

Proposals for regulations and policy supporting the Private Housing (Tenancies) (Scotland) Act 2016

Analysis of responses to the public consultation exercise

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Introduction

This report presents an analysis of responses to the Scottish Government's public consultation on Proposals for regulations and policy supporting the Private Housing (Tenancies) (Scotland) Act 2016.

Background

The Private Housing (Tenancies) (Scotland) Act 2016 (the 2016 Act) was passed by the Scottish Parliament on 17 March 2016 and received Royal Assent on 22 April 2016. It creates the new private residential tenancy which will replace current assured and short assured tenancies. The purpose of the new tenancy is to improve security for tenants, balanced with appropriate safeguards for landlords, lenders and investors. It is expected to come into force in December 2017.

The purpose of this consultation was to seek views on the secondary legislation and further policy to support the new tenancy. As the consultation paper made clear, it was not seeking views on the provisions contained in the 2016 Act, which have been passed by the Parliament and will not change as a result of this consultation.

The consultation paper was divided into sections covering:

1. The prescribed notices to be used by tenants and landlords under the new tenancy;
2. The proposed Recommended Model Tenancy Agreement;
3. The option of serving documents electronically, if a tenant and landlord agree this as the preferred method of communications; and
4. Which terms should be 'statutory terms' (applicable to all private residential tenancies).

The consultation opened on 3 October 2016 and closed on 25 December 2016.

Profile of respondents

A total of 70 responses were available for analysis. The majority of these were received through the Scottish Government's Citizen Space consultation hub.

Respondents were asked to identify whether they were responding as an individual or on behalf of a group or organisation. Group respondents were then asked to identify their group type from a list of given options. A breakdown of the number of responses received by respondent type is set out in Table 1 below, and a full list of group respondents can be found in Annex 1.

It should be noted that, as with any public consultation exercise, those responding generally have a particular interest in the subject area. However, the views they express cannot necessarily be seen as representative of wider public opinion.

Table 1: Respondents by type

Type of respondent	Number
Advice, Information or Ombudsman service	3
Campaign Body or Group	4
Industry Body	7
Landlord	6
Landlord Representative Body	5
Legal Body or Firm	6
Letting Agent and/or Property Management	9
Local Authority	11
Other	4
Tenant and/or Resident Group	1
<i>(Total Groups)</i>	56
Individuals	14
TOTAL	70

Analysis and reporting

One respondent did not make their submission on the consultation questionnaire, but submitted their comments in a statement-style format. When this response contained a clear answer to one of the Yes/No questions this has been recorded. The remaining content was analysed qualitatively under the most directly relevant consultation question. Other points to note are:

- To keep the main report as concise as possible, only the overall totals for answers to Yes/No questions have been presented in the body of the text, with a full breakdown by respondent type provided in Annex 2.
- Reflecting the consultation paper's focus, and in particular that it was not seeking views on the provisions contained in the 2016 Act, the analysis focuses on comments about the secondary legislation and further policy to support the new tenancy.
- In some parts of the report, the analysis presented draws on the further comments made across a small number of questions. For example, the comments made across Questions 1 to 4 have been taken together and reported in a single analysis of the issues raised across those questions.
- This report presents a summary analysis but the Scottish Government Policy team has access to the full text of all responses.

If the respondent gave permission to publish, their original response can be found on the Scottish Government's website at: <https://consult.scotland.gov.uk/private-rented-sector-policy/regulations-and-policy-private-housing/>

Please note that, given their length, the original draft documents have not been reproduced within this report and readers may wish to read the report alongside the original consultation paper. The consultation paper can be accessed at: <https://consult.scotland.gov.uk/private-rented-sector-policy/regulations-and-policy-private-housing/>.

Common themes

This chapter sets out a number of common themes to emerge from the analysis of responses. Most of these common themes were raised by a number of different respondents, across a range of questions. In addition, a small number of respondents made similar points at many of the questions.

Easy to understand, clear documents

A frequently-made point was that all documents, including both the Notices and the Model Tenancy Agreement (MTA) should be as simple and easy to understand as possible. Advice, Information or Ombudsman Service respondents, Campaign Bodies or Groups and Letting Agents were particularly likely to highlight this requirement. Whilst sometimes noting that the documents need to contain a significant amount of information, a small number of these respondents felt that the current drafts could be shortened.

Another frequently-made point was that parts of the Notices and MTA could use simpler English and/or would benefit from a plain English review. Industry Bodies and Letting Agents were most likely to raise this issue. Other points made included that the unnecessary use of legal language should be avoided, a range of terms and phrases used should be defined and that there should be consistent use of terminology both within and between the various documents. It was also suggested that it is not clear which parts of the MTA are intended to be Notes for the Landlord and which should form part of the agreement.

Layout and design of documents

A number of comments were made about how the various documents have been set out. Landlords, Landlord Representative Bodies, Legal Bodies or Firms and Letting Agent respondents were amongst those raising these issues. In the case of the Notices, a small number of respondents commented that as standard as possible a structure should be used.

Also with reference to the Notices, a frequently-made suggestion was that there should be greater use of lists of given options and/or tick box lists. Across all the documents, it was suggested that use should be made of bold face type but that care should be taken to use it consistently. It was noted that in the MTA it is used to indicate whether a Term is mandatory or discretionary but elsewhere it is used for emphasis.

Other comments focused on the use of online or electronic documents and were generally supportive of this approach. However, a small number of specific issues were raised, including that the software used for the online version needs to be compatible with several generations of operating systems.

Another suggestion, in this case made particularly about the Notices, was that commentary on where to receive further information and advice would be best placed at the beginning of each of the documents. Advice, Information or

Ombudsman Service respondents and Campaign Bodies or Groups were particularly likely to make this suggestion.

Links to further information or advice

In addition to commenting on the placing of information about how and where to access any advice required, some respondents also commented on the type of information which should be included. Advice, Information or Ombudsman Service respondents, Campaign Bodies or Groups and Industry Body Representatives were amongst those raising this issue.

Amongst the specific suggestions for content to be added were: contact email or telephone numbers for a range of free and independent advice providers, such as Shelter Scotland and Citizen's Advice Bureau; information about the Law Society of Scotland being able to help with finding a solicitor; an explanation that a licensed letting agent can give advice on housing-related matters; and the suggestion that the local authority can be contacted, particularly in relation to the validity of Notices which have been served. It was also suggested that the documents should highlight to the tenant that they might be eligible for legal aid.

Extent and coverage of guidance

A number of respondents, across all the respondent types, made points about the guidance provided within the draft documents. Overall, respondents tended to suggest that the guidance should be more extensive and should provide clear and sometimes detailed explanations of how the Notices and/or MTA will work in practice. Further points made included that the Notices sometimes pre-suppose that tenants or landlords will have certain knowledge, for example around what constitutes a breach of the terms of a tenancy, what a Rent Pressure Zone is or how the First-tier Tribunal works.

A particular area about which a number of respondents were looking for further guidance was in relation to the serving of Notices. Examples of the types of questions posed included how and when Email can be used and how the method of serving documents can affect the dates and timescales which may then apply. Specific suggestions included adding in working examples of how to be compliant with the date-served requirements and how notice periods should be calculated.

Another topic about which further guidance was requested was around the information which may need to be supplied. This was generally with reference to the information which landlords may be required to provide to either the tenant or the Rent Officer. A suggestion was that certain of the Notices should state clearly what information or evidence the landlord is required to provide.

Joint Tenancy Arrangements

A number of respondents, and in particular Industry Body, Landlord Representative Body and Legal Body or Firm respondents, raised issues around how both the Notices and MTA would operate in the case of joint tenancies. The types of questions posed included when all joint tenants need to be named on or sign documents and how the Notices or the MTA will be applied if one of the joint

tenants is no longer resident. With specific reference to the MTA, a number of other comments focused on joint and several liability and when this would or would not apply.

Landlord specific issues

A small number of respondents raised issues about how the regulations will apply to or would work for particular types of landlord. These included:

- Whether consideration can be given to how certain of the regulations, and particularly those requiring a landlord to supply information about their properties, can be made more user friendly for those with a substantial number of properties.
- How various aspects of the Notices and the MTA will work for third sector organisations providing supported accommodation within properties they lease from a landlord, including a Registered Social Landlord. In particular, it was suggested that flexibility will be required if the MTA is to be suitable for Supported Living Tenancies.

Mandatory or discretionary elements of the MTA

A number of respondents commented on which elements of the MTA should be mandatory and which discretionary. A number of respondents, including Campaign Body or Group, Local Authority and Tenant or Resident Group respondents, identified a number of tenancy terms which they felt should become mandatory. The most frequently-identified were those covering Contents and Condition, Bins and Recycling and Dangerous Substances. There were also a small number of instances of respondents (primarily Landlord Representative Body respondents), suggesting that terms which are currently mandatory should be made discretionary.

Section 1: Prescribed notices

In Section 1 the consultation paper asks for respondents' views on 6 proposed prescribed notices, as set out under the Private Housing (Tenancies) (Scotland) Act 2016 (the Act). These are:

1. Tenant's notification to a landlord of a referral to the First tier tribunal (the Tribunal) under Section 14 or 16.
2. Landlord's notification to a tenant of a rent increase under Section 22.
3. Tenant's rent increase referral to Rent Service Scotland under Section 24(1).
4. Landlord's application for a rent increase as a result of improvements made to a property in a rent pressure zone under Section 43(1)
5. Subtenant's notice to leave under Section 61.
6. Notice to leave under Section 62(1)(d).

The consultation paper asks a set of four questions about each prescribed notice, namely whether:

- It is fit for purpose;
- It is easily understood;
- It should have additional content; and
- Anything that should be removed.

There was also an opportunity for respondents to comment at each question.

As noted above, in some parts of the report, the analysis presented draws on the further comments made across a small number of questions. This applies across each of the four sets of questions (as set out above) between Question 1 to 24. Within each set of four questions, respondents frequently cross-referenced between or repeated comments across the questions. In particular, for a number of respondents 'being fit for purpose' and 'easily understood' were very closely connected. Respondents also frequently made suggestions for changes under the same comments where they raised an issue or concern.

Given these issues, the analysis presented below has therefore been structured to allow all comments to be taken into account but to avoid repetition. The analysis under each Notice is structured under one or more of the following as required:

- Issues raised.
- Points for clarification.
- Suggested changes or additions.
- Suggestions for content to be removed.

Tenant’s notification to a landlord of a referral to the first tier tribunal (the Tribunal) under Section 14 or 16. (Questions 1-4)

A summary of responses to Questions 1-4 is set out in Table 2 below. A full breakdown of responses to each question by respondent type is presented in Annex 2.

Table 2: Do you think the proposed ‘Tenant’s notification to a landlord of a referral to the Tribunal under section 14 and 16 of the 2016 Act’:

	Yes	No	Unsure	Not answered
Question 1: Is fit for purpose?	40	18	5	7
Question 2: Is easily understood?	36	22	5	7
Question 3: Should have additional content?	28	32	1	8
Question 4: Should have anything removed?	10	47	4	9

The majority of respondents who answered these questions thought this notice was fit for purpose and easily understood. A small majority thought that no additional content was required and the majority thought that nothing should be removed.

Comments on the ‘Tenant’s notification to a landlord of a referral to the first tier tribunal (the Tribunal) under Section 14 or 16’

Around 43 respondents made a further comment at one or more of Questions 1-4.

Issues raised

The issues raised related primarily to the Notice (as opposed to the Notes) and included:

- The Notice provides for it being served on a letting agent, but the person with sole responsibility is the landlord; the concern was that the landlord could find a penalty is imposed upon them despite them being unaware of any failures.
- There is no penalty attributable to a landlord, agent or tenant for wrongful or malicious reporting, nor a warning or declaration to them not to misrepresent the facts.

Points for clarification

Issues for clarification included whether, for the digital forms, there will be processes for returning incorrect or incomplete forms and if there will be any legal consequences associated with an incorrectly completed form.

Suggested changes or additions

Specific changes suggested included:

- The title should be changed to “Tenant’s notification to a landlord of failure to supply written tenancy terms or specified information to the tenant”.

- The language of the Notice should be adjusted so that tenants are not put off applying to the Tribunal because the Notice seems confrontational.
- What is meant by the reference to the 'later of the day' should be made clear in the Notes to Landlords.

Respondents identified several issues which they felt the Notices or Notes do not but should cover. These included:

- The legal standing of a letting or management agent in respect to the landlord.
- That if making a claim, the tenant should be specific about the information they believe has not been supplied or why a Payment Order would be considered valid.

Specific additions suggested are set out below.

Additions to the Notice

- Information about who can act as a tenant's agent.
- An instrument for the agent to cite the landlord if all or some of the prescribed information is not provided. There should be an equivalent instrument if the landlord is cited for information the agent may have.

Additions to the Notes for the Tenant

- An explanation about the three situations for which the tenants can use the form: failure under section 10; failure under section 11; and payment order under section 16. The Notes could provide information on what each of these options means and when they apply.
- An explanation within Notes 8-10 for tenant as to what to do if the property is in a rent pressure zone (RPZ) and appears to be above the capped level; and how to find out if it is in an RPZ.

Landlord's notification to a tenant of a rent increase under Section 22. (Questions 5-8)

A summary of responses to Questions 5-8 is set out in Table 3 below. A full breakdown of responses to each question by respondent type may be found in Annex 2.

Table 3: Do you think the proposed 'Landlord's notification to a tenant of a rent increase under Section 22:

	Yes	No	Unsure	Not answered
Question 5: Is fit for purpose?	38	21	3	8
Question 6: Is easily understood?	28	30	3	9
Question 7: Should have additional content?	26	33	1	10
Question 8: Should have anything removed?	20	39	2	9

The majority of respondents who answered these questions thought this notice was fit for purpose, although a small majority thought it was not easily understood. A small majority thought that no additional content was required and the majority thought that nothing should be removed.

Comments on the ‘Landlord’s notification to a tenant of a rent increase under Section 22’

Around 46 respondents made a further comment at one or more of Questions 5-8.

Issues raised

Issues raised about the Notice in general and/or Part 1 in particular included:

- It should be made clear that a tenant can only make a referral to a Rent Officer where the property is located outwith an RPZ.
- The process does not allow for tenant improvements or rent free or reduced rent periods to be taken into account.
- It should also be made clear that the Scottish Ministers can only set a cap on the maximum amount rent can be increased if it is included within a RPZ.

As noted above, there were concerns about the section on RPZs being particularly difficult to understand. There was also a question as to why this information would be included as standard, irrespective of whether the property is in an RPZ. This was seen as potentially confusing.

Further comments on the RPZ-related section included that:

- Within the equation given, ‘Y’ refers to a number determined by a Rent Officer to reflect the fact that improvements have been made to the property and that a higher rent can be charged to reflect the higher standard of the property. This is consistent with the wording in the introduction to the Notice. Overall, however, much of the subsequent wording gives the impression that the rent increase is a way for the landlord to offload improvement costs, rather than reflecting a higher standard that warrants an increase.
- The sum is set by a Rent Officer, but there appears to be no reference to the timescales for getting this information from a Rent Officer, and how and when a landlord can apply to the Rent Officer.
- It may be appropriate for local authorities who instigate an RPZ to send this notice out proactively to all landlords when they notify them of the creation of the RPZ.

Finally, a number of respondents raised concerns about the potential complications arising from the two components (rent increases and RPZs) being included within the same Notice.

Points for clarification

Areas about which clarification was sought included:

- What constitutes a reasonable or unreasonable rent increase.

- Whether it may now be appropriate to use the CPIH (i.e. the measure of consumer price inflation including a measure of owner occupiers' housing costs) rather than the Consumer Prices Index (CPI).
- What falls within the scope of property improvements and the process a landlord must undertake if providing Rent Officers with information about improvements.
- Whether, if Part 3 is not returned, this implies acceptance of the increase.
- What rent should be paid if the Rent Officer is unable to review the case within the 3-month period.

Suggested changes

A number of the changes suggested focused on the 'separation' of the rent-increase and RPZ components. They included:

- There should be two separate Notices or two separate parts to the Notice, with separate guidance for each.
- The standard notice should include a statement showing that the landlord has indicated that the property is not located within an RPZ.
- Tenants who are living within an RPZ should receive a different version of the notice including full information and the explanation of the RPZ calculation.
- Once rent increases have been set for an area, the notification could just set out the maximum level of rent increase.

Suggested changes to the Notices or Notes as drafted included:

- It should be made clear that the Notice could be served at the 9-month stage and the wording needs to be changed to allow for consecutive annual increases.
- In Note 1 to the Tenant and in the Notes for Landlords, the dates provided should be the earliest date the rent increase can be applied, not the earliest date the rent increase must be paid.

Suggested additions

A frequently suggested addition to the Notice was to include the last date the rent was increased. This was seen as helping ensure compliance with rent only being increased once within a 12-month period. It was also suggested that the current and proposed new rent should be required.

Many of the other suggestions focused on ensuring that tenants and landlords have key information they may need. Suggestions included:

- There should be more information about how to challenge a rent increase under the RPZ rules.
- It should be highlighted that a Rent Officer can raise as well as lower the rent.
- With reference to the RPZ calculation, adding a link to an online 'how to calculate what your landlord can charge' calculator.

Other suggested additions included:

- Requiring the landlord to specify if the rent increase includes an increase in service charges or other charges.
- Providing an exemplar of each Part (completed using example names) available for tenants and landlords as an annex to the tenancy, or within the tenant information pack (TIP).

Additions to the Notes to the Tenant

Suggested additions to the Notes to the Tenants included:

- At Note 1, adding an explanation that a copy of the evidence along with the completed Part 3 of the form may also need to be sent to any letting agent.
- Advising on what to do if their landlord tries to increase the rent more frequently than once in 12 months.
- Advising that tenants in receipt of state benefits need to notify the relevant authority of the increase.

Suggestions for content to be removed

The small number of suggestions made for content to be removed included:

- The illustration of the RPZ formula / the calculation method should be removed from Part 2.
- The extended information about RPZs should only be included if directly relevant.

Tenant's application form to a rent officer for adjudication on a proposed rent increase. (Questions 9-12)

A summary of responses to Questions 9-12 is set out in Table 4 below. A full breakdown of responses to each question by respondent type may be found in Annex 2.

Table 4: Do you think the proposed 'Tenant's application form to a rent officer for adjudication on a proposed rent increase':

	Yes	No	Unsure	Not answered
Question 9: Is fit for purpose?	39	16	4	11
Question 10: Is easily understood?	44	11	3	12
Question 11: Should have additional content?	30	29	2	9
Question 12: Should have anything removed?	10	46	3	11

The majority of respondents who answered these questions thought this notice was fit for purpose and easily understood. Respondents were relatively evenly divided as to whether additional content was required and the majority thought that nothing should be removed.

Comments on the ‘Tenant’s application form to a rent officer for adjudication on a proposed rent increase’

There were 39 respondents who made a further comment at one or more of Questions 9-12.

Issues raised

A concern raised by a small number of respondents was that a fee-free tribunal service will be overloaded by an increased number of referrals by tenants who have nothing to lose by appealing a rent increase and who can benefit from delaying decisions being made. These respondents suggested that the Tribunal’s service should be fully cost recoverable and that the fee could be refunded depending on the outcome of the case.

A small number of the issues raised focused on practical aspects and included that inspections by Rent Officers taking place between 9.00 am and 3.30 pm is restrictive, especially for people in work. Otherwise, many of the comments referred to what is or is not being asked at specific questions in the Form. They included that:

- At Question 4, provision has to be in place for improvements that have been carried out by the landlord themselves, and therefore may not come with an invoice.
- At Question 6, it should be made clear that where the tenant has undertaken improvements to the property without the landlord’s prior written consent the tenant will not gain any benefit.
- At Question 10, tenant may not understand what is being required when asked to cite reasons for making an appeal.

Respondents also highlighted issues not covered by a current question, including the state of repair that the property was in when the tenant moved in or any disrepair that has been caused by a failure on the landlord’s part to make repairs within a reasonable period of time.

Points for clarification

Points about which respondents sought clarification included the direction of the questions on tenant improvements and repairs and whether they are focused on whether the rent is artificially low to account for improvements the tenant was making to address any repairing standards issues.

Suggested changes

Suggested changes to specific questions included:

- Questions 3 and 4 should allow for information to be provided on a room-by-room basis.
- At Questions 5 and 9, where a property is furnished a copy of the inventory document should simply be requested.

- At Question 7, it should be made clear disrepair caused by the landlord which is covered by the repairing standard can be dealt with under a separate procedure, and this should be linked to the MTA.

Suggested additions

Suggested additions to the Form included:

- Adding the requirement for a tenant to explain what steps they have taken to resolve this issue with the landlord/agent before submitting the application.
- Explaining what is meant by ‘tenant’s agent’ and explaining who can act as a tenant's agent.
- Adding a reference to factoring fees.
- Including an explanation of whether facilities pertain to common parts and make reference to car parking and private water supplies and drainage.
- Adding a question about the quality of the furniture when the tenant moved in.

Suggestions for content to be removed

The small number of suggestions made for content to be removed included that if the property is shared with the landlord the rules do not apply and therefore the form should either state this clearly or this section should be removed.

Landlord’s application form to a rent officer to apply for property improvement costs in a rent pressure zone. (Questions 13-16)

A summary of responses to Questions 13-16 is set out in Table 5 below. A full breakdown of responses to each question by respondent type may be found in Annex 2.

Table 5: Do you think the proposed ‘Landlord’s application form to a rent officer to apply for property improvement costs in a rent pressure zone’:

	Yes	No	Unsure	Not answered
Question 13: Is fit for purpose?	44	12	2	12
Question 14: Is easily understood?	46	7	4	13
Question 15: Should have additional content?	23	32	3	12
Question 16: Should have anything removed?	5	48	5	12

The majority of respondents who answered these questions thought this Form was fit for purpose and easily understood. A majority also thought no additional content was required and that nothing should be removed.

Comments on the ‘Landlord’s application form to a rent officer to apply for property improvement costs in a rent pressure zone’

Around 34 respondents made a further comment at one or more of Questions 13-16. Compared to other of the Notices or Forms, the comments tended to be relatively brief.

Issues raised

Amongst the issues raised was the suggestion that this Form appears to be an extension of the 'Landlord's notification to a tenant of a rent increase under section 22 of the Private Housing (Tenancies)(Scotland) Act 2016'. The small number of respondents making this point suggested this Form should be included as part of that Notice (covered at Questions 5 to 8 above). Other respondents queried whether all landlords within a given area will be aware that an RPZ designation has been made and by extension that this Form should be used.

Other comments included:

- The process does not allow for reduced rent to recognise tenant improvements or rent free or other reduced rent periods to be taken into account.
- Question 6 implies the absence of an inventory. This should have been provided at the start of the tenancy and should therefore be available to attach to the Form.

Points for clarification

Points about which respondents sought clarification included:

- Whether a rent increase due to improvement can apply without referral to Rent Service Scotland.
- At Part 8, whether the new proposed rent amount should include the additional increase above the regular limit on rent increases due to improvements, or if the Rent Officer will determine this additional amount.

Suggested changes

Suggested changes to the current draft included that Part 8 of the form relating to the RPZ cap is difficult to interpret and should be re-drafted to state that this is seeking a landlord's proposed increase only.

Suggested additions

- At Question 3e, the provision of parking spaces should perhaps be included.

Suggestions for content to be removed

The small number of suggestions made for content to be removed included:

- Any requirement to supply receipts or invoices for work carried out.

Notice to leave from a landlord to a sub-tenant (Questions 17-20)

A summary of responses to Questions 17-20 is set out in Table 6 below. A full breakdown of responses to each question by respondent type may be found in Annex 2.

Table 6: Do you think the proposed 'Notice to leave from a landlord to a sub-tenant':-

	Yes	No	Unsure	Not answered
Question 17: Is fit for purpose?	41	13	5	11
Question 18: Is easily understood?	31	18	8	13
Question 19: Should have additional content?	15	38	4	13
Question 20: Should have anything removed?	12	42	3	13

The majority of respondents who answered these questions thought this Notice was fit for purpose and easily understood. A majority also thought no additional content was required and that nothing should be removed.

Comments on the 'Notice to leave from a landlord to a sub-tenant'

Around 33 respondents made further comments at one or more of Questions 17-20.

Issues raised

Issues raised included:

- Whether there are flaws in relation to a landlord's right to obtain possession from a lawful sub-tenant which mean that, on completion of a successful action against the tenant for non-payment of rent, a lease with the sub-tenant will automatically be deemed to have been granted.
- Whether the Notice is required at all, as it is unlikely a landlord would allow a property to be sub-let. A slightly different perspective was that it is unlikely to be used but could be useful if a problem did arise.
- The statement that both the Notice to Leave by the Head Landlord and a separate Notice to Leave by the sub-letting landlord are to be attached and served at the same time implies that the Notices are defective if not served together.

Points for clarification

Points about which respondents sought clarification included:

- Whether the term Head Landlord is one that is recognised by the industry or tenants.
- Paragraph 3 is confusing as to whether the sub-tenancy Notice to Leave can be treated as a Notice to Leave where a sub-tenant becomes a tenant of the let property.

Suggested changes

- The title should be changed to Landlord's Notification for Sub-tenant to Leave.
- At Part 2, the eviction grounds might be set out so that the landlord can select those that apply and so that it is easy for the sub-tenant to see the full list of grounds, with the notice period set out beside each.

- Part 2 implies that the landlord is applying for an eviction order before the sub-tenant has refused to move out. This should be included as a separate form.
- Part 3, where the landlord is asked to state particulars of how the ground has arisen, should be reworded or perhaps amalgamated with Part 4 (which asks for evidence to support the use of the eviction ground).
- The sub-tenant should be entitled to see evidence of eviction grounds at the time of the Notice, in order to provide clarity on their legal position. The current wording of “should provide you with evidence” does not make clear this is a legal requirement. This lack of clarity is further compounded at Note 11 and through Part 5 through the reference to the Tribunal.

Suggested additions

Specific additions suggested are set out below. These have been presented according to whether they were overall suggested additions or were made with specific reference to the Notice, the Notes to the Tenant or the Notes to the Landlord.

Additions to the Notice

Suggested additions to the Notice included:

- Including a Notice to the Tenant was proposed, along with suggested wording.

Additions to the Notes for the Sub-tenant

Suggested additions to the Notes for the Sub-tenant included:

- Note 13 should make it clear that a sub-tenant can leave on receipt and expiry of the notice alone, if they wish.
- Note 15 should cover how a tenant might go about applying to the Tribunal if they suspect that their landlord did not genuinely want their property back under proper eviction grounds. This should include how the sub-tenant can provide evidence to the Tribunal.

Suggestions for content to be removed

The further suggestions for content to be removed included:

- Reference to landlords and legal aid since they are unlikely to be on a low enough income to qualify.

Notice to leave from a landlord to a tenant (Questions 21-24)

A summary of responses to Questions 21-24 is set out in Table 7 below. A full breakdown of responses to each question by respondent type may be found in Annex 2.

Table 7: Do you think the proposed 'Notice to leave from a landlord to a sub-tenant':-

	Yes	No	Unsure	Not answered
Question 21: Is fit for purpose?	44	12	5	9
Question 22: Is easily understood?	40	10	9	11
Question 23: Should have additional content?	15	39	4	12
Question 24: Should have anything removed?	8	42	8	12

The majority of respondents who answered these questions thought this Notice was fit for purpose and easily understood. A majority also thought no additional content was required and that nothing should be removed.

Comments on the 'Notice to leave from a landlord to a tenant'

Around 35 respondents made further comments at one or more of Questions 21-24.

Issues raised

It was suggested that the current wording of the Notice may seem confrontational and adversarial, especially in comparison to the current Notice to Quit. In particular, it was felt that the use of the word eviction at an early stage may alarm tenants unnecessarily and that the primary information that the tenant needs is that the landlord is requesting them to leave, the grounds for this, and the timescales the tenant has to leave the property. Other issues raised included:

- Tenants have a right to know why they are being asked to leave, and if landlords are not required to provide evidence at the time of serving the notice, the tenant will be unable to establish the validity of the eviction.
- It would appear that a further document that would be required to apply to the First-tier Tribunal to raise eviction proceedings does not appear to have been provided.

Points for clarification

Points about which respondents sought clarification included:

- Whether grounds 1-9 and 16-18 must be met when issuing a Notice for under six months.
- If a landlord can use this Notice if the tenant has not satisfied the ground for eviction i.e. rent arrears, at the point of issuing the notice.
- Why there is no similar notice for the tenant to serve notice to the landlord?

Suggested changes

- Parts 2 and 3 should be swapped round.
- In relation to Part 5, Note 6 to the tenant it states that, if the Tribunal grants an eviction order, the tenant "will usually" get 14 days' notice. This is too open-ended and a mandatory notice period should be set.

- Note 3 suggests contacting the housing options team at your local authority. However, not all local authorities may have a Housing Options Team and this should be amended accordingly.
- In Note 7, it would be useful to clarify how a tenant would go about applying to the Tribunal in the case of a suspected wrongful termination.

Suggested additions

Specific additions suggested are set out below. In this case, the comments made were of most relevance to the Notes to Tenants. They included:

- It may be helpful to make clear that the tenant is free to move out before the notice expires, and does not have to wait for the landlord to seek an order.
- Information should be provided on the process of eviction after the Tribunal has granted the landlord's application.

Suggestions for content to be removed

The small number of suggestions made for content to be removed included:

- Advising tenants to get advice from their landlord would not always result in the best outcome for tenants – therefore this option should be removed.

Section 2: Recommended Model Tenancy Agreement

In Section 2 the consultation paper moves on to questions about the proposed Recommended Model Tenancy Agreement (MTA) which it says will:

- State the core rights and obligations;
- Enable extra terms to be included which are specific to the property and parties involved; and
- Be accompanied by a legal commentary which will explain all the provisions in the agreement in plain English.

The consultation paper also notes that the MTA will be dynamic (i.e. can be completed electronically using fillable fields) and it will contain pre-written tenancy terms. It will contain two categories of clause. The first category is the core rights and obligations, which will be mandatory terms that a user cannot alter. The second category is discretionary terms that a landlord may or may not wish to include. It will be possible to add free text terms, or vary some of the pre-written discretionary terms, so long as the terms comply with the requirements of the Private Housing (Tenancies) (Scotland) Act 2016, supporting secondary legislation, Statutory Terms Regulations and other housing legislation. The MTA will also contain an easy read legal commentary on each written term, although the consultation paper notes that this section has not yet been drafted.

In Questions 25 and 26 the consultation paper asked whether the MTA is generally fit for purpose and easy to understand and then went on to ask respondents whether they had comments on 40 individual terms used in the agreement. These terms are covered at Questions 27 to 30. At Question 31 there was an opportunity to add any extra terms the respondent thought should be included as standard, while Question 32 provided a space for any additional comments on the MTA.

Do you think the proposed recommend Model Tenancy Agreement:

Question 25: Is generally fit for purpose?

Question 26: Is easy to understand?

A summary of responses to Questions 25 and 26 is set out in Table 8 below. A full breakdown of responses to each question by respondent type may be found in Annex 2.

Table 8: Do you think the proposed 'Recommended Model Tenancy Agreement:

	Yes	No	Unsure	Not answered
Question 25: Is generally fit for purpose?	42	21	4	3
Question 26: Is easily understood?	46	15	4	5

The majority of respondents thought that the MTA is generally fit for purpose and easily understood.

Comments on the Recommended Model Tenancy Agreement

A total of 41 respondents went on to make a comment either at Question 25 or at Question 26. As at the earlier questions on the Notices, there was considerable overlap between comments made at Questions 25 and 26 and hence a single analysis is presented below. Please note that comments referring specifically to electronic communication have been considered in the analysis at Question 33.

A number of the comments focused on making the MTA as accessible as possible. A small number of respondents felt the current version is too long or is confusing. In particular, it was suggested that the MTA frequently restates the statutory provisions of a private residential tenancy, rather than being a statement of what is being agreed. Other points raised about accessibility included:

- It should be structured differently. Specific alternative suggestions are considered at Question 32.
- It is not clear which parts of the agreement are intended to be Notes for the Landlord and which should form part of the agreement.

It was noted that Section 1 currently advises the user to read the legislation alongside the MTA as the legislation takes priority and may change from time to time. One respondent highlighting this issue felt that the MTA will need to be kept up-to-date if it is to be user-friendly. However, an alternative perspective was that it should be the responsibility of tenants, landlords and managing agents to stay up to date and that changes in legislation should not require the reissuing of a new MTA.

Practical issues which respondents highlighted for consideration included:

- Consumer testing involving tenants and/or tenant representative groups could be considered.
- An editable document could be modified without a tenant being aware and could result in them receiving less or no information about their rights.
- If a different style of landlord registration number is introduced the MTA will need to be amended accordingly.

Several respondents made extensive comments regarding the decision to make the MTA recommended rather than mandatory. Points made included that:

- If use of the MTA is not mandatory, all the Terms (unless statutory requirements) are effectively discretionary since it is up to the landlord whether they use all or part of the MTA. The statutory clauses that must be contained in any tenancy agreement must be defined in secondary legislation and must include all the mandatory terms of the recommended MTA.
- Allowing landlords and letting agents to alter the wording of the MTA could result in many different variants, creating confusion and misunderstanding.
- Consideration should be given as to how a tenant or Tribunal is to determine whether the MTA has been used.

Other comments focused on the relationship between the MTA and the TIP, including whether the TIP will still be required. It was suggested that tenants of

landlords not using the MTA will not have access to the legal commentary and may not be aware of their statutory rights if there will be no requirement for a TIP.

Terms used in the Recommended Model Tenancy Agreement

Questions 27 – 30 asked respondents if they had any comments to make on the 40 individual Terms making up the Recommended Model Tenancy Agreement.

Term 1: 'Landlord' (Mandatory)

In total, 18 respondents made a comment on Term 1. A small number of respondents commented on the requirement for the Landlord's details to be given on the MTA. It was seen as unfair that the tenant's details are protected under Data Protection requirements, while a landlord's are made public. Further, it was suggested that if an agent is used, including the landlord's contact details might result in a tenant contacting the wrong person in the event of a problem.

Suggestions included that:

- It could be made clear that successors of the current landlord, as owners of the property, will be bound by the tenancy agreement.
- The form should be flexible enough to allow for more complicated details - for example where a company or a Trust is the landlord.

Term 2: 'Letting Agent/Factor/Managing Agent' (Mandatory)

In total, 14 respondents made a comment on Term 2 including that there should be a statement about the legal status and authority of agents. It was suggested that the effect of the current wording is to make the agent a principal, and to incorrectly imply that they are responsible or liable in same way as a landlord.

Other comments included that there should be an option to indicate if the agent is to be the primary point of contact; and a clause to prevent prospective tenants being asked to pay for a background check.

Term 3: 'Tenant' (Mandatory)

In total, 13 respondents made a comment on Term 3. A small number of respondents made comments on provision of Email addresses, including that this should not be mandatory. Other points raised included:

- Where there are multiple tenants, all their contact information should be listed.
- The previous contact address for the tenant should be included. It was suggested that without this the agreement would not be legally enforceable.
- The tenant's national insurance number and any welfare benefit claim number should be required.
- A nominated lead tenant should be named where there are multiple tenants.

Term 4: 'Communication' (Discretionary)

In total, 19 respondents made a comment on Term 4. The issues raised tended to reflect those covered at Question 33.

Term 5: 'Details of the let property' (Mandatory)

In total, 15 respondents made a comment on Term 5 including that the property size and type should be included, and that details regarding the number of rooms would act as a reference point on occupancy levels for Term 14 (Overcrowding).

It was also noted that there is no mention of gardens or garaging, particularly a lock-up garage that may be remote from the property. It was suggested that a plan delineating the subjects to be let should be required.

Term 6: 'Date when tenancy starts' (Mandatory)

Only 3 respondents made a comment on Term 6, all of which referred to the absence of an end date.

Term 7: 'Occupation and use of the let property' (Mandatory)

In total, 13 respondents made a comment on Term 7. Several of the comments focused on a potential problem concerning corporate lets, where the property may not be occupier's main residence. It was suggested that consideration should be given to creating a separate form of tenancy for corporate lets. Other respondents suggested the addition of 'principal, or 'only or main' to the existing text.

Comments on the words 'formal and registered' in the context of a trade, business or profession, included that these terms should be clarified or that they should be removed. It was noted that informal, unregistered trading could have a significant impact on the property, surroundings and neighbours and that an entirely different regime applies to letting business premises.

Term 8: 'Rent' (Mandatory)

In total 21 respondents made a comment on Term 8.

Rent payments: Many respondents highlighted an inconsistency with the draft stating that rent may be payable in advance or in arrears but then stating that the first payment will be made '*on the date the tenancy starts or before*'. Some respondents suggested a change which allows the landlord to specify when the first and subsequent payments are to be made, while others proposed that the reference to payment in arrears should be removed.

Commenting on the date on which rent should be paid, a small number of respondents called for greater flexibility or suggested this should not be a mandatory clause, arguing that it should be possible to pay at other times, in agreement with the landlord.

It was also noted that there is currently no option to pay rent in advance which, it was suggested, can help tenants secure a property. However, another interpretation was that, as drafted, the MTA means that a landlord could not ask a prospective tenant to pay several months' rent in advance. It was suggested that, if this is the correct interpretation, this should be stated clearly.

Arrears: It was suggested the MTA should specify that the landlord can apply to the third-party scheme holding the deposit for deposit deductions due to rent

arrears. It was also suggested that there should be a statement about what can be done if payments are late, such as whether interest may be charged.

Service charges: A small number of respondents suggested that the way rent and services (sometimes including utilities) are presented can differ between sectors and that this section of the MTA should reflect those variations. The Build to Rent sector was highlighted as was the assessment of areas to be designated as RPZs. Other comments included that:

- The relevant section within the MTA should encourage landlords to provide a comprehensive breakdown of charges, or that the landlord should have to specify the services included.
- Further consideration should be given to how changes to service charges will fit within the proposed system of Prescribed Notices.

Term 9: ‘Rent receipts’ (Mandatory)

Only 8 respondents made a comment on rent receipts, and all were brief. Several respondents suggested that the Scottish Government should give thought to whether acceptance of rent payments in cash could be complicated by rules in place to reduce the risk of money laundering.

Other points included that an Email containing confirmation of payments should count as a “written receipt”; and that the MTA should require the landlord to specify a date on the written receipt when a rent payment is made in cash. It was also suggested that an annual rent statement should be provided.

Term 10: ‘Rent increases’ (Mandatory)

In total, 15 respondents made a comment on Term 10. Comments on the text as drafted included that the phrase ‘cannot be increased’ needs to be clarified. It was also suggested that more information should be provided around: when an increase could be considered unreasonable; and on RPZs, including whether the property is currently in an RPZ. It was also suggested that it would be helpful to reference the timescales within the relevant Notices.

Finally, how this Term would work in conjunction with the Management and Maintenance Agreements for the National Housing Trust was queried.

Term 11: ‘Deposit’ (Mandatory and discretionary)

In total, 26 respondents commented on Term 11. General points included that it is welcome that no other fees in addition to rent and deposits will be payable by the tenant to the landlord or letting agent.

Several respondents made points concerning Tenancy Deposit Schemes, including that much of what is included in this Term is the responsibility of the Scheme rather than of the landlord as implied in the draft. It was suggested that the name of the landlord, the letting agent (if applicable), and the tenant should be included, and that the landlord must provide details of which scheme has actually been used after the money has been deposited.

Comments on the final paragraphs concerning repayment of the deposit at the end of the tenancy included:

- The tenant's right to seek the return of the deposit if the landlord has not taken action should be clarified, including that tenants can apply to a scheme.
- It should be made clear to tenants that, if the money owed to the landlord exceeds that of the deposit, they will remain liable for any outstanding amount.
- Clearer instructions should be provided for the tenant on how to use the deposit scheme adjudication should a dispute arise. This section should also specify where a tenant can seek advice regarding deposits.

Term 12: 'Landlords costs and interest' (Discretionary)

In total, 21 respondents made a comment on Term 12. A number of these respondents expressed concerns about the inclusion of Term 12 and argued strongly that it should be removed. Comments included that:

- It undermines the role of the Tribunal system in determining where costs should be apportioned and, hence, represents a fundamental breach of basic rights of a tenant. As drafted it would give the landlord a claim on the tenant for reasonable costs, even if the Tribunal had found in the tenant's favour.
- A potential consequence of this Term could be to encourage landlords to pursue vexatious evictions or use enforcement action for only minor breaches or arrears, without making reasonable attempts to recover those arrears.
- Giving the landlord the opportunity to insert the interest rate is open to abuse. Suggestions included that: there should be an upper limit on the rate used or the total amount charged; there should be reference to 'reasonable interest'; or the rate should be capped in line with practices in the social rented sector.

Several respondents recommended removal of the legal term 'without prejudice', suggesting its meaning might not be generally understood. It was also suggested that the Term be amended to clarify that multiple tenants are jointly and severally liable and that the landlord can determine which tenant to pursue for reimbursement.

Term 13: 'Notification about other residents' (Mandatory and discretionary)

In total, 18 respondents made a comment on Term 13. A significant proportion of these comments concerned the last two (discretionary) clauses. In particular, several respondents commented on the requirement that '*... the Tenant must ensure that the let property does not become an unlicensed "house in multiple occupation"*' suggesting this clause should be amended or removed. Points made in support of this view included that:

- The tenant will not know the HMO regulations but the current draft does not do enough to explain why it is important not to allow the property to fall under the definition of an HMO.

- Once the tenant seeks approval from the landlord for other residents moving into a property, it is the responsibility of the landlord – not the tenant – to ensure that property does not become an unlicensed HMO.
- It is the landlord's responsibility to submit an application for an HMO licence if this is required and to refuse permission for additional tenants to live at the property if no licence is in place.

It was also suggested that it is not reasonable to require the tenant to pay any legal costs associated with a landlord being in breach of HMO regulations. Other respondents also considered that such a liability is unreasonable or too broadly written.

Comments on the remainder of Term 13 were less extensive but included:

- The tenant should only be required to take reasonable care for the acts of third parties. No tenant should sign a tenancy agreement 'ensuring' the behaviour of any other person.
- The Term does not allow for situations involving domestic abuse, when an abuser may deliberately seek to get their partner evicted by creating a breach of the tenancy. There should be an additional phrase included to ensure that any action taken is proportionate.

Term 14: 'Overcrowding' (Mandatory)

In total, 23 respondents made a comment on Term 14. Comments included that it makes sense to include a Term relating to overcrowding given that a landlord served with an Overcrowding Statutory Notice will be compelled to take action to resolve the situation. However, it was also suggested that, given the complexity involved in determining the maximum occupancy level, it is not reasonable to place the burden of not allowing the property to be overcrowded on the tenant.

Many of other the points raised concerned the difficulty in determining the maximum number of people who can live at a property, and the need for more guidance on how to do this. Specific comments included:

- The requirement to quote a single figure seems contradictory and it is not clear how such a figure can be arrived at.
- What constitutes overcrowding for one family may not apply to another as the age and gender of children will be taken in to account, and the landlord will not know the specific ages of the children or if the family has another child.

Term 15: 'Subletting and assignation' (Mandatory)

Only 6 respondents made a comment on Term 15. Several of these were very similar in content, often referring back to remarks on Term 13. Specific points raised included that provisions within the Act and the MTA either do not allow for subletting without proper landlord consent, or there are unlikely to be any situations where subletting is appropriate.

Term 16: 'Contents and condition' (Discretionary)

In total, 25 respondents made a comment on Term 16. Several respondents who suggested providing an inventory should be mandatory noted that it can be used as evidence in the event of a dispute, and is also mentioned in some of the Notices.

Other respondents raised an issue with the text as drafted, in that the inventory and condition survey often happens on the day of entry to the property. However, this means the report will rarely be available to attach to the MTA at the point the tenancy is signed, usually prior to entry to the property. It was also suggested there is little point in signing an inventory while it can still be challenged and that the tenant should have 7 days from the date of entry to the property (or the date on which the inventory is provided if this is later) to check, sign and return the inventory to the landlord, or to highlight discrepancies. A number of respondents proposed that this period to challenge the inventory and record of condition should be extended to either 14 or 28 days.

The second paragraph of Term 16 states that '*The Tenant agrees to replace or repair ...any of the contents which are destroyed, damaged, removed or lost during the tenancy, fair wear and tear excepted*'. It was suggested this obligation should only apply when loss or damage is attributable to the tenant's fault or negligence, or that of anyone residing with them, or of a guest. Other suggestions included that, where the tenant is having to cover the cost of cleaning or repairs, the landlord should be required to get more than one quote for the work, or the tenant should be able to source an alternative quote.

The final sentence of Term 16 says that '*A Landlord can apply for the costs involved in making good any damage or cleaning found necessary to be deducted from any deposit paid by the Tenant, which should not be limited to the amount of deposit actually held.*' Several respondents suggested that this sentence is not clear and should be amended: it was suggested that the position is that landlords can apply for costs through the Tenancy Deposit Scheme up to the full amount of the deposit, and then go to the small claims court if they want to make a claim larger than the deposit. It was proposed a statement should be added that if the sums incurred by the landlord in respect of replacing/repairing any contents or remedying any damage to the property are higher than the amount of the deposit held, the tenant will still be liable for these additional sums.

It was also suggested that this Term should include details of the process to deal with disputes over discrepancies or where a tenant challenges the costs involved in making good any damage or undertake cleaning.

Term 17: 'Local authority taxes/charges' (Discretionary)

In total, 14 respondents made a comment on Term 17. A number of these respondents noted that the Term as currently written does not allow for a situation where these charges are included in the rent payment, which is possible, particularly for corporate lets. It was also noted that some rural properties may have a private water supply or septic tank, and it was suggested that the MTA should allow a landlord to recoup related charges from a tenant.

Other comments focused on the requirement for the tenant to notify the local authority of the tenancy's start date including that, if the landlord is no longer required to notify the local authority, then existing legislation requiring them to do so should be amended. It was also suggested it should be made clear that the tenant is responsible for contacting the local authority regarding eligibility for any discounts and that there should also be an obligation for the tenant to notify the local authority of the tenancy's end date.

Term 18: 'Utilities' (Discretionary)

In total, 24 respondents made a comment on Term 18, including that, where utility costs are included in the rent, a landlord should be able to increase the overall rent to reflect a utility price rise without following the process of the Prescribed Notices.

Several respondents commented on outstanding charges at the end of the tenancy being deductible from the deposit, including that if the landlord applies to deduct money from the deposit for payment of utility arrears, it should be made clear that this money will go towards repayment of those arrears. It was also suggested that the tenant should be required to advise utility companies of their forwarding address, and guidance was sought as to whether it would be legal for the landlord to provide a tenant's forwarding address to a utility supplier.

Respondents also raised issues about the tenant's right to change a utility supplier, feeling that this is a basic right and not at the discretion of the landlord, so inclusion of this information should be mandatory. It was also suggested that if the Tenant does change a utility supplier, there should be an obligation to inform the Landlord and to provide details. A small number of respondents raised particular concerns about the requirement for any new meter installed by the tenant to be changed back at the end of the tenancy at the tenant's expense.

Term 19: 'Insurance' (Mandatory and discretionary)

In total, 24 respondents made a comment on Term 19. General comments included that there could be greater clarity about what is covered by each of the landlord's and tenant's insurances.

Comments on the first (mandatory) paragraph included:

- The clause should be discretionary. As drafted, it implies a legal requirement to carry building or contents insurance which is not, or should not be, the case. An alternative view was that buildings insurance should be a mandatory pre-requisite for applying for registration as a landlord.
- It would be usual to stipulate that the tenant must not do or permit anything which might compromise the insurance or cause an increase in the premium.
- This paragraph should be amended to make clear that the landlord has no liability *to insure* any items belonging to the tenant.

Comments on the second (mandatory) paragraph included that as drafted this seems to imply, incorrectly, that it is compulsory for the tenant to insure their own possessions.

A number of respondents commented on the final (discretionary) paragraph and, in particular, that it needs to make clear that the tenant is not responsible for damage resulting from fair wear and tear.

Term 20: 'Absences' (Discretionary)

In total, 14 respondents made a comment on Term 20. A small number of respondents suggested Term 20 should be mandatory because it relates directly to responsibilities set out in the mandatory Term 21. Since Term 21 already deals with preventing pipes from freezing, it was also suggested that only the first sentence of Term 20 is actually required.

The suggestion is that the tenant should tell the landlord when they are absent from the let property '*for a period of more than 14 days*'. Views on the length of this period varied including that it is too short, and that 21 days, 28 days or the period used by the mortgage lender would be more appropriate.

Several respondents also suggested that, if the tenant fails to carry out obligations under Term 20 (and 21) it should be made clear that the landlord may recover costs from the tenant to carry out any necessary repairs.

Term 21: 'Reasonable care' (Mandatory)

In total, 27 respondents made a comment on Term 21. General suggestions included that the tenant should be obliged to take 'good' rather than 'reasonable' care, or alternatively that the Term is too detailed and should be redrafted to require a tenant to take reasonable care of the let property and common parts to ensure it is in a reasonable state at the end of the tenancy.

Many respondents commented on the tenant not applying sticky materials to the internal walls of the let property, including that its inclusion is disappointing and that not allowing someone to put up posters or pictures without risking being in breach of their tenancy seems contrary to the spirit of the new tenancy. Several respondents expressed a view that this clause should either be removed while others suggested consideration be given to what is reasonable and enforceable.

References to other clauses were limited but included:

- That the tenant should make sure the property is kept warm and/or water tanks are drained down if absent for a period of time.
- That the requirement to ensure the let property and its fixtures and fittings are kept clean during the tenancy should be removed and a similar approach to Term 24 (maintenance of the garden) be used.
- That there is a contradiction with discretionary Term 28 which could restrict tenants from legally keeping shotguns and ammunition.

Several additional clauses were suggested, including not disposing of inappropriate items through drains or septic tanks; flexibility to add specific requirements for some properties (such as exclusion of naked flames, or particular conditions relating to historic features) and a set of additional clauses that might be suitable for supported accommodation.

Term 22: 'Alterations' (Discretionary and mandatory)

In total, 16 respondents made a comment on Term 22. The first paragraph of this Term is discretionary, while the second and third are mandatory. Several respondents proposed that the whole Term should be mandatory, suggesting that it should be made clear that the landlord's consent is required for any alterations to the property. It was suggested that it should be specified that these alterations must not include structural works, or works that would have a negative impact on the value of the property, and there should also be a provision that the tenant is liable for costs to reinstate the property in its original condition. Other suggestions included a specific clause prohibiting temporary subdivision of rooms.

In contrast, other respondents suggested that:

- Forbidding 'internal or external decoration without prior consent is unwarranted and tenants should be able to decorate, as long as they do not cause damage.
- The tenant should be allowed to customise the property so long as the property is returned in the same condition as it was at the start of the tenancy.
- There could be a list of things the tenant *is* permitted to do to the property, which the landlord could amend.

The second and third (mandatory) paragraphs concern requests for adaptations, auxiliary aids or services under section 37 of the Equality Act 2010 or section 52 of the Housing (Scotland) Act 2006. It was suggested that the historical significance of the property should be borne in mind when judging reasonableness or that the landlord should not be obliged to undertake major structural changes that would have an adverse effect on the value of the property.

Term 23: 'Common parts' (Discretionary)

In total, 17 respondents made a comment on Term 23. A number of respondents suggested it would be appropriate to include a reference to whether a property is factored, sometimes adding that, if a property is not within a factored development, there should be a mandatory obligation to co-operate in maintaining communal areas. However, a small number of other respondents suggested the Term as currently drafted is too specific and should instead require that tenants take 'reasonable care' of common parts or keep communal areas 'reasonably clean and tidy'.

Two issues were raised in relation to paying to have common areas cleaned. First, it was suggested that, where other tenants in a property have agreed to pay for cleaning of common areas, the tenant should be obliged to do so as well. Secondly, the possibility was raised that, where communal owners have arranged cleaning of common parts but do not keep up payments, this clause could allow costs to be recovered from the tenant.

Other comments on the wording of Term 23 included that:

- Non-flatted properties may also have common parts.

- The areas listed seem to describe an older tenement building and more modern buildings might have different types of common areas.
- It would be more appropriate to include the agreement not to smoke in the let property (Term 32) under Term 23.

Finally, several respondents commented on the ability of the landlord to recover costs if the tenant fails in their responsibilities. These comments included that only 'reasonable' costs should be sought and that a landlord should be able to apply to the scheme holding the deposit for any deposit reductions.

Term 24: 'Private garden' (Discretionary)

In total, 13 respondents made a comment on Term 24. A small number of respondents commented that the tenant should be required to maintain the garden to an adequate standard throughout the tenancy, and that if necessary there needs to be a provision for the landlord to get work done and recover costs *during* the tenancy. Other comments included that: the wording should be amended to reflect the seasonal nature of garden maintenance; the landlord should provide the tenant with suitable tools to maintain the garden; and that the clause is unfair and should be removed.

Term 25: 'Roof' (Discretionary)

In total, 12 respondents made a comment on Term 25, The wording suggested in the consultation paper is that '*the Tenant is not permitted to access the roof, without the Landlord's written consent*' to which several respondents suggested addition of 'except in an emergency', or that what is meant by 'roof' as distinct from internal 'roof space' such as attics should be clarified.

Term 26: 'Bins and recycling' (Discretionary)

In total, 15 respondents made a comment on Term 26. Specific suggestions included adding information both about arrangements at a particular property and on local arrangements for chargeable waste collections. Other points included that there should be provision for a landlord to recover costs incurred during the tenancy if the tenant does not comply with the requirements including by leaving rubbish in common areas.

Term 27: 'Storage' (Discretionary)

Only 8 respondents made a comment on Term 27, and of these a number referenced earlier remarks on Terms 13 and 26. Other comments included that reference should be added to not causing a fire or safety hazard and that, since what causes a nuisance to neighbours is subjective, it would be better to be more specific – for example that bicycles may not be stored in common parts of the property.

Term 28: 'Dangerous substances' (Discretionary)

In total, 12 respondents made a comment on Term 28. A number of these referenced earlier remarks on Term 21 (Reasonable Care) sometimes adding that this clause replicates mandatory provisions under Term 21. Other comments included:

- This term should be mandatory as it affects the safety of neighbours as well as the tenant.
- Particularly for properties without mains gas, that the tenant should not be permitted to bring a gas appliance into a property, as this would contravene a Landlord Gas Safety Certificate.

Term 29: ‘Respect for others’ (Mandatory)

In total, 26 respondents made a comment on Term 29. Several respondents made general points, or suggested amendments to the two introductory paragraphs in which antisocial behaviour and harassment are described. Other comments included:

- Including a definition of antisocial behaviour is welcome but it should reflect the definition in paragraph 14(3) of part 3 of schedule 3 to the Act.
- Listed persons should include the landlord, representative of the landlord or neighbours and the let property should be extended to include the immediate neighbourhood. An alternative suggestion was that ‘any person’ should not be further defined as a definition is limiting.
- Antisocial behaviour should be redefined as requiring multiple or repeated events.
- There should be a general requirement not to act ‘in a manner which may interfere with the peaceful enjoyment of other residents’. The Term should state that the tenant, fellow residents and visitors should not engage in antisocial behaviour or criminal activity at the property, but without the long list of prohibitions.

The Term as drafted sets out a number of behaviours that the tenant, those living with him/her, and his/her visitors must not do, and respondents commented on several of these. The points raised most frequently were that:

- ‘Immoral’ is not required when simply ‘illegal purposes’ would be sufficient.
- Licensed firearms should not be restricted, and anyone in possession of an unlicensed firearm would in any case be in breach of the requirement not to carry out illegal activity.

Term 30: ‘Equality requirements’ (Mandatory)

Only 6 respondents made a comment on Term 30 and although opinions varied all were brief. One respondent suggested that, given the importance of this term, it should not only be a mandatory but also a statutory term. Another respondent asserted that the Equality Act 2010 does not apply to individuals and therefore cannot be applied to tenants. A third view was that the rights and obligations under the 2010 Act are not a matter of contractual agreement, so the term is not necessary or useful.

Term 31: 'Pets' (Discretionary)

In total, 15 respondents made a comment on Term 31. One view was that there should not be an assumption that pets will be allowed. Where pets are permitted, it was suggested that:

- An additional deposit may be required, and that costs to cover damage caused by a pet or cleaning required at the end of a tenancy because of a pet and not made good by the tenant can be charged to the tenant.
- The cleaning requirement should include professional cleaning.

In contrast, other respondents took the view that consent should not be unreasonably withheld, including because some tenants may have a medical or psychological need for a pet. An alternative wording was proposed whereby the landlord would agree to a tenant keeping a pet unless the property had furnishings that might be damaged as a result or there was another good reason not to agree.

Term 32: 'Smoking' (Discretionary)

In total, 18 respondents made a comment on Term 32. It was argued that, since smoking is a legal activity, this Term represents a disproportionate intrusion into a person's activity at home and could be discriminatory. Other comments included that for the purposes of prohibiting smoking, the let property should be defined to include common parts. Other suggested changes included:

- The Term should be amended to allow smoking by mutual agreement, or with the consent of the landlord, or subject to certain conditions being met.
- The MTA should make it clear that a claim could be made on the deposit for redecoration or cleaning to remove odours.
- There should be an opportunity to detail 'no smoking' areas.

Term 33: 'The repairing standard etc. and other information' (Mandatory and discretionary)

In total, 23 respondents commented on Term 33. General comments included that:

- The landlord's ability to discharge these duties is restricted / limited by the provisions contained under Term 36 (Access for Repairs). It was suggested it should be made clear that the obligations placed on landlords under Term 33 give them the right to access let property under Term 36.
- There should be a provision to deal with disputed costs or liability. It was also suggested that the First-tier Tribunal must entertain Tenant Improvement agreements in any dispute regarding Repairing Standards.

Points made under the various subheadings included the following:

Structure and exterior: Responsibility for chimney sweeping should not be mandatory since the frequency required will depend on use. It was also suggested that responsibility that should be passed to the tenant, also because the frequency required will depend on use, and only the tenant will know what this has been.

Electrical safety: Hot water tanks with an immersion heater were suggested for addition to the list of fixed electrical appliances requiring visual inspection, and it was recommended that Portable Appliance Tests should be carried out annually.

Smoke detectors: It was suggested the tenant should be responsible for checking alarms on a regular basis, informing the landlord of any problems for replacing batteries where appropriate.

Defective fixtures and fittings: The landlord's responsibility to repair or replace defective fixtures etc. should apply not only to a defect due to 'usual wear and tear' but also for example, to theft, vandalism or natural disasters.

Payment for repairs: Where a tenant is liable for the cost of repairs, there should be a requirement that the cost is 'reasonable'.

Information: The gas safety certificate, electrical safety inspection reports and energy performance certificate should be provided at, or before, the start of the tenancy.

Term 34: 'Liquid Petroleum Gas' (Discretionary)

Only 6 respondents made a comment on Term 34. It was also noted that in some properties LPG is the only form of heating, or that permission to use LPG heaters could be agreed by mutual consent, unless a central heating system has been installed and is in working order.

Term 35: 'Legionella' (Mandatory)

In total, 11 respondents made a comment on Term 35. There was support for its inclusion but also a suggestion that further guidance is necessary both to explain what would constitute 'reasonable steps' for a landlord to take and how to carry out a suitable risk assessment and implement appropriate control measures. However, other respondents questioned the legal basis for the Term, queried why Legionella control is included when other similar problems are not, or suggested it should be extended to cover scheduled diseases and asbestos.

Term 36: 'Access for repairs' (Mandatory)

In total, 22 respondents made a comment on Term 36. Among general comments it was noted that three of the prescribed statutory terms set out the clauses that are to apply to access for repairs. There was a question as to why the MTA does not simply state these terms which, it was suggested, would not require further elaboration.

Other general points included that it would be useful to have examples of what would be considered an emergency and that all clauses referring to access should also provide for contractors working on behalf of the landlord.

With respect to the relationship of Term 36 to other parts of the MTA, particularly Term 33, it was suggested that:

- It should be made clear that a landlord has the right to access a let property where they have an obligation to do so under any of the Terms contained within the MTA.

- There should be a provision that enables a landlord to appeal to the First-tier Tribunal where a tenant fails to provide access.
- There should be a safeguard for landlords who have been unable to gain entry to undertake the obligations placed upon them.

The first sentence states that '*The Tenant must allow reasonable access to the let property for an authorised purpose where the Tenant has been given at least 48 hours' notice, or access is required urgently*'. Comments on this included that 48 hours is not very long and may not be convenient, and that there should be flexibility for negotiation between landlord and tenant.

Term 37: 'Data protection' (Mandatory)

Only 8 respondents made a comment on Term 37. Several respondents suggested the wording should simply read 'The Landlord and/or Letting Agent agree to abide by the Data Protection Act 1998', while an alternative suggestion was for a minor amendment to the existing text to read '*...held securely and only lawfully disclosed*'. In contrast another respondent advised significant expansion of the Term to include more extensive text concerning the Data Protection Act. Other points made on data protection were:

- Landlords should be allowed to notify the council, utility or referencing companies of a tenant's details.
- That the landlord's obligations under the Data Protection Act are not a matter of contractual agreement and do not need to be included as a Term, but could be summarised in the TIP.

Term 38: 'Ending the tenancy' (Mandatory)

In total 27 respondents made a comment on Term 38, including that:

- This is a key Term and needs to be set out clearly so that tenants have a full understanding of their rights and responsibilities. Some of the information, particularly the distinction between mandatory and discretionary grounds for eviction, could be set out in the legal information accompanying the tenancy.
- It is not necessary to list the statutory provisions relating to the termination of the tenancy in the tenancy agreement. Instead, the first paragraph could simply be followed by a statement that the statutory provisions contained in the 2016 Act concerning termination of the tenancy, eviction proceedings before the First-tier Tribunal etc., are described in the TIP.
- If the MTA is to accord with the Act as it may be updated, amended or re-enacted then this Term should include reference to any new statutory ground which may be introduced by the Scottish Government.

Several respondents suggested additional items that should be added including:

- What happens if a landlord owes the tenant money at the end of a tenancy.
- Any relevant rent apportionment calculations applicable.

- Advice to the tenant to remove all of their belongings and that failure to do so could result in monies being deducted from any deposit.
- Information about the right of the landlord to dispose of the tenant's belongings if they are not claimed.
- A statement about the condition in which the property is to be left.

Term 39: 'Declarations' (Mandatory)

Only 5 respondents made a comment on Term 39. These included that a declaration that the tenant has 'read and understood all of the terms of this agreement', is potentially an unfair term under the Consumer Rights Act 2015. It was suggested that attention should be drawn to the responsibility of the signatory by providing a clear and prominent warning at the beginning of the agreement.

It was also suggested that tenants signing this agreement are also signing agreement amongst themselves that the tenancy is joint and several.

Term 40: 'The guarantor' (Discretionary)

In total, 15 respondents made a comment on Term 40. Comments on the nature and role of the guarantor included that further information/definition is required, including clarification that, if the tenancy is a joint one, then the guarantor is guaranteeing the payments and obligation of all tenants. It was also suggested that the potential liability of guarantors for legal fees incurred by landlords using legal remedies in pursuit of defaulting tenants should be referenced.

Question 31: While users will have the ability to add their own unique tenancy terms, are there any other terms that you think it would be helpful to include as standard terms in the 'Recommended Model Tenancy Agreement'?

In total 20 respondents answered Question 31. Several respondents made general comments including welcoming the capacity to add specific terms, suggesting that discretionary terms should be negotiated between landlord and tenant or suggesting that landlords should be able to add free text to suit individual circumstances.

Specific suggestions for additional terms or requirements included:

Abandoned goods: There should be a term dealing with abandoned goods belonging to the tenant and the responsibility of the landlord to legally remove/store/destroy/sell the possessions within a reasonable timescale.

Abandonment: There should be a provision that the landlord can repossess after a reasonable period should the tenant abandon the property.

Access: There should be a term relating to access. However, respondents had varying views on how this term should be framed. Suggestions included a term that allows reasonable access to the property for landlord inspection prior to the tenant leaving and a term that allows access by the landlord and/or letting agent to conduct viewings prior to sale or re-letting and the right to erect signs for this purpose.

Bullying and harassment: It was proposed that such a term would detail the behaviours that, if demonstrated by a landlord or the landlord’s agent where the landlord knows that this is likely to intimidate the tenant, would constitute bullying and harassment.

Car parking: Details should be provided with regard to parking provisions and whether the landlord has provided parking permits within the charges for the let property.

Communication: The current Term 4 on Communication should be split into two separate terms: one dealing with regular communications, which can include electronic communication and personal delivery, and another term, which solely focuses on ‘Methods of service of prescribed notices’ and excludes electronic communication and personal delivery (unless by a sheriff officer).

Joint and several liability: There should be a term stating that the property is to be used by the tenant and co-tenants as a single household living together with no rooms to be treated as being let to a single individual.

List of third party and statutory bodies and agencies: There should be a mandatory section, at the beginning of the agreement, highlighting and explicitly stating the bodies that are there to assist the tenant, such as the First-tier Tribunal, Tenancy Deposit Schemes and Rent Officer.

Special tenancy types: There could be terms making clear that a particular tenancy is linked with employment or support.

<p>Question 32: Do you have any other general comments on the ‘Recommended Model Tenancy Agreement’?</p>

The final question in this section gave respondents an opportunity to make other general comments on the MTA. The focus here is on issues that have not been covered elsewhere within this report.

Several respondents proposed an **alternative structure for the MTA**. These suggestions included:

- It should be organised into logical groupings with the most important elements first, as is the norm with current Assured and Short Assured Tenancies.
- It should separate mandatory, discretionary and customised terms, listing them in this order.
- Mandatory and discretionary clauses could be presented in two separate but related documents.

There were also points on **how the MTA will work in practice**, including that it is not clear whether the MTA must remain intact or whether the landlord can delete discretionary clauses; that private landlords should be required to submit a copy of the tenancy agreement that they intend to use to the relevant local authority team as a condition of their registration; and that guidance is required as to how the new

arrangements would affect existing National Housing Trust Management and Maintenance Agreements.

Finally, with reference to the **roll-out of the new arrangements** it was suggested that it would be helpful if both the general public and advice providers are given information about both the MTA and the new Notices and Forms prior to their launch. It was also suggested that tenants in social care -related or supported accommodation may require particular support to understand the new MTA.

Section 3: Should there be an option of serving documents electronically, subject to a tenant’s and landlord’s prior agreement

The consultation paper explains that while section 10 of the 2016 Act requires a landlord to give a tenant a written document setting out all of the terms of the tenancy, paragraph 6 of schedule 4 to the 2016 Act disapplies the Requirements of Writing (Scotland) Act 1995 from the new tenancy. This means that there are no particular legal requirements in relation to providing a hard copy of the written tenancy terms agreement or obtaining signatures or witnesses.

The Scottish Government does not intend to specify in the secondary legislation how documents under the new tenancy should be served on a person, so the provisions of the Interpretation and Legislative Reform Act 2010 (ILRA) will automatically apply, and the delivery methods set out in section 26 of ILRA will apply to all documents issued under the new tenancy. This means that where the 2016 Act requires a document to be served on a person, it could be served by: personal delivery; post (by recorded delivery); or, if agreed with the recipient in advance and in writing, by “electronic communications” (such as Email). These options will enable a landlord and a tenant to communicate in a way which suits them best.

Question 33: Do you agree that a landlord and tenant should have the option of serving documents electronically to the electronic mail address provided by the relevant party, provided they have both previously agreed in writing to this?

A summary of responses to Questions 33 is set out in Table 9 below. A full breakdown of responses by respondent type may be found in Annex 2.

Table 9: Do you agree that a landlord and tenant should have the option of serving documents electronically to the electronic mail address provided by the relevant party, provided they have both previously agreed in writing to this?

	Yes	No	Unsure	Not answered
Question 33:	51	9	4	6

A clear majority of respondents thought there should be the option to serve documents electronically.

In total, 26 respondents made a further comment on Question 33 and several of these comments were extensive. Several respondents expressed a view that it was sensible to use Email as a means of communication for routine issues – but not as the only way of serving documents as important as notices. Specific issues of concern identified by respondents included:

- It is not clear exactly what ‘electronic communications’ includes.

- Although it is stated there should be agreement in writing by both parties, the tenant may not realise they have the option to refuse or may feel unable to do if they believe the landlord will not proceed with the tenancy as a result. If this proposal goes ahead, any agreement should be in a separate document that makes clear that the tenant has other choices.
- The tenant may not fully appreciate the importance of the documents to be served by Email if they agree to this.
- It is difficult to prove whether and when an Email has been sent or received. This could lead to disputes about whether notices have been served being referred to the First-tier Tribunal.
- Even if this is agreed at the start of the tenancy, a tenant may lose access to Email – either because of financial problems, or being physically unable to pick up Email for various reasons, such as being a prisoner on remand.
- This provision may disadvantage tenants without access to or skills to use the internet and put an additional burden on the advice services to whom they turn for help.

Respondents in agreement with the proposal raised a number of practical issues including:

- It is important to emphasise that it is the responsibility of both parties to ensure that Email details are kept up to date.
- An agreement to serve documents by Email should be incorporated into the MTA.
- Consideration should be given to how to prove Email has been sent or received.
- Clarification was sought regarding the use of electronic signatures including whether landlord and tenant may agree what sort of electronic signature would be acceptable. It was also suggested that use of electronic signatures should be specified in secondary legislation.

Section 4: Statutory Terms

The consultation paper notes that Schedule 2 of the 2016 Act outlines the statutory terms which, when regulations are made under the 2016 Act, will be applicable to every private residential tenancy. It explains that the six statutory terms outlined are mandatory terms that will be applicable to every private residential tenancy and form part of the core rights and responsibilities highlighted in **bold** text in the recommended MTA.

The fact that certain rights will be included as statutory terms does not prevent the parties from supplementing those terms, provided that the additional term does not directly conflict with (and therefore displace) the statutory term. A tenant or landlord can refer a case to the Tribunal where he or she considers that the tenancy agreement appears to displace a statutory term of the tenancy in a way not permitted.

Question 34: Are there any other terms that should be included in the regulations as a statutory term applicable to all private residential tenancies?

In total, 17 respondents made a comment at Question 34. Amongst the additional statutory terms suggested several were already covered in the MTA. Those mentioned most frequently were:

- Term 11 - Deposits.
- Term 33 - Repairing Standard (or the parts thereof).
- Term 38 - Ending a Tenancy.

Other content covered by Terms 1, 2, 3, 5, 6, 8, and 30 was also suggested.

With respect to the repairing standard it was suggested that consideration should be given to whether it would be appropriate to include a statutory term with the effect of imposing a contractual duty on the landlord to repair and maintain the property, in the same terms as the statutory duty set out in section 14 of the 2006 Act. It was noted that, in contrast to the statutory repairing obligations in previous legislation, the section 14 duty is not implied in the parties' contract.

Several respondents also suggested new terms they thought should be statutory terms, sometimes duplicating suggestions made at Question 31. These included:

- A time limit within which the tenant must provide the landlord with written information of any person aged 16 or over residing at the property as his or her principle home and, when such person ceases to reside at the property.
- Terms to capture information on the immigration status of the tenant(s) to fulfil the requirements of the Immigration Act 2014.
- Limitation on the time within which a claim can be brought for wrongful termination e.g. 3 years.

Annex 1

Organisations responding to the consultation	
Angus Council	Letscotland
Argyll & Bute Council	Living Rent
Argyll Community Housing Association	MHA
Association of Residential Letting Agents (ARLA)	Move2 Lettings Ltd
Ayr Housing Aid Centre	National Landlords Association
Bowlts Chartered Surveyors	Novantie Ltd
Brodies LLP	Perth & Kinross Council
Chartered Institute of Housing Scotland	Places for People Scotland
CIB Residential Ltd	PRS Champion
Citizens Advice Scotland	Renfrewshire Council
Comhairle Nan Eilean Siar	Rettie & Co
Council of Mortgage Lenders	Royal Institution of Chartered Surveyor (RICS)
Crisis	Scottish Association of Landlords & Council of Letting Agents
Cullen Property Ltd	Scottish Land & Estates
Dove Davies & Partners	Scottish Property Federation
East Ayrshire Council	Shelter Scotland
East Dunbartonshire Council	Shepherd & Wedderburn LLP
Edinburgh University Students' Association	South Ayrshire Council Housing Policy and Strategy Team
Faculty of Advocates	The Church of Scotland
Forster Flats	The Historic Houses Association for Scotland
Frontline Fife Homelessness Services	The National Trust for Scotland
Generation Rent	The Richmond Fellowship Scotland
Glasgow City Council	The Scottish Federation of Housing Associations
GSB Properties	Turcan Connell, Solicitors
Hillcrest Group	West Dunbartonshire Council
Homeless Action Scotland	West Lothian Council
Law Society of Scotland	West Strathclyde Regional Network 7
Legal Services Agency	Wheatley Group

Annex 2

Questions 1 - 4: Do you think the proposed 'Tenant's notification to a landlord of a referral to the Tribunal under section 14 and 16 of the 2016 Act':-

	Q1: is fit for purpose?				Q2: is easily understood?				Q3: should have additional content?				Q4: should have anything removed?				Total
	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A	
Advice, Information or Ombudsman service	1		1	1	2			1	2			1		2		1	3
Campaign Body or Group	4				2	1	1		3	1			1	3			4
Industry Body		6		1		5	1	1	5	1		1	3	1	2	1	7
Landlord	3	1	1	1	3	1	1	1	1	4		1		5		1	6
Landlord Representative Body	4	1			3	2			2	3				5			5
Legal Body or Firm	4	2			3	3			5	1			1	4		1	6
Letting Agent and/or Property Management	7	2			7	2			3	5	1		3	6			9
Local Authority	9	1	1		8	2	1		3	8				11			11
Other	2		1	1	2	1		1		2		2		2		2	4
Tenant and/or Resident Group	1				1				1					1			1
Total groups	35	13	4	4	31	17	4	4	25	25	1	5	8	40	2	6	56
Individuals	5	5	1	3	5	5	1	3	4	7		3	2	7	2	3	14
Grand total	40	18	5	7	36	22	5	7	29	32	1	8	10	47	4	9	70

Questions 5 - 8: Do you think the proposed 'Landlord's notification to a tenant of a rent increase under section 22 of the Private Housing (Tenancies) (Scotland) Act 2016':-

	Q5: is fit for purpose?				Q6: is easily understood?				Q7: should have additional content?				Q8: should have anything removed?				Total
	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A	
Advice, Information or Ombudsman service	1		1	1		1	1	1	2			1	1	1		1	3
Campaign Body or Group	3	1			1	3			2	2			2	1	1		4
Industry Body		6	1			4	1	2	4	1		2	3	3		1	7
Landlord	4		1	1	4	1		1		4	1	1	1	4		1	6
Landlord Representative Body	3	2			2	3			2	3				5			5
Legal Body or Firm	5			1	2	3		1	4	1		1		5		1	6
Letting Agent and/or Property Management	6	2		1	6	3			3	6			5	4			9
Local Authority	9	2			6	5			4	7			3	8			11
Other	1	2		1		2	1	1	1	1		2	1	1		2	4
Tenant and/or Resident Group		1			1				1					1			1
Total groups	32	16	3	5	22	25	3	6	23	25	1	7	16	33	1	6	56
Individuals	6	5		3	6	5		3	3	8		3	4	6	1	3	14
Grand total	38	21	3	8	28	30	3	9	26	33	1	10	20	39	2	9	70

Questions 9 - 12: Do you think the proposed 'Tenant's application form to a rent officer for adjudication on a proposed rent increase':-

	Q9: is fit for purpose?				Q10: is easily understood?				Q11: should have additional content?				Q12: should have anything removed?				Total	
	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A		
Advice, Information or Ombudsman service	1		1	1	1	1		1	1		1	1	1		1	1	1	3
Campaign Body or Group	2	1	1		4				3	1			1	3				4
Industry Body	1	5		1	2	2	1	2	5	1	1		3	3			1	7
Landlord	4		1	1	5			1	1	4		1		5			1	6
Landlord Representative Body	3	2			4	1			1	4			2	3				5
Legal Body or Firm	5			1	5			1	4	2				5			1	6
Letting Agent and/or Property Management	5	4			8	1			5	4			2	7				9
Local Authority	11				8	2	1		4	6	1			11				11
Other	2			2	2			2		2		2		2			2	4
Tenant and/or Resident Group		1				1			1					1				1
Total groups	34	13	3	6	39	8	2	7	25	25	2	4	9	40	1	6		56
Individuals	5	3	1	5	5	3	1	5	5	4		5	1	6	2	5		14
Grand total	39	16	4	11	44	11	3	12	30	29	2	9	10	46	3	11		70

Questions 13 - 16: Do you think the proposed 'Landlord's application form to a rent officer to apply for property improvement costs in a rent pressure zone':-

	Q13: is fit for purpose?				Q14: is easily understood?				Q15: should have additional content?				Q16: should have anything removed?				Total		
	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A			
Advice, Information or Ombudsman service	2			1	2			1		2			1		2			1	3
Campaign Body or Group	3			1	3			1		2	1		1		3			1	4
Industry Body	1	5		1	2	2	1	2		5	2			1	3	2	1		7
Landlord	5			1	5			1		1	4		1	1	4			1	6
Landlord Representative Body	4	1			4	1				2	3			2	3				5
Legal Body or Firm	5			1	4	1		1		1	4		1		5			1	6
Letting Agent and/or Property Management	6	3			8	1				4	3	2			7	2			9
Local Authority	10	1			9		2			3	7		1		11				11
Other	1		1	2	1	1		2		1	1		2		2			2	4
Tenant and/or Resident Group	1				1					1					1				1
Total groups	38	10	1	7	39	6	3	8		20	27	2	7	4	41	4	7		56
Individuals	6	2	1	5	7	1	1	5		3	5	1	5	1	7	1	5		14
Grand total	44	12	2	12	46	7	4	13		23	32	3	12	5	48	5	12		70

Questions 17 - 20: Do you think the proposed 'Notice to leave from a landlord to a sub-tenant':-

	Q17: is fit for purpose?				Q18: is easily understood?				Q19: should have additional content?				Q20: should have anything removed?				Total
	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A	
Advice, Information or Ombudsman service	1	1		1	1	1		1	2			1		2		1	3
Campaign Body or Group	1	2	1		1	3			1	3			2	2			4
Industry Body	2	3	1	1	1	3	1	2	2	3		2	3	2		2	7
Landlord	4		1	1	4			2		4		2		4		2	6
Landlord Representative Body	5				2	1	2		1	4			2	3			5
Legal Body or Firm	5			1	4	1		1	3	2		1		5		1	6
Letting Agent and/or Property Management	6	2	1		4	4	1		1	6	2		3	5	1		9
Local Authority	11				8	1	2		1	9	1			10	1		11
Other		2		2	1	1		2	1	1		2		2		2	4
Tenant and/or Resident Group	1				1				1					1			1
Total groups	36	10	4	6	27	15	6	8	13	32	3	8	10	36	2	8	56
Individuals	5	3	1	5	4	3	2	5	2	6	1	5	2	6	1	5	14
Grand total	41	13	5	11	31	18	8	13	15	38	4	13	12	42	3	13	70

Questions 21 - 24: Do you think the proposed 'Notice to leave from a landlord to tenant':-

	Q21: is fit for purpose?				Q22: is easily understood?				Q23: should have additional content?				Q24: should have anything removed?				Total	
	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A		
Advice, Information or Ombudsman service	1	1		1	1	1		1	1		1	1		2		1	3	
Campaign Body or Group	3	1			3			1	2	2				2	1		1	4
Industry Body	2	1	2	2	1	1	3	2	2	2	1	2	1	2	2	2	7	
Landlord	5	1			5			1	1	4		1		4	1	1	6	
Landlord Representative Body	4	1			3	1	1		2	3				1	4		5	
Legal Body or Firm	5			1	5			1	1	4		1		5		1	6	
Letting Agent and/or Property Management	5	3	1		5	3	1		1	7	1			3	5	1	9	
Local Authority	11				8		3		2	9				10	1		11	
Other		3		1	2	1		1	1	1		2		2		2	4	
Tenant and/or Resident Group	1				1				1					1			1	
Total groups	37	11	3	5	34	7	8	7	14	32	3	7	7	36	5	8	56	
Individuals	7	1	2	4	6	3	1	4	1	7	1	5	1	6	3	4	14	
Grand total	44	12	5	9	40	10	9	11	15	39	4	12	8	42	8	12	70	

Questions 25 and 26: Do you think the proposed ‘Recommended Model Tenancy Agreement’ generally fit for purpose/easily understood.

Question 33: Do you agree that a landlord and tenant should have the option of serving documents electronically to the electronic mail address provided by the relevant party, provided they have both previously agreed in writing to this?

	Q25: is generally fit for purpose?				Q26: is easily understood?				Q33: Should have option of serving documents electronically				Total	
	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A	Yes	No	Unsure	N/A		
Advice, Information or Ombudsman service	2	1			2	1			1	1		1		3
Campaign Body or Group	1	3			2	2			1	3				4
Industry Body	2	4	1		1	5		1	6		1			7
Landlord	4	1	1		6				5			1		6
Landlord Representative Body	5				5				3		2			5
Legal Body or Firm	3	1	1	1	2	2	1	1	6					6
Letting Agent and/or Property Management	8	1			7	1	1		9					9
Local Authority	11				10		1		11					11
Other	1	2		1	2			2	1	2		1		4
Tenant and/or Resident Group		1				1				1				1
Total groups	37	14	3	2	37	12	3	4	43	7	3	3		56
Individuals	5	7	1	1	9	3	1	1	8	2	1	3		14
Grand total	42	21	4	3	46	15	4	5	51	9	4	6		70



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