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Chair – Regulatory Review Group  
c/o RRG Secretariat  
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Cabinet Secretary for Wellbeing Economy, Net Zero and Energy  
cc/ First Minister  
cc/ Deputy First Minister and Cabinet Secretary for Finance  
cc/ Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights  
cc/ Minister for Small Business, Innovation, Tourism and Trade  
cc/ Minister for Housing

28 February 2024

Dear Ms McAllan,

As Chair of the Regulatory Review Group (RRG), I am writing to you directly given that you have portfolio responsibility for the forthcoming Heat in Buildings Bill. The RRG recognises that successful implementation of this and other proposals in this space, at the scale and in the timescale envisaged will be particularly complex and challenging.

This note provides an overview of the RRG's role and details recommendations on the need to build public awareness and supply chain capacity, while enhancing engagement with regulators.

### Regulatory Review Group (RRG)

The independent RRG was re-established by the Scottish Government as part of the New Deal for Business to support Scottish Ministers in improving the regulatory environment for businesses and their involvement in that process. The RRG's membership is detailed in the Annex. The RRG consider upcoming regulatory developments and as part of its work programme identified Heat in Buildings Bill proposals as a scrutiny priority.

The RRG's objectives are to:

1. Work constructively with the Scottish Government to ensure that policy officials and relevant Ministers are sighted on implementation challenges with regulations early in development.
2. Deliver purposeful and targeted written and verbal advice to the Scottish Government, drawing upon extensive expert insight from business and regulators across Scotland.
3. Support the delivery of the New Deal for Business by ensuring that the potential barriers to the success of Scottish Government policies are removed through an improved understanding of the practicalities of implementation.

The RRG's remit is to examine and identify implementation challenges and appropriate mitigations of regulation. The RRG does not provide a view on the appropriateness of substantive policy or decisions to be taken on legislative priorities.

## Heat in Buildings Bill Consultation

Along with RRG members, I met with your officials on Thursday 25 January 2024. Your officials provided an insightful presentation on the policy issue and gave considered and comprehensive responses to our questions.

The Heat in Buildings Bill along with the review of energy performance certification (EPC) and tolerable standards for housing have the potential to be the most significant pieces of regulatory intervention since devolution affecting every individual and business in Scotland. While focused on helping Scotland reach its net zero by 2045 target, the proposals contained within a Heat in Buildings Bill will have to be well-developed, tested and communicated to ensure they can be successfully implemented. There are also clear economic opportunities for the Scottish economy if sequencing is clear and support for upskilling is provided.

The RRG presents the following recommendations for consideration:

1. A clear public communication plan will be crucial to success. Given the scope and scale of the legislative proposals, the RRG notes that a high-profile public information campaign will be essential at the outset to alleviate consumer confusion. The opportunity for public misunderstanding is not to be underestimated given the complexity of proposals and conflicting messages already coming from a variety of sources including the media about what net zero means in practice.
2. Timescales for introducing legislation to Parliament, and the timings for prohibiting or requiring activities on individuals or businesses within a Bill, must be driven by: (a) capacity within the supply chain to meet consumer demand for the products needed to make those changes and (b) the ability of a regulator to monitor compliance and deliver proportionate enforcement. The RRG has significant concerns that the proposed dates for delivering a Heat in Buildings Standard across domestic and non-domestic buildings are unrealistic given that there is limited understanding of market preparedness and no formal identification of a suitable regulator.

The RRG requests further information on how the proposed dates have been reached and the Scottish Government's ongoing engagement and assessment of market readiness in terms of the consumer and supply chain. For this policy to be effectively implemented, the supply chain will need to be able to satisfy consumer demand created by legislative intervention and it is unclear whether this will be the case. Consumers will be vulnerable to rogue traders if there is not sufficient capacity in the market to install any new products, repair or adapt existing ones and for the regulator to enforce new regulations on date of implementation.

The RRG invites further detail on how this policy will be implemented and enforced, particularly given that no regulator has yet been identified and the scale – in terms of type, number and complexity of the properties that will be in scope. Monitoring compliance of retrofitted properties will require significant regulatory resource.

3. Alignment with EPC ratings alongside tolerable standard guidance must be set out in parallel with the Heat in Buildings Bill to ensure coherency and reduce conflicting information. Clear information on the various requirements set out in regulation and guidance must be communicated in a clear and singular message that can be easily understood by individuals and businesses. The RRG requests policy officials return to provide further detail on how the proposals will align with EPCs and tolerable standards guidance.
4. An implementation period will be critical to ensure that there is both the infrastructure in place to deliver the Clean Heat transitions and to ensure the required enforcement is available. Clearer details on exemptions will need to be set out, particularly if identification of exempt properties is to take place using an automated process comprising domestic data already available. Exemptions will be a public focal point and an area of potential misunderstanding and consumer confusion.
5. Cumulative impact on consumers and business should be considered ahead of any proposals being finalised. Other Scottish Government policies in development may land simultaneously and could generate high costs for consumers and businesses. Small businesses that are scaling up may be penalised through the process and incur unnecessary duplicate costs.
6. The Business Regulatory Impact Assessment (BRIA) needs to be clear on the impact to businesses of all sizes and the skills supply within the current market and whether it can cope with the proposed changes. The private rented sector who will be the first affected and required to meet a minimum energy efficiency standard by 2028 should be engaged with now to support effective implementation of this aspect. Detail will need to be set out around how the Scottish Government will support and fund education to upskill the workforce for installation and repair of alternate heat sources, and to ensure the Scottish supply chain benefits from the requirements.

The primary task for the RRG is to support Ministers and officials in identifying and mitigating implementation issues of regulatory intervention. In light of this, it is critical that policy development and legislation reflects the pace of the market both for consumers and business, while at the same time ensuring that there is a sufficient supply chain and regulatory resource to ensure that policy goals can be met.

Given that this legislation, as is stated above, has the potential to be the most far-reaching since devolution, I am copying this letter to your Ministerial colleagues for their interests. The RRG would welcome further engagement as the policy progresses and before legislative proposals come before Parliament.

A copy of this letter will be published on the RRG's webpage.

Yours sincerely,



PROF RUSSEL GRIGGS OBE  
Chair, Regulatory Review Group

Membership of RRG

- Chairman – Professor Russel Griggs OBE
- Fiona Richardson – Convention of Scottish Local Authorities (CoSLA)
- James Fowlie – Convention of Scottish Local Authorities (CoSLA)
- Brian Lawrie – Environmental Health
- David MacKenzie – Trading Standards
- Ewan Macdonald-Russell – Scottish Retail Consortium (SRC)
- Susan Love – Association of Chartered Certified Accountants (ACCA)
- Douglas White – Consumer Scotland

Members are representatives of business, regulators and consumers, however, are acting independently in their RRG involvement.