

**Scottish Government consultation on use of powers in
Housing (Scotland) Bill
Response from Propertymark
June 2025**

Background

1. Propertymark is the UK's leading professional body of property agents, with over 19,000 members representing over 12,500 branches. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.¹

Consultation – overview

2. In March 2024, the Scottish Government introduced the Housing (Scotland) Bill with the aim of ensuring safe, secure and affordable places to live. The Bill includes two important measures in relation to exempting certain properties and related circumstances from rent control. Firstly, that any exemptions from rent control or modifications on how the cap will apply shall be set out in additional Regulations to the Bill. Secondly, the Regulations will be supported by consultation with tenants, landlords and others who may have an interest to provide greater clarity on the circumstances where such exemptions from rent control and situations where a permitted rent increase above the rent cap may apply.
3. In October 2024, the then Housing Minister, Paul McLennan MSP said a consultation to support how these powers may be used, laid out as a requirement in the Bill, will be brought forward in early Spring 2025. On 23 April 2025, the Scottish Government published a consultation on how powers within the Housing (Scotland) Bill could be used to exempt certain types of properties from rent control, circumstances where rents could be increased above the level of the rent cap, and cap and clarify how joint tenancies in the private sector are ended.

Propertymark – overall reflections on the Housing (Scotland) Bill

4. Policy work leading up to the introduction of the Housing (Scotland) Bill through the New Deal for Tenants² talked about affordable rents, supply of rented homes and quality raising standards, but the legislation does very little to increase the supply of private rented homes and only offers rent control as the solution for affordability – rent control should be the last resort and not the first port of call for policy makers to tackle affordability and supply issues in the private rented sector.
5. The most common measure of housing affordability is the house price-to-income multiple. The main issue is unresponsive supply with the Scottish Government failing to build enough houses to keep housing affordable. In the private rented sector, rent levels are high because there are too

¹ <https://www.propertymark.co.uk/>

² <https://www.gov.scot/publications/new-deal-tenants-draft-strategy-consultation-paper/>

many people who have to rent and not enough homes available. To this end, rent can only be reduced sustainably by increasing supply of all types of homes, so that more people can buy their own home with a mortgage or get a social rented property, and fewer private renters have to compete over each available home.

- **The Bill's rent control measures, capping increases at CPI plus 1% (up to a maximum of 6%) do provide greater clarity and consistency than the initial provisions.** However, rent caps must remain flexible to accommodate inflation and the rising costs of energy efficiency improvements.
- **Restrictions on setting rents between tenancies will discourage investment, particularly in older properties that require significant capital expenditure to maintain quality standards.** There is a risk of large areas of rental stock falling into disrepair, with landlords unable to cover their costs.
- **There is an inability of local authorities to collect sufficiently accurate market data to implement Rent Pressure Zones under the provisions set out in 2016 and concerns remain about that little has changed by way of improved data collection.** Consequently, it is likely that the evidence base remains insufficient to sensibly implement rent control areas, particularly given that Office for National Statistics (ONS) data is based on advertised rather than achieved rents. Additionally, Propertymark members noted that rents increased substantially as a result of the Cost of Living (Tenant Protection) (Scotland) Act 2022, because although the Act sought to stabilise rents, it led to landlords raising rents significantly on new tenants to mitigate the Acts' effect and the threat of future long term rent control measures.³ Propertymark is therefore concerned that the data set from 2022-2027 which may be used to inform rent control levels is not representative, as the rents were artificially high due to the Scottish Government's intervention in the market.
- **The necessity for exemptions demonstrates an acknowledgment that the rent control provisions would hinder investment and supply and Propertymark argues that traditional private sector landlords with small portfolios will be singled out under the current proposals.** The Scottish Government is acknowledging that rent controls will be deleterious to investment but is still pursuing rent controls which will be counter-productive to the Scottish Government's aim to end the housing crisis.

Propertymark consultation response – summary

6. Propertymark welcomes the opportunity to respond to the consultation on rent controls and joint tenancies. In respect of the specific issues of exemptions from rent controls and joint tenancies, Propertymark's position can be summarised as follows:

³ ONS figures show that despite Scotland being the only country in the UK to introduce rent controls, in the 12 months up to April 2024, average rents increased by 10% in Scotland, increased 8.9% in England and increased 8.2% in Wales.

<https://www.ons.gov.uk/economy/inflationandpriceindices/bulletins/privaterentandhousepricesuk/may2024>

- Propertymark acknowledges the Scottish Government's aim through rent control to provide certainty for tenants while also encouraging investment. However, the private rented sector in Scotland is predominantly made up of individual landlords so focusing a significant part of the exemptions regime on the Build to Rent sector without providing financial incentives for landlords, such as removing the Additional Dwelling Supplement, risks creating a two-tier market.
- Propertymark wants to see growth across the entire private rented sector to support renters and bring down the cost of renting, but the exemptions regime must be balanced and ensure that private sector landlords are not competitively disadvantaged against large institutional investors. As of April 2024, there were 238,094 registered private landlords in Scotland with the majority of these landlords (74.9%) owning just one rental property.⁴ Private landlords provide the vast majority of rented homes in Scotland and are just as much at risk from reduced investment and the need to financially plan for upkeep and upgrades to property.
- In the event of a Rent Control Area coming into force, it is vital that landlords can raise rents above the cap set if they have undertaken significant capital expenditure and/or non-routine maintenance to their property in order to incentivise the improvement of housing stock in the private rental sector.
- Propertymark does not think a system where landlords have to seek prior approval for rent increases should be introduced but agrees that tenants should have a simple process available through their local authority to challenge a rent increase, which they have good grounds for believing is unjustified.
- In relation to the ending of joint tenancies, feedback from members is that in the majority of cases, tenants who leave a joint and severally liable tenancy do not find replacement tenants. This is an extremely common situation, especially with Houses in Multiple Occupation. Under new proposals, there is no onus on remaining tenants to find a new tenant and the concern is remaining tenants are either left with nowhere to move to or are forced to remain in unlawful occupation.

⁴ <https://consumer.scot/publications/a-fairer-rental-market-consumer-challenges-in-the-private-and-social-rented-sectors-html/>

Consultation Questions

Chapter 1: properties exempt from rent control area restrictions

Properties let below market rent - mid-market rent properties

Question 1: Should mid-market rent properties be exempted from the application of rent controls under the Bill?

7. Yes, on the whole Propertymark members agree that mid-market rent properties should be exempted from the application of rent controls under the Bill. However, for successful implementation and to ensure fair policy making, the Scottish Government must take two factors into consideration. Firstly, members are concerned that mid-market rent properties operate at a competitive advantage already when compared to private sector landlords, as they are backed by government funding and tenancies are obtained through local authorities and councils. Secondly, given that social housing costs are not subject to rent control, not providing an exemption on mid-market rents could lead to social rents and mid-market rents coalescing so that there would be no difference in the rents, reducing market choice.

Question 2: We have set out some possible criteria which could be incorporated into a definition of MMR for the purpose of a possible exemption. Do you agree with these criteria?

8. Yes, Propertymark agrees with the definition of mid-market rent properties set out in the consultation as properties provided at mid-market levels, which have binding restrictions on rent levels including those provided by subsidiaries of registered social landlords, local authority arms-length external organisations, and other organisations in receipt of Scottish Government financial support deliver mid-market rents.

Question 3: If there is an exemption for mid-market rent properties, should this include specific requirements on the level of rent charged, such as a link to Local Housing Allowance rates or to a specified percentile of market rates.

9. If there is an exemption for mid-market rent properties, a link to Local Housing Allowance rates would be the most practicable approach to ensure there remains a price difference in social housing and mid-market rent properties. We do not think an exemption linked to a specified percentile of market rates would function effectively. Specific requirements on the level of rent charged would seem to defeat the purpose of exemption and it would be difficult to assess the true market rents in the context of a rent control regime.

Question 4: Should MMR properties only be exempted from rent control areas for the duration of time that they meet the specified criteria?

10. Yes, mid-market rent properties should only be exempted from rent control areas for the duration of time that they meet the specified criteria. Propertymark thinks that an exemption

would be particularly unjustified if mid-market rent properties were not meeting the specified criteria of a below market-rate rent.

Question 5: Are there any other types of housing provision which should also be considered as part of an exemption for MMR property?

11. No, we do not think there are any other types of housing provision which should also be considered as part of an exemption for mid-market rent property.

Consultation questions - Purpose-built rental housing - build to rent

Question 6: Should build to rent properties be exempted from the application of rent controls under the Bill?

12. Build to Rent properties should only be exempt from the application of rent controls under the Bill if the 8% Additional Dwelling Supplement under Land and Building Transaction Tax (LBTT) is removed for the purchasing of property to rent by registered private landlords in Scotland. Under LBTT an aspiring buy-to-let landlord or an existing landlord looking to expand their portfolio, purchasing an additional property for £192,000 (average house price Scotland) can expect to pay a total amount of £16,300 in LBTT.⁵ Under the proposed exemptions from the Scottish Government, unlike the Build to Rent sector there is no way of private landlords being able to off-set these costs or have sustained financial and property management plans to provide much needed homes to people in the private rented sector.
13. When surveying Propertymark members in July 2025, some respondents were concerned that such an exemption would create a ‘two tier private rented sector’, and that ‘if rent controls are in place, they should be for all types of tenancy, so it is fair for all owners.’ Others were concerned about investor confidence and the need for growth in the rental sector and thought that Build to Rent should be exempt; but those that thought this did not agree with the principle of rent controls and equally thought that rent controls would deter investment in the traditional private rental sector.
14. The consultation says that the intention of any exemption would be to ensure the continued supply of new purpose-built rental property and rent controls more broadly have been introduced to tackle social issues such as child poverty. Build to Rent properties tend to be focussed on single professionals who work in urban areas, the schemes are more expensive when newly built and often priced at the upper end of their local rental markets.⁶ Whilst Propertymark recognises that Build to Rent helps meet the growing demand for rented property and supports urban regeneration in many towns and cities, without supporting private landlords to enter the market and expand their portfolios the Scottish Government risk undermining a healthy mix of housing options for people across the private rented sector. Build

⁵ <https://www.ros.gov.uk/about/news/2025/uk-house-price-index-figures-for-may-2025>

⁶ https://www.savills.co.uk/research_articles/229130/373389-0

to Rent primarily attracts international students and young professionals who want high-quality amenities and on-site concierge management services, rather than the more viable housing option provided by private landlords for families and those already settled in a given location.

Question 7: We have set out some criteria which could be incorporated into a definition of Build to Rent for the purpose of a possible exemption. Do you agree with these criteria?

15. Yes, PropertyMark accepts the criteria set out for the definition of Build to Rent but would note the extra costs involved in properties, 'with management services provided by a single legal entity via a management regime and a single site wide building insurance structure'. This reiterates member concerns that Build to Rent properties should not be given a competitive advantage over the existing private rental sector, but recognise the additional service provided in buildings 'with management services provided by a single legal entity via a management regime and a single site wide building insurance structure'. We would therefore suggest that management service charges not be included in any rent control regime.

Question 8: Are there any other criteria that should be considered as part of a definition of Build to Rent for the purpose of a possible exemption?

16. No, we do not think there any other criteria that should be considered as part of a definition of Build to Rent for the purpose of a possible exemption.

Question 9: Should Build to Rent properties only be exempted from rent controls for the timeframe that they meet the specified criteria?

17. Yes, Build to Rent properties should only be exempted from rent controls for the timeframe that they meet the specified criteria.

Question 10: Are there any other types of new rental housing provision which should be considered as part of this category of exemption?

18. No, we do not think there are any other types of new rental housing provision which should be considered as part of this category of exemption.

Other circumstances where exemptions would be appropriate

Question 11: Excluding mid-market rent and build to rent/purpose built private rented accommodation, are there other categories of housing provision that should be exempted from rent controls?

19. Propertymark does not agree that rent controls will achieve the Scottish Government's stated aims. The exemption regime must create a level playing field for providers of homes in the private rented sector based on criteria focussed on property condition and energy efficiency, rather than categories of housing based on financial arrangements and ownership structures.

Demonstrating eligibility for an exemption

Question 12: What information would you consider would be acceptable to demonstrate that a property is eligible for the types of exemptions referred to in the previous sections in this chapter? (Properties let below market rent, Purpose-built rental housing, other circumstances where exemptions would be appropriate).

20. We think there are four pieces of information that would be acceptable to demonstrate that a property is eligible for an exemption. Firstly, confirmation when given planning consent. Secondly, exemption reaffirmed at completion. Thirdly, planning enforcement notices. Fourthly, a public register.

Question 13. What steps should a landlord need to take to confirm that their property is eligible for such an exemption?

21. We think there are three steps a landlord should need to take to confirm that their property is eligible for an exemption. Firstly, information provided on planning application outlining how the criteria and definitions have been met. Secondly, reaffirmed information at the completion of the development outlining how the criteria and definition has been met. Thirdly, information provided to a public register confirming the development and property type has an exemption.

Question 14. Should a landlord of an exempt property be required to communicate to tenants and prospective tenants about the exemption?

22. Yes, a landlord of an exempt property should be required to communicate to tenants and prospective tenants about an exemption. Standardised wording should be included in the tenancy agreement, property particulars and advertising materials, both written and digitally.

Question 15: What could the process be for tenants to verify that a property is exempt?

23. Local authorities, or a lead local authority, could maintain a public register of exempt properties which would be publicly available on their website. Propertymark members suggested that this

should be tied to the landlord registration system, and the majority of respondents would prefer one central system as opposed to a local authority led system.

Chapter 2: properties subject to modified rent control area restrictions

Landlords who charge rent significantly below advertised rates

Question 16: Should landlords be able to increase their rent by more than the level of the rent cap at the beginning of a new tenancy, where the previous tenancy was let significantly below market rates?

24. Yes, landlords should be able to increase their rent by more than the level of the rent cap at the beginning of a new tenancy, where the previous tenancy was let significantly below market rates. Any rent control system should be able to adapt to reflect changing costs of finance that landlords may incur to ensure sustainability in the sector. Propertymark members have expressed concern that a spike in interest rates would leave many landlords unable to finance their properties when subject to rent controls. When Propertymark surveyed members in July 2025, 100% of respondents agreed that landlords should be able to increase their rent level above the rent cap if the cost of financing the property increased due to interest rate changes or other taxation measures.

25. Propertymark members were also nearly unanimous that landlords should be able to increase their rent by more than the level of the rent cap at the beginning of a new tenancy, where the previous tenancy was let significantly below market rates. 91.67% of respondents agreed and gave several examples of circumstances where property is let below market rent:

- One agent commented that ‘we have had several cases where we have pointed out to landlords that their rent is now below market value, and they have decided not to increase rents as they want to look after their tenants. This is especially the case where the tenants look after the property and pay their rent consistently.’
- Another agent gave the more specific example of a property let on a peppercorn rent to the wife of a former estate worker in lieu of a pension.
- Another agent explained that it was possible for a private landlord to make their property available to Edinburgh Council’s Private Sector Leasing Scheme, where rates are set at around 80% of market rate. In this situation, a landlord exiting the scheme should be able to return their rates to 100% of market value, even if this is an increase above the cap.

Question 17: Should the rent be a certain amount below advertised rents for similar properties for this allowance to apply?

26. As set out above, the rents some landlords charge can be reflective of their financing costs, and advertised rents for similar properties may have different financing arrangements or be owned outright. Therefore, rather than setting a certain amount or threshold the criteria should allow landlords to show via evidence of property portal and local property advertising data, previous tenancy agreements or rental valuations that the previous rent was materially below advertised rents for comparable property in the same area.

Landlords who make improvements to their property

Question 18: Should landlords be able to increase rents by more than the level of the rent cap to recover costs, where they have undertaken certain improvements which may enhance the rental value or bring additional benefit to the tenant?

27. Yes, landlords should be able to increase rents by more than the level of the rent cap to recover costs, where they have undertaken certain improvements which may enhance the rental value or bring additional benefit to the tenant. One of the key concerns PropertyMark has about rent controls is the disincentive this creates for landlords to improve their properties, and the broader impact this will have on the quality of Scotland's housing stock. Upgrades such as redecorating, replacing furniture, or installing energy-efficient systems are typically undertaken during vacancies. Rent controls remove the financial incentive for such investments, impacting overall housing quality.

Question 19: Should landlords who make improvements to a property which improve energy efficiency (for example by making specific improvements which improve the Energy Performance Certificate (EPC) rating of the property, or by installing an upgraded heating system) be allowed to raise the rent above the level of the rent cap?

28. Yes, landlords who make improvements to a property which improve energy efficiency should be allowed to raise the rent above the level of the rent cap.

Question 20: Are there any other types of improvements that should potentially qualify for this kind of increase above the level of the cap?

29. PropertyMark thinks that significant capital expenditure, including but not limited to energy efficiency measures, with demonstrable benefit to the tenant of any kind should be recoverable through rent increases above the level of any rent cap. This should include basic structural work, such as roof replacement and repointing, guttering and soffit replacement, repair or replacement of garden walls and fences, and any other work that clearly improves the quality of the property and therefore of Scotland's housing stock.

Question 21: How do you think improvements that might qualify for this increase above the level of the cap should be distinguished from work that would be expected as part of routine property maintenance?

30. Improvements that might qualify for this increase above the level of the cap should be distinguished in two ways. Firstly, via a expenditure threshold, where a landlord demonstrates they have efficiently spent a certain sum on a given property. This threshold could be set at the discretion of local authorities to reflect their particular level of concern about the quality of local housing stock, and to reflect local labour and material costs. Secondly, mirroring Part 3 of the Bill under making changes to let property, the Scottish Government should develop categorisation lists of improvements to distinguish between routine maintenance, capital expenditure and works done as a result of extraordinary circumstances.

Question 22: Do you think that a rent increase above the cap should be calculated by: a) improved rental value basis b) cost recovery basis c) other

31. Given that improved rental value would be calculated in the circumstances of a rent control regime, and is a more subjective measure, PropertyMark prefers a cost recovery basis which would more accurately reflect landlords' real and actual costs.

Question 23: If a cost-recovery basis was used, what kind of factors should be taken into consideration when deciding how it should be applied?

32. Factors should include the cost of financing the work, the length of time the improvement will last before further work is required, and whether real benefit accrues to the tenant from the work. Consideration should also be given to any lost income if the work has been carried out between tenancies where the property could otherwise have been let.

Other costs a landlord may face

Question 24: Are there any other cost increases for rental properties that would justify raising the rent above the level of the cap?

33. Yes, there are three other cost areas that would justify raising the rent above the level of the cap. Firstly, an increase in interest rates that would significantly affect the financing costs of a rental property, for example landlords with mortgage finance, and how rent control areas would accommodate this. Secondly, compliance related costs, for instance relating to new legislation affecting the energy efficiency or building safety of property. Thirdly, unplanned refurbishment in response to an extraordinary event such as flood or environmental damage.

Question 25: Are there any other circumstances under which landlords should be allowed to raise rents above the level of the rent cap?

34. Yes, we think there are three other circumstances under which landlords should be allowed to raise rents above the level of the rent cap. Firstly, in the event that the property is let to a tenant whose rent is paid through Universal Credit or Housing Benefit, and where the rent level is currently below the Local Housing Allowance Rate, landlords should be able to increase the rent level up to the Local Housing Allowance Rate, even if this above the cap. Secondly, re-letting after a long-term tenancy. We know from members of tenancies that have continued for many years with below-market rent, so it is reasonable for landlords to reset the rent to a fair market level when a new tenancy begins. This recognises the reality that rents held back over time cannot remain artificially suppressed indefinitely. Thirdly, similarly, where a private rental property functions as supported accommodation and additional costs above those arising from a typical tenancy are incurred by the landlord, these should be recoverable through rent if the improvements are agreed to by the social care package provider (the relevant local authority). For example, adaptations to the property for a specific tenant, or additional services provided by the landlord which help the tenant maintain the tenancy.

Demonstrating eligibility for an increase above the level of the cap

Question 26: What should the process be if a landlord seeks to make a rent increase above the level of the rent cap for any of the reasons referred to in the previous sections in this chapter? (Landlords who charge rent significantly below advertised rates, landlords who make improvements to their property, other costs a landlord may face)

Please choose your preferred option:

- a. landlords should be required to seek approval before raising the rent above the rent cap**
- b. landlords should be allowed to raise rents above the cap without a requirement to apply to an external decision maker**

35. Propertymark prefers option B, on the basis that the process will be quicker and more straightforward both for landlords and local authorities than option A. Option A would put significant pressure on local authority staff, and it is possible that delays in the process would delay the commencement of tenancies, with the net effect of a reduction in available housing stock. Option B would remove these delays, and tenants could have recourse to a local authority panel to challenge the rent increase if they believe it is unreasonable.

36. Propertymark members do not agree that landlords should be required to seek approval from their local authority. Some members noted that these decisions being made at a local authority level could lead to geographical inconsistencies. Others expressed serious concern about the capacity of local authorities to process approvals in a timely fashion.

Question 27: If landlords were required to seek approval before raising the rent above the rent cap, what kind of information should landlords have to provide to tenants after the rent increase has been approved, and when?

37. If landlords were required to seek approval before raising the rent above the rent cap, there are three sets of information landlords should have to provide to tenants after the rent increase has been approved. Firstly, a Notice of Rent Increase Approval. Secondly, a statement outlining the reason for rent increase and exemption category. Thirdly, a publicly available register of exemptions should be maintained which tenants can refer to, and to which landlords can refer in any communication with tenants in respect of rent increases above the rent cap. This would increase consistency and avoid issues of miscommunication between tenant and landlord. The landlord could then refer the tenant to the register as a matter of course for any relevant information on the reasons for rent increases.

38. Amend current Rent Increase Notice to include information to be included under 'reason for rent increase' and align with the timeframe for existing rent increase requirements.

Question 28: If landlords were required to seek approval before raising the rent above the rent cap, what should be considered when designing a process for landlords to apply?

39. In the event of the requirement for approval from local authorities prior to raising rent above the rent cap, the Scottish Government may wish to consider commissioning a standardised digital portal which local authorities can use to maintain the register, and which landlords can use to submit any required evidence alongside their application. Propertymark does not think any such system should be done on a purely local authority basis, as landlords may have properties in multiple areas and a single point of entry for requests to raise rent above the cap would be extremely beneficial for both landlords and local authorities. A survey of Propertymark's Scottish membership was undertaken in July 2025 and 62.5% of respondents operated across multiple local authorities.

Question 29: If landlords were allowed to raise rents above the rent cap without seeking approval, should they still need to produce evidence to prove that they qualify?

40. Propertymark thinks in these circumstances, it would be good practice for landlords to collate any required evidence in advance of the decision to raise rent in the event of a challenge by a tenant, but does not believe it should be a requirement to provide that evidence to a local authority in the absence of a challenge, as this would create an unnecessary burden on landlords and local authorities. Landlords could however have a mechanism of updating a public register of exempt properties in these circumstances.

Question 30: If landlords were allowed to raise rents above the rent cap without seeking approval, who should they need to provide evidence/information to and when?

41. As suggested above, in these circumstances, landlords should only need to provide notification to local authorities of their intention to raise rent above the cap and a brief summary of their justification for doing so for the purposes of a publicly available register, and should only be required to provide detailed evidence of relevant capital expenditure in the event of a challenge by the tenant.

Question 31: If landlords were allowed to raise rents above the rent cap without seeking approval, what should be considered when designing a process for tenants to verify or challenge the increase?

42. As set out above, a publicly available register would allow tenants to see if their property's rent had been raised above the cap, and the reasons for doing so. In the event that they disagree with the reasons stated (e.g. a landlord has stated he has spent a significant sum on energy efficiency improvements, but a tenant knows that this is not the case), the tenant should be able to upload a copy of their tenancy agreement and set out the grounds on which they think the property's rent should be restricted.

Chapter 3: ending joint tenancies in the private rented sector

Requirement for a pre-notice

Question 32: What additional information do you think should be included in a 2-month prenotice (for example information on the process, signposting to advice and support available)?

43. Propertymark believes that the 2-month prenotice should clearly set out the timelines for the joint tenants and what actions they need to take. There are four key pieces of information that should be included. Firstly, the name of the joint tenant giving notice. Secondly, the date the notice is issued. Thirdly, the proposed date for serving the 28-day notice. Fourthly, confirmation or a statement of intention to end the tenancy.

Question 33: Do you think a legal form (sometimes known as a prescribed form) should be created that a joint tenant must use for issuing the pre-notice?

44. Yes, we do think a legal form (prescribed notice) should be created that a joint tenant must use for issuing the pre-notice. This will help avoid 2-month notices being incorrectly issued by tenants, and the consequent disruption this would have for both themselves, the joint tenants, and the landlord. The form should be available on the Scottish Government's website.

Question 34: Do you think that the pre-notice should be sent by the tenant initiating the end of the tenancy in a specific way to the other joint tenants, for example recorded delivery or by sheriff officer?

45. Propertymark members would prefer communication preferences of this type to be set out in the tenancy agreement, and that the default option should be communication by e-mail, given that this creates a clear record and paper trail. Currently, the model Private Tenancy Agreement allows a tenant to express their communication preferences, so the Scottish Government should consider revising the model Private Tenancy Agreement to allow both landlords and tenants to express their communication preference for notification of the end of a tenancy, including the end of joint tenancies.

46. Propertymark appreciates that in circumstances of relationship breakdown between tenants or domestic abuse, remaining tenants may choose to say they have not received the 2-month notice. In certain circumstances, therefore, third party involvement (i.e. a sheriff officer) may be the most effective course of action to ensure the process runs smoothly and late challenge in court.

47. In circumstances where the tenant initiating the end of the tenancy is concerned that the remaining tenants will make the process difficult, they should be able to send a copy by e-mail to a point of contact in the local authority. The Local authority would then have a record to which all parties could refer if dispute arises. This would provide greater certainty to all tenants and to the landlord.

Requirements for serving the final notice to leave on the landlord

Question 35: Do you think the tenant initiating the ending of the tenancy should be required to provide evidence that the pre-notice has been sent alongside the notice to landlord? For example, proof of email, postage, or information that shows it has been served by a sheriff officer.

48. Yes, we do think the tenant initiating the ending of the tenancy should be required to provide evidence that the pre-notice has been sent alongside the notice to landlord. This would help make the process less open to legal challenge by existing tenants if the notice was also sent directly to the landlord, as the landlord could then check the remaining tenants have received it and share a copy if they say they have not. When surveyed in July 2025, all responding Scottish Propertymark members agreed that the tenant should be required to provide such evidence.

Question 36: Do you think that the copy of the 28 day notice to the landlord should be sent by the tenant initiating the ending of the tenancy in a specific way to the other joint tenants, for example recorded delivery or by sheriff officer?

49. Yes, we do think that the copy of the 28 day notice to the landlord should be sent by the tenant initiating the ending of the tenancy. Feedback from members says that email is sufficient and more cost-effective for all parties.

Question 37: Do you think the tenant ending the tenancy should be required to give evidence to the landlord that a copy of the 28 day notice has been sent to all other joint tenants? For example, proof of email, postage or by served by sheriff officer. If yes, what method(s) should be required?

50. Yes, we do think the tenant ending the tenancy should be required to give evidence to the landlord that a copy of the 28 day notice has been sent to all other joint tenants. Proof of email sent, and standardised written statement will be sufficient.

Summary of process

Question 38: We will be developing guidance to accompany these measures that would support both landlords and tenants understand and make use of the new process. We want to provide information and support in certain circumstances such as domestic abuse where further guidance would be helpful, for example where a non-contact order is in place. What particular information or advice should the guidance cover?

51. The guidance should cover four key pieces of information and advice. Firstly, map out via a step by step process and flow chart the responsibility of the tenant who is initiating the notice including clarity on circumstances in which a joint tenancy is ended, and the remaining tenant or tenants are no longer able to afford the rent. Secondly, the guidance must include a copy and link to the pre-notice document. Thirdly, outline how the notice must be served and the timescales involved. Fourthly, the role of the First-tier Tribunal and disputes. The guidance should be clear, ensure consistency and simple for all parties and circumstances to engage. In circumstances of domestic abuse or where a non-contact order exists, a tenant should be able to engage a sheriff officer to carry out the process on their behalf, and local authorities may wish to develop funds to cover the cost of this in certain circumstances.