



# SPF VOICE

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The new year continues to see pressure on PRS landlords as the government extended its cost of living measures for a further six months to 30 September 2023. Before Christmas the government had already announced it would lift the rent cap for public landlords, but PRS landlords had to wait until late January before Ministers announced an increase in the cap from 0% to 3% for the private sector. While a step in the right direction this still leaves investors with the uncertainty of future rent cap policies as well as the impact of the cap on future income itself.

We have consistently argued that the cap is a disincentive to investment in Scotland, and not just in the residential sector. We have also expressed our concern and frustration at the frequent conflation between advertised rents for new properties in the market and the much lower (if any) annual increases common within existing tenancy rental increases. This is a blunt instrument that does not recognise the steps so many property owners have taken to support tenants. Indeed, the evidence suggests that most landlords have kept rent increases, should there be any, significantly below inflation.

We will monitor with interest the outcome of the petition to the Court of Session for a Judicial Review of the Cost of Living legislation, submitted by the Scottish Association of Landlords, Scottish Land and Estates, and Propertymark. The petition raises, rightly in our view, the impact of this legislation upon the rights of landlords who face

the same financial pressures (greater in many individual cases) than public landlords.

**“The recent data on the supply of new homes tells a simple story – we are simply not providing enough accommodation across all forms of tenure in Scotland.”**

The rent cap legislation has had considerable unintended consequences for the prospects of investment in high quality new rented accommodation, not just in terms of the legislation itself but also the unilateral manner in which it was enacted.

The recent data on the supply of new homes tells a simple story – we are simply not providing enough accommodation across all forms of tenure in Scotland. And, as we can see south of the border, there is a real demand for the new form of modern renting that build to rent can offer. It is vital for the Scottish economy and communities as a whole that we do not miss out on this hard won investor led drive to deliver a step change in quality rented accommodation in Scotland.

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# INDUSTRY INSIGHT



## SCOTLAND'S RENT CAP

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On 19 January 2023 Scottish Government announced that the rent freeze would be lifted so that from 1st April rents can be increased with a cap of 3% per annum. A further 3% can be claimed for exceptional costs by application to Rent Service Scotland. The cap applies to existing tenancies only; for new tenancies, landlords remain free to seek open market rental values. The ban on evictions remains in force and the PBSA sector has been removed from the rent freeze legislation altogether.

These rules apply until 30 September 2023, the date for the next review. The Scottish Government has given itself the ability to roll-over the rent freeze “emergency legislation” one more time, until March 2024, though it remains to be seen if this is enforced.



Meanwhile the social sector has reached an agreement with the Scottish Government to a voluntary annual rent cap of 6.1%; so, we have the ironic situation in Scotland where the Scottish Government is permitting social housing rents to rise at twice the rate of private sector rents.

The private sector is deeply unimpressed. The PRS (Private Rental Sector - characterised by smaller landlords) are outraged and are seeking Judicial Review of the Scottish Government's legislation. The BtR sector (Built-to-Rent sector - characterised by institutional landlords) is muted; whilst 3% is at least “more palatable”, what has really spooked

institutional investors is not so much the rent cap itself, but the manner in which the Scottish Government has gone about interfering with the market with little or no consultation. Capital is fluid and flows towards stable investment markets and away from unstable environments.

Some opportunistic investors see the current period of uncertainty as a moment in time to secure a BtR scheme, whether as a forward funding or a land deal. These parties might now be one of a small handful of bidders at a closing date, whereas prior to the rent freeze there may have been ten bidders; if they are correct, and if a sensible and acceptable form of rent control ultimately prevails, then their calculated risk will pay off. Other institutional investors, who already invest in rent controlled European cities, are relatively relaxed at the prospect of rent control – as long as the cap is sensible and the rules consistent and stable.

### **“The opportunity for the Scottish Government to recover the confidence of investors will be the new Housing Bill”**

These opportunistic parties can point their Investment Committees to exceptional rent increase in Scotland during Q4 2022. As reported by CityLets (January 2023), annualised average rents have risen at an unprecedented 11.9% across Scotland (14.9% in Edinburgh and 13.9% in Glasgow). Given that the rent freeze was introduced on 4 September 2022 it seems clear that the legislation has accelerated a trend of rising rents. An unintended consequence perhaps, but an obvious one to those who invest in property.

The Scottish Government will need to work hard to convince many institutional investors that Scotland is a desirable place for long-term investment. The opportunity for the Scottish Government to recover the confidence of investors will be the new Housing Bill, to be introduced by the end of the current Parliament. This will need to set in place a clear and transparent rent framework that is acceptable to institutional funders and which has been agreed through consultation with the market.

# INDUSTRY INSIGHT



## NPF4 – ADOPTION AND BEYOND

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In the wake of the Scottish Parliament approving the Fourth National Planning Framework (NPF4), the Chief Planner, Dr Fiona Simpson, published a letter confirming that regulations will shortly be brought forward to deal with two key issues.

Firstly, in advance of NPF4's adoption on 13 February, the Scottish Government will "issue advice on transitional arrangements for local development plans, which will also cover implementation of housing policies and some other considerations during the changeover period, including for decision-making".

It will be very interesting to see how far the Scottish Government is prepared to go in directing local planning authorities on the meaning and effect of NPF4's policies and how they should be applied. After all, NPF4's policies will be part of the statutory development plan and it will be for the decision maker to apply them as they see fit. The Scottish Government will need to be careful not to overstep the mark in this respect, or it could have unintended consequences, and potentially leave decisions open to challenge. There is no doubt there is an opportunity for guidance to provide clarity and promote uniformity of application, which would be very welcome. However, there is also a risk it could add confusion to an already uncertain landscape. We wait patiently to see on which side of this very fine line it will fall.

Secondly, the Chief Planner promises "regulations coming into force and publication of related

guidance for the new local development planning system this spring". This is a reference to the local development planning regulations and guidance the Scottish Government consulted on last year. These are very important documents. The new plan-making process, which includes the preparation and scrutiny of Evidence Reports, is a significant departure from the way in which the public and stakeholders currently engage with the plan-making process. As always, the devil will be in the detail, but these documents matter and will require careful attention on publication.

The opportunity for the public and stakeholders to give evidence to shape emerging local development plans under the new adoption process will now principally be at the new 'Evidence Report' stage. The planning authority may consult the public and other stakeholders at the proposed plan stage that follows, but the draft regulations and guidance that were put out for consultation do not require them to do so. Even if they do, they cannot revisit issues that were considered as part of the Evidence Report gate check.

**"it is very much only the end of the beginning"**

The Scottish Ministers have already started publishing certain transitional regulations in anticipation of NPF4's adoption. On 23 January, they published regulations which address the technical, yet important, issue of whether an emerging local development plan can continue under the "old" process or must follow the new process. In short, they provide that where a local development plan has been published in a local newspaper before 12 February 2023 it can continue under the "old" process. However, if it has not been published before 12 February 2023, it must follow the new process.

The adoption of NPF4 on 13 February will mark the end of a process that started over three years ago. However, it is very much only the end of the beginning, and the next chapter on this journey will prove crucial as we all turn our attention from policy formulation to implementation and delivery.





# SPF DISPATCHES

## Business Rates Update

From 1 April 2023, new non-domestic rates take effect for businesses which will be based on the revaluation based on values as of 1 April 2022. The new valuation roll comes into force along with the Scottish Government's decision to freeze the poundage rate at 49.8p so that it does not increase in line with inflation. While the freezing of the poundage is certainly a welcome move, there will be some businesses who still perceive that their revaluations are unrelated to the market.

To alleviate the impact of significantly increased rateable values (RV) upon revaluation, the Scottish Government has introduced transitional relief intended to phase in increases to RV after 1 April. From 1 April, the Small Business Bonus Scheme (SBBS) has also been reformed to reduce the 100% relief threshold for properties with a rateable value from £15,000 to £12,000. Instead, there will be a tapered SBBS relief scheme from £12,001 to £20,000 RV.

## Additional Dwelling Supplement

A surprise move in the Scottish budget was the decision to increase the Additional Dwellings Supplement (ADS) from 4% to 6%. The Scottish Government expects to raise at least £34m from the rise in the Land and Buildings Transaction Tax (LBTT) but this will come at a cost to those caught by ADS eligibility, where they will now find the tax to be double compared to ratepayers in England. Proposals to improve the fairness of the technicalities of the ADS legislation have yet to be implemented meaning that individuals who inadvertently acquire an interest in a second home may be caught out.

## Energy Strategy and Decarbonising Heat

The policy landscape in Scotland is increasing its progress towards a net zero built environment in Scotland. The draft energy strategy and just transition plan, announced at Holyrood on 10 January, reinstates Scotland's existing target of reaching Net Zero by 2045, five years ahead of the UK. This plan reaffirms the commitments to significant investment in solar, offshore wind and tidal wave sectors, and also sets out plans for the hydrogen sector. There is an overall ambition to double renewable generation capacity by 2030 by 20GW. A consultation on the draft strategy is open until 4 April 2023, and includes a specific question on what further government action is needed to drive energy efficiency and zero emissions heat deployment across Scotland.

Patrick Harvie MSP, the Minister for Zero Carbon Buildings, has announced that the Scottish Government has adopted the Domestic Building Environmental Standards (Scotland) Bill introduced by Labour MSP Alex Rowley. The Bill seeks to introduce a Scottish variant of the Passivhaus standard. The Scottish Government have agreed to progress the substance of this legislation via secondary legislation, rather than the more time consuming parliamentary legislative route with a timescale of introduction by December 2024. This means that the new regulations will be able to be passed and scrutinised by a committee of the Scottish Parliament rather than the Parliament as a whole.

Regarding heat networks, the government has put decarbonising heat in buildings as a priority. There is a proposed target of the combined supply of thermal energy by heat networks in Scotland to reach at least 7 TWh of output through heat networks in Scotland in 2035. There is currently an open consultation on this proposal and other related issues until 11 March 2023.



# SPF EVENTS 2023

The SPF Annual Conference 2023

## Redefining Real Estate *for Scotland*

Save the  
Date

**Wednesday 19 April 2023**

**Scottish Events Campus, Glasgow**

Contact [SPFEvents@bpf.org.uk](mailto:SPFEvents@bpf.org.uk) for sponsorship opportunities

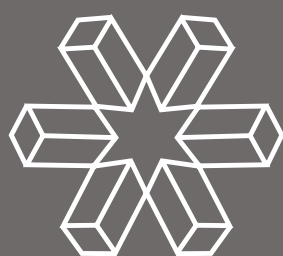
~ Save the Date ~

## The **Tenth** SPF Annual Dinner

**Thursday 12 October 2023**

**EICC, Edinburgh**





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