

SCOTTISH PROPERTY FEDERATION COMMENTS ON THE PROPOSED FAIR RENTS (SCOTLAND) BILL CONSULTATION

Aim and Approach

Rent Cap

1. Which of the following best expresses your view of capping private sector rent increases annually across Scotland at one percentage point above inflation (measured according to the Consumer Price Index (CPI))?

- ☐ Fully supportive
- ☐ Partially supportive
- ☐ Neutral (neither agree nor oppose)
- ☐ Partially opposed
- ☒ Fully opposed
- ☐ Unsure

Please explain the reasons for your response.

Fully opposed

Our members are already familiar with this approach in line with the provisions of the Private Housing (Tenancies) (Scotland) Act 2016. 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.

Institutional and other large-scale reputable investors, such as major institutional pension and life funds, are actively interested in professionally managed PRS. 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.

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 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.

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.

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.

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 2.4% in 2017-18. By contrast [the most recent Scottish Government statistics](#) show that all areas of Scotland, with the exception of Aberdeen and Shire, Greater Glasgow and Renfrewshire/Inverclyde, have seen increases in average rents for 2 bedroom properties. The focus is on 2-bedroom properties as this is the most common type of property in the PRS. These have ranged from 0.3% in Perth and Kinross, up to 6.5% in Lothian. Aberdeen and Shire saw a decrease of 4.1%, the fourth consecutive annual decrease, which is likely to reflect decreased demand for rental properties in recent years following the downturn in the oil industry. These regional trends combine to show an increase of 1.5% in average rents for 2-bedroom properties from £643 in 2017 to £652 in 2018. This compares to an increase in the UK Consumer Price Index of 2.4% in the year to September 2018.

Rent level appeals

2. Which of the following best expresses your view of providing that, when tenants appeal their rent, rent officers and the First-tier Tribunal would be able to either lower or maintain the rent but not increase the rent?

- ☐ Fully supportive
- ☐ Partially supportive
- ☐ Neutral (neither agree nor oppose)
- ☐ Partially opposed
- ☒ Fully opposed
- ☐ Unsure

Please explain the reasons for your response.

Fully opposed

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.

We argue 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. 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 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.

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 PRS. It is vital that consideration is given to the wider consequences of tenancy law reform for 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. 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. 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 would be, given an added 'risk premium'.

Landlord registration scheme

3. Which of the following best expresses your view of expanding the landlord registration scheme so that landlords must input the rent that they charge when they register, and update the system when the rent changes? *

- ☐ Fully supportive
- ☐ Partially supportive
- ☒ Neutral (neither agree nor oppose)
- ☐ Partially opposed
- ☐ Fully opposed
- ☐ Unsure

Please explain the reasons for your response.

Neutral

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.

Other options - Rent Pressure Zones

4. Which of the following best expresses your view of tackling the problem of rents rising significantly faster than inflation by making it easier for a local authority to apply to create a Rent Pressure Zone (RPZ)? *

- ☐ Fully supportive
- ☐ Partially supportive
- ☐ Neutral (neither support nor oppose)
- ☐ Partially opposed
- ☒ Fully opposed
- ☐ Unsure

Please explain the reasons for this response.

Fully opposed

As stated above our members are 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. 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.

Financial implications

5. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

- a) Government and the public sector**
 - ☒ Significant increase in cost

- ☐ Some increase in cost
- ☐ Broadly cost-neutral
- ☐ Some reduction in cost
- ☐ Significant reduction in cost
- ☐ Unsure

b) Businesses- including landlords

- ☒ Significant increase in cost
- ☐ Some increase in cost
- ☐ Broadly cost-neutral
- ☐ Some reduction in cost
- ☐ Significant reduction in cost
- ☐ Unsure

c) Individuals – including tenants

- ☐ Significant increase in cost
- ☒ Some increase in cost
- ☐ Broadly cost-neutral
- ☐ Some reduction in cost
- ☐ Significant reduction in cost
- ☐ Unsure

Please explain the reasons for your response.

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.

As explained in our responses to questions 1 and 2 institutional and other large-scale investors are actively interested in PRS. However, the SPF is very concerned that any changes, or even suggestion of changes, to the regulation of 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.

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.

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.

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.

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. 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'.

6. Are there ways in which the Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?

Our members are firmly of the view that the Bill is unnecessary and 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 by regulation is likely to lead 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 new investment in the PRS and meeting the needs of the people living in the sector, consumers seeking accommodation and landlords committed to continuous improvement.

Equalities

7. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, maternity and pregnancy, marriage and civil partnership, race, religion or belief, sex, sexual orientation?

- ☐ Positive
- ☐ Slightly positive
- ☐ Neutral (neither positive nor negative)
- ☐ Slightly negative
- ☒ Negative
- ☐ Unsure

There is a risk of excluding younger people from access to PRS properties, particularly if new builds start off with high rent levels as a result of the cap level and 'grandfathering' proposals. Our members have also suggested that there could be an impact as a result of a lack of re-investment to upgrade and modernise PRS facilities as years go on, and as disability regulations ultimately improve, become more stringent, or simply change.

8. In what ways could any negative impact of the Bill on equality be minimised or avoided?

No comment

Sustainability

9. Do you consider that the proposed Bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

- ☐ Yes
- ☒ No
- ☐ Unsure

Please explain the reasons for your response.

If rent is capped, re-investment in existing PRS properties becomes more difficult, this risks elements such as maintenance, upgrading of systems (e.g. heating, lighting etc) to more modern and more efficient systems less likely.

As already stated, the Private Rented Sector (PRS) can make a significant difference to the number of new homes provided in Scotland. It is vital that reforms to the tenancy regime do not undermine potential investment in the sector. The multiplier effect of new investment would bring enormous economic benefits and should, be actively encouraged and incentivised.

We argue 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 will lead to a deterioration in property quality, a fall in investment in the sector, a culture of more frequent annual rent increases, increases in starting rents (if controls affect mid-tenancy annual 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.

General

10. Do you have any other comments or suggestions on the proposal?

Our members are firmly of the view that it is important to consider the wider context of the PRS market. As already stated above 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.

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 urge the Scottish Government to investigate ways of positively differentiating Scotland and attracting 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.

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.

The evidence on rent increases is mixed – Aberdeen rents have been falling in the past year 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. RPZs may even be counter-productive for sitting tenants. Even if specified by postcode there is a danger that the RPZ proposals could even lock in rent increases where landlords had no original intention of increasing rent levels.

Our members are firmly of the view that a practical affordable housing policy is required, in particular, how to resource affordable homes and who qualifies. A clear definition of what is meant by ‘affordable’ is also required. There is a considerable undersupply of rental housing especially for key workers who are essential for sustainable economic growth, and it is vital that we build more homes to address this.

The Scottish Government is unlikely to be in a position to sustain the funding for affordable homes at the same level as present. Recent housing market conditions and active encouragement by the Scottish Government has started to attract new investment into Scotland. It is therefore vital that the private sector is encouraged, via the major financial institutions, to invest in the rental sector in Scotland. A key tenet for financial institutions to invest in the sector is rental growth. Changing legislation or the threat of changes as proposed will stop such investment and as a direct consequence even fewer new rental homes will be built.

Vulnerable and single parent families are an increasing concern for the PRS in the light of changes to various benefit Regulations and the continuing pressure on the supply of housing. Some of our members have suggested the identification and provision of additional support functions for such groups should occur aside from the existing Tenancy Regime. As highlighted in the [Scottish Government publication on PRS statistics](#), this group forms a very small part of the overall PRS market, and should therefore not be the principal driver for change.

Developers are currently working up schemes, which are capable of delivering thousands of new PRS homes in Scotland, and due to depth of occupier demand, these can be provided in a considerably shorter timeframe than those built for owner occupation. None of these homes will be built without investment or funder backing.