted on individual landlords; and whether, taking these in the round

their investment could be better placed in lower risk alternatives.

Access to the PRS for tenants and affordability

The 2019/20 Baseline research showed that the PRS is mainly used as a short-term transitional tenure. This Wave 2 sample of low-income tenants showed a stark difference, where there was a clear sense of being **‘trapped’ in the PRS** where they could not get access to social renting and could not save for ownership. Many of these households had been renting for long periods (over ten years), not out of choice, but because they couldn’t access a better alternative.

The research shows there are **huge challenges for low-income tenants to access or move within the PRS, with affordability challenges getting worse over time**. There was fear from tenants about the prospect of moving due to potentially higher rents for the equivalent (or slightly bigger/better) property. Low-income tenants were expecting to pay unaffordable rents, and getting suitable accommodation was especially hard for families





and those claiming benefits. Navigating the benefits system added to affordability problems for tenants, and to operational and financial risk for landlords and letting agents. For those with less financial power and certain demand groups, there is also evidence that **access to the PRS is becoming even more restricted**: some landlords are leaving the student mainstream PRS market under the PRT; some are leaving the housing benefit market as it is more challenging under Universal Credit, and there was an overall sense of increased caution from landlords applying stricter eligibility criteria for tenants, especially those in precarious work.

Most of the low income tenants in this Wave 2 research were **paying a third to half of their income on rent**. Some tenants were paying more than this and other tenants were struggling against poverty even when paying private rents that were within Local Housing Allowance levels (and so would attract

benefits to pay all the rent if they were claiming benefits). The scale of difficulties faced **suggested that tackling affordability problems is beyond the confines of policies for the PRS, but also involves tackling wider problems of poverty** - the challenges of precarious low paid work, the barriers of the benefit system and wider cost of living. It was clear that the PRS was not the right place for many of these financially vulnerable households, who would benefit from living in the social rented sector where there is more support to navigate the benefit system.

Rent increases within tenancies were rare amongst the Wave 2 sample of tenants, and the RentBetter 2019/20 Tenant Survey showed that for most tenants - 59% - their rent had stayed the same since they had moved in. Lack of annual rent increases means that in turn there is a limited role for rent adjudication in its current form in Scotland which requires a rent increase at least one year after the last rent increase in a PRT. The overall impact therefore is that **there is very little challenge of rent levels in the PRS in Scotland**.

The research shows that challenges of affordability results in an **unwillingness from tenants to challenge landlords** or to 'rock the boat'; for example, about property condition for fear that this may result in rent increases, or worse, loss of the tenancy. This unwillingness to challenge is not necessarily about lack of awareness or about methods of access to justice (which is also true) but is about fear. This fear of rent increases is leading households to more financial difficulty, or at worst losing their home in a housing system where there is very little and reducing choice for poor tenants that have very little financial power.

Disputes and access to justice

The Wave 1 Baseline research showed that most tenants are satisfied living in the PRS¹. This Wave 2 sample of tenants suggests **lower satisfaction is more likely for tenants on lower incomes and in housing need**. The relationship and the level of trust established between the individual tenant and landlord is important, and for tenants, trust

¹ The RentBetter 2019/20 tenant survey and the Scottish Household Survey shows most tenants in the PRS are satisfied with private renting.

was generally built by the landlord getting things done quickly and properly (mainly repairs), and unlikelihood of the property being sold. From this sample of low income tenants, there is evidence of **greater satisfaction from smaller landlords where there is a direct relationship with tenants** compared to renting from remote larger landlords or through letting agents.

Many of this Wave 2 sample of tenants were dissatisfied with repairs and the condition of their homes and there was **low awareness of rights including the Repairing Standard** (a finding repeated from Wave 1), and there was also lack of confidence and/or fear in exercising their rights due to the potential repercussions of rent increases or losing their home in a housing system where there is very limited choice for people on low incomes. This conclusion is supported by very low numbers of repair cases taken to the First Tier Tribunal, 4% of all applications in 2019-20, despite conditions in the PRS being worst across all tenures in Scotland.

The research shows that higher service satisfaction equates to trust and the feeling of security of tenure, but this does not equate to actual security of tenure. While the PRT has increased legal rights, there was

a sense from these tenants at the lower end of the market that if the relationship didn't work or trust broke down for whatever reason, then security of tenure may be jeopardised. Examples of the **contract being governed by a subjective tenant landlord relationship rather than through an objective, commercial contract**, included: feeling that the rent hadn't gone up because they had been a 'good tenant'; fear of telling the landlord that they had moved to Universal Credit; feeling that continued complaints may result in increased rents or notice to leave; experience of notice to leave being served after pursuing formal justice routes. The theme from these lower income tenants was that the **overall the balance of power lay with the landlord**.

As with the Wave 1 Baseline findings, all the Wave 2 sample of **tenants with experience of the First Tier Tribunal (Housing & Property Chamber) felt that the system was too formal, lengthy and not easily accessible**. There was general dissatisfaction with what was considered a stressful process for less than satisfactory outcomes for tenants and which often resulted in poorer relationships with their landlord or letting agent. Landlords also considered taking the formal route to justice as time consuming, slow and inaccessible, although letting agents who had more





experience of the Tribunal process felt cases were dealt with fairly and with rigour, but also highlighted the delays and damage this could cause for tenant and landlord, especially in rent arrear cases.

The **value of independent expert advice** in helping tenants navigate the law is clear from this research and encourages tenants to exercise their rights. However, numbers of reported advice cases (excluding self-help web-based advice) are relatively low and have been falling over the last three years. While the demand side may be assisted by better access to information and advice, **enforcement of existing laws for non-compliant landlords** was a key theme from the research. Tenants living in poor housing want repairs done and quality improved, and compliant landlords pointed to the need for much more enforcement of existing laws, especially in the lower end of the market where tenants are more vulnerable to non-compliant landlords.

Experience of private renting through the pandemic

The research shows that many **tenants and landlords suffered severe financial impacts from the pandemic**; this brought the fragility of the lower end of the PRS market to the fore. Precarious work resulted in loss of earnings for tenants and increased rent arrears. A few substantial arrear cases were reported (between 12-24 months and up to £20k) which had severe financial consequences for landlords. Tenants who had to claim benefits for the first time found the experience stressful, as did landlords when the system resulted in loss of earnings. Those landlords with more negative experiences suggested future **implications for more restricted access to the PRS for lower income tenants** and/or those in precarious work, especially if discretionary eviction grounds continued.

On the question of **effectiveness of the extended eviction notice periods**, it is clear from the research that the Coronavirus legislation served to reduce evictions and prevent homelessness from the PRS during the pandemic. These interventions benefited tenants during the crisis period. However, this finding does not mean that evictions did not occur, and evidence shows from this research that illegal evictions increased during the pandemic. Legitimate evictions are now increasing again, and recent evidence provided to the Scottish Parliament shows landlords have been using a wider range of grounds to evict tenants than had been used previously. This may be explained by the fact that landlords are frustrated with the rent arrears ground in particular, evidenced in both Wave 1 (2019/20) and this Wave 2 research, with the impact of this ground exacerbated by the Coronavirus legislation. The research also shows the impacts of the extended eviction notices in increased rent arrears and concludes that the **longer-term impact of the extended notice periods is that evictions can be expected to increase over the coming months and years**. The Scottish Government tenant loan and grant may mitigate against eviction for some tenants, but only for a very small proportion compared to the estimated number of tenants in arrears. In terms of whether making all the grounds discretionary deterred unreasonable evictions, there is insufficient data to conclude on this question and further research is required to track the longer-term impact of making all grounds discretionary.

In respect of **implementation of pre-action requirements²** in the PRS during the pandemic, the extent to which these changes were welcomed by landlords was mixed and experience varied for tenants. There was evidence of some good practice with tenants around managing rent arrears and putting arrangements in place which tenants needed and wanted, typically for arrears of less than 3 months. But the research also showed the different attitude of a small number of 'non-payer' tenants who would not pay no matter what information, advice or arrangement was put in place.

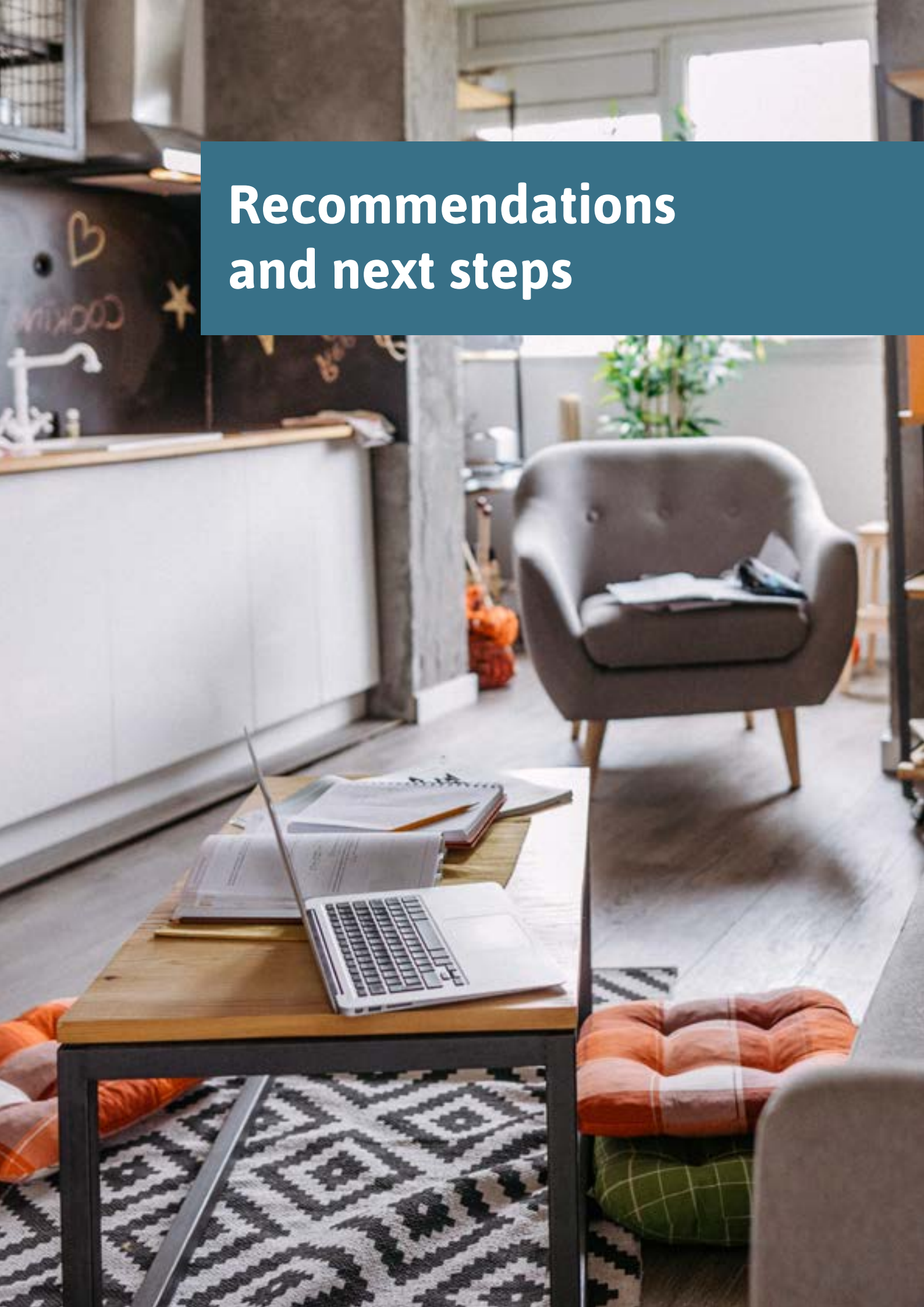
Overall conclusions and recommendations

In overall terms, RentBetter Wave 1 (2019/20) and Wave 2 (2021/2022) research has indicated the differences between the positive experience of most tenants in the PRS population in Scotland, compared to the poorer experience for lower income tenants, and those in greatest housing need living in the lower end of the market. All tenants in Scotland on the PRT now have stronger rights than through the previous tenancy regime, but the experiences of the 2021/22 sample of tenants suggests that this is unlikely to have had much impact for lower income tenants. Renters at the lower end of the market have to tolerate lower affordability, poorer housing conditions, and have much less choice in the market which results in less market power. This lack of choice is critical in the power relationships between tenant and landlord, because lack of suitable alternatives means fear of consequences of rent being increased or losing your home, and therefore landlords are challenged less. For the few who do chose to pursue formal justice through the First Tier Tribunal this experience is generally intimidating and unsatisfactory.

In relation to the PRS supply, there are clearly unintended consequences of layer on layer of regulation from different legislators on different things – tax, tenancy law, climate change, Coronavirus legislation. As legislators in Scotland plan to introduce more regulation, they should consider the findings of this research and the potential negative impact on supply and access to the PRS. Reduced supply and access to the PRS will have a disproportionate impact on lower income and other demand groups in housing need, compared to the general PRS population. Strong and targeted enforcement should be prioritised to mitigate market failures at the lower end of the market.

² Pre action requirements apply where a landlord is seeking to end the tenancy in the case of rent arrears and require the landlord to provide clear information in relation to the tenancy and arrears, to make reasonable efforts to agree a payment plan with the tenant, and give reasonable consideration to steps taken by the tenant and any changes in the tenant's circumstances which may affect their ability to comply with the agreed plan.

Recommendations and next steps



Early information and advice for tenants

There should be greater capacity created for early and ongoing information and advice for PRS tenants. There should be a plain language, accessible information leaflet (say 2 pages) provided at the start of each tenancy, and a verbal walk-through provided by the landlord and letting agent on the key tenant and landlord rights and responsibilities. To support tenants in potential disputes there should be more PRS ring-fenced resources for independent advice and for local authorities' advice and PRS regulatory services.

Training and support for landlords and letting agents

Landlords should be supported in compliance through continuous awareness raising of Letting Agent registration, landlord registration, and Government should support the landlord and letting agent trade bodies that promote compliance.

Addressing poverty

This research has shown how tenants were struggling against poverty even when paying private rents that were within Local Housing Allowance levels. The scale of difficulties faced suggests tackling affordability problems is beyond the confines of policies for the PRS and requires Government to tackle the challenges of precarious low paid work, the barriers of the benefit system, and wider cost of living.

Enforcement

There should be much greater emphasis placed on strong, and targeted enforcement of existing legislation in the lower end of the market where tenants have less market power to address failings, and less choice to move elsewhere. Scottish Government should support targeted enforcement through additional ringfenced funding for existing enforcement routes – local authorities and the First Tier Tribunal.

More supply of affordable housing

There is a vicious cycle of power imbalance in the PRS at the bottom of the market. This is ultimately due to lack of good quality affordable housing for people who are living in poverty. Scottish Government should continue to fund the new supply of social and other affordable housing, including purchase of former PRS properties by housing associations, and local authorities should release generous land supplies to enable new housing supply across tenures.

Climate change and energy efficiency

Scottish Government should support landlords by providing them with clear and accessible information and advice, as well as providing financial grants to landlords to enable them to bring properties up to climate change compliance. These changes should also help tenants with energy costs and help deter sales out of the PRS or to non-compliant landlords.

The RentBetter Wave 2 findings will be disseminated over the coming months to help inform policy development in the PRS in Scotland and across the UK. Wave 3, the endpoint of the evaluation, will commence in 2023 for completion in 2024.

