



Crisis Submission to Proposed Fair Rents (Scotland) Bill

August 2019

Crisis is the national charity for homeless people. We are dedicated to ending homelessness by delivering life-changing services, including our Crisis Skylight service working with over 700 homeless people a year in the Lothian region, as well as ten other locations around Great Britain. We also work with local authorities across Scotland to embed best practice, and campaign to end homelessness for good.

Last summer, Crisis [published a plan](#), *Everybody In: How to end homelessness in Great Britain*. The plan sets out the policies needed to ensure that everyone who is currently homeless has a stable home. While increasing access to social housing lies at the heart of this, it is also critical that the private rented sector is fit for purpose as a housing solution for homeless people.

Crisis welcomes the opportunity to respond to this consultation, introducing proposals for limits on private sector rent increases. There is strong evidence to support the case for private sector rent stabilisation as part of a broader framework of reform that includes indefinite tenancies and improved enforcement to tackle poor standards.¹ In this submission we address the questions posed in the “Aim and approach” section of the consultation paper, using the original numbering.

The key points from our submission

- Crisis supports the principle that annual rent increases should be limited to an inflationary measure but recommends that rather than stipulating a measure of the Consumer Price Index (CPI) plus 1%, the measure used should be determined by an appropriate body and reviewed periodically.
- Crisis supports the proposal that Rent Officers and First-tier tribunals would be able to lower or maintain a rent level on appeal, but not increase it above the level proposed by the landlord.
- Crisis supports the proposal that landlords must submit rents data as part of the landlord registration scheme. However, we recommend that this happens at the start of a tenancy and annually, not just when the rent increases (which may be less than annually).
- If the Bill’s central proposal for rent increase limits is not passed into legislation, Crisis would support the proposal to make it easier for councils to introduce Rent Pressure Zones.

¹ Whitehead C & Williams P (2018) *Assessing the evidence on rent control from an international perspective*. London: LSE

1. Capping private sector rent increases annually across Scotland at CPI plus 1%

The Private Housing (Tenancies) (Scotland) Act (2016) limits the frequency of rent increases to one per year. A recent evaluation of rent regulation measures in Scotland noted that an unintended consequence of this policy could be a shift towards more landlords routinely implementing an annual rent increase.² The study also noted that the current rent rise appeal system, which involves imposition of a market rent rate calculated by Rent Officers, may add further to upward pressure on rents if tenants chose to appeal against a rent increase and find that a higher rate is imposed.

Setting a limit on how much rents can be increased each year has the potential to provide tenants with greater certainty, protecting them from unpredictable and sometimes significant rent increases.

In our plan to end homelessness, Crisis called for the inclusion of a clause in all tenancies to limit annual rent increases to the maximum of a pre-determined inflationary measure. While Crisis supports the Bill's proposal to include such a limit, we are concerned that the chosen measure of inflation – one percentage point *above* inflation as judged by CPI – could over time significantly worsen affordability for tenants, particularly in areas where rents are high relative to wages at the outset of the new regime. We therefore question whether it is appropriate to include this rate of increase on the face of the Bill.

A recent study examining the case for rent controls in London recommended that an independent body is created to oversee the implementation of proposed rent control measures.³ There may be merits in considering the learning from this study and amending the Bill proposals so that an arms-length panel (which could be an existing body) is given responsibility for overseeing the implementation of the rent limit proposals. The panel would be accountable to but independent of the Scottish Government.

One of the tasks of the panel could be to determine an appropriate inflationary measure at the outset of the new scheme, and to review and reset this over time, drawing on the new evidence base provided through actual rent levels submitted by all private landlords. Previous research studies have examined a range of inflationary measures and their potential impact, and there may be merit in instructing the panel to draw on this learning to consider a wider range of available measures (for example relating to wage growth as well as CPI).⁴ The panel's terms of reference could determine the factors to be taken into account in setting the measure of inflation including, for example, affordability for tenants and impacts for the housing market and wider economy,

This type of approach would also allow for scrutiny of the impact of the measures in low demand areas and whether, as the proposal document suggests, market forces do actually prevent the rent increase ceiling (ie the cap) becoming a "floor" which all landlords routinely implement.

² Robertson, D. & Young, G. (2018) *An evaluation of Rent Regulation Measures within Scotland's Private Rent Sector. A report to Shelter Scotland*. Scotland: Shelter

³ Wheatley, H, Arnold, S & Beswick, J (2019) *Getting Rents under Control. How to make London rents affordable*. London: New Economics Foundation

⁴ Clarke, A, Udagawa, C, Heywood, A, & Hamilton, C (2015) *Research on the effect of rent stabilisation measures in London*, Cambridge: CCHPR

Crisis therefore recommends that the Bill is amended to state that rent increases will be limited annually to an inflationary measure, and that this measure shall be determined by an appropriate body and reviewed periodically.

2. Rent Officers and the First-tier tribunal would be able to lower or maintain rent but not increase it in response to appeals

Unaffordable and unpredictable rent increases have a damaging effect on tenants' well-being and can lead to homelessness for some. The cap on rent increases will help to protect tenants, but it will be equally important to end the practice through which tenants can face an even greater rent increase if they appeal to the Rent Officer. Recent analysis of this process found that the data drawn on by Rent Officers and First-tier Tribunals to determine market rents is not fit for purpose and may be further compromised by the extent to which "professional judgement" is involved in the determination.⁵

If the Bill is successful in establishing a requirement that landlords submit rents data as a condition of registration, the reliability of rents data should improve. This will provide a more reliable basis for judgements about whether rents have been set at an appropriate market rate, and whether they need to be reduced. This should enable tenants to make better informed judgements about whether to appeal. However, it remains hugely problematic that tenants might face additional rent increases if they appeal against the rent set by the landlord, and we support the Bill's intention to ensure this can no longer happen.

Crisis supports the proposal that Rent Officers and First-tier tribunals would be able to lower or maintain a rent level on appeal, but not increase it above the level proposed by the landlord.

3. Expanding the landlord registration scheme so landlord must input rent charges when they register and when the rent changes

The proposal document notes significant flaws with the reliability of data on private rent levels in Scotland (as elsewhere across Great Britain), in part because rents data is heavily reliant on advertised rather than actual rents, and also because of limitations with the sampling framework.⁶ This lack of reliability also affects the calculation of Local Housing Allowance rates, undermining its effectiveness in protecting people against homelessness.⁷ In the plan to end homelessness, Crisis called on the Scottish Government to collect rent data as part of the landlord register, with an obligation on landlords to submit rents data annually by size of property (number of bedrooms).

Crisis therefore supports the proposal that landlords must submit rents data as part of the landlord registration scheme. However, we recommend that this happens at the start of a tenancy and annually, not just when the rent increases (which may be less than annually).

4. Making it easier for a local authority to apply to create a Rent Pressure Zone

⁵ Robertson, D. & Young, G. (2018) *An evaluation of Rent Regulation Measures within Scotland's Private Rent Sector. A report to Shelter Scotland.* Scotland: Shelter

⁶ Robertson, D. & Young, G. (2018) *An evaluation of Rent Regulation Measures within Scotland's Private Rent Sector. A report to Shelter Scotland.* Scotland: Shelter

⁷ Basran, J. (2019) *Cover the Cost. How gaps in Local Housing Allowance are impacting homelessness.* London: crisis

Rent Pressure Zones were created to enable local authorities to apply for permission to place a cap on the level of rent increase in high pressure housing markets. The proposals have been found to be unworkable in practice, largely because of the paucity of data enabling local authorities to demonstrate (as required) that rents are rising excessively in a given area, causing undue hardship to existing tenants and having a detrimental effect on the authority's broader housing services.⁸

The Bill's proposal to introduce rent increase limits on all private sector rents raises questions about the relevance of Rent Pressure Zones, which were designed to allow the use of rent increase caps on a more targeted basis. In effect the Bill's central proposals make Rent Pressure Zones redundant. **If however the Bill's central proposal for rent increase limits is not passed into legislation, Crisis would support the proposal to make it easier for councils to introduce Rent Pressure Zones on a targeted basis.**

⁸ Robertson, D. & Young, G. (2018) *An evaluation of Rent Regulation Measures within Scotland's Private Rent Sector. A report to Shelter Scotland*. Scotland: Shelter