

# Improving Residential Tenancies in Jersey

Residential Tenancy Law Reform proposals

## Ministerial Foreword

The rental market in Jersey plays a vital role for our communities in Jersey, providing homes for Islanders who either cannot afford or do not wish to own a home. Whether someone owns or rents property, this does not change the fact that these are people's homes; a place where someone should feel safe and secure, have privacy, dignity, and certainty for the future.

Since becoming Minister for Housing and Communities in July last year, it has become clear to me that whilst Jersey is fortunate to have many good landlords and tenants, there are many instances where the relationship hasn't been working well and people have been treated unfairly. The legal frameworks for housing play a crucial role to ensure that we have both a well-functioning and well-regulated rental market, but these frameworks are not sufficient to meet our Island's needs today.

The Residential Tenancy Law (Jersey) 2011, which came into force in 2013, was an important step forward to provide greater protection for both tenants and landlords in Jersey. Whilst it is important to recognise that Jersey has come a long way, there is still much to do. The current law does not go far enough to ensure that all tenants and landlords in Jersey have the protections that they need and deserve.

It is essential that comprehensive improvements to residential tenancies, rights and protections are achieved as soon as possible, and that opportunities to improve and simplify legal frameworks are maximised to provide optimal outcomes for both tenants and landlords.

This is why I am proposing a number of changes to the Residential Tenancy Law, to reform the standard of tenancies in Jersey in a manner that will give greater and more comprehensive protection to Islanders. These changes must help us achieve stability in the market and ensure that when things go wrong, there exists an acceptable and accessible route for people to raise their concerns and for the right action to be taken.

The changes I am proposing will be significant, they will affect many people and it is vital we get this right first time. This is why I have published a summary of my intentions, to allow Islanders and States Members to provide their feedback and help me ensure that no time is wasted in bringing a new draft law forward, which can then be implemented without delay.

Key areas I am focusing on include:

- **Changing the standard forms of tenancy**, focusing on the use of open-ended tenancies that can only be ended for specific reasons, meaning that landlords will no longer be able to end a tenancy without good reason and tenants will have greater protection from 'revenge evictions'.
- **Introducing and enhancing minimum notice periods** for ending a tenancy or increasing rents, leading to greater clarity and certainty for both tenants and landlords.
- **Limiting the amount and frequency of rent increases**, so that rents should not be increased more than once per year, and the amount should be capped during tenancies. I will be looking to ensure that such legislative measures do not lead to negative,

unintended consequences in the rental market. We must ensure that these changes also protect tenants' security of tenure and do not compromise a landlord's ability to realise a stable and fair rental return.

- **Establishing a new Housing Tribunal** that will consider and resolve a wide range of residential tenancy matters, creating a more accessible route for tenants and landlords to resolve tenancy disputes.
- **Formalising requirements for social housing provision**, including introducing a definition of a 'social housing provider' which will be attached to minimum requirements, whilst creating a route for new organisations to become recognised social housing providers.
- **Increasing the scope of Regulation and Order-making powers**, to make sure the Law can be extended further and remains fit-for-purpose over the years ahead.

It is important that this paper is not seen as my fully comprehensive law change proposals. It focuses on key areas of interest and the full scope of the Law and nature of change will come as a result of this initial consultation and as the draft law is developed over the course of the months ahead.

The Council of Ministers recognise housing and cost of living as one of – if not the most – important issues that we need to address over the coming term. I am committed to sustaining a relentless focus on housing and will act with agility to respond to new challenges and opportunities as they arise. I look forward to hearing everyone's feedback on my proposals to reform residential tenancies in Jersey. This is our opportunity to work together, making once-in-a-decade improvements to tenancies in Jersey and bringing greater stability and security to Islanders, ensuring that renters have a home that truly feels like home.



**Deputy David Warr**

**Minister for Housing and Communities**

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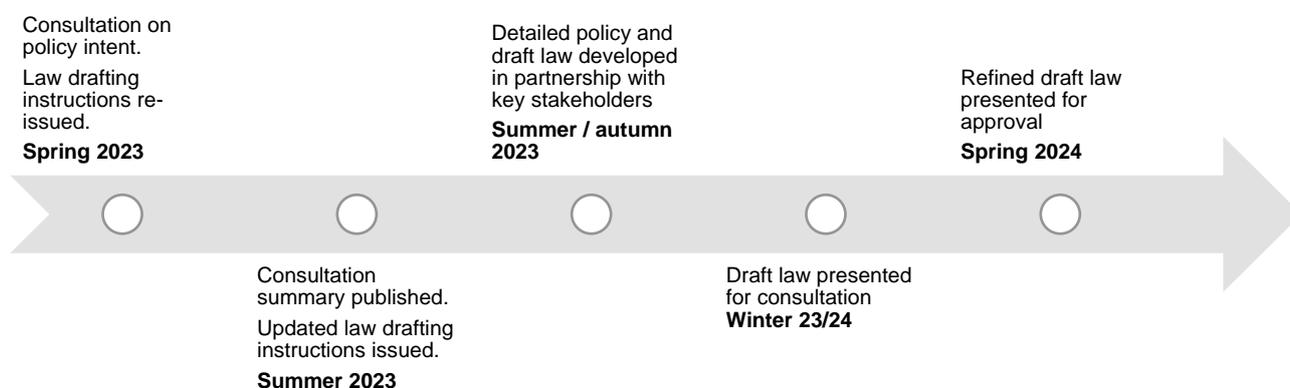
## About the consultation

This paper outlines the Minister for Housing and Communities’ proposals to achieve much-needed modernisation of tenant and landlord rights and responsibilities in Jersey.

Specifically, this paper explains the proposed approach to address known areas of deficiency in the existing Residential Tenancy (Jersey) Law 2011, building on the existing statutory framework and ensuring that Jersey has a modern, fit-for-purpose law to govern our rented-housing sector. This includes broadening the scope of the Law to include matters such as rent stabilisation, social housing provision and the introduction of a new Housing Tribunal.

These intentions are set out for consultation, giving tenants, landlords and States Members an opportunity to consider and provide feedback, ensuring that everyone gets the chance to have their voice heard and help shape the eventual draft legislation.

This public consultation will last eight weeks and will include an In-Committee debate in the States Assembly. In the intervening period, outline law drafting instructions will be re-issued<sup>1</sup> by the Minister for Housing and Communities, allowing the law drafting office to commence work and ensure that there is no delay in making progress with the draft Law. These instructions will be further updated in light of the outcome of the consultation, which will be published and followed by work to develop the detailed law ahead of presenting the draft Law for approval by the Assembly in spring next year.



**Figure 1:** Modernisation of tenant and landlord rights - policy and law drafting programme

### Format of the paper

**Part 1** of this paper provides an abridged summary of policy intent, as an overview of the main areas of change, relative to the current Residential Tenancy Law, that are being proposed.

**Part 2** of this paper provides more detailed information about key thematic policy issues.

<sup>1</sup> An initial law drafting instruction was issued by the Minister for Housing and Communities in 2022. See: [Residential Tenancy \(Jersey\) Law: Law Drafting Instructions \(gov.je\)](#)

## Ways to engage

A public consultation is being held on these proposals for a period of eight weeks, concluding **Friday 9 June 2023**. During this time, focused engagement will take place with key stakeholders and representative groups and, an In-Committee debate<sup>2</sup> will be held for States Members.

Views on the proposals can be submitted to the Strategic Housing and Regeneration Team:

- **Online:** [www.gov.je/consultations](http://www.gov.je/consultations)
- **Email:** [housingmatters@gov.je](mailto:housingmatters@gov.je)
- **Post:** Residential Tenancy Law consultation, Strategic Housing and Regeneration Team, Government of Jersey, 19-12 Broad Street, St Helier, JE2 3RR

## Introduction

The [Residential Tenancy \(Jersey\) Law 2011](#) (RTL) came into force on 1 May 2013, with the aim of providing a fair and transparent mechanism to regulate the private contractual relationship between landlords and tenants.

The Law brought in provisions for the contents and basic terms of tenancy agreements and provided powers for the introduction of Regulations and Orders to deal with matters such as deposits, condition reports and the supply of services. The introduction of this Law reflected a policy shift towards providing tenants and landlords of rented properties with a level of protection not previously afforded to them.

The current Residential Tenancy Law has undoubtedly had a positive impact upon tenancy matters in Jersey, where there were previously few laws and requirements in place to provide protection to tenants and landlords. However, it is also well-recognised that the legal frameworks for housing in Jersey require improvement to ensure that they can meet the current and future needs of Islanders.

Under previous Governments, former ministers have made various commitments to review and introduce new legislation relating to residential tenancy matters in Jersey. This included progressing updates to the [Residential Tenancy \(Jersey\) Law 2011](#), re-establishing Jersey's Rent Control Tribunal and, introducing a social housing regulator. By 2023, it is very clear that not enough progress has been made over the last decade.

In January 2022 the then Minister for Housing and Communities signed a [Ministerial Decision](#) authorising officers to liaise with the principal legislative drafter to request the preparation of a draft Residential Tenancy Law. The new Minister for Housing and Communities, in his [Ministerial Plan](#), confirmed his intention to prioritise work to update this Law and also to re-establish the Rent

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<sup>2</sup> An In-Committee debate is a debate in the States Assembly, where members can speak more than once and which concludes without a vote.

Control Tribunal, with a view to replacing it with a modernised tribunal and new rent control legislation.

In progressing this work, it became clear that the inherited approach was not the most appropriate or efficient way forward, and there existed an opportunity to consolidate efforts to modernise these laws, whilst embracing other areas into scope and allowing wider improvements to be made.

Ultimately, the proposed new Law aims to provide greater protections for tenants whilst ensuring that landlords' rights and responsibilities are more clearly defined. The proposals have been shaped by government officers' experience in dealing with relevant matters and feedback from tenants, landlords and agents over recent years.

As such, the Minister's ambition to modernise residential tenancy legislation in Jersey seeks to achieve the following key principles:

- Provide greater protections for both tenants and landlords.
- Improve transparency and consistency of legal requirements across different types of tenancies.
- Establish a formal definition of social housing, social housing providers and expectations relating to the provision of social housing.
- Introduce rent stabilisation measures.
- Reform how tenancy issues and breaches can be addressed through civil penalties and the establishment of a new Housing Tribunal.
- Enable other dated legislation, such as the [Lodging Houses \(Registration\) \(Jersey\) Law 1962](#) to be brought into scope in the future.

Whilst there exists a series of foundational building blocks in the form of historic legislation, it is now time to rebuild the laws and ensure that tenants and landlords in Jersey are given adequate protections that are suited to the circumstances of today, and resilient to changes in the future.

### **Purpose of the consultation**

The main purpose of this paper and associated consultation is to explain the Minister for Housing and Communities' intent to deliver new legislation that will comprehensively modernise the legal frameworks surrounding residential tenancies.

This paper serves to outline the intended direction of travel, but it does not seek to bind this direction, which must follow in the form of draft legislation that has been shaped through open and transparent engagement.

Given the scale of work that is needed to progress the changes outlined in this paper, it is essential that engagement continues throughout the policy development process, which will help ensure that the draft Law is supported and implemented without delay.

## Policy scope

The scope of this paper includes different regulatory provisions that currently exist in Jersey, principally focused on:

- [Residential Tenancy \(Jersey\) Law 2011](#) and subordinate provisions.
- [Dwelling-Houses \(Rent Control\) \(Jersey\) Law 1946](#) and subordinate provisions.

It also includes general consideration of social housing, which is not currently covered by specific legislation in Jersey, save for the identification of the social housing providers in the [Income Support \(Jersey\) Regulations 2007](#) and, specifically, the Housing Trusts in the [Income Tax \(Jersey\) Law 1961](#).

The focus of this work is on the management of tenancies, which incorporates the core elements of letting a property, including provision in respect of rents, security of tenure, and the respective rights and responsibilities of landlords and tenants. Whilst there is a natural cross-over with the standard of rented accommodation, this falls outside the scope of work to modernise the Residential Tenancy Law. The Minister for Housing and Communities recognises the importance of also securing improvements to minimum quality standards for rented dwellings and provides his support to the Minister for the Environment who has responsibility for the [Public Health and Safety \(Rented Dwellings\) \(Jersey\) Law](#) and associated [Public Health and Safety \(Rented Dwellings – Minimum Standards and Prescribed Hazards\) \(Jersey\) Order 2018](#). The Minister for the Environment is due to bring forward proposals to introduce a rented dwellings licensing scheme through Regulations created under the primary law.

Both the Minister for Housing and Communities and the Minister for the Environment are committed to working in partnership on these proposals, which will mean that comprehensive improvements to residential tenancy and rental standards legislation are achieved as soon as possible, with a focus on achieving alignment throughout.

## Part 1: Summary of policy intent

Although the existing Residential Tenancy Law contains many provisions that have worked well, over time, several areas have been identified as needing substantive improvement, through the amendment of existing legislative provisions or the creation of new ones. It is clear that a new and improved Law is needed; one offering more comprehensive protection for tenants and landlords and a more streamlined legislative framework for residential tenancy matters.

This part of the report provides an overview, by theme, of some of the key features of the current law and where changes are being proposed.

### 1.1 Scope of tenancies covered by the Residential Tenancy Law

The current Residential Tenancy Law applies to ‘residential units’ as self-contained dwellings that contain minimum living features for exclusive use of the inhabitants **(see Part 2, section 2.2)**.

There are certain exemptions under the current law including lodging and boarding-type arrangements, parts of a hotel, hospitals, shelters and similar, and premises used for holiday purposes. Similarly, the law does not apply to agreements lasting over nine years or where there is no value to the agreement.

The scope of the current law leaves a number of residents without any – or sufficient – protection, including some of the most vulnerable members of our community. Whilst different types of accommodation may call for some nuance in the type of arrangements for tenancies, it is nevertheless important to broaden the scope of the law to ensure that more tenancies are subject to minimum requirements and protection. This includes the requirement to receive a tenancy agreement, peaceful enjoyment of the property, eviction protections and rights to appropriate notice periods. As an example, where a tenant shares a bathroom with a different tenant in the same property, this should not mean they become excluded from the tenancy protections offered by the law.

Summary of policy intent: Scope of tenancies covered by the Residential Tenancy Law			
Current RTL	Proposal	Aim	Nature of change relative to current RTL
Only self-contained dwellings covered	Removal of self-contained restriction	More tenants protected under the law, including some of the most vulnerable members of society. Creation of a more level playing field for landlords	<b>Amended</b> provisions
Majority of units in lodging houses not covered	Make provisions applicable to all units within lodging houses	More tenants protected under the law, including some of the most vulnerable members of society. Creation of a	<b>New</b> provisions

		more level playing field for landlords	
Holiday-type lettings not covered	Inclusion of short-term lets over three months	Additional protections for those in 'winter lets' and similar	<b>New provisions</b>

## 1.2 Definition and interpretations

Formal definitions and interpretations of provisions in the Residential Tenancy Law need to be expanded, improved, and made consistent with other legislative provisions such as the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018, under the responsibility of the Minister for the Environment. This includes establishing parity of roles and obligations between landlords and tenants in different circumstances.

Work to improve consistency between these two important laws will be developed in-tandem.

Summary of policy intent: Definitions and interpretation			
Current RTL	Proposal	Aim	Nature of change relative to current RTL
A number of definitions / interpretations are included, but there is lack of clarity in certain areas and confusion over the application of some definitions in various situations	Increased number of definitions / interpretations and clarification of some parts of existing law – e.g., lodger, boarder, licensee, agent and landlord	Greater clarity on application of the Law  Those involved better understand their roles and responsibilities	<b>Amended provisions</b>
Issues of consistency with other legislation such as the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018	Minister for Housing and Communities and Minister for the Environment will work in partnership to improve consistency across relevant legislation	Greater clarity on application of law and reduced risk of contradictory interpretation  Those involved better understand their roles and responsibilities	<b>Amended provisions</b>

## 1.3 Tenancy agreements and documentation

It is important that improvements are made to the minimum requirements for tenancy agreements and documentation to be provided to tenants. Currently there are a wide range of tenancy agreements in use and the contents can vary considerably. Furthermore, the level of documentation provided to tenants is not always sufficient for them to fully understand their role and responsibilities, including for financial matters. Therefore, it is important that changes are

made to ensure that tenancy agreements contain more details in certain areas and that tenants are provided with copies of all relevant documentation.

Summary of policy intent: Tenancy agreements and documentation			
Current RTL	Proposal	Aim	Nature of change relative to current RTL
Basic list of required contents for tenancy agreements	Expanded list of required contents to be included within tenancy agreements Suggested additions include: <ul style="list-style-type: none"> <li>• Clarification of roles and responsibilities of owners, agent, tenant, and landlord</li> <li>• Full breakdown of all costs / charges that a tenant is liable for</li> <li>• Details on how services will be paid</li> <li>• Complaints procedure</li> </ul>	Tenants will be fully aware of their responsibilities and what they are liable for, such as financial aspects relating to re-assigning tenancies, letting fees, bills for services, Parish rates and similar	<b>Amended</b> provisions
'Contracting out' of legal requirements is not lawful and is prohibited. However, the law is not sufficiently clear in the roles and responsibilities of various parties to determine when an attempt to 'contract out' of legal requirements may have occurred	Landlords, agents, and tenants to be explicitly prevented from escaping legal responsibilities  Clarification on roles and responsibilities of different parties	Parties will better understand their roles and it will be easier for enforcement officers to hold parties to account for non-compliance	<b>Amended</b> provisions
Landlords are required to provide tenants with a copy of the tenancy agreement and receipt for the deposit	Landlords required to provide more documentation such as relevant recent maintenance and inspection reports	Tenants are fully aware of what is expected of them and any costs or works that they are liable for  Some matters are covered under the Public Health and Safety (Rented	<b>Amended</b> provisions

		Dwellings – Minimum Standards and Prescribed Hazards) (Jersey) Order 2018, such as the requirement for gas and electrical safety reports to be provided. However, there are additional reports relating to servicing of water heaters and other routine servicing and maintenance which the tenant should be informed of with relevant documentation provided	
No requirement for documents to be kept	Landlords and / or agents will be required to keep relevant documentation for set timeframes, suggested to be a period of two years	Availability of proof, leading to improved / streamlined enforcement process	<b>New provisions</b>

## 1.4 Tenancy types, notice periods and termination

Most tenants view the rental property that they live in as their home. Tenants should feel safe and secure, and not live in fear of being asked to leave with very little notice. At the same time, landlords should be able to ask a tenant to leave in certain circumstances, such as when the property is being sold or where there is anti-social behaviour that is significantly impacting on nearby residents. Anti-social behaviour in this context might include excessive noise, regular late-night parties, continual inappropriate disposal of waste and similar, which can have a significant impact on the quality of life of those living nearby.

Under the existing legislation there are two types of tenancy agreement: fixed term and periodic. The law is silent on notice periods for fixed-term tenancies and, therefore, some tenancies have very short notice periods, leading to some tenants having to find new accommodation with a month or less notice. Periodic tenancies are where a fixed-term contract has continued on the same terms without a new agreement being signed, or, where there is no end date to an agreement. In these cases, tenants must give a minimum of one month’s notice and landlords a minimum of three months’ notice.

It is considered essential that some fixed-term agreements can exist in the future, allowing for short-term and flexible arrangements for short-term worker accommodation and similar. However, there is also a need to provide tenants with greater security of tenure through use of

more open-ended tenancies. Open-ended tenancies can still be ended by tenants and landlords, but only for a set number of reasons and generally with longer notice periods. This will effectively end ‘no fault’ (or ‘no reason’) notice being served and should disincentivise landlords from ending tenancies for no good or justifiable reason.

The creation of more open-ended tenancies will also have benefits for landlords as tenants will often have to give more than the one month’s notice. This means that landlords will stand a better chance of having a new tenant ready to move in when the tenancy ends and means they have more time to prepare for any works which may be needed between tenancies.

Whilst strengthening tenants’ rights in relation to tenancies, there is also a need to amend the process for evictions. Taking matters to court, as per the existing law, can be resource heavy in terms of cost, time, and effort, and is seen as prohibitive to some as a result. A more efficient process – dealt with through a Housing Tribunal – would likely lead to quicker and more satisfactory resolutions.

Plans to enable tenants’ complaints to be dealt with more anonymously, together with the introduction of a Housing Tribunal capable of considering evictions, will also reduce the risk of revenge evictions (see section 2.2). The overall effect of these changes will be that tenants will have greater protection, allowing them to truly feel like the property they rent is their home.

Summary of policy intent: Tenancy types, notice periods and termination			
Current RTL	Proposal	Aim	Nature of change relative to current RTL
Ending tenancies: Fixed term tenancies - not specifically defined or covered  Periodic tenancies – one month notice to be given by tenants and three months’ notice by landlords	Creation of fixed term tenancies of up to one year for short term / temporary worker accommodation agreements and similar.  Creation of open-ended tenancies, for more general application across the rental sector. Such agreements could only be ended for specific reasons and in set timeframes as will be outlined in the legislation. For example landlords could provide 3-6 months notice for tenants to vacate where they intend to sell the	Open-ended tenancies will provide greater protection for tenants from ‘no fault’ or ‘revenge evictions’ due to increased notice periods and set reasons for ending a tenancy  Tenants have greater security of tenure  Landlords can still end tenancies for set reasons, such as a wish to move into the property, or their intention to sell the property	<b>Amended</b> provisions

	<p>property. Appeals against notice given under the legislation could be heard by the housing tribunal and it would be an offence for tenants or landlords to provide notice periods not in line with the legislation.</p> <p>This will include separate categories of tenancy agreements for short-term workers and similar.</p>		
No restriction on notice periods for fixed-term tenancies	<p>Minimum notice periods for fixed-term tenancies, by agreement</p> <p>Any provisions in agreements relating to ending tenancies early must apply equally to landlords and tenants</p>	<p>Greater protection and security of tenure for tenants</p> <p>More equitable agreements</p> <p>Clarity of expectations to both tenants and landlords</p>	<b>New</b> provisions
Landlords and tenants can come to an agreement to end a tenancy early	Landlords and tenants can come to an agreement to end a tenancy early	Landlords and tenants should have flexibility to adapt where situations change	<b>Existing</b> provisions to be maintained
Employees provided with accommodation by employer have the same rights as tenants in relation to ending agreements early	When an employee has employment terminated for gross misconduct the employer shall be obliged to provide alternative accommodation until the matter goes to court [or Housing Tribunal pending other proposed changes to the RTL], up to a month	Prevent tenants being made homeless but ability for landlords / employers to move tenants where they cannot remain in staff accommodation	<b>Amended</b> provisions
Evictions must go through court	<p>Clarification around what constitutes an illegal eviction</p> <p>Simplification / clarification around process for evictions, including ability for a</p>	<p>Deterrent to illegal evictions and further clarity on obligations in the case of evictions and illegal evictions.</p> <p>Increased protection for vulnerable tenants</p>	<b>Amended</b> provisions

	Housing Tribunal to make rulings	Streamlined and more efficient eviction process	
Subletting is not specifically covered	Creation of an offence where a tenant sub-lets a property without permission	Greater protection for landlords	<b>New provisions</b>

## 1.5 Property maintenance

Tenants should not be living in properties – or parts of properties – which are deemed to be uninhabitable or where their health and wellbeing is at risk. Everyone should have the right to live in a safe and healthy property.

Currently, aspects relating to uninhabitable premises fall under court jurisdiction. There is a lack of clarity on what constitutes ‘uninhabitable’, and the court process does not necessarily lend itself to making decisions in very short timeframes as is necessary in cases where a person cannot use their rental property. Also, the current law does not address the matter of liability for a property becoming uninhabitable, something which leads to confusion over rights and responsibilities for finding alternative accommodation and compensation.

Linking the definition of uninhabitable within the new Residential Tenancy Law to the provisions of the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018 would help to align tenancy-related legislation and provide clarity. Government officers and / or a Housing Tribunal could be tasked with the serving of notices, determining liability, and ruling on where compensation is due. Those who were liable for the premises becoming uninhabitable would be held to account, and parties who had no liability would not have unreasonable requirements placed upon them. The same could apply where part of a premises becomes uninhabitable, in that the Housing Tribunal could make a ruling for a reduction in rent until the full property becomes habitable again.

Summary of policy intent: Property maintenance			
Current RTL	Proposal	Aim	Nature of change relative to current RTL
Tenant is not required to pay rent where a premises becomes uninhabitable  The court can make a ruling on the tenancy agreement	Greater clarity on what constitutes uninhabitable  Government officers and / or a Housing Tribunal will have the ability to determine whether a property is uninhabitable and	More streamlined process for landlords and tenants  Avoidance of court	<b>Amended</b> provision

	<p>whether rental amounts should be reduced</p> <p>Accident – no requirement for rent to be paid, or landlord to find alternative accommodation</p> <p>Landlord fault – no requirement for tenant to pay rent, landlord must find suitable alternative accommodation</p> <p>Tenant fault – tenants liable for rent, landlord not required to find alternative accommodation</p>		
<p>Access to property / defects / access to remedy defects is generally covered but with no specific requirements or timeframes</p>	<p>Tenants are placed under an obligation to notify landlords of any maintenance defects</p> <p>Landlord required to give at least 24 hours' notice when requiring access to a property, unless in an emergency</p>	<p>Landlords given an opportunity to rectify defects in a timely fashion</p> <p>Tenants' peaceful enjoyment of property maintained</p>	<p><b>Amended</b> provision</p>

## 1.6 Rents and charges

Tenants should be aware of all financial aspects of their tenancy, at the start of an agreement. This is essential for tenants to first make sound and informed judgements on whether they can afford to reside in a property, and to also understand and have sufficient notice of when rents can be increased and by how much.

The current law does not limit the charges that can be made at the start of a tenancy, meaning that prospective tenants can be charged hundreds or thousands of pounds for setting up tenancies and other documentation. The law also does not limit the amount and frequency of rent increases, meaning there is a potential for increases to be unreasonable causing anxiety, stress and ultimately leading to some tenants making the hard decision to move.

The [Consumer Protection \(Unfair Practices\) \(Jersey\) Law 2018](#) and Government-issued guidance on [regulating unfair commercial practices](#), already offer consumer protection and advice to Islanders, including on lettings fees and charges. Whilst it is considered fair that landlords and

agents can charge for some practical aspects of tenancies, any charges should be transparent, reasonable and reflect the level of work carried out. Similarly, landlords should be able to increase rents, but this should be limited in frequency and have reasonable parameters set for the amount of increase.

Making changes to the Residential Tenancy Law to address these issues will ensure that tenants know and can prepare for rent increases, and, that rents would not increase unreasonably during their tenancy. **(See section 2.3 for more about rent controls)**

Summary of policy intent: Rents and charges			
Current RTL	Proposal	Aim	Nature of change relative to current RTL
No specific provision limiting rental increases	<p>Rental increases must be specified within tenancy agreements</p> <p>Rental increases cannot exceed RPI [or other additional measures remaining under consideration - see section 2.3], subject to exceptions such as refurbishment</p> <p>Only one rent increase per year permitted</p> <p>Rental increases to only take place after a minimum pre-notification period of eight weeks.</p>	<p>Avoidance of excessive rental increases</p> <p>Tenants are aware of when rent can / will be increased</p>	<b>New provisions</b>
No restriction on what landlords / agents can charge for creation of tenancies and similar	<p>Restriction of what landlords can charge for –such as charging the last months’ rent up-front instead of taking a deposit, charges which can be made for reassigning tenancy agreements and charges relating to finders fees</p>	<p>Tenants not hit with unexpected charges and no excessive charges, which may affect affordability of properties</p>	<b>New provisions</b>

## 1.7 Powers of investigation

Anyone breaching provisions within laws should be held to account. Currently government officers investigate complaints relating to potential breaches of tenancy-related matters such as a failure to provide a copy of a tenancy agreement. However, there are no provisions in the law which allow officers to require the production of relevant documentation. As a result, officers are often unable to formally pursue potential breaches due to a lack of evidence.

To bring the new Law in line with the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018, officers and / or a Housing Tribunal should be provided with powers allowing them to request the provision of relevant documentation from parties subject to the tenancy. This will help identify and rectify non-compliance issues.

Officers investigating potential breaches adopt the four Es approach to enforcement: engage, explain, encourage, and enforce. This approach will not change because of any of the proposed changes in the new Law. What will change is that investigations will be more streamlined, it will be easier for officers to obtain relevant evidence and, therefore, those found in breach will more likely be held to account.

There will be further benefit from the introduction of portfolio action and undertakings, where officers can further investigate non-compliance by undertaking portfolio action, checking whether the same breach occurred across a portfolio of property.

Where breaches of the law are identified, undertakings could provide for a more informal process, whereby those found to be in breach would enter into an agreement to rectify matters and not permit further breaches to occur, as opposed to going through court.

<b>Summary of policy intent: Powers of investigation</b>			
<b>Current RTL</b>	<b>Proposal</b>	<b>Aim</b>	<b>Nature of change relative to current RTL</b>
Government officers have no specific powers to request that information / documentation is provided	Landlords and agents to provide copies of relevant documentation to government officers on request	Improved complaint resolution  Improved / streamlined enforcement process  Greater regulatory compliance  Complaints could be dealt with anonymously – powers of investigation could be used to undertake random / proactive inspections	<b>New provisions</b>
No undertakings possible (more formal agreement to rectify)	Where landlords are found to be acting in contravention of	More informal and quicker resolution of non-compliance	<b>New provisions</b>

matters and to ensure no repetition)	legislation, they can enter into undertakings with Government officers	without the need to take matters to court	
Portfolio action not specifically covered	Where a landlord / agent is found to be in serious non-compliance at one property, officers can undertake an investigation into compliance levels across a whole portfolio	Most serious offenders held to account  Resources targeted to serious non-compliance	<b>New provisions</b>

## 1.8 Offences and penalties

The current law is largely civil based, creating a set of tenancy-related rules which landlords and tenants must follow. The [Petty Debts Court](#) has jurisdiction over much of the law, having the ability to make rulings on tenancy-related matters and to make orders varying or terminating tenancy agreements. There are also a limited number of criminal offences created under the law, such as where a landlord interferes with a tenant’s occupation of the property.

New offences and penalties are proposed to be introduced, which will offer much-needed clarity for all parties in a residential tenancy agreement on their rights and responsibilities, whilst providing the relevant authorities with sufficient powers and the necessary evidence to enforce compliance when an offence has been committed.

Further to initial consultation with the Law Officers’ Department, whilst some criminal offences will be retained, the general approach will be to take a civil penalties route (i.e. that does not involve the criminal courts).

Summary of policy intent: Offences and penalties			
Current RTL	Proposal	Aim	Nature of change relative to current RTL
<p>Offences and offence levels are primarily civil in nature. But some are criminal, for example:</p> <p>Criminal:</p> <ul style="list-style-type: none"> <li>Landlord not allowing tenant to have peaceful enjoyment of property</li> </ul>	<p>Introduce a mix of civil and criminal elements, where landlords and tenants have an ability to pursue certain matters through the courts, whilst other relate to enforcement by delegated officers</p> <p>Expanded list of offences with civil penalties</p>	<p>Greater ability to enforce legislation and to resolve matters through more informal measures</p> <p>Maintenance of tenant and landlord rights</p> <p>More informal and quicker resolution of more minor non-compliance matters</p>	<p><b>New and amended provisions</b></p>

<ul style="list-style-type: none"> <li>Landlord fails to give tenant a copy of the tenancy agreement or a receipt for the deposit</li> </ul> <p>Limited number of offences and no civil penalties<sup>3</sup></p> <p>Civil matters:</p> <ul style="list-style-type: none"> <li>Notice periods</li> <li>Evictions</li> <li>Termination of / amendments to tenancy agreements</li> </ul>	<p>Court still to be involved but additional powers for government officers / a Housing Tribunal</p> <p>Introduction of civil penalties to deal with more minor / administrative non-compliance</p> <p>Civil penalties could apply to matters such as:</p> <ul style="list-style-type: none"> <li>Failure to provide a tenancy agreement within specified timeframes</li> <li>Tenancy agreements that do not contain the required information</li> <li>Tenancy agreements that contain provisions that do not comply with the law</li> <li>Failure to give a receipt for deposit money</li> <li>Non-compliance with a notice served by Government officers</li> <li>Failure to provide documentation to government officers</li> </ul>	<p>without the need to go to court</p>	
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<sup>3</sup> Civil penalties are financial sanctions which can be applied by Government of Jersey Officers. Civil matters are where one of the parties to the tenancy agreement (landlord, agent or tenant) takes their own court action against the other party.

	<ul style="list-style-type: none"> <li>• Interfering with the tenant’s peaceful enjoyment of the property</li> <li>• Charging amounts more than those permitted</li> </ul>		
A Housing Tribunal does not exist in the 2011 Law but is in Dwelling Houses (Rent Control) (Jersey) Law 1946 for the purposes of rent controls	<p>Creation of a Housing Tribunal with various powers / responsibilities to arbitrate on tenancy-related matters.</p> <p>Election of members and serving periods to be detailed</p>	<p>Diverting matters away from the courts</p> <p>More informal resolution of matters</p> <p>Step between Government officers and court action</p>	<b>New provisions</b>

## 1.9 Codes of practice

Codes of practice are guidance documents that will provide more detail to landlords and tenants on what their rights and responsibilities are. They can help to provide straightforward, easy to use guidance in plain English and avoid legal terms so that parties can more easily comply with the legislation. They can also help to prevent disputes between landlords and tenants by more clearly laying out roles and responsibilities. Although they have no legal status, compliance with a code of practice can aid a defence relating to potential breaches of legislation.

Whilst there are presently no codes of practice relating to rental properties, there are examples relating to Health and Safety in Workplaces, for example. There are also plans to produce a code of practice under the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018. This will cover matters relating to property conditions and the health and safety of tenants and is something that has been welcomed by landlords. It would seem sensible to expand this work to include tenancy-related matters, thus providing landlords, tenants, and agents with a comprehensive outline of their roles and responsibilities across all rental property matters. It would also help the alignment and understanding of rental matters across different legislation and Ministerial portfolios.

As an example, the code would outline what happens at the start of a tenancy for all parties. This would ensure that landlords and agents understood what documentation they had to provide, in what timescales, and the charges that they could reasonably impose on a prospective tenant. At the same time, tenants would better understand what documentation they should receive, how long they had to review it, and what charges they could expect to be given.

Summary of policy intent: Codes of practice			
Current RTL	Proposal	Aim	Nature of change relative to current RTL
No specific provisions for codes of practice are covered	Minister may produce a code of practice	Greater clarity for tenants and landlords on application of legislation – best practice etc.	<b>New</b> provision

## 1.10 Regulations and orders

[The Legislation \(Jersey\) Law 2021](#) provides that subordinate legislation – or secondary legislation – can be adopted by the States Assembly or by the Minister with responsibility for the Law.

Subordinate legislation is focused on matters incidental or supplemental to a primary law:

- **Regulations or Acts** must be made by a proposition adopted by the States Assembly
- **Other subordinate legislation, such as Orders** may be made by the person responsible for the Law (i.e., the Minister)

Primary laws, such as the Residential Tenancy Law, can stipulate which class(es) of issue Regulations and Orders can be made. This helps to ensure that the breadth of the potential scope of the law is clear, and that where important issues are not directly included as primary law provisions, they can be specifically developed and agreed at a later time.

Regulations and Orders provide important flexibility to allow the Assembly or a Minister to create and amend additional legal provisions or stipulations (such as standard forms of agreement) without having to be sanctioned by His Majesty's [Privy Council](#). This also means that new provisions can be introduced more quickly, where required.

In deciding whether a class of issue should relate to Regulation or Order-making powers, the nature of the issue and the weight of its significance will be considered.

The Minister has not made definitive decisions on the subordinate legislation that may be brought forward for different residential tenancy matters under the law. It is also worth emphasising that the proposed split between Regulation and Order-making powers may be subject to change, pending the outcome of the consultation and advice from the Law Officers' Department.

The table below summarises the areas the Minister for Housing and Communities intends to pursue in Regulation and Order-making powers in a new Residential Tenancy Law:

<b>Summary of policy intent: Regulations and Orders</b>	
<b>Regulation classes</b>	<b>Aim</b>
Definitions, property types, status, requirements, and eligibility	To enable Regulation-making powers to introduce new definitions and classes of property type, status, requirements, and eligibility. This may include: <ul style="list-style-type: none"> <li>• Lodging houses and houses in multiple occupation<sup>4</sup></li> <li>• Short-term lets and worker accommodation</li> </ul>
Tenancy agreements	To enable Regulation-making powers for: <ul style="list-style-type: none"> <li>• Additional or amended types of tenancy</li> <li>• Specified requirements for tenancy agreements and notice periods</li> <li>• Limiting charges, introducing charging caps and specifying permitted fees that can be made in relation to creation of tenancies and similar</li> </ul>
Overcrowding	To establish maximum occupancy limits based on the occupancy potential and size of the property
Discrimination and homelessness	To allow the introduction of regulations that establish parameters for discriminatory treatment and the treatment of homeless persons
Deposits	Regulations for deposits exist in the current Law, these are to be included in the new Law and updated with additional detail
Housing Tribunal	To enable Regulation-making powers to provide for the appointment, tenure, and function of a Housing Tribunal. For example, the <a href="#">Dwelling-Houses (Rent Control) (Jersey) Regulations 1946</a> is secondary legislation under the Dwelling Houses Law that sets the terms of tenure for the existing Rent Control Tribunal
Emergency powers	To enable specific Regulation-making powers under the Residential Tenancy Law, in extraordinary circumstances – as seen at the time of the outbreak of the Covid-19 pandemic <sup>5</sup> – including: <ul style="list-style-type: none"> <li>• Suspension or limit of rent-increases</li> <li>• Extension of tenancy</li> <li>• Prohibition of evictions</li> </ul>
<b>Order classes</b>	<b>Aim</b>
Supply of Services (As existing)	The provisions of existing orders will be updated when deemed necessary by the Minister for Housing and Communities, as is the case today

<sup>4</sup> Lodging Houses are currently dealt with under the [Lodging Houses \(Registration\) \(Jersey\) Law 1962](#). The proposed provision for Regulations under the Residential Tenancy Law may allow provisions for lodging houses, houses in multiple occupation and tenancies in such circumstances to be modernised and may include the repeal of the 1962 Law.

<sup>5</sup> In April 2020, the States made Regulations under Article 2 of the Covid-19 (Enabling Provisions) (Jersey) Law 2020. See [Covid-19 \(Residential Tenancy\) \(Temporary Amendment of Law\) \(Jersey\) Regulations 2020](#)

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Condition Reports (As existing)	The provisions of existing orders will be updated when deemed necessary by the Minister for Housing and Communities, as is the case today
Creation of a standard written contract / template agreement	To allow the Minister to prescribe the form and specific detail of standard tenancy agreements
Ability to introduce further definitions and interpretation	This Order-making provision is proposed to be general, helping to ensure that in necessary and appropriate circumstances, definitions and interpretations remain reflective of modern terminology and other related legislation
Social housing provision	This Order-making provision is proposed to be general, allowing the Minister for Housing and Communities to ensure policy intent for social housing provision can be safeguarded under legislation. It could also establish the requirements or pathway necessary to be recognised as a social housing provider

## Part 2: Thematic policy issues

### 2.1 Rental properties in Jersey

The Minister for Housing and Communities supports the principle of ‘Rental Choices for All’, introduced under the Creating Better Homes Action Plan. Whilst some progress was made under that policy (see [Fair Rents Plan](#)), it is clear that a lot more substantive progress is needed to enhance protections for tenants, particularly in Jersey’s private rental sector.

Residential tenancies exist across different tenure types in Jersey. Principally, these are qualified private rental, non-qualified private rental (excluding lodgers and boarders in private households), and staff, service or tied accommodation.

There has been continued growth in Jersey’s housing market, with a growing population and changes to overall household compositions driving a need for more homes.

Whilst changes to the rental market have been uneven over the last decade, the rental market in Jersey has seen an overall growth of nearly 1,700 additional households.

The [2021 Census](#) showed that the number of households in qualified private rental increased by almost two-fifths (38%) over the 10-year period. Households occupying ‘other non-qualified accommodation’ decreased by over two-fifths (42%) and there was also a 14% decrease for households in ‘staff, service or tied accommodation’.

	Number of households		Change 2011-2021	Percentage change
	2011	2021		
Owner-occupied	22,574	23,870	+1,296	+6%
Social housing rent <sup>27</sup>	5,656	5,826	+170	+3%
Qualified private rent	7,806	10,739	+2,933	+38%
Staff, service or tied accommodation	1,274	1,095	-179	-14%
Registered lodging house	652	700	+48	+7%
Lodger paying rent in private household	1,070	857	-213	-20%
Other non-qualified accommodation	2,563	1,496	-1,067	-42%
<b>All (excluding vacants)</b>	<b>41,595</b>	<b>44,583</b>	<b>+2,988</b>	<b>+7%</b>

**Table 1:** Household tenure in 2021 and 2011 (excluding vacants), [Jersey Census 2021](#), Statistics Jersey

The rental sector plays an important role in Jersey’s housing market. Not everyone wants to, can afford to, or is eligible to buy a home in Jersey. It is, therefore, essential that there are suitable protections in place for both landlords and tenants, to support a healthy rental market that is fair, consistent and meets the needs of Islanders.

### Overall status of the current Residential Tenancy (Jersey) Law 2011

As already summarised, the introduction of the current Residential Tenancy Law in 2013 has led to some significant improvements to residential tenancies in Jersey, but there are many areas which are deficient and in need of improvement. This includes:

- The law only applies to tenants living in self-contained properties, therefore those living in non-self-contained properties have no protection. As a result, in these properties:
  - Landlords can enter the property with no notice.
  - Landlords can evict tenants with no notice.
  - Landlords are not required to provide tenancy agreements.
  - Landlords can dispose of a tenant's belongings.
  - Rent can be increased by any amount, at any time, without notice.
  - Subordinate legislation relating to condition reports, deposits and the supply of services do not apply, meaning tenants can be overcharged for the supply of services and receive no deposit protection, amongst other things.
- There is a lack of clarity around what constitutes 'uninhabitable'.
- There is a lack of clarity around what constitutes 'peaceful enjoyment' of a property.
- The law does not define what is meant by variation, renewal, lodger, boarder and similar.
- The law does not fully address situations such as staff accommodation, sub-lets, commercial contracts etc.
- The types of tenancy agreements and notice periods do not allow for flexibility or provide sufficient protection for tenants.
- The law provides for the contents of tenancy agreements; however, this prescribed list of contents is deemed insufficient.
- The law is mainly civil in nature, providing a mechanism for residents to take their own action. However, experience has shown that many residents do not feel empowered to act themselves or cannot afford legal action or advice. Furthermore, many residents do not understand what their rights are and/or fear recrimination if they do pursue matters through the courts.
- There is a lack of security of tenure.
- There are insufficient powers to enable officers from Environmental Health to obtain sufficient evidence, or indeed to pursue formal enforcement action, to assist residents when there are clear breaches of the law.
- Regulation officers invest significant levels of time trying to obtain evidence and resolve matters. No cases have made it to court given the deficiencies outlined.

Many residents of non-self-contained dwellings, such as those living in rooms in lodging houses with shared facilities, are the most vulnerable members of society. These are the people who should be the focus of legislative protections, not exempt from them. It seems unfair to limit the amount of protection someone receives because, for example, they happen to share a bathroom with someone else.

Tenancy-related matters such as a lack of security of tenure can also have significant impact on a tenant's mental health and wellbeing. Children, the elderly, and more vulnerable members of society can be particularly at risk. These situations can also be stressful for landlords.

The new Law should bring tenancy-related matters more in tune with the provisions of the [Public Health and Safety \(Rented Dwellings\) \(Jersey\) Law 2018](#) and related policy as both laws regulate matters relating to rental property standards and agreements. Specifically, the new Law should more closely align provisions relating to enforcement / investigatory powers and criminal and administrative penalties, increasing the level of protection offered to tenants.

In light of the above, it is considered that a new Residential Tenancy Law should include measures that will:

- Address perceived weaknesses and deficiencies identified in RTL and clarify areas of confusion.
- Amend types of tenancies.
- Increase levels of protection for tenants.
- Maintain or improve levels of protection offered to landlords.
- Increase the scope of people covered to provide protection for a greater number of tenants.
- Increase enforcement and investigatory powers for Government officers.
- Introduce a new Housing Tribunal to adjudicate on housing matters.
- Maintain ultimate court jurisdiction.

## 2.2 Scope, form and requirements of tenancies and protection from unfair evictions

### **Summary of policy intent: Scope, form and requirements of tenancies and protection from unfair evictions.**

It is the Minister for Housing and Communities' intent to broaden the scope of tenancies that have the benefit of protection under the Residential Tenancy Law. Two standard forms of tenancy agreement will be established, with open-ended tenancies becoming standard and one-year fixed-term contracts used in specific circumstances. Various changes will be made to ensure that rights and obligations are clearer, and new measures will help to reduce the risk of unfair evictions.

### **Scope and forms of tenancy**

The current Residential Tenancy Law applies to 'residential units' which are defined as a:

*"self-contained dwelling, that is, a dwelling that has, for the exclusive use of the inhabitants of the dwelling, a minimum of all of the following, whether or not in separate rooms –*

*(a) a shower or bath (or other facility, no less convenient than those, in which a person may wash);*

- (b) a washbasin;*
- (c) a kitchen;*
- (d) a sleeping space; and*
- (e) a lavatory”*

It also applies to ‘residential tenancy agreements’ which are defined as:

*“an agreement –*

- (a) for the exclusive occupation, by one or more natural persons who are party to the agreement, of a residential unit as a dwelling;*
- (b) for value; and*
- (c) for a specified term of 9 years or less, or without a specified term”*

This current definition means that there are many Islanders who rent accommodation but do not have the benefit of protection through the Residential Tenancy Law. A main aim of updating the Law is to ensure that more people in rental accommodation are brought into scope by removing the ‘self-contained’ limit and by ensuring that the Law has further scope to introduce subordinate legislation to deal with other types of accommodation such as lodging houses and short-term rentals such as seasonal accommodation.

The law drafting instructions for the new Residential Tenancy Law allow for the creation of two types of tenancy agreement:

- **Open-ended tenancies** which do not have a specified end-date and can only be ended for specific reasons specified by legislation or by mutual agreement. These types of tenancy will bring more peace of mind to many families in Jersey who live in rented accommodation as they will have greater rights to remain in properties and will often receive greater notice than currently exists, also potentially limiting revenge evictions. Landlords will also benefit from having more notice when a tenant intends to vacate a property, allowing them to find a new tenant before the previous agreement comes to an end.
  - There will be an initial probationary period of six months to one year at the start of open-ended tenancies, allowing parties to end the agreement at the end of the probationary period, provided sufficient notice is given. Additional protections will be built into this provision to ensure the flexibility during this period is not abused.
  - Landlords can also provide an indication of how long they believe that the tenancy will last, in the tenancy agreement, such as cases where they are leaving the Island for a set period and intend to move back into the property at the end of that time.
- **Fixed-term tenancies of up to one year.** Whilst open-ended tenancies are proposed to better protect tenants, it is acknowledged that these agreements are not appropriate in all situations, in which case, a fixed-term tenancy might be used. The retention of up-to one-year fixed term tenancies for temporary worker arrangements (and similar) will ensure suitable flexibility for both tenants and landlords.

### **Minimum requirements for tenancy agreements**

It is currently a legal requirement for tenancy agreements to contain a range of details, as such as property address, rental amounts and similar. Whilst these requirements do ensure that agreements contain a basic level of information, there will be benefit to tenants and landlords if there was greater detail and clarity in the agreement, such as:

- Rent value, specified date for rent increases and notice period, and the parameters for rent increases in accordance with the Law.
- Details of all charges the tenant will be liable for, including any charges to set up the tenancy, and those which they will be liable for during the tenancy.
- Confirmation that any deposit money will be lodged with the deposit scheme provider.
- Specific clarity over the roles and responsibilities of the parties to an agreement, such as maintenance responsibility. This is particularly important where landlords employ agents to undertake part of the letting and specific responsibilities need to be defined.
- Details of a complaints process so that tenants know who to contact regarding any issues.
- Details of what services such as gas, electric, oil and similar are at the premises and whether the tenant is responsible for paying for relevant usage, and if so, how.
- Minimum notice periods in accordance with the Law.

The purpose of requiring more minimum information in tenancy agreements is to ensure there is greater clarity to all parties as to specific responsibilities and obligations over the course of the tenancy. Tenants will be more aware of what they are signing up to and reduce the risk of future disputes requiring intervention by the courts or a tribunal in the future.

### **Other contractual matters**

The Public Health and Safety (Rented Dwellings) (Jersey) Law 2018 places a responsibility on landlords to ensure that rental properties are safe. Landlords should not attempt to enter into agreements with tenants that will try to place these responsibilities onto them. For example, requiring tenants to pay for annual gas safety inspections or to ensure that there are sufficient smoke detectors in the property. Similarly, tenants should not be placed under a duty to repair or replace items which have deteriorated due to reasonable wear and tear.

As above, there is also a requirement for landlords to be clearer in what services there are in the property and how bills are established and paid. This is relatively straightforward where, for example, there is an electricity meter in the property and the bill goes straight to the tenant. In contrast there are situations where there are not individual meters and bills need to be split between residents of multiple properties. In these situations, tenants need to be informed as to how the bills will be established and paid.

### **Action against no fault and revenge evictions**

Tenants should feel safe and secure in their properties and security of tenure can have significant impacts on a tenant's mental health and wellbeing. Under the existing Residential Tenancy Law private landlords can repossess their properties from tenants without having to establish fault on the part of the tenant or offer a reason for doing so – the so-called 'no fault' eviction. This freedom of action creates the permissive conditions that enable so-called 'revenge evictions', where a landlord serves notice on a tenant who might have, for example, asked for repairs or complained about bad housing conditions<sup>6</sup>.

When tenancy issues arise, a tenant should not be afraid to raise or report their concerns due to fears that their landlord will simply end their tenancy at the next opportunity.

Some of the proposed amendments to the Residential Tenancy Law will end 'no fault' evictions and therefore reduce the risk of revenge evictions. The key measures are:

- **The creation of open-ended tenancies that can only be ended for one of a set number of reasons.** This will effectively end 'no fault' or 'no reason' evictions and will safeguard against revenge evictions because a landlord will need to evidence that they are serving notice for one of the reasons accepted by the Law and as agreed to in the tenancy agreement.
- **The addition of civil penalties and greater powers of investigation, alongside the creation of a Housing Tribunal.** This means that those attempting to carry out revenge evictions in breach of the new Law will more likely be held to account, acting both as a deterrent and a more effective route of recourse when a tenancy agreement has been breached by a landlord.
- **More powers of investigation for officers combined with the ability to undertake portfolio action.** This will mean more complaints can be dealt with on an anonymous basis. Officers will routinely undertake random or risk-assessed investigations, which will reduce the potential for tenants to be identified as responsible for involving Government officers.

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<sup>6</sup> Whilst the form of revenge eviction described in the main body of the text is technically legal, revenge evictions can also be illegal - where the tenant has not been given sufficient notice to vacate, often going against the contents of a tenancy agreement and/or the provisions laid down in the law.

## 2.3 Rent controls

### Summary of policy intent: Rent controls

It is the Minister for Housing and Communities' intent to introduce rent controls, requiring all tenancies to specify terms for rent increases, introduce limits to the amount and frequency of rent increases and to specify a minimum notice period of eight weeks.

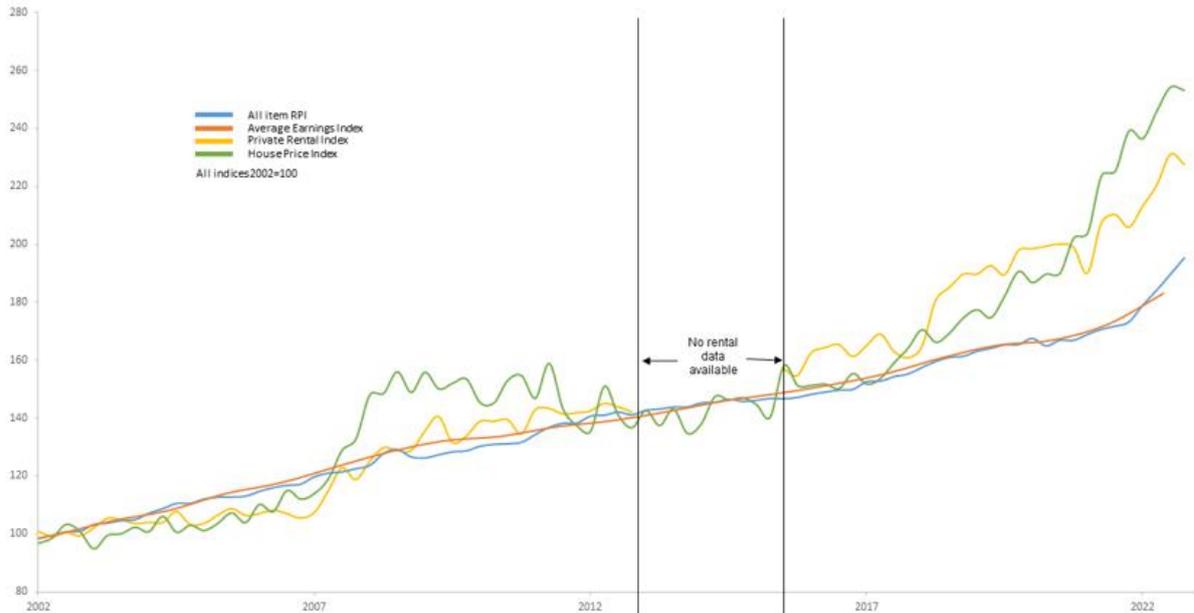
The expectation is that increases will be limited to a maximum of the annual Retail Price Index (RPI), with a limited number of exceptions. Further consideration is being given to adopting a more nuanced approach – such as averaging annual RPI changes and/or using additional index measures, to specifically help during times of high inflation. The outcome of this consideration, which will be subject to economic advice, will be included in the proposition for the draft Law.

It is also proposed that new emergency powers are introduced that will allow for rent-freezes.

### Context

The Minister for Housing and Communities has been clear in his intent to deliver changes to protect tenants from excessive rent increases. The increase in private rental households in Jersey reinforces the policy and legislative imperative to improve conditions in the Island's rental sector. The cost of private sector rents in Jersey has been rising faster than earnings, which has had a negative impact on affordability, in the context of there being little alternative choice in the market for tenants.

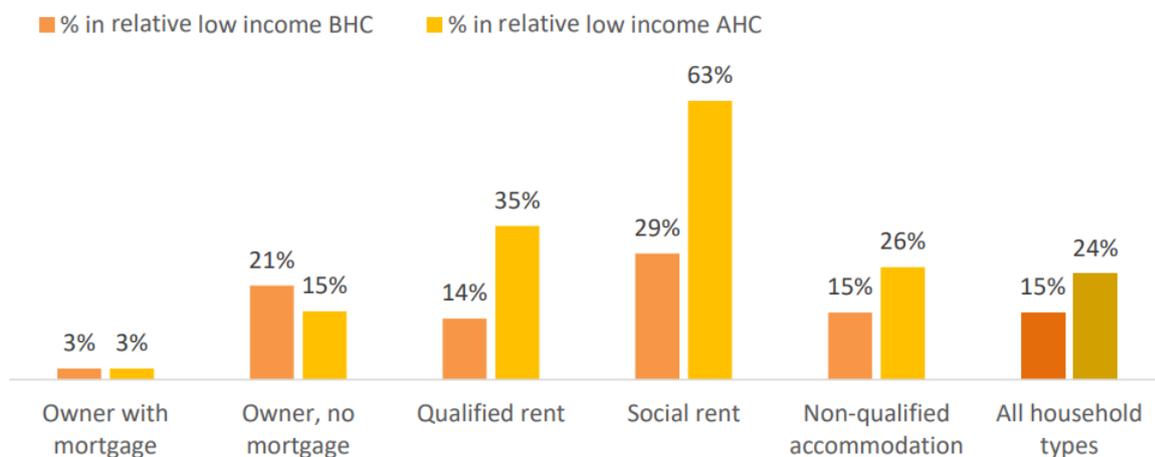
The graph below shows the change in advertised rental prices in Jersey over the last decade. This illustrates that over the past five years, housing market costs have diverged considerably from average earnings. High rental prices are also compounded by the high general cost of living in Jersey.



**Figure 2:** Change in rental prices relative to other index measurements, Statistics Jersey

This divergence in rental prices compared to the [Retail Prices Index \(RPI\)](#) - the main measure of inflation in Jersey - and average earnings means that more people in Jersey are at risk of being classed as on relative low income after housing costs. The [Jersey Household Income Distribution preliminary report 2021/2022](#) (Statistics Jersey) identified that 15% of households in Jersey were in the category of relative low income before housing costs, rising to one in four (24%) of all households after housing costs were taken into account.

The below chart shows the proportion of each tenure type for households classified in this group 'before' and 'after' housing costs. It is evident that in the rental sector (qualified, social, and non-qualified), housing costs have a significant impact upon whether someone falls into relative low income, particularly as these groups also tend to be on lower incomes before housing costs and therefore have less financial buffer to withstand the cost of housing.



**Figure 3:** Proportion of tenure type for households on relative low income before/after housing costs, [Jersey Household Income Distribution preliminary report 2021/2022](#), Statistics Jersey

As part of the Government of Jersey's [Mini-Budget 2022](#) measures to address the cost of living crisis, private sector landlords and estate agents were encouraged to avoid inflationary rental increases in the short-term. In the past year calculations contained within RPI indicate a rental cost increase of 1.4%, which is substantially below the recent headline rates of inflation. Conversely, advertised rental prices, which are reported in the Quarterly House Price Index, show a potential increase in rental prices of 10% (this being closer to the recent headline rates of inflation). Given that RPI measures true cost rather than advertised price, it is reasonable to suggest that, in general, landlords appear to have shown restraint in increasing rents. This does not, however, count for individual circumstances where rents may have increased more substantially for some tenants, at levels considered to be a concern.

Considering the affordability challenges already referenced, it is a Ministerial priority to act through the new Residential Tenancy Law to apply measures that control the rates at which rents can increase within the private rental sector, and to introduce a Housing Tribunal that can assess whether or not future rent changes are reasonable.

### Scope for change

There are three widely understood categories of rent controls:

1. **First generation or 'hard' rent controls:** Place restrictions on the level of rents across the whole rental sector through setting a pre-determined rent ceiling that rents cannot exceed.
2. **Second generation or 'soft' rent controls:** Allow for some restricted increase in rents to allow for factors such as investment and inflation.
3. **Third generation or 'tenancy' rent controls:** Place restrictions on the change in rents within tenancy agreements, but not between them.

First generation rent controls were implemented mainly after World War II, when there was pressure to avoid rapid rent increases caused by the increased demand generated by returning soldiers or displaced residents. These controls have been mostly abolished across international jurisdictions. European jurisdictions today tend to have a mix of either second or third generation rent controls or have rental markets that are unregulated.

Previous [analysis by the Government of Jersey](#) concluded that 'first generation' rent controls generate undesirable side-effects in the rental market, including under-investment in housing stock and reduction in the supply of rental accommodation. This position is maintained today, and there is no ambition to introduce rent caps into the private rental market.

More recently the [Housing Policy Development Board](#) endorsed forms of second and third generation rent stabilisation measures based on the principle of rent increases both during and between tenancies, at defined rate, as opposed to defining rents in absolute terms.

## Policy intent

It is the Minister's view that a third generation style of rent control will be most appropriate for Jersey. Tenants and landlords would continue to be free to reach voluntary agreements at the outset of a tenancy, with new measures introduced to support more gradual and predictable rent increases over the course of the tenancy.

Many standard tenancy agreements in Jersey already stabilise rents through clauses that limit annual rent increases to RPI, but it is not a mandatory clause and so not every tenant benefits. The current Law Drafting Instructions for the new Residential Tenancy Law propose making this a mandatory limit for rent increases during tenancies, with only limited exceptions, such as nuances for social housing providers where rents are already set below market levels, and consideration for when refurbishment works are carried out.

Initial economic advice suggests that RPI(X), which excludes mortgage interest payments, should be evaluated alongside RPI as an anchor for rent stabilisation policy in Jersey. The proposal to limit tenancy rent increases by a maximum of RPI will therefore be given further consideration before the policy design is finalised. For example, consideration is still being given to:

- Whether RPI continues to be the most appropriate metric applicable to rent increases.
- Whether there are other ways to express the RPI measure e.g., as an average figure over a given period.
- Whether other measures might also be employed instead of or alongside RPI as a metric for rent increases e.g., RPI(X), Average Earnings Index (AEI), Bank of England Base Rate etc.
- Whether a cap might be placed on the maximum rate by which RPI can rise as a means of counteracting periods of high inflation.
- Whether additional measures may be needed to allow rent levels within tenancies to re-set against the rental market e.g., applying a re-set of rents to the market every third year as is the case in Norway<sup>7</sup>.

It is important that any legislative measure does not have any negative unintended consequences in the rental market. It is not the intention to pursue rent stabilisation at the expense of a tenant's security of tenure, or a landlord's ability to realise a stable and fair rental return.

There may be certain circumstances where a rent increase of more than RPI (or any metric set out in legislation) is justifiable and such circumstances will be considered in light of the consultation on the Minister's policy intentions, and as a part of onwards detailed policy development. The Housing Tribunal (see 2.5 Establishing a new Housing Tribunal) – which is proposed to have a broader remit than the current provisions for the Rent Control Tribunal – is expected to play an important role in considering these circumstances.

## Supporting measures

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<sup>7</sup> [Norwegian Tenancy Act, Section 4-3. Adjustment to current level of rents](#)

The current Residential Tenancy Law does not include specific limits on how often, or when, a rent is due to be increased and paid. Both the frequency and notice period for rent increases are important characteristics of fairer tenancies in the future.

It is proposed that rent increases will only be able to take place once per year, and that an eight-week notice period will be given, which will be able to respond to the quarterly publication of Jersey's RPI by Statistics Jersey and help to ensure that rent increases take place with at least one month's pay notice. These rent stabilisation measures will be reinforced by additional security of tenure for tenants, with the introduction of standard open-ended tenancies (see section 2.2) bringing an end to situations where a landlord can evict a tenant without having to give any reason for doing so.

Finally, it is still considered that establishing a Housing Tribunal that can arbitrate on rent matters will be of great benefit to both tenants and landlords. The Minister's proposals for the creation of a Housing Tribunal are set out at 2.5 Establishing a new Housing Tribunal.

## 2.4 Social housing providers and tenancies

### Summary of policy intent: Social housing providers and tenancies

It is the Minister for Housing and Communities' intent to introduce formal definitions for social housing, which will be attached to minimum criteria.

Social housing tenancies will be given specific recognition, taking into account the nature of the role they play in Jersey's housing market and the unique requirements attached to social housing provision, such as the requirement to set rents in accordance with a social rents policy and to prioritise allocation to those with specific housing needs.

### Context

Social housing plays an important role in Jersey's local community, providing subsidised, high-quality and secure accommodation to those in housing need.

Social tenants receive a range of benefits not available in the private residential sector, which include:

- Rents set at no more than 80% of market value, with many rents falling well below this level.
- [Eligibility criteria](#) that prioritise access to social housing for lower-income households.
- [Financial assistance](#) to cover the cost of housing for low-income tenants.
- Decent Homes Standards achieved across most of the social housing stock.
- Social tenants enjoy considerable security of tenure.

Jersey's officially recognised social housing providers, as set out in the [Income Support \(Jersey\) Regulations 2007](#), offer homes to approx. 6,000 households, including to some of Jersey's most vulnerable Islanders. The social housing providers are:

- Andium Homes
- Jersey Homes Trust
- Les Vaux Housing Trust
- Christians Together in Jersey Housing Trust
- FB Cottages Housing Trust / Clos de Paradis Housing Trust.

Some parishes also provide forms of social housing, particularly sheltered living accommodation, but they are not usually referred to as social housing providers. As part of onward policy development, the Minister will work with the Parishes to consider whether they ought to be regarded as social housing providers, considering the nature of the homes they provide and their plans to provide more homes.

Andium Homes was established in 2014 as a not-for-profit and wholly States-owned company (as set out in [P.60/2014](#)). The Housing Trusts are also not-for-profit organisations, established privately, in some cases with assistance from the Government of Jersey. All social housing providers have the following in common:

- They must allocate their homes to Islanders registered on the [Affordable Housing Gateway](#) waiting list.
- Their rents comply with the Social Rents Housing Policy, which caps social rents at up to 80% of market rate.
- The Trusts and Andium Homes are exempt from paying income tax<sup>8</sup>.
- The rents they charge are acknowledged in full under Income Support, and the maximum rental caps imposed on private landlords are not applied.

Andium Homes is, uniquely, subject to the following additional obligations:

- An [annual rent adjustment policy](#), which requires Andium to increase its rents annually to a set formula – with rent increases managed to mitigate against periods of high and low inflation.
- A Memorandum of Understanding with Government of Jersey that requires Andium to meet standards across a range of areas, including financial viability and accommodation standards – specifically the UK's Decent Homes Standard<sup>9</sup> for social housing.

The standards of social housing provision in Jersey are generally high. In 2020 Andium Homes achieved Decent Homes Standard for its entire portfolio, four years ahead of schedule. Andium has an ongoing maintenance programme to ensure all its properties continue to meet the Decent Homes Standard and is voluntarily moving to bring its properties up to the higher Modern

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<sup>8</sup> Housing Trusts exempt from paying income tax under [Income Tax \(Jersey\) Law 1961](#). P.33/2013 confirmed that Andium would be exempt from paying income tax benefit under the provisions of the Income Tax Law.

<sup>9</sup> As set out in guidance issued in June 2006 by the UK Department for Communities and Local Government.

Facilities Standard. Information from the housing trusts in July 2021 indicated that approximately 92% of total housing trust stock had achieved Decent Homes Standard.

In terms of rental standards, all social housing providers are encouraged to register for Rent Safe, as a voluntary commitment to ensure that their rental properties meet an acceptable standard. To date the following providers have properties on the Rent Safe scheme:

- Andium Homes (entire portfolio put forward for Rent Safe)
- Clos de Paradis Housing Trust
- CTJ Housing Trust
- FB Cottages Housing Trust
- Les Vaux Housing Trust.

### **Scope for change**

The new Residential Tenancy Law presents an opportunity to develop new primary legislation applicable to Jersey's social housing providers. There are currently no statutory provisions that define what a social housing provider is, or the requirements and standards expected to be met to become a social housing provider. Consequently, there is no specific clarity on how social housing tenancy matters should be dealt with.

Good-quality housing is a cornerstone for other important social indicators, such as health and wellbeing and educational attainment in children. Social housing provides a home for some of the Island's most vulnerable and in-need families. It is, therefore, appropriate that the significance of the contribution made by social housing is recognised in legislation, consistent with the Minister for Housing and Communities' vision of an expanded Residential Tenancy Law, applicable to all residential tenancies.

### **Policy intent**

Over the years there have been unsuccessful attempts to introduce regulation into the social housing sector and it is not the intention to introduce unnecessary or extensive bureaucracy through legislation. These proposals should not be conflated with the creation of a social housing regulator, rather the approach will be to:

- Capture and guarantee the advantageous conditions and values prevalent in the social rental sector.
- Establish a baseline of minimum expectations in legislation, particularly important for prospective landlords or organisations aspiring to become officially recognised social housing providers.

The table below sets out some of the issues and areas pertaining to the social rental sector that could be addressed within the new Residential Tenancy Law. The table is only indicative; other areas across housing legislation may come into consideration as consultation with social housing providers and social tenants progresses.

Definition	Rent
<ul style="list-style-type: none"> <li>Define what a social housing provider is and set out who they are</li> </ul>	<ul style="list-style-type: none"> <li>Rent levels consistent with the Social Housing Rents Policy (<a href="#">P.90-2021 Amd.</a>)</li> <li>Expectations around calculation of market rents to ensure compliance with the Social Housing Rents Policy</li> <li>Specific provisions around rent increases in the social rental sector</li> <li>Tenants to be given appropriate notice and clarity around rent increases</li> <li>Requirements to liaise in good time with Income Support on matters that will have a bearing on Income Support tenants</li> <li>Consideration of the application of Rent Safe, the Government of Jersey’s free landlord accreditation scheme</li> </ul>
Condition	Tenants
<ul style="list-style-type: none"> <li>Social rental stock is already subject to the Public Health and Safety (Rented Dwellings) (Jersey) Law 2018. In addition, social housing providers could be required to achieve a recognised housing standard e.g., ‘Decent Homes Standard’.</li> <li>Social housing providers required to ensure minimum standards around the maintenance of their stock</li> </ul>	<ul style="list-style-type: none"> <li>Social housing providers will select eligible tenants for their properties from the Affordable Housing Gateway</li> <li>Social housing providers should have measures in place that enable tenants to communicate their views on housing issues</li> </ul>
Pathway	Appeals
<ul style="list-style-type: none"> <li>Existing social housing providers may be automatically recognised under the new Law and will be responsible for meeting the minimum standards set out in legislation</li> <li>New social housing providers may be required to sign up to additional commitments, for example, demonstrating a long-term commitment to social housing; financial viability; good governance etc</li> </ul>	<ul style="list-style-type: none"> <li>Social housing providers should have adequate decision-making and internal complaints handling procedures</li> <li>Social tenants who have engaged with internal processes/procedures of the social housing supplier should have recourse to a Housing Tribunal for matters they consider unresolved</li> </ul>

**Table 2:** Possible areas for social housing provision to be addressed by new Residential Tenancy Law

Consideration will be given to the most appropriate means for setting out minimum expectations for social housing provision. For example, it may be more appropriate for the Minister for Housing and Communities to do this by Order (see section 1.10) under the new Residential Tenancy Law. There may also be certain types of provision that are more suited to expression through codes of practice (see section 1.9). The Minister for Housing and Communities is committed to developing his proposals further in partnership with the social housing providers and the Parishes, who also have a stake in the future of social housing provision.

## 2.5 Establishing a new Housing Tribunal

### **Summary of policy intent: Establishing a new housing tribunal**

It is the Minister for Housing and Communities' intent to establish a Housing Tribunal that will be able to consider, make recommendations and determine the outcome of a variety of residential tenancy matters, including rents.

The final proposed scope and powers of a Housing Tribunal will be carefully considered amongst the roles of the Minister and the Courts.

### **Context**

There will be advantages to introducing a specialist Housing Tribunal, able to apply expertise and consistency on a range of housing issues that will result in more considered and fairer outcomes. It will have a particular benefit of making legal challenge more accessible to both tenants and landlords, being less intimidating, less adversarial, and less expensive than going through court proceedings.

Many private landlords in Jersey offer tenancies that: provide a good standard of accommodation; are consistent with the market; are transparent about the timing and extent of rent increases. However, over recent years there has been a considerable amount of anecdotal evidence from tenants who have reported incidences of tenancies failing to adhere to these basic standards.

The Housing and Nuisance team of Environmental and Consumer Protection (Regulation Directorate) has observed incidences of tenants on short-term leases that have expired, without a new agreement in place (a periodic tenancy), being subject to rent increases that exceed RPI, and which are sometimes captured within a new agreement. The Housing Tribunal could perform a vital role in ensuring that any such increases are fair.

The affordability challenges in Jersey's current housing market together with the recognition that the existing Residential Tenancy Law has not offered enough protection for tenants, helped to generate momentum for the re-introduction of a statutory tribunal in Jersey that would, as a minimum, offer tenants a form of consumer protection against unjustifiable rent increases that do

not reflect a cost or market conditions (also consistent with [Recommendation R2 \(Rent Stabilisation\)](#) of the Housing Policy Development Board).

The [Fair Rents Plan](#) established under the former Government included a commitment to re-appoint the Rent Control Tribunal under the existing [Dwelling-houses \(Rent Control\) \(Jersey\) Law 1946](#). This move was intended to be a first step that would have put an existing but largely unobserved law to use; provided tribunal members and Government officers with useful learning experience in re-establishing and running the tribunal service, and utilised the expertise of tribunal members in developing proposals for the replacement of the Rent Control Tribunal with a successor housing tribunal.

However, since the Dwelling Houses Law was first introduced, there have been several changes to how tenancies are managed in Jersey. These include the introduction of the Residential Tenancy Law in 2013 as well as significant changes within the social rents sector, including the creation of the [Affordable Housing Gateway](#) and [Andium Homes](#) as a States-owned company, whose rents are stabilised (see section 2.4 Social housing providers and tenancies).

Because of these changes, and following concerns raised about the scope and powers available to the Rent Control Tribunal in today's context, the Minister for Housing and Communities decided to withdraw his [proposition](#) to re-establish the Rent Control Tribunal and is now moving directly to incorporate rent controls and the creation of a new Housing Tribunal – of broader scope – under the new Residential Tenancy Law. This more holistic approach will help to ensure modern, comprehensive protection through a tribunal process can be achieved in a more streamlined way.

### **Policy intent**

The scope of a new Housing Tribunal could be very broad. Careful work will need to be undertaken in partnership with Law Officers in the final design of the draft Law to ensure that investigation, enforcement, and decision-making powers are attributed to the most appropriate authorities (i.e., Environmental Health Officers, a Housing Tribunal, or the courts).

It is anticipated that a future Housing Tribunal will consider referrals based on two broad themes: rents and appeals.

- **Rent referrals** will be considered in a similar way to that of the Rent Control Tribunal. In this way the Housing Tribunal will operate as a complementary rent stabilising mechanism to those measures referenced under section 2.3 Rent controls, testing whether a breach of the law has occurred. The presence of the Housing Tribunal will also act as a deterrent to unfair and unlawful rent-setting practices.
- **Appeals** referrals will encompass a wide variety of tenancy-related issues, with the Tribunal performing an arbitration and decision-making role, enabling independent professional judgements to be made and avoiding matters going through the courts.

The Housing Tribunal will, therefore, offer an alternative form of dispute resolution, capable of considering all the relevant material circumstances and hear directly from landlords and tenants. This will be particularly useful for more nuanced referral cases.

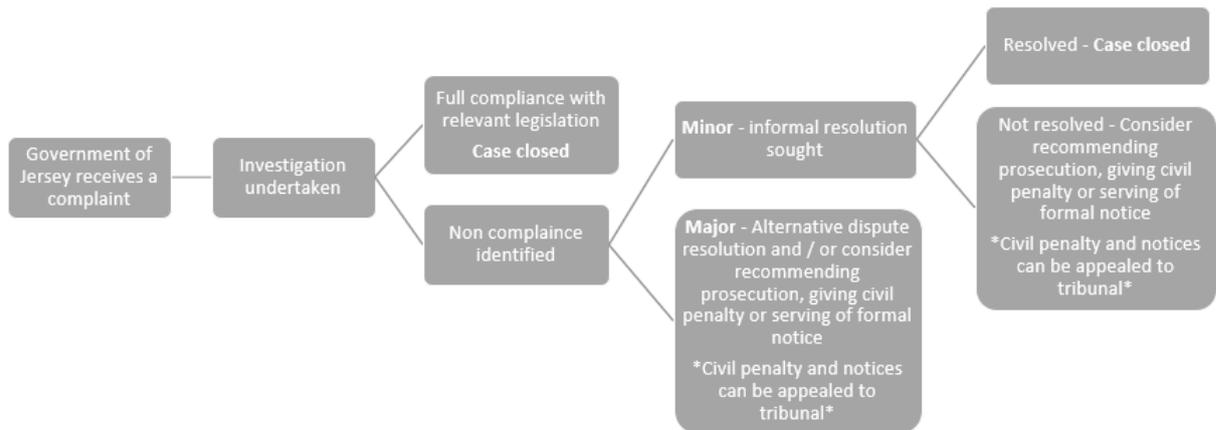
The table below sets out some of the areas currently under consideration. The table is only indicative; other areas across housing legislation may come into scope as work progresses to develop the draft Law, and in particular, the detailing of how investigative powers, civil penalties and the role of the courts will be applied.

<b>Rent</b>
<ul style="list-style-type: none"> <li>• Apply a consistent definition of what it considers to be an acceptable private market rent in Jersey</li> <li>• Consider whether a rent increase is consistent with the provisions under the Residential Tenancy Law</li> <li>• Consider whether a rent increase is consistent with the clauses in the residential tenancy agreement</li> <li>• Consider whether a rent increase is significantly more than RPI for no good or pre-agreed reason</li> <li>• Consider all material circumstances that may fall outside the provisions of the Law, which may have a bearing on whether a rent increase is acceptable</li> <li>• Consider whether an upgraded standard of accommodation provided by a landlord justifies the application of a rent increase</li> <li>• Consider whether the level of care afforded a property by a tenant has been such that it necessitates a rent increase of more than RPI</li> </ul>
<b>Appeals</b>
<ul style="list-style-type: none"> <li>• Civil penalties and fines</li> <li>• Fees levied by landlords/letting agents that are considered disproportionate</li> <li>• Determination whether a property is uninhabitable and which party, if any, is responsible</li> <li>• Whether or not peaceful enjoyment has been breached</li> <li>• Receiving complaints or appeals that have already been considered by public sector entities or social housing providers</li> <li>• Evictions process, either fully or at an intermediate stage, where the Tribunal can make an opinion available to the Royal Court</li> <li>• Specific issues that fall under Public Health and Safety (Rented Dwellings) (Jersey) Law 2018, which sits with the Minister for the Environment</li> </ul>

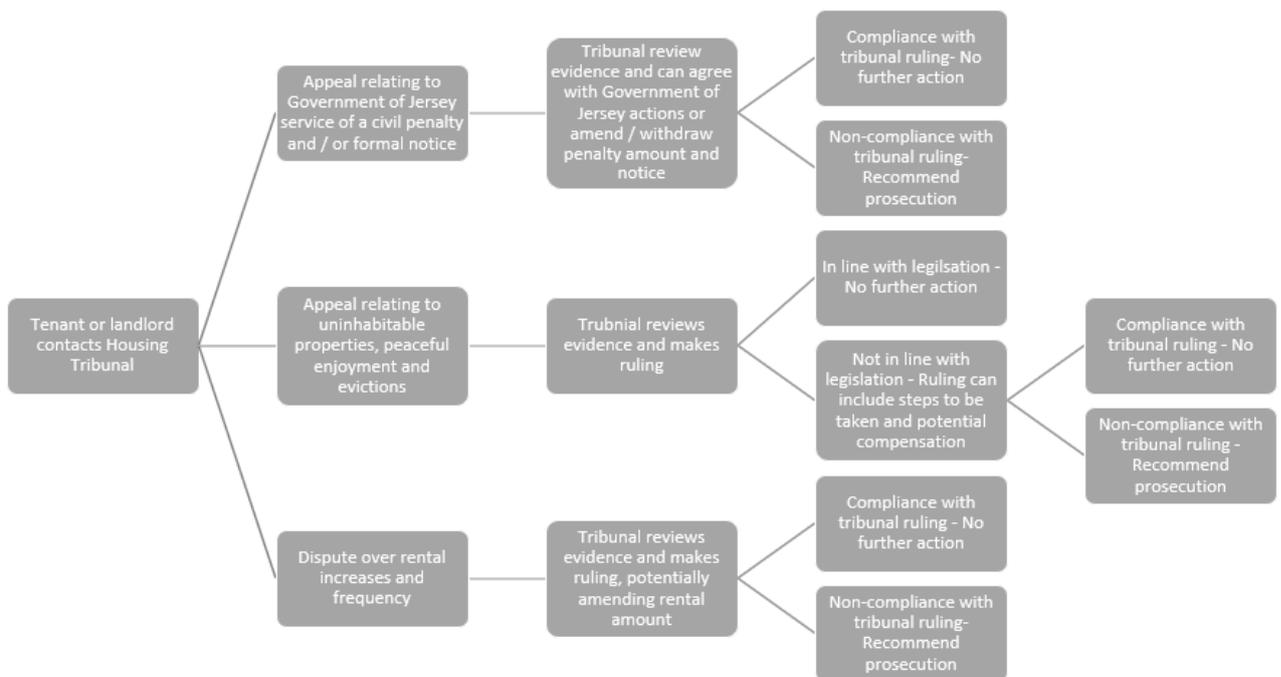
**Table 3:** Possible scope of Housing Tribunal under new Residential Tenancy Law

It is anticipated that the Tribunal will play an integral role within the escalation processes for a range of residential tenancy matters, currently the preserve of Ministerial decision makers or the Courts (see section 1.8 Offences and penalties). Although the Tribunal will likely have enforcement powers, on points of law or for more substantive criminal offences it is envisaged that the Courts will retain primacy.

The following two diagrams illustrate how complaint procedures may be handled between Government of Jersey and a Housing Tribunal:



**Figure 4:** Possible compliance pathway initiated through Government of Jersey



**Figure 5:** Possible compliance pathway initiated through Housing Tribunal

As outlined above, it is proposed that the Housing Tribunal will have an appeals function for a range of residential tenancy issues, including, for example, on complaints that have been investigated by public sector entities or social housing providers where a decision has been made. This statutory safeguard would not duplicate the proposed role of the [Jersey Public Services Ombudsperson \(JPSO\)](#), which will have a mandate, independent of Government, to investigate complaints about the provision of public services. The JPSO's role will be to investigate allegations of maladministration or service failure by public service providers. The JPSO would not necessarily have jurisdiction to investigate the merits of any discretionary decisions taken by, for example, social housing providers. In contrast, a Tribunal would hold such powers.

Initial research has already been completed on housing tribunal models across several jurisdictions, including those of the British Isles. Consideration will be given as to whether the Tribunal should focus exclusively on appeals, or if it will operate as a first line of response on some matters and in a secondary capacity for others.

## 2.6 Homelessness

### Context

Jersey is not exempt from the challenge presented by homelessness, whether that is in the visible form of rough sleeping or less obvious challenges around access to housing, unsuitable or unsafe accommodation and threat of eviction.

Significant recent progress has been made in homelessness service provision, notably the establishment of the [Housing Advice Service](#) (including its Critical Support Team), which works alongside specialist third sector charities (and the [Homelessness Cluster](#) of stakeholders) to support vulnerable Islanders who are either homeless or threatened with homelessness.

### Scope for change

The independent [Jersey Homelessness Strategy](#) recommended placing a definition of homelessness on a statutory footing to promote a shared understanding of the issue. A new definition of homelessness was [published by the Minister for Housing and Communities](#) in October 2022. The definition adopts the European Typology on Homelessness and Housing Exclusion (ETHOS) framework designed by the European Federation of National Organisations Working with the Homeless (FEANTSA).

Although the definition has not been set out in legislation, it has achieved the Jersey Homelessness Strategy's objective of establishing a common understanding of homelessness for use by homelessness service providers in Jersey. The Minister's short-term priorities focus on understanding the nature and extent of homelessness in Jersey; supporting the work of the Housing Advice Service and sheltered accommodation providers in Jersey; and gathering more consistent and extensive data, necessary in identifying the true extent of homelessness in Jersey.

As more data and understanding of the problem becomes apparent, together with the ongoing efforts of the Housing Advice Service to better support homeless people and those facing housing challenges in Jersey, the Minister will consider the role of a statutory definition for homelessness in due course. To ensure that there is an ability to include specific consideration of homelessness issues under the Residential Tenancy Law in the future, secondary legislation-making powers are proposed to be included in the law drafting instructions to allow this.

In a broader sense, the comprehensive approach to residential tenancy reform set out in this paper, with its emphasis on tenants' rights and enhanced protection and standards across the

rental sector are entirely consistent with the recommendations of the Jersey Homelessness Strategy.

## 2.7 Rental deposit scheme

### Summary of policy intent: Rental deposit scheme

It is the Minister for Housing and Communities' intent to maintain Regulations to deal with the collection and security of deposits.

As work to update the Residential Tenancy Law progresses, the Minister will take the opportunity to review the performance of the deposit scheme and regulations, making recommendations accordingly.

The [Residential Tenancy \(Deposit Scheme\) \(Jersey\) Regulations 2014](#) provided for the creation of a rental deposit scheme. The scheme, which is currently operated by My Deposits Jersey, is vital for the protection of tenants' deposit money whilst also providing a mechanism for landlords to claim monies back for items of disrepair, unpaid bills and similar. The scheme operator offers a dispute resolution service where there are disagreements between parties on how monies should be split. At the current time there are over 8,500 deposits protected in the scheme, highlighting its importance.

The deposit scheme will continue to operate in its current form alongside the work to introduce a new updated Residential Tenancy Law. However, whilst the general operation of the scheme and its intention will not change, there will be an opportunity to refine its operation as part of a review of subordinate legislation that will follow on from the Residential Tenancy Law work.

In the meantime, work will be undertaken to review the performance of the existing legal provisions and services provided, to identify how the legislation may be strengthened and processes made even simpler and fairer.

A specific change relating to unclaimed deposits will be investigated. Currently the scheme operator is required to return unclaimed deposits (not claimed within five years of the tenancy having ended) to the Minister. However, there is no limitation on when these monies can be claimed back by tenants or landlords, therefore the money must be kept in an account and not used, indefinitely. It is suggested that the Regulations could be amended to set a time limit of five years for monies to be claimed back, and where monies remain unclaimed after this period, it may then be invested in projects relating to important housing initiatives, such as homelessness, safeguarding and similar.

## Closing Remarks

The proposals set out in this paper are intended to highlight the key areas of change that the Minister for Housing and Communities is pursuing as part of a comprehensive update to the Residential Tenancy Law. Feedback on these proposals is vital to ensure that the most complex and contentious areas of proposed change can be considered openly and constructively, and lead to the development of a draft Law that can be adopted without delay.

All Islanders with an interest in tenancy matters – past, present or future – are urged to engage with this consultation and provide their feedback, covering the scope of this paper and beyond on matters relevant to residential tenancies in Jersey.