

Local Government, Housing and Planning Committee
Tuesday 11 March 2025
8th Meeting, 2025 (Session 6)

Public Petitions

Introduction

1. Petitions are a way to ask the Parliament to do something.
2. [Find out more about the petition process](#)
3. Under the Parliament's Standing Orders ([rules 15.4 to 15.8](#)) the Citizen Participation and Public Petitions Committee may take such action as it considers appropriate in relation to any petition. This may include—
 - (a) referring the petition to the Scottish Ministers, any other committee of the Parliament or any other person or body for them to take such action as they consider appropriate;
 - (b) reporting to the Parliamentary Bureau or to the Parliament;
 - (c) taking any other action which the Committee considers appropriate; or
 - (d) closing the petition. If a petition is closed, the petitioner must be notified of the reasons for this. It is good practice for the Committee to agree in its public discussion of any petition it intends to close, the reason(s) why it is being closed.
4. There are currently three open petitions which have been referred to the Local Government, Housing and Planning Committee—
 - [PE1743](#): Amend the law to protect the rights of pre-1989 Scottish Secure Tenants
 - [PE1778](#) Review the Landlords' Register Scheme
 - [PE1912](#) Funding for Council venues
5. This paper provides background information on each of the petitions in addition to options for next steps.

Petition PE1743: Amend the law to protect the rights of pre-1989 Scottish Secure Tenant

Background

6. This [petition](#) was raised by Govan Community Council and Central Govan Tenants' and Residents' Association. It called on the Scottish Parliament to urge the Scottish Government to amend the Rent (Scotland) Act 1984 to prevent disproportionate rent increases being set for pre-1989 Scottish Secure Tenants.

7. Tenants with a Scottish Secure Tenancy that predates 1989 (normally tenants in housing associations) have their rent set in a different way from other tenants with a Scottish Secure Tenancy. In summary, this results from changes to tenancy law in private and social rented housing. [Further details](#) are set out in background previously provided to the Petitions Committee.
8. For the purposes of rent setting such tenancies are treated as regulated tenancies with [fair rents](#) being set under the Rent (Scotland) Act 1984. Their rents are reviewed by a Rent Officer. Rent Officer decisions can be challenged by the First-tier Tribunal (Housing and Property Chamber). Section 84 of the 1984 Act sets out how fair rents should be determined
9. There are a diminishing number of pre-1989 Scottish Secure Tenancies. In 2020, the Scottish Government indicated that there were “less than 970 social housing tenants have their rent assessed by a rent officer and a significantly smaller proportion of tenants have challenged the assessment by the Rent Officer.” Each year, as tenants move or end their tenancy, the number of tenants with a pre-1989 Scottish Secure Tenancy will decrease.
10. The petition was raised in response to an incident in 2016 where tenants appealed their rent increases to the Rent Assessment Committee (which has since been replaced by the First-tier Tribunal of the Housing and Property Chamber), but their rents were significantly increased.
11. One of the tenants appealed to the Court of Session. [In 2017 the Court of Session upheld the appeal arguing](#) that the Rent Assessment Committee reasoning disregarded registered rents of comparable properties without good reason and relied instead on a range of rents derived from an internet search without a proper assessment of whether the properties involved were truly comparable. For that case the rent was reviewed, but the petitioners were concerned that these higher rents would then stand as comparators to other rent assessments. A key argument of the petitioner was that the wording in Section 48 subsection (1) of the 1984 Act be amended from “rents of comparable property in the area” to “rents of comparable social housing in the immediate area”.
12. In September 2020, the previous Local Government and Communities Committee wrote to stakeholders and the Scottish Government. The [Scottish Government responded](#) that its view was that it did not think it was necessary to amend the 1984 Act:

“The Scottish Government does not think it is necessary to amend the Act and are content with the definition set out in the 1984 Act. Section 48 of the Act applies to both social and private landlords. A Rent Officer will look at all types of market evidence available to them in both the private and social sector to establish a starting point for a fair rent. The comparable rents considered for a Scottish secure tenancy would be primarily social ones, however private ones would also be considered too if there were insufficient comparatives available. Fair rent decisions are usually adjusted taking all factors except the personal circumstances of the landlord or tenant into account, and set lower than a market rent. Market rents may be used as a cross-check against registered

rents to ensure that where there is no scarcity (market imbalance), registered rents do not come to be markedly out of line with current market conditions and to provide an adjustment for general inflation. Equally registered rents may be used as a cross-check against market rents.”

13. Following consideration of the letter and correspondence from the [Scottish Courts and Tribunal Service](#), [Living Rent](#), and [Glasgow & West Forum of Housing Associations](#), the [Local Government and Communities Committee wrote in Session 5 to the Scottish Government](#) indicating its agreement with the tenant that this matter should be addressed as a matter of fairness, by legislative amendment if necessary.
14. The [Minister for Local Government, Housing and Planning repeated the view that it was not necessary to amend the 1984 Act](#), but that the Scottish Government would examine further the extent of the issue and the implications to both tenants and landlords of changing the law. Following this, if a decision to amend the legislation was made, they would make changes at an appropriate time in the parliamentary timetable.
15. The Petition was therefore continued into Session 6, and the Local Government, Housing and Planning Committee [wrote to the Scottish Government](#) seeking an update.
16. In its response the Scottish Government advised in a [letter dated 6 December 2022](#) that:

“Our New Deal for Tenants Rented Sector Strategy sought views on changing the current Rent Adjudication process to remove the ability for a Rent Officer, or First-tier Tribunal for Scotland (Housing and Property Chamber) to increase the rent above that requested by the landlord in relation to Private Residential Tenancies. As part of this work we will be exploring whether similar changes for Regulated Tenancies in the Social and Private Rented Sectors would provide one way to resolve concerns raised by the petitioner. Following this, if a decision is made to amend the existing legislation we will seek to make these changes at an appropriate time in the parliamentary timetable.”
17. In March 2023 the Committee [wrote to the Scottish Government](#) asking what the likely timescales were for its consideration of Regulated Tenancies. The Scottish Government [replied](#) that it considered legislative changes to be unnecessary, saying that:

“To create an effect similar to the rent adjudication amendments proposed for 2016 Act tenancies by amending the 1984 Act would, in our view, be complex and not necessary. This is similar to the position as previously advised in relation to amending the 1984 Act as proposed by the petitioners. However, Scottish Government will continue to engage with rented sector stakeholders on this issue.”
18. The Govan Community Council wrote to the Local Government, Housing and Planning Committee (**Annexe A**) in advance of this meeting expressing their view on the Scottish Government’s position.

19. The Committee is invited to consider next steps on the petition. It has previously written to the Scottish Government and stakeholders to seek a view on this issue, and the Scottish Government confirmed its position that it does not intend to legislate in this area. The Committee may wish to consider the following options—
- Acknowledging it has secured confirmation from the Scottish Government of its position on legislation in this area, the Committee could keep the petition open to allow time to write to the Scottish Government on how it has progressed its commitment to engage with rented sector stakeholders on this issue.
 - Close the petition on the basis of the Scottish Government’s previous response. In doing so, the Committee may wish to write to the Scottish Government highlighting the need for the Government to continue to engage with rented sector stakeholders on this issue.

Petition PE1778: Review the Landlords’ Register Scheme

20. This [petition](#) dates from Session 5 and called on the Scottish Parliament to urge the Scottish Government to review the effectiveness of the Scottish Landlords Register Scheme. The petitioner was concerned about perceived ‘loopholes’ in the registration scheme that meant proper checks of landlords were not undertaken by local authorities.
21. The Local Government and Communities Committee considered a report by the UK Collaborative Centre for Housing Evidence, which noted views that in Scotland the relevant legislation had been ‘hastily assembled’ and that ‘National systems of registration or licensing require greater clarity of purpose, both on a national level and in their enforcement by local authorities.’ The main report stated that ‘Scottish authorities also reported a lack of clear guidelines to inform enforcement decisions, particularly in relation to the application of the ‘fit and proper person’ test.’
22. The previous Local Government and Communities Committee agreed that the petition raised some questions about the process of landlord registration, and wrote to the Scottish Association of Landlords, COSLA, and the Scottish Government seeking their views.
23. The then Minister for Local Government, Planning and Housing responded that the Government did not agree with the petitioner’s views, and that engagement had been carried out with local authorities during the development of the Private Landlord Registration (Information) (Scotland) Regulations 2019. However, the Scottish Government intended to return to this work in 2021 and work with local authorities to assess the effectiveness of the current statutory guidance and to update it.
24. The petition was carried over into Session 6. In December 2022, the Scottish Government advised that:

“Due to the coronavirus outbreak and the subsequent pressures on both Local Authorities and Scottish Government, the Scottish Government returned to this work early in 2022 and draft Statutory Guidance has been produced, including all legislative changes such as the Private Landlord Registration (Information)(Scotland) Regulations 2019. This was sent to all Local Authorities for consultation.

A short term working group has been set up to discuss and finalise the comments from Local Authorities with the aim of issuing a revised Statutory Guidance early 2023. We continue to work toward the commitment we made in the Housing to 2040 strategy, to review the existing registration and regulation regimes within the private rented sector. We have published analysis of the response to our Private Rented Sector Strategy and are considering our next steps: Supporting documents - A New Deal for Tenants: consultation analysis - gov.scot (www.gov.scot).”

25. In March 2023 the Convener subsequently wrote to the Minister seeking an update and [was advised in response](#) that the Scottish Government had concluded a consultation and the Committee would have sight of revised guidance shortly.
26. After delays the Scottish Government then advised the Committee in September 2024 that as a consequence of the Housing Bill being introduced:

“...we will want to assess the implications of the legislation and determine if the Statutory Guidance ought to reflect the impact of these changes on the considerations within the landlord registration regime.”
27. There will not therefore be revised guidance on the scheme available for some time for the Committee to consider. As the Minister suggests, the Housing (Scotland) Bill may also impact on the operation of the registration scheme.
28. In addition, during its consideration of the Housing (Scotland) Bill at Stage 1, the Committee heard from local authorities about the ‘fit and proper’ checks that are usually carried out of potential landlords.
29. The Committee is invited to consider the petition and may wish to—
 - Keep the petition open and—
 - Agree to reconsider the petition if and when the Housing (Scotland) Bill is passed in the context of the new requirements imposed by the Bill. At that point the Committee may wish to pursue the updated guidance; and/or
 - Write to the Scottish Government notifying it of this decision and ascertain timescales following the anticipated passage of the Bill through Parliament for completing the guidance.
 - Close the petition on the basis that the Housing (Scotland) Bill is currently progressing through Parliament and in light of the evidence the Committee

has already received on landlord registration and its recommendations in the Stage 1 report. In doing so the Committee could write to the Scottish Government on the private rented sector strategy and timescales for completing the guidance following the passage of the Bill.

Petition PE1912: Funding for council venues

30. This [petition](#) was lodged in 2021 further to concerns being raised by the joint trade unions Unite, GMB and Unison that the closure of sports and cultural venues by local authorities would negatively impact on the physical and mental health of their citizens. The petition calls on the Scottish Government to urgently provide additional revenue to local councils “to run these essential services.”
31. The Committee’s annual scrutiny of the Scottish Government’s budget and its bi-annual evidence from the Accounts Commission regularly highlights the funding challenges faced by local authorities. Allocation of their budgets typically involves difficult decisions about where they best allocate limited resources once ‘core’ functions such as education and social care provision are funded.
32. During the course of that scrutiny the Committee has highlighted local authorities’ calls for a reduction in ringfencing of their budgets. The Verity House Agreement (VHA) has also now established a default position of no ring-fencing or direction of funding without a clear joint understanding or rationale for it.
33. The VHA also states that “powers held by local authorities shall normally be full and exclusive”. It is for councils to decide how their funding is used (within their statutory responsibilities), so it would be against the spirit of the VHA for the Scottish Government or Scottish Parliament to tell local authorities which of their venues should be kept open.
34. The broader issues raised by the petition are ones which are often discussed during the budget cycle each year. They may however have been particularly heightened at the time due to the proximity of local elections taking place, and ongoing pay negotiations between the Unions and COSLA.
35. It is also the case that when the petition was submitted (October 2021), the local government revenue settlement had seen a number of annual real terms reductions over the previous decade. However, since then the revenue settlement from the Scottish Government to local government, as set out alongside the Budget, has increased by over £1 billion in real terms (from 2021-22 to 2025-26).
36. The petition calls for “necessary additional revenue” and “adequate” funding. The Scottish Government may point to the significant increase in budget allocation to local government, but COSLA and the trade unions may refer to various reports from the Accounts Commission and surveys by the Local Government Information Unit. These illustrate the challenges faced by councils in terms of service demand, demographic changes, inflationary pressures and inadequate funding.

37. During the [budget session with the Cabinet Secretary for Finance and Local Government](#) in January, the Committee asked her “What assessment has the Scottish Government made in terms of calculating the cost to councils of providing statutory services and meeting the challenges of inflation?”

38. The Cabinet Secretary responded:

“The spending power of local authorities is essentially £707 million higher in 2025-26 than it was in 2024-25. Does that mean that there are no difficult decisions for local government or any other part of the public sector? No, it does not, and the importance of public sector reform and doing things differently is as important for local government as it is for any other part of the public sector. However, there is a recognition of the challenges that local government was facing... The settlement is fair and should enable local authorities to minimise the impact on local services and minimise any council tax increases. It is probably a fairer settlement than local government anticipated at the start of the process.”

39. The Committee is invited to consider the petition and may wish to—

- Keep the petition open in order to pursue other options such as—
 - Write to all the local authorities for details of closures of sports and cultural venues in their areas in the years since the petition was opened. The information gathered could be used to inform the Committee’s consideration of the next budget;
 - Write to other stakeholders/run a call for views on local authority spending on cultural and sporting venues; and/or
- Close the petition on the basis that spending decisions are a matter for local authorities and the Committee has, and will continue to, scrutinise local government settlements as a whole during work on other areas such as the Budget and annual sessions with the Accounts Commission.

Clerks to the Committee
March 2025

Annexe A – Submission from Govan Community Council

Response to the Scottish Parliament’s Local Government, Housing and Planning Committee regarding the petition lodged in 2019 on the rights of pre-1989 Scottish special tenants of housing associations and the reply of the Scottish Government

Govan Community Council considers it appropriate to remind the Scottish government, through the Local Government, Planning and Housing Committee, of the sequence of events and the very long time period since the petition was first lodged.

In 2016 lawyers hearing appeals regarding rents set by housing associations for pre-1989 tenants saw fit to change previous practice. Previously the interpretation of ‘comparable rents’ under the Housing (Scotland) 1984 Act had been rents within the immediate neighbourhood. The lawyers now interpreted ‘local’ as the City of Glasgow rather than local communities – and by doing so used rents from the most affluent areas. This resulted in significant rent increases, in some cases, a near doubling of rents.

A case was appealed through Govan Law Centre to the Court of Session. In 2017 the Court, led by Lord Drummond Young, declared the practice ‘fundamentally flawed’ and ‘erroneous in law’ and struck down the rent in that particular case. When, however, that judgement was cited in subsequent appeals, it was ignored. Appealed rents continued to be subject to disproportionate rises. A letter was sent to the Minister for Social Justice and Housing but received no reply. Representations to our local MSP made no progress. In the meantime appealed rents continued to be increased disproportionately causing real hardship and great anxiety for often elderly tenants.

This was the background for the Petition (originally Petition PP 3016 and later after the reconstitution of the Committee PE 1743) lodged in 2019 calling for a very small amendment to the 1984 Act.

The Scottish Government and the Local Government, Housing and Planning Committee will be aware of the subsequent sequence of events. In session 2020-21 Petition PP 3016/PE 1743 was upheld as a valid petition after the consideration of responses from a range of relevant housing bodies. An amendment of wording was proposed to the 1984 Act fully acceptable to the Community Council. This was forwarded to the Local Government and Planning Committee. After consulting with relevant organisations in 2020, this Committee also upheld the Petition and the rewording proposed by the Petitions Committee. It forwarded its recommendation to the Scottish Government.

Following a reminder from the Petitions Committee dated 31 October 2022 to the Minister for Local Government and Planning a holding response was received from the Minister for Zero Carbon Buildings, Active Travel and Tenants Rights on 6 December 2022. This indicated that further consideration was needed.

The Minister eventually sent a letter dated 27 March 2023. This indicated that he thought that the provisions of the Private Housing (Tenancies) (Scotland) Act 2016 adequately covered this issue.

The response now received in 2025 is based on this letter from 2023. Our Community Council therefore finds this result very disappointing.

First, because of the time taken since the submission of the Petition in 2019 to consider a very small and simple amendment that had the backing of the most relevant Scottish housing bodies (and also effectively of the Court of Session) as well as two Committees of the Scottish Parliament.

Second, because of the observation by the Scottish government that the request now affects only a 'dwindling' number of tenants – itself the result of an extremely long process of delay since the matter was first raised with the Scottish Parliament.

Third, because, at least in the Govan area, many tenants have – for good reason – given up seeking to exercise rights previously allocated and in some cases abandoned their tenancies. Members of the Community Council can testify to the upset and trauma experienced by often elderly tenants.

Finally, and most importantly, we are not clear about the relevance of the proposal made by the Minister for Zero Carbon Buildings, Active Travel and Tenants Rights.

It appears to be that these tenants will be subject to the same adjudication as that for private tenancies under the 2016 Act – that rents on appeal do not go above that set by the landlord. It is not clear, however, that the criteria be the rents for comparable housing in the immediate neighbourhood, the key issue from the beginning.

No reason has been given by the Minister for the rejection of the very small amendment to the 1984 act as backed by two Committees of the Scottish Parliament.

We would therefore also like the Committee to consider what the Community Council believes to have been a shockingly long process to reach what we see as an evasive and unsatisfactory result – and its implications for the democratic process in Scotland.

In saying this, however, the Community Council would like to thank the staff and members of the Local Government Housing and Planning Committee as well as the Petitions Committee for their support and consideration over the past years.