

THE RENTERS' VOTE

Making homes safe and secure

A Renters' Manifesto for Scotland



GENERATION RENT
The national voice of private renters



Introduction

On Thursday 6 May, voters in Scotland will elect 129 members of the Scottish Parliament.

Generation Rent is calling on candidates for the Scottish Parliament to commit to supporting:

1 Measures to improve security of tenure with new restrictions on no-fault evictions

2 Limits on rent increases

3 Tougher penalties for landlords who break the law

4 More situations where renters can withhold rent from non-compliant landlords

5 Improvements to landlord registration to give renters more information about their home

1. <https://www.scottishhousingnews.com/article/ground-breaking-decision-highlights-inadequate-protection-for-prs-tenants>
2. Grounds 1-4 and 6, relating to sale, refurbishment, landlord moving into the property or change of use. Read more here https://scotland.shelter.org.uk/housing_advice/eviction/eviction_of_private_tenants/grounds_for_eviction_for_private_residential_tenancy_tenants

3. <https://theferret.scot/police-scotland-rogue-landlords-coronavirus>
4. Analysis of adjudications by Andy Wightman MSP's office <https://www.housingandpropertychamberscot/rent/rent-decisions>

Security

The Scottish Government introduced the Private Residential Tenancy in 2017, which improved security of tenure by requiring landlords who want to evict tenants to use one of 18 grounds – under the old Short Assured Tenancy they did not need a reason.

The prescribed grounds include “no-fault” grounds to sell or move in. There is evidence that some landlords have abused no-fault grounds, for example by evicting tenants under the pretence to move into the property, only to then re-let it again shortly afterwards.¹ It is left to tenants to monitor this but even if they were inclined to do so after the upheaval of moving home, it is difficult to find out if your landlord has upheld the commitment they made when they evicted you.

Since 7 April 2020, the First-Tier Tribunal can decide whether to grant an eviction, rather than being automatic if the landlord provides proof of their grounds; the government should change the law to make this permanent.²

When landlords evict tenants to sell or move into a property, the tenants bear the financial and emotional costs of finding a new place to live. Landlords who evict on no-fault grounds should help tenants with

the costs of moving. Better yet, they should be encouraged to sell to councils with the tenants staying put.

Despite restrictions brought in during the pandemic, some landlords have attempted to evict tenants unlawfully, and charities have raised concerns that the Police fail to intervene when asked.³

Landlords can also force tenants to move by raising the rent beyond what is affordable. Tenants can challenge rent increases through the Rent Assessment Committee – but only 39 tenants in the country did this between December 2017 and August 2020.⁴ While councils have theoretically been able to create Rent Pressure Zones to limit rent increases, none has been introduced to date, so there are no limits to what landlords can attempt to raise the rent by anywhere in Scotland. It would be better to apply a national limit to rent increases based on what renters can afford.



Only 39 tenants in the country

challenged rent increases through the Rent Assessment Committee between December 2017 and August 2020.

The next Parliament must:

- Give courts discretion over no-fault evictions and evictions for rent arrears, to account for mitigating circumstances such as covid and the tenant's welfare
- Require landlords who wish to evict a tenant to sell or move back into the property to prove their grounds, submit details of the eviction to a central regulatory body, and cover the tenants' moving costs
- Provide funding for local authorities to buy out landlords with sitting tenants who want to sell
- Instruct Police Scotland to train its officers and call handlers to recognise and prevent unlawful evictions, and record incidents involving tenants and landlords
- Restrict rent increases to the rate of wage inflation

Safe Homes

In its Housing Strategy, published in March 2021, the Scottish Government proposed to implement a new cross-tenure Housing Standard.⁵ But this must be enforced effectively to make a positive impact on renters' lives.

Currently there is little deterrent for landlords who let out unsafe homes. When a council serves a landlord with an abatement notice and they fail to make repairs, they can only be fined up to £5000, which the worst landlords simply regard as “a cost of doing business”.⁶ Tenants can apply to court for compensation but this requires legal support.

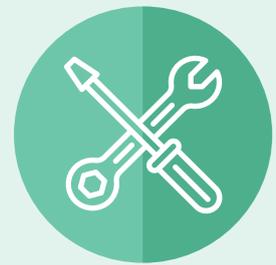
The penalties for failing to register a rented property or House in Multiple Occupation are stiffer, with fines of up to £50,000. Councils can also serve rent penalty notices (RPNs) on landlords who fail to register, which means their tenant is not obliged to pay rent until the landlord registers.⁷

The principle of not paying rent to a non-compliant landlord is popular with tenants. In a survey of Generation Rent supporters in February 2021, more respondents said they would prefer to withhold rent if their landlord failed to address disrepair, and it was a lawful and effective option (which it is currently not), than contacting the council or moving out.⁸ (RPNs are

served by the council so do not constitute unilateral withholding of rent.)

When asked what they would like to happen if the landlord ignored a council order to make repairs, the most popular option in our survey was for the council to seize the property, make necessary repairs and allow the tenant to stay if they wish, with 45% preferring this. While councils can already arrange repairs themselves and charge the landlord, this falls short of the Interim Management Order that exists in England and Wales.

Getting a year's rent back is the second most popular outcome of landlord negligence for renters, with 24% of survey respondents favouring this option. This is possible in England through Rent Repayment Orders; although tenants in Scotland can get compensation through the courts, the size of the award is less predictable. RPNs may be a more practical measure to expand to give tenants a greater incentive to report unsafe conditions.



45% of survey respondents

want the council to seize the property if the landlord ignores a council order to make repairs.

The next Parliament must:

- Raise penalties for landlords who fail to repair unsafe conditions to £50,000, in line with registration and licensing penalties
- Expand rent penalty notices to cover landlords who fail to license Houses in Multiple Occupation or fix unsafe disrepair; to give tenants some financial benefit from enforcement
- Ensure financial support remains in place for tenants who are struggling financially, through the Community and Crisis Grants, or wish to take legal action against their landlord, through legal aid

5. <https://www.gov.scot/publications/housing-2040-2/pages/2/>

6. https://scotland.shelter.org.uk/housing_advice/repairs_and_bad_conditions/repairs_in_private_rented_accommodation/help_from_the_councils_environmental_health_department

7. https://scotland.shelter.org.uk/housing_advice/neighbourhood_issues/antisocial_behaviour/private_landlords_and_antisocial_behaviour/rent_penalty_notices_and_rent_payable_orders

8. Further details in summary of research findings https://www.generationrent.org/elections_2021_evidence_summary

Landlord Registration

Since 2006, private landlords must register with their council and pass a Fit and Proper Person test to let out property.

Tenants are able to check the legal status of their home online. However, tenants want to know more about their landlord or home, particularly when they are looking for a new home. Respondents to the Generation Rent survey were most likely to want information about a landlord's history of deposit claims (57% of respondents selected this in their top three). This is unsurprising given how frequently we hear of landlords making exaggerated claims on the deposit at the end of the tenancy, which can be difficult to challenge.

Renters also wanted to know how much the property cost to rent (56%) and the

landlord's accreditation to a professional body (42%). Collecting rent data through the landlord registration system would help the Scottish Government and the public to understand the market and develop new policies to bring rents down.⁹

Other information about properties is available publicly, such as energy performance certificates (EPCs), while councils administer HMO licensing and, from 2022, holiday let licensing. These should be integrated with the landlord registration system.



57% of survey respondents

want the landlord register to include a history of a landlord's deposit claims

The next Parliament must create a regulator to take over administration of landlord registration and give it powers to:

- Collect information about deposit claims from deposit protection schemes
- Collect information about HMO and short term let licences from councils
- Collect information about legal action against landlords from the First-tier Tribunal
- Collect information from landlords about the rent they charge and their accreditation status with Landlord Accreditation Scotland as part of the registration process, and
- Display this information to users alongside other public information about individual properties such as Energy Performance Certificates.

9. Further details in summary of research findings, *ibid*.

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Generation Rent's mission is that every home in the private rented sector is safe, secure and affordable.

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