

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Communities Housing and Public Protection
<b>DATE</b>	05 September 2024
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Housing (Scotland) Bill 2024
<b>REPORT NUMBER</b>	F&C/24/247
<b>EXECUTIVE DIRECTOR</b>	Eleanor Shepard
<b>CHIEF OFFICER</b>	Jacqui McKenzie
<b>REPORT AUTHOR</b>	Mel Booth
<b>TERMS OF REFERENCE</b>	1.1.1

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### 1. PURPOSE OF REPORT

- 1.1 To raise awareness of the Housing (Scotland) Bill 2024 currently working through the parliamentary process and the potential implications of the new legislation for Aberdeen City Council.

### 2. RECOMMENDATION(S)

That Committee:

- 2.1 notes the contents of this report and the intentions of the Housing (Scotland) Bill;
- 2.2 instructs the Chief Officer – Housing to provide a report or Service Update, as that Chief Officer deems appropriate, on the Bill as it progresses through Stage 2 of the parliamentary process; and
- 2.3 instructs the Chief Officer – Housing to report to this Committee with a full Implementation Plan when the Bill has progressed through Stage 3 of the parliamentary process.

### 3. CURRENT SITUATION

#### 3.1 Background

- 3.1.1 The Scottish Government introduced a consultation on the Housing (Scotland) Bill in March 2024. A response led by Housing, involving key stakeholders, was submitted on 17 May 2024.
- 3.1.2 The Bill is currently at stage 1 of the parliamentary process and deals mainly with rented, particularly private rented accommodation, and homelessness prevention. The Scottish Government states that the package of reforms, "will help ensure people have a safe, secure, and affordable place to live while

contributing to the ambition to end homelessness in Scotland." On 24 April 2024, Parliament agreed that consideration of the Housing (Scotland) Bill at stage 1 be completed by 29 November 2024.

3.1.3 The Bill is a significant piece of legislation that will have implications for many Council services and partners. In view of this, it is the intention for the Bill to be considered on a collaborative and integrated basis. Inevitably there will be changes to the Bill as it progresses through the parliamentary process and officers will be tracking these to inform our planning for this legislation.

## 3.2 Overview of the Bill

3.2.1 **Part 1** relates to rent paid by private tenants. It includes:

- Duties on local authorities to assess rent conditions in their area, at least once every five years.
- Powers for Scottish Ministers to designate rent control areas. In rent control areas, rent increases would be restricted for existing and new tenancies with some exceptions made for new to market properties.
- Limits on how often rent can increase during a tenancy both in and outside of rent control areas.
- Powers for local authorities to gather information on rents and other information about properties on the private landlord register.

3.2.2 **Part 2** of the Bill deals with evictions. It places a duty on the First-tier Tribunal for Scotland and the courts to consider whether to delay when an eviction can be carried out. It also changes how damages for unlawful eviction are calculated.

3.2.3 **Part 3** introduces new rights:

- For private and social housing tenants to request to keep a pet
- For private housing tenants to make changes to the property they are renting.

3.2.4 **Part 4** makes changes to other matters affecting tenants, including:

- Allowing unclaimed tenancy deposits to be used to provide support to private tenants across Scotland
- Changing how a joint private residential tenancy can be ended by allowing a single joint tenant to end a joint tenancy after giving notice to the other tenant(s)
- Giving Scottish Ministers the power to convert assured tenancies into private residential tenancies.

3.2.5 **Part 5** of the Bill relates to homelessness prevention. Proposed changes include:

- Placing duties on relevant bodies, such as health boards or the police, to ask if an individual is homeless or at risk of homelessness, and requires them to take action if they are - the aim being to make homelessness prevention a shared responsibility across the public sector

- Requiring local authorities to act sooner to prevent homelessness by providing support to households threatened with homelessness up to 6 months before homelessness appears imminent rather than the current 2 months
- Making social landlords put in place support for tenants if they are overdue on rent due to domestic abuse
- Requiring social landlords to have a policy which sets out how they will support tenants who are at risk of homelessness due to domestic abuse.

3.2.6 **Part 6** deals with other housing matters including:

- Changing the way mobile home pitch fees are presumed to be calculated so increases follow the Consumer Prices Index (CPI) rather than the Retail Prices Index (RPI)
- Changing the reporting and consultation requirements in the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019, removing some limits on the operating costs of the Scottish Fuel Poverty Advisory Panel and allowing the Scottish Public Services Ombudsman (who investigates, reports on and helps settle complaints) to share information with the New Homes Ombudsman for the UK.

### **What does this mean for Aberdeen City Council?**

#### **3.3 Part 1: Rent**

3.3.1 The Bill proposes to remove the rent pressure zone provisions from the Private Housing (Tenancies) (Scotland) Act 2016 and replace them with Rent Control Area (RCA) provisions. The Bill sets out how an RCA can be designated. There are roles for local authorities, the Scottish Government and the Scottish Parliament in this process. To summarise this process:

- Local authorities would be required to carry out an assessment on rent conditions (rent levels and rent increase) in their area and prepare a report in relation to the assessment.
- The first report must be sent to the Scottish Government by 30 November 2026 (this can be changed by regulations) and then every 5 years.
- The report must include details of the assessment of rent conditions and state whether or not the Authority recommends that the Scottish Ministers should designate all or part of their area as a Rent Control Area to safeguard the “social and economic” interest of tenants.
- The Scottish Government can only designate a Rent Control Area if they are satisfied that it is both “necessary and proportionate for the purpose of protecting the social and economic interests of tenants in the area and is a necessary and proportionate control of landlords’ use of their property in the area.”
- The Scottish Government must consult with the local authority and representatives of tenants and landlords in the area affected before designating a Rent Control Area.
- If the Scottish Government decides to introduce a Rent Control Area, the decision will need to be approved by the Scottish Parliament in regulations.

- 3.3.2 Given the timescales set out in the Bill, assuming the first local authority reports are received by the Scottish Government at the end of November 2026, it would appear to be at least mid-2027 before any Rent Control Area could be operational. The Housing Service will need to identify significant resources to complete the assessments, and the Financial Memorandum does not yet appear to take full account of these costs. The exact resources cannot be determined at this time as the Bill does not yet provide sufficient detail on the exact requirements for each local authority.
- 3.3.3 Section 15 of the Bill proposes to give local authorities powers to request information from landlords and tenants of homes on the private landlord register. This would help local authorities to comply with their duty to assess rent conditions in their area. Section 15 (2) sets out the range of information that local authorities can request, the rent and details of the previous rent increase, the size of the house, the type of house, e.g. whether the property is a semi-detached, flat etc. There will be additional resource implications to manage the administrative burden of accessing this information and making applications to the First-tier Tribunal where a Landlord fails to provide information. By way of illustration, on 16 September 2019 changes were made to the information a landlord must provide as part of the landlord registration process. Between 16 September 2019 and June 2024, 8,559 landlords have been contacted to enable an application to be progressed. This highlights the volume of work that flows from additional information being required from landlords because whilst there is a requirement, not all landlords initially adhere to the request for additional information.

#### 3.4 **Part 2: Evictions**

- 3.4.1 An unlawful eviction is when a landlord does not follow the correct procedures for ending a tenancy. For example, if a private landlord changed the locks when the tenant was out of the house or harassed a tenant into leaving their home without serving the appropriate notices and getting an eviction order from the Tribunal. Section 28 of the Bill would reform the provisions in the Housing (Scotland) Act 1988 on how damages for unlawful eviction would be calculated.
- 3.4.2 The Bill proposes that the court or the Tribunal may award damages of between 3 and 36 months' rent. The award may be less than three months' rent but only if the court or Tribunal considers it appropriate in all the circumstances. The Bill would also place an additional requirement on the Tribunal to inform: i) the relevant local authority and police where a private landlord has been found to have unlawfully evicted a tenant; and ii) the Scottish Housing Regulator, where a social landlord is found to have unlawfully evicted a tenant.
- 3.4.3 This would have limited direct implications for Aberdeen City Council. It may mean that tougher sanctions for landlords would reduce the number of unlawful evictions which should in turn, mean that fewer households present to the Council for housing following an unlawful eviction.

### **3.5 Part 3: New Rights For Tenants**

- 3.5.1 The Bill introduces two new rights for tenants, the first of which is the right to request to keep a pet and for tenants' requests not to be unreasonably refused by the landlord. The Bill extends this right to tenants in both private and social sectors.
- 3.5.2 Currently, private rented tenants with a Private Residential Tenancy (PRT) are only allowed to keep pets with explicit written agreement from the landlord. It is up to the landlord whether they agree to a tenant having a pet. The Bill aims to give tenants greater flexibility to have a pet by introducing a right to request to keep a pet, and for tenants' requests not to be unreasonably refused. Some landlords are concerned about this provision. There is a perception that over-regulation, continuing regulatory change (including changes made by the UK Government to the tax regime for private landlords), and uncertainty are causing private landlords to leave the market with investor confidence in the build to rent market stalling. Aberdeen City Council will closely monitor the situation and will continue to provide support to landlords. Data shows that there are 18.5% fewer Private Rented Sector properties in the city now than in 2019.
- 3.5.3 In the social rented sector, the Model Tenancy Agreements include a clause for keeping pets, but this is discretionary. In practice, each landlord sets their own criteria relating to pets, including whether pets are allowed, the type and number of allowed pets, and any criteria applied to the keeping of pets in a property. Aberdeen City Council has a number of developments which do not allow pets which means this policy will need to be reviewed.
- 3.5.4 Currently, private landlords are usually responsible for the decoration of a let property, and properties can be let furnished or unfurnished. Tenants with a Private Residential Tenancy are free to negotiate their own terms around decoration and personalisation of their home. In practice, some landlords will agree specific terms that allow tenants to make certain changes to the let property or stipulate restrictions, for example tenants may be restricted from putting up pictures that will damage the walls.
- 3.5.5 Measures in the Bill aim to give tenants with a Private Residential Tenancy greater discretion to personalise their home. These measures include allowing tenants to be able to make certain minor modifications without the consent of the landlord (called Category 1 modifications– e.g. putting up pictures and posters.) Tenants would also have the right to request certain other modifications (Category 2 – e.g. painting walls) that a landlord could not unreasonably refuse after they have lived in the let property for 6 months or more. This will not have any direct impact on Aberdeen City Council as tenants in the social sector can already personalise their homes.

### **3.6 Part 4: Other Matters Affecting Tenants**

- 3.6.1 Part 4 of the Bill relates to changes of other matters and proposes that any tenancy deposits lodged with an approved tenancy deposit scheme which have not been claimed after five years can be repaid to the Scottish Ministers

or into another fund so that they can be used to provide support to private tenants across Scotland. It is unclear if and how Aberdeen City Council will benefit from these changes.

3.6.2 The Bill proposes to change how a joint private residential tenancy could be ended. It would allow one joint tenant to end a joint tenancy without the agreement of all joint tenants after giving the other joint tenants at least two months' pre-notice that they will be giving the landlord notice. This will be of benefit to those who experience domestic abuse who are currently unable to end their joint tenancy without the agreement of the other party. Aberdeen City Council has a Domestic Abuse Policy in place which will need to be updated in line with any proposed changes.

3.6.3 The Bill gives Scottish Ministers powers to convert assured tenancies into PRTs. This will not have any implications for Aberdeen City Council.

### 3.7 **Part 5: Homeless Prevention**

3.7.1 Part 5 of the Bill proposes to place a duty on relevant bodies, such as local authorities, health boards and the police, to ask if an individual is homeless or at risk of homelessness, and to take action if they are referred to as the 'ask and act duty'. The relevant bodies defined in the Bill are:

- Health Boards including special health boards
- Integration Joint Boards
- Local authorities
- Police Scotland
- Registered social landlords
- Scottish Ministers in so far as they have functions relating to prisons and young offenders institutions and the persons detained in them.

3.7.2 If the relevant body, when it is assessing the needs of a person in the exercise of its functions, has reason to believe that the person may be homeless, or threatened with homelessness, the body must ask the person:

- whether the person is homeless or threatened with homelessness
- If the person is aware of any application having been made to a local authority for homelessness assistance
- Whether the person consents to the body making such an application to a local authority if appropriate.

3.7.3 If the relevant body is satisfied that it is appropriate and it has the person's consent, it must make a homelessness application to the appropriate local authority. This duty does not apply if a homelessness application has already been made and the application is under consideration.

3.7.3 If the person is threatened with homelessness the relevant body must take action it considers appropriate to remove that threat within its own existing powers, or, where that is not possible, to minimise it (other than by making a homeless application to the local authority).

- 3.7.4 If the relevant body is satisfied that it is unable to take action itself to remove the threat, it must also make a homelessness application to the appropriate local authority but only if satisfied that this is appropriate and that it has the person's consent.
- 3.7.5 The intention is that a referral to the local authority should not be the default action, but that it should be considered alongside other actions that can be taken within the relevant bodies' existing powers.
- 3.7.6 The primary concern for Aberdeen City Council is that the 'ask' element is likely to create a surge of demand, particularly given the lack of clarity in the Bill on actions expected of other public bodies. The monitoring of data across different systems will be key to determining the impact of this potential change.
- 3.7.7 Most local authorities have a variety of different systems/databases already in place for the recording of information. Without a connection across these, there would be a concern that a person at risk of experiencing homelessness is not identified across multiple local authority systems and therefore the prevention activity is not adequately tracked.
- 3.7.8 There could be difficulty regarding the monitoring of prevention activity across various organisations, and a shared understanding that whatever action that has been taken by a relevant body has gone on to prevent homelessness or remove the threat of homelessness to allow partners to take account of learning being gleaned. The data sharing power outlined in the Bill – a relevant body may share information with any other relevant body - appears to limit sharing to a case-by-case operational level and this limitation could hamper our ability to take a whole system preventative approach. This also would bring in to play practical questions about the use of identifiers for data linkage across systems, as outlined above.
- 3.7.9 The Bill proposes to extend the time in which someone is considered threatened with homelessness from two months to six months. This will ensure local authorities act up to 6 months before homelessness occurs and will clarify what 'reasonable steps' they are expected to take when supporting households that are threatened with homelessness. The support provided will vary by household and may include actions similar to those adopted through the Housing Options approach in Scotland in recent years e.g., income maximisation, debt advice, family mediation. Local authorities will continue to have the duty to house those assessed as being homeless.
- 3.7.10 Aberdeen City Council will need to ensure that consideration is given around the changes that are required at an operational level to implement and monitor the impact of these duties. There will be resource implications to implement the changes.
- 3.7.11 Further changes to existing legislation will be made to update the definition of domestic abuse as it applies within a housing context and to require social landlords to develop and implement a domestic abuse policy to support their tenants who are at risk of homelessness as a result of domestic abuse.

Aberdeen City Council has a Domestic Abuse Policy in place which will be reviewed as the Bill progresses and further detail emerges.

3.7.12 The Bill proposes that a local authority's local housing strategy should include an assessment of the needs of persons and the availability of housing support services, including in relation to homelessness. Aberdeen City Council is currently refreshing the Local Housing Strategy and will ensure that this assessment is included.

### **3.8 Part 6: Other Housing Matters**

3.8.1 Part 6 - The Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 ("the 2019 Act") set targets relating to the eradication of fuel poverty; reporting provisions; and includes the establishment of the Scottish Fuel Poverty Advisory Panel ("the SFPAP") amongst other matters. The Bill proposes minor technical amendments to the 2019 Act. The policy objective is to strengthen the fuel poverty governance under the 2019 Act, ensuring that consultation and preparation requirements are streamlined and improved; and that the operating costs for the SFPAP are sufficient to allow its operations and scrutiny function to be carried out effectively. There is no change to the current policy or direction. This will not have any direct implications for Aberdeen with regards to fuel poverty targets.

### **3.9 Impact on Social Determinants of Health**

3.9.1 Social determinants of health are the collective set of conditions in which people are born, grow up, live and work. These include housing, education, financial security, and the built environment as well as the health system.

3.9.2 It is widely accepted that these social determinants are responsible for significant levels of unfair health inequalities. Scotland has the worst health inequalities in western and central Europe. The gap in life expectancy between the most and least deprived areas in Scotland is roughly 13 years for males and 10 years for females and the gap in healthy life expectancy (the number of years lived in good health) is even greater - roughly 23 years for males and 24 years for females.

3.9.3 The fundamental causes of health inequalities are an unequal distribution of income, power and wealth. Inequalities in income, wealth and power can lead to poverty and marginalisation and also influence the distribution of wider environmental influences on health, such as the availability of work, education, and good quality housing.

3.9.4 The implementation of the Bill may have positive and negative impacts on the social determinants of health. An initial assessment on the links between the Bill and health determinants has been undertaken and are described in Appendix 1, these will be further considered as the Bill progresses through the parliamentary process.



#### 4. FINANCIAL IMPLICATIONS

4.1 A Financial Memorandum was issued alongside the Bill. It is widely accepted that this underestimates the required resources to implement the Bill which will have financial implications for Aberdeen City Council. The extent of the financial implications is currently unknown as there is still a lot of detail around how the Bill will operate and be implemented that is yet to be determined. This will continue to be assessed as the Bill progresses through the parliamentary process.

#### 5. LEGAL IMPLICATIONS

5.1 There are no direct legal implications arising from the recommendations of this report, although the Bill proposes some significant legislative changes.

#### 6. ENVIRONMENTAL IMPLICATIONS

6.1 There are no direct environmental implications arising from the recommendations of this report.

#### 7. RISK

The assessment of risk contained within the table below is considered to be consistent with the Council's Risk Appetite Statement.

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) <small>*taking into account controls/control actions</small>	*Does Target Risk Level Match Appetite Set?
<b>Strategic Risk</b>	No significant risks identified	N/A	N/A	N/A
<b>Compliance</b>	Aberdeen City Council has existing duties in relation to private sector housing and homelessness	Duties are monitored through Scottish Housing Regulator	Low	Yes
<b>Operational</b>	Additional resources will be required to deliver the operational aspects of the Bill	To be monitored as the Bill passes through Parliament	Low	Yes
<b>Financial</b>	There are no significant financial risks from this report at this stage. As noted above, should the Bill become enacted, there could be	To be monitored as the Bill passes through Parliament	Low	Yes

	significant financial implications around its implementation			
<b>Reputational</b>	Failure to deliver on the aspects of the Bill will have a reputational impact on the Council	Work is ongoing to plan for implementation as the Bill progresses through Parliament	Low	Yes
<b>Environment / Climate</b>	There are no environmental risks associated with this report	N/A	N/A	N/A

## 8. OUTCOMES

<a href="#">Council Delivery Plan 2024</a>	
	<b>Impact of Report</b>
<b>Aberdeen City Council Policy Statement</b>	The proposals within this report support the delivery of the following aspects of the policy statement:
<a href="#">Working in Partnership for Aberdeen</a>	Ensure that sufficient resources are available for the monitoring and landlord registration and HMO licensing, work to support tenants in private rented housing and work with private landlord to improve housing standards across the city.
<a href="#">Local Outcome Improvement Plan</a>	
Prosperous Economy Stretch Outcomes	The proposals within this report, if implemented, may support the delivery of LOIP Stretch Outcome 1 – 20% reduction in the percentage of people who report they have been worried they would not have enough food to eat and/ or not be able to heat their home by 2026.
Prosperous People Stretch Outcomes	The proposals within this report, if implemented, may support the delivery of Stretch Outcome 10 - Healthy life expectancy (time lived in good health) is five years longer by 2026.
Prosperous Place Stretch Outcomes	The proposals within this report, if implemented, may support the delivery of LOIP Stretch Outcome 12 – Reduce homelessness by 10% and youth homelessness by 6% by 2026, ensuring it is rare, brief and non-recurring with a longer term ambition to end homelessness in Aberdeen City.

<b>Regional and City Strategies</b>	The proposals within this report support the Aberdeen City Local Housing Strategy.
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## 9. IMPACT ASSESSMENTS

Assessment	Outcome
<b>Integrated Impact Assessment</b>	No assessment required at this stage. I confirm this has been discussed and agreed with Jacqui McKenzie, Chief Officer Housing on 18 July 2024. Any subsequent IIA(s) will be prepared to assess any impacts on the implementation at a later stage.
<b>Data Protection Impact Assessment</b>	Not required
<b>Other</b>	Not required

## 10. BACKGROUND PAPERS

10.1 Not applicable

## 11. APPENDICES

11.1 Appendix 1, Housing Bill Implications

## 12. REPORT AUTHOR CONTACT DETAILS

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