

Response ID ANON-UNG1-A819-X

Submitted to **Fair Rents (Scotland) Bill**

Submitted on **2020-12-07 14:44:33**

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I would like my response to be published in its entirety

3 What is your name?

Name:

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4 What is your email address?

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5 Are you responding as an individual or on behalf of an organisation?

Organisation

Organisation :

Scottish Property Federation

Your Views

1 The Member in Charge thinks there is a need to make private rents fairer for tenants and to create a better balance of power between private landlords and tenants. Do you agree with this overall policy aim? If so, do you think the Bill will help achieve this outcome?

Please provide your response in the box provided.:

The Scottish Property Federation (SPF) is firmly of the view that any form of rent control is unnecessary, not justified by data on rent increases in Scotland, and will have negative consequences for both landlords and tenants. The only stable long-term solution to control rent levels is to introduce measures to incentivise and facilitate increases in the supply of properties in the marketplace. Trying to control rents by regulation is likely to lead to a deterioration in property quality, a fall in investment in the sector, a culture of more frequent annual rent increases throughout a tenancy, and a loss of tenant mobility. These consequences would go against the Government's strategic aims of enabling growth and investment in the PRS and meeting the needs of the people living in the sector, consumers seeking accommodation, and landlords committed to continuous improvement.

The unintended consequences of the proposals present risks to both tenants and landlords and has the potential to add substantially to the workload of the First tier Tribunal.

Our members are firmly of the view that rent controls should only be in areas that are designated as rent pressure zones and should not be applied across the sector to allow for the introduction of blanket national rent capping.

The SPF is also firmly of the view that it is important to consider the wider context of the PRS market.

An institutionally funded PRS at scale has the opportunity of making a significant difference to the current housing crisis due to higher occupier absorption rates, by enabling larger development phases and creating new places and communities more quickly. None of this will occur if blanket rent control is introduced.

The evidence on rent increases is mixed – Aberdeen rents have been falling as a result of the oil sector downturn, while across Scotland the uplift in rents has been low (in fact lower than social rents). There are exceptions and rent levels in parts of Edinburgh have increased, yet we believe the answer to this is to improve supply of housing (for all tenures), not to regulate.

The proposals may even be counter-productive for sitting tenants. There is a danger that the CPI + 1 proposals could even lock in rent increases where landlords had no original intention of increasing rent levels.

Rent inflation is not exclusive to the PRS but the same underlying cause is evident - supply shortages, coupled with high demand, are pushing up social rents for Registered Social Landlords. The most recent data available from the Scottish Housing Regulator shows that average RSL rents rose by 3% in 2019-20.

By contrast the most recent Scottish Government statistics show that in the year to end September 2020, average 2-bedroom rents increased above CPI inflation of 0.5% in 11 out of 18 areas, with the largest increase being 4.0% in East Dunbartonshire. Five areas saw little change in average rents compared with the

previous year, with annual changes within +/-0.5%. Average rents decreased by more than 0.5% in the Ayrshires (-0.6%) and West Dunbartonshire (-1.3%). These regional trends combine to show an estimated 1.1% increase in average 2-bedroom monthly rents at a Scotland level. The focus is on 2-bedroom properties as this is the most common type of property in the PRS. These regional trends combine to show an increase of 1.1% in average rents for 2-bedroom properties.

2 Section 1 of the Bill it prevents a landlord of a private residential tenancy from increasing rent in any year by more than the Consumer Price Index plus 1%? Do you agree with this? Section 1 also gives the Scottish Government a power to vary the cap by order. Do you agree with this?

Please provide your response in the text box provided. :

The SPF is already familiar with this approach in line with the provisions of the Private Housing (Tenancies) (Scotland) Act 2016 (the 2016 Act). However, our members are firmly of the view that this should only be in areas that are designated as rent pressure zones and should not be applied across the sector to allow for the introduction of blanket national rent capping.

It is worth noting that the areas deemed as potential rent pressure zones are those where demand outstrips supply, and where much need investment needs to be encouraged. It should also be recognised that the designation of a RPZ in accordance with the 2016 Act should be viewed as failure on part of local authorities in meeting local housing need and demand, and therefore, should only be applied for in extreme circumstances and not as a part of a local authority's wider housing strategy.

Rent caps may also be counter-productive for sitting tenants. There is a danger that the proposals could even lock in rent increases where landlords had no original intention of increasing rent levels.

3 Section 2 allows a tenant in a private residential tenancy to apply to have a "fair open market rent" determined by a Rent Officer. Do you agree with section 2?

Please enter your response in the text box provided. :

Our members are firmly of the view that the regulation of the PRS sector should be fair and equitable and should support the interests of tenants and responsible landlords in a balanced way.

The unintended consequences of the proposals present risks to both tenants and landlords. The key risk is that there would be an incentive to increase rents on an annual basis to ensure that rent levels do not fall behind market levels. Currently, a sitting tenant might not have their rent raised for some time. If the First Tier Tribunal is only able to agree proposed rent increases or reduce rents, there is an incentive on tenants, at no risk to themselves, to challenge increases in order to delay any future increase. This is likely to put additional pressure and subsequent costs on the First Tier Tribunal and create further delays in the process.

The Bill proposes that when a tenant appeals their rent, rent officers and the First-tier Tribunal will be able to either lower or maintain the rent, depending on their assessment, but will not be able to raise the rent. The Policy Memorandum claims that this will re-balance the power of the appeals process which currently acts a barrier to a tenant taking a case to appeal. Under the 2016 Act a tenant can appeal against a proposed increase of rent initiated by his or her landlord. In practice, rents are generally increased on appeal, which underlines that the proposals in the Bill are unfounded and unwarranted. The process should be fair and equitable to all parties, and the current provisions in the Bill may encourage speculative claims to delay any increase.

4 Section 3 requires the following to be entered into the Scottish Landlord Register: the monthly rent charged for a property, the number of occupiers, and the number of bedrooms and living apartments. The MSP who introduced the Bill thinks this change will help ensure we have more public data about private rent levels. Do you agree with Section 3 of the Bill?

Please enter your response in the text box provided.:

The SPF agrees that a lack of data is a substantial issue. Our members are firmly of the view that the designation of an RPZ or the introduction of further regulation on rents should be driven solely by a robust statistical evidence base and an understanding of the impact the use of such regulatory interventions will have on the wider market.

As already stated, we are firmly of the view that the only stable long-term solution to control rent levels is to introduce measures to incentivise and facilitate increases in the supply of properties in the marketplace. Trying to control rents further by regulation is likely to lead to a deterioration in property quality, a fall in investment in the sector, a culture of more frequent mid tenancy rent increases, increases in starting rents (if controls affect mid tenancy increases) and a loss of tenant mobility. These consequences will go against the Government's strategic aims of enabling growth and investment in the PRS and meeting the needs of the people living in the sector, consumers seeking accommodation and landlords committed to continuous improvement.

Our members have questioned why it is considered necessary to introduce further rent pressure zone measures, which are intended to be a discretionary tool for local authorities to target issues of rent affordability in their areas, given the political drive to increase supply.

It should also be recognised as stated above that the designation of a RPZ should be viewed as failure on part of local authorities in meeting local housing need and demand, and therefore, should only be applied for in extreme circumstances and not as a part of a local authority's wider housing strategy.

As stated above we agree that a lack of data is a substantial issue. The SPF is firmly of the view that the designation of an RPZ should be driven solely by a robust statistical evidence base, and an understanding of the impact the use of such regulatory interventions will have on the wider market. The expansion of the landlord registration or tenancy deposit schemes could allow for the collection of such data. However, we are concerned that there may be implications in relation to requirements imposed by General Data Protection Regulation.

5 What financial impact do you think the Bill will have – on private tenants, on landlords in the private rented sector, on local authorities, on Rent Services Scotland, on the First-tier Tribunal, or on anyone else?

Please enter your response in the text box provided.:

The SPF is firmly of the view that the Financial Memorandum that accompanies this Bill does not reflect the true costs arising from the provisions in the Bill and we question the robustness of the information included.

There is frequent reference in the Financial Memorandum to no costs, de minimis costs or costs that are not significant, the extent of which have not been set out in the summary table or elsewhere in the Memorandum. There are significant financial consequences for our investor, landlords and manager members with a knock-on effect to tenants.

Impact on the Scottish Consolidated Fund

The unintended consequences of the proposals present risks to both tenants and landlords and has the potential to add to the workload of the First tier Tribunal. The estimates given in relation to the number of cases going to the First Tier Tribunal on rental grounds mainly relate to repairs and not the level of rent charged. However, the new proposals actively encourage tenants to apply to the Tribunal, which can ultimately delay any rent increases with no risk of rent being increased. The First Tier Tribunal also does not hold the necessary data on the costs of cases to allow a reasonable estimate of potential costs.

In order to consider the proposals in the Bill fully there needs to be an estimate of costs on a limited and worse case load scenario of potential applications specifically for rent increases going to the First Tier Tribunal. There also needs to be an estimate of the costs to collect the rental data centrally.

Impact on Investment

Institutionally funded PRS at scale has the opportunity of making a significant difference to the current housing crisis due to higher occupier absorption rates, by enabling larger development phases and creating new places and communities more quickly. None of this will occur if blanket rent control is introduced. Our members suggest that consideration should be given as to how Scotland can be positively differentiated, in order to attract this much needed source of large-scale private funding. Without this increase in supply and choice there will inevitably continue to be price inflation pressure in local hotspots like Edinburgh and rents will move accordingly.

Institutional and other large-scale reputable investors, such as major institutional pension and life funds, are actively interested in professionally managed PRS. The SPF is very concerned that any changes, or even suggestion of changes, to the regulation of the tenancy regime or introduction of further rent controls could deter this vital source of funding. The associated additional investor risk premium could leave Scotland disadvantaged, and potentially un-investable in this sector. The loss of liquidity and the impairment of value would be unacceptable to many investors.

If additional rent controls were to be put in place this would incur immediate valuation issues for landlords. This is because professional valuers may deem that there has been a transfer of risk and thus a diminution of value. This will have an impact on small and larger scale investors, or potential investors in new build PRS. It is important that consideration is given to the wider consequences of any tenancy law reform on the value of property assets held by current investors. There are considerable financial implications for our investor, agent and manager members, which ultimately means there will be a knock-on effect of additional costs for tenants.

All of these matters will make Scotland less competitive in attracting institutional investment into PRS as it will be regarded as a higher risk/lower return market than other parts of the UK. This in turn would reduce the future supply of large scale new PRS developments which is a strategic Government aim. The proposals in the Bill are also contrary to the positive encouragement investors received when the Scottish Government introduced the Rental Income Guarantee Scheme in October 2017 to support more investment in private rented housing.

We believe that the introduction of a blanket rent control, may also cause significant distress to smaller landlords because it would also give no protection from any increased borrowing costs (an increase in the Bank of England base rate for example). The consequence of increased borrowing costs, not being met by commensurate rental increases at review, could lead smaller landlords to exit the PRS which will diminish housing supply rather than increase it, thus exacerbating pressures on supply.

Impact on Tenants

There would be an incentive to increase rents on an annual basis to ensure that rent levels do not fall behind market levels. Currently, a sitting tenant might not have their rent raised for some time. If the First Tier Tribunal is only able to agree rent increases or reduce rents, there is an incentive on tenants, at no risk to themselves, to challenge increases in order to delay any future increase. This is likely to put additional pressure on the First Tier Tribunal and create further delays in the process.

Notwithstanding the ability for landlords to appeal, the introduction of blanket rent controls or localised rent cap zones may limit a landlord's ability to improve the quality of their property, including for any new standards in the future.

Impact on Sustainability and Carbon Agenda

As stated above, the introduction of blanket rent controls or localised rent cap zones may limit a landlord's ability to improve the quality of their property, including for any new standards in the future. It would also give no protection from any increased borrowing costs, which may also discourage further investment, including from institutions, to grow the sector and build more new homes for private rent. Some institutional members have already confirmed that Scotland has been, or will be, given an added 'risk premium'.

Impact on Local Authorities

The Financial Memorandum states that there will be no additional costs to local authorities but there will be substantial upfront costs relating to technology and training to support changes to systems and processes for local authorities and the cost of the collection and publication of the data collected centrally will create a cost to the Scottish Consolidated Fund.

6 We welcome any other comments you may have on the Bill that you think are relevant and important, including its likely impact (positive or negative) on equalities, human rights and quality of life issues.

Please enter your comments in the box provided::

Our members have strong concerns about the lack of supporting evidence for this further legislation. As stated above they are firmly of the view that any form of rent control is unnecessary, not justified by data on rent increases in Scotland, and will have negative consequences for both landlords and tenants. Trying to control rents by regulation is likely to lead to a deterioration in property quality, a fall in investment in the sector, a culture of more frequent annual rent increases throughout a tenancy, and a loss of tenant mobility. These consequences would go against the Government's strategic aims of enabling growth and investment in the PRS and meeting the needs of the people living in the sector, consumers seeking accommodation, and landlords committed to continuous improvement.

The SPF also questions the requirement to provide the information at Section 4 of the Bill. If there is clear evidence that underpins the requirement for the introduction of this further legislation this provision should not be required.

Evaluation

1 Was this views submission tool easy to use?

Easy to use

Why did you feel it was, or was not, easy to use?:

2 Do you think this Call for Views submission tool provides a good way for you to get involved in the work of Parliament?

No

Please explain the reasons for your answer?:

The Scottish Property Federation (SPF) is a voice for the real estate industry in Scotland. We include among our members: property investors, including major institutional pension and life funds; developers; landlords of commercial and residential property; and professional property consultants and advisers. The format of the consultation makes it very challenging to gather the views of our members and offer an industry view.