SPF VOICE

January 2022

INSIDE THIS ISSUE

FROM THE CHAIR

VOLUME 15 ISSUE 01

Kevin Robertson
SPF Chair
MD, KR Developments Group Ltd

Last June, we launched BPF Futures in Scotland, opening up the fantastic benefits of the BPF's junior professionals' network to members North of the Border. These benefits included access to a brand-new mentorship programme, networking opportunities and professional development experiences.

This year, our priority will be to further expand BPF Futures' presence in Scotland and raise awareness among our cohort of new and young-in-career property professionals about the opportunities available. To this end, I'm delighted to announce that three new positions have been created on the BPF Futures Advisory Board (FAB) for Scottish-based junior professionals. Those in these new roles will work with their fellow board members to manage BPF Futures at a UK level and also lead the charge in growing the network here.

Following an application process in December, I'd like to give my congratulations to the successful applicants who will be announced next week. Needless to say, I'm inspired by their enthusiasm, and I very much look forward to working with them over the next few months as we put together a programme of activities for the year ahead.

If you have anyone in your organisation that has 10 or fewer years in the property industry, or if you fall into that category yourself, then please do spread the word – more information can be found on the SPF website.

In addition to the fantastic news on BPF Futures in Scotland, the past few weeks have seen significant interaction between the SPF and policymakers, which will cumulate in us giving evidence on NPF4 to the Scottish Parliament's Local Communities, Housing and Planning Committee on Tuesday, 1 February. The Policy Insights page of this issue has a short update on recent developments around NPF4, and I do urge you to get in touch with the SPF team if you would like to help shape our representations as this key policy is developed.

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POLICY INSIGHTS

RECOVERY & REFORM BILL

The Scottish Government has laid the Coronavirus (Recovery and Reform) Bill in the Scottish Parliament seeking to make permanent some of the emergency measures that were enacted during the pandemic. The Bill proposes changes in 30 legislative areas, which were modified by temporary provisions made under Scottish and UK coronavirus legislation. For the property sector, the key changes occur around the regulations that govern the private rented sector; the duties of those who manage purpose-built student accommodation; and the registration of land.

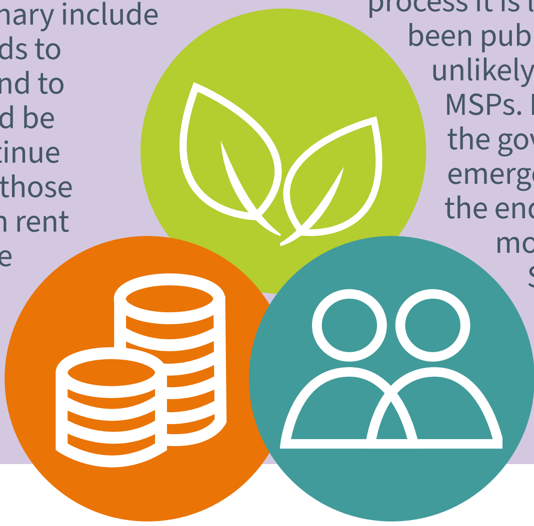
Over the coming weeks the SPF will be analysing the Scottish Government's proposals in more detail, and we will be gathering views for members on the benefits and potential pitfalls of each change. However, at face value, if the Bill is approved by MSPs it could result in a number of key changes.

The main impact on the private rented sector will be that a number of previously mandatory grounds for eviction will become discretionary, meaning that the First Tier Property Tribunal will have to agree that evicting a tenant is reasonable in each situation. Grounds that will become discretionary include situations where the landlord intends to sell the property or where they intend to refurbish their property and it would be impracticable for the tenant to continue to occupy the property throughout those works. In addition, if a tenant was in rent arrears for at least three consecutive months it was previously regarded as either a mandatory or discretionary ground depending on the precise circumstances in which eviction was being sought. However, this will now move to a discretionary only ground for eviction.

For those that manage student accommodation, the new Bill infers additional duties during a public health crisis, including the requirement to restrict or prohibit access to student accommodation premises. The Bill could also require managers to provide support for students to help them to comply with any legal requirement relating to public health, such as a requirement to quarantine. Details of what could be asked in such a situation will be set out in further guidance.

Following the effective suspension of services at the Registers of Scotland at the start of the pandemic, rules that allow the digital submissions of deeds will be made permanent. The Bill sets out that a copy of a deed submitted electronically is sufficient to allow registration to proceed. The means and form for electronic submission of copy deeds, such as email, are also detailed.

As the Bill makes its way through the legislative process it is likely to be amended, so what has been published by the Scottish Government is unlikely to be the version enacted if agreed by MSPs. It should also be borne in mind that the government is still able to extend the emergency legislation currently in force to the end of March for a further period of six months (again subject to approval by the Scottish Parliament). This legislation currently extends the irritancy period and gives students the ability to give 28 days' notice to exit their PBSA tenancy agreements.



TRANSFER OF EMPTY PROPERTY RATES POLICY

The SPF is alerting Scottish local authorities to a new policy responsibility on local government due to take effect from 1 April 2023. This relates to the devolution of empty property rates, which is a core burden and concern for many members. There has rarely been a sensible public debate on this issue as politicians persistently argue that property owners need an 'incentive' to let their vacant buildings. The truth of the matter is very different as too many investors, including individuals with SIPPs, know that owners need support not tax penalisation to turn around a vacant property.

Property owners are also experiencing ultimatums from tenants coming to the end of leases, whereby they are being asked to agree at times token rents (or sometimes no rent) or face the consequence of taxation on a non-income bearing property. The market is clearly being negatively influenced by the policy on empty property rates. Our concern is that this will damage real estate finance arrangements for members and undermine efforts to invest in sustainable town centre renewal.

REGIONAL SPOTLIGHT

Moray

On 20 December, Heads of Terms for a £100m city growth deal were agreed between Moray Council, and the UK and Scottish governments. The deal will support eight projects, which will have a focus on initiatives to support high-end technology manufacturing, affordable housing, culture and tourism over the next 10 years.

Aberdeen

On 26 January, the SPF hosted a well-attended and wide-ranging discussion with the Chief Officer for City Growth in Aberdeen, Richard Sweetnam. Key issues included empty property rates, the city living agenda, regeneration of Union Street and the impact of work from home on the city centre economy. Also highlighted were key upcoming council meetings including consideration of a Union Street masterplan and Indoor Market proposal on 28 February and then the Aberdeen City budget meeting itself on 7 March.

Falkirk

On 20 December, a landmark agreement was reached between Falkirk Council, Scottish Canals and the UK and Scottish governments. The agreement includes eleven projects with a £80m investment from the two governments, £45m from Falkirk Council, and £5.8m from Scottish Canals. The deal features an investment zone between Falkirk and Grangemouth and support for the petrochemical complex to begin the transition to a net zero economy.

Fife

On 25 January, an SPF delegation led by Chair Kevin Robertson and Muir Group's Ronnie Muir, held a highly positive discussion with Fife Council's senior planning officers led by Pam Ewen (also Chair of Heads of Planning Scotland). The discussion covered planning resources, development and investment in the area including town centre renewal after the pandemic. The challenge of net zero delivery for housing and construction costs was also discussed in detail. We have agreed to follow up with the council in these areas of interest.

SPF Annual Conference

Invest in Opportunity: Scottish Real Estate 2022

31 May 2022, EICC, Edinburgh

While we have been delighted to host a significant number of webinars and other online events over the past 2 years, we know that nothing can replace face-to-face meetings. In 2022, we are planning to host a renewed SPF Annual Conference on 31 May at the Edinburgh International Conference Centre. Please save the date – more information will follow.

Your SPF Conference

Issues and Interests Survey

This is an opportunity for members to influence the shape and format of the next SPF Conference.

Take the survey here!

INDUSTRY INSIGHT

Scottish Government consultation on the 4% Additional Dwelling Supplement

Isobel d'Inverno

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The Scottish Government has launched a consultation on the 4% Additional Dwelling Supplement (ADS), which is payable on the purchase of additional dwellings by individuals, such as buy to let properties and second homes, and all purchases of dwellings by companies and other non-natural persons.

The consultation document focusses on a number of areas where concern has already been raised about the operation of the ADS but it aims to "build a clear and shared understanding of all the issues of concern with the ADS", so it also welcomes representations on other issues.

The ADS rules are complex and ADS can apply in circumstances which taxpayers may not expect. There can be particular difficulties at the beginning and end of relationships, where couples are buying property together for the first time, or when a new property is bought after separation or divorce. These issues are often caused by the "economic unit rules" (which mean that individuals are treated as owning dwellings owned by their spouse, civil partner or cohabitant and any dependent children), and their interaction with the treatment of joint purchasers.

No ADS is payable where the taxpayer's main residence is replaced, but there are 18 month time limits for buying a replacement main residence, or selling an existing main residence if a new house is bought before the old one is sold. In some circumstances 18 months is too short a time, for example where delays are caused by cladding issues, and the time limits could also cause greater difficulties in more remote areas of Scotland. For SDLT and the Welsh Land Transaction Tax the equivalent time limits are 36 months.

The main issues raised in the consultation document include:

- a possible extension of the 18 month time limits for replacement of main residence
- the introduction of an "exceptional circumstances" provision to give Revenue Scotland discretion to extend the time limits for ADS refunds in particular cases
- should low value shares in jointly owned inherited property, or recently inherited properties be ignored for ADS ?
- how should a new property purchased after divorce or separation be treated ?
- issues with the joint buyers and economic unit rules and how they impact on replacement of main residence relief
- a relief for local authorities acquiring houses for affordable housing, and also for housing co-operatives

The consultation is very welcome indeed, and all those affected by ADS should take the opportunity to make their views known. The more evidence which is brought forward, the more likely it is that the Scottish Government will make changes to the ADS rules.

The consultation closes on 11 March 2022 and an analysis of responses will be published in early summer 2022. If the Scottish Government decides to make changes to the legislation, there will be a further consultation on the proposed legislative changes. Any changes which are made will not be retrospective.

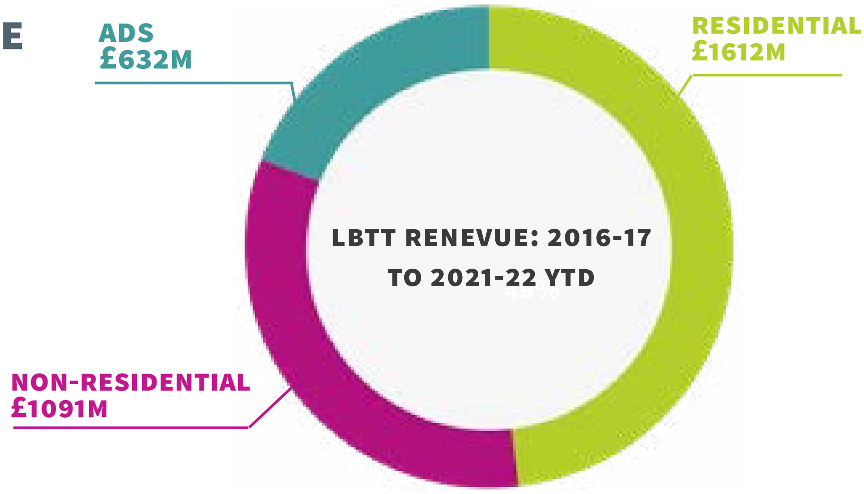
What do you think should happen with ADS? If you would like to contribute to the SPF's response to the Scottish Government's review, contact David.

RESEARCH

AT A GLANCE: SCOTLAND'S ADDITIONAL DWELLING SUPPLEMENT

SHARE OF TOTAL LBTT REVENUE

Since the introduction of ADS in 2016-17, the surcharge has accounted for 19% of all LBTT revenues. However, the ADS's share of total LBTT has increased over time. In its first year of operation (2016-17) ADS made up 17% of all LBTT revenues, while in the last full tax year (2020-21) this rose to 22%.



REPAYMENTS

In a number of circumstances ADS can be reclaimed by the original taxpayer, for example where the previous main residence was sold within 18 months. The reclaim rate for ADS is 24%, equating to just over £200m since the tax was introduced.

ADS IN NON-RESIDENTIAL TRANSACTIONS

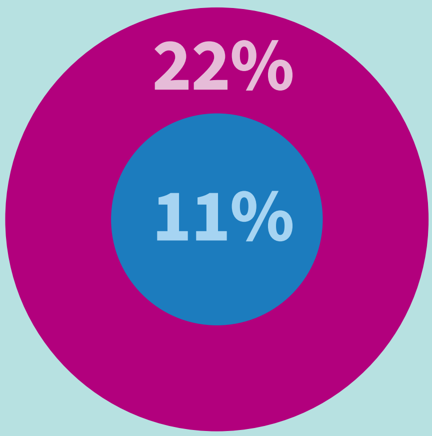
Although ADS predominantly applies to residential transactions, a small amount of ADS tax liabilities are paid as part of non-residential transactions due to a small number of sales with a residential component subject to ADS. To date, £13.6m has been paid on non-residential transactions, with £2.4m paid in 2020-21.

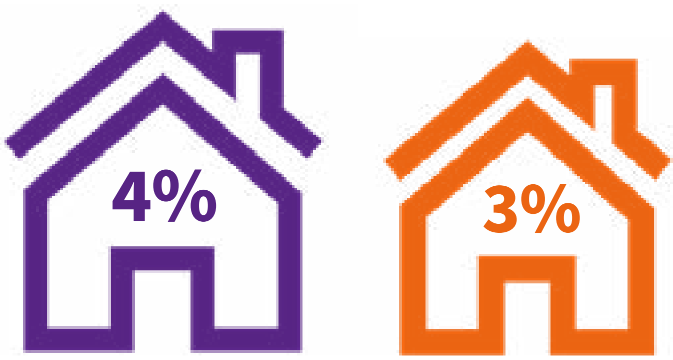
£13.6M

COMPARISON TO ENGLAND

LBTT/SDLT COMPARISON: SHARE OF TOTAL REVENUE (2020-21)

In 2020-21 the UK Government collected £1,405m from the 3% surcharge on transactions that fell into the Higher Rate on Additional Dwellings. This accounted for 11% of all SDLT revenue that year. The same period in Scotland saw ADS liabilities reach £115.4m or 22% of total LBTT revenue.





LBTT/SDLT COMPARISON: TAX RATE AND THRESHOLD

In both Scotland and England, only additional dwellings worth more than £40,000 are subject to a surcharge. However, the rate varies. In Scotland, ADS is paid at a rate of 4% on the entire value of a property, whereas in England such transactions incur a 3% charge.