

ADVICE TO MINISTERS

Annex A

FOI 202100233226 – Documents For Release

Document 1 - Briefing

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| THE CABINET SECRETARY FOR SOCIAL JUSTICE, HOUSING AND LOCAL GOVERNMENT'S APPEARANCE AT JUST FESTIVAL | |
| EXTRACT FROM BRIEFING | |
| TIMING | 10 th August 2021 18:30 – 19:30 |

| | |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ITEM | Addressing Private Rent Increases |
| ISSUE/ BACKGROUND | <p>1. We are aware of concerns around rent affordability, particularly as the long-term impacts of the pandemic are felt.</p> <p>2. The Scottish Green Party are supportive of national rent controls. And, the Labour Party introduced a Fair Rents Member's Bill (which is seeking to introduce national rent controls), which fell due to lack of parliamentary time – REDACTED. As part of the Call for evidence, Shelter Scotland and Citizens Advice Scotland have also raised concerns about private rent levels, and Living Rent, a tenants union, is also supportive of rent control.</p> <p>As part of 'Housing to 2040', there will be a new Rented Sector strategy this year, and it will seek to address a range of issues around the availability, affordability and standards in the private and social rented sectors. Once the Rented Sector Strategy is consulted on and finalised, the Government has committed to introducing a Housing Bill.</p> |
| KEY MESSAGE(S) | <p>As part of 'Housing to 2040', there will be a new Rented Sector strategy this year, and it will seek to address a range of issues around the availability, affordability and standards in the private and social rented sectors. 'Housing to 2040' also commits us to amending Rent Pressure Zone (RPZ) legislation to allow local authorities to have the ability to control rents in localities impacted by high rents. To do this, we working with a group of local authorities - as well as other stakeholders - to develop what this should look like.</p> <p>Once the Rented Sector Strategy is consulted on in early 2022 and finalised, the Government is committed to introducing a Housing Bill. By reforming RPZs, as local authorities know their areas best, we want to provide them with valuable tools to address areas with high rent levels.</p> <p>However, we don't have all the levers, and Ministers continue to urge the UK Government to cover the average cost of rents and lift the</p> |

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|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | benefit cap to ensure people are supported to stay in their homes. We have written to the UK Government on numerous occasions urging them to at least maintain the Local Housing Allowance increase at the 30th percentile. |
| CONTACT POINT | REDACTED |

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Document 2 - Briefing

Social Renewal Advisory Board - Review on Progress Against Recommendations in the Report If not now, when?

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Recommendation, including reference no 7.1 Address housing affordability (social security & PRS levels) “As well as ensuring that help from financial support mechanisms, including social security, are in place to meet housing need and establishing a clear framework for assessing housing affordability, improved data collection is needed on rent levels in the Private Rented Sector (PRS). This would help set up Rent Pressure Zones, where they are needed, to tackle excessive rent increases in local areas.” |
| Rating¹ (e.g. Red, Amber, Green): Amber |
| Progress Against Recommendation: (e.g. Red – outline the reason(s) for rejection of recommendation and any other relevant work being taken forward. Amber – outline how recommendation will be partially implemented, reason(s) why it won't be fully implemented and details of other relevant work being progressed. Green – outline what work is being progressed and the stage it's at.) In terms of financial support systems, the Scottish Government does provide a range of support, for example through Discretionary Housing Payments. But we don't have all the levers, and Ministers continue to urge the UK Government to cover the average cost of private rents and lift the benefit cap to ensure people are supported to stay in their homes. We have written to the UK Government on numerous occasions urging them to at least maintain the Local Housing Allowance increase at the 30th percentile. We have already introduced a range of significant reforms through our 2016 Private Housing Act to improve the sector. This includes providing private renters with a range of new rights and greater security, stability and predictability in their rents - as well as introducing measures to help tackle increasing rents, such as Rent Pressure Zones. As part of Housing to 2040, Scotland's long term vision for housing, we will develop a new Rented Sector Strategy with 'tenant participation at its heart'. This draft will be published by the end of this year, as part of the first 100 days commitment. Our initial focus will be on engaging with tenants. While tenant participation in the social rented sector is well established, this is currently not the case for the private rented sector in Scotland. We will establish a PRS Tenant Participation Panel to support its development and delivery of the strategy. To address housing affordability, and as part of Housing to 2040, we will reshape the existing Rent Pressure Zone legislation to create a valuable and flexible tool for local authorities to combat unreasonably high rents in localised areas, and this includes improving at data collection on the private rented sector. |
| Additional Information (e.g. sensitivities, any issues raised by stakeholders): We are aware of concerns around rent affordability, particularly as the long-term impacts of the pandemic are felt. |

¹red - recommendation rejected, amber – partial implementation of recommendation, green – full implementation of recommendation

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The Scottish Green Party are supportive of national rent controls. And, the Labour Party introduced a Fair Rents Member's Bill (which is seeking to introduce national rent controls), which fell due to lack of parliamentary time – **REDACTED**. As part of the Call for evidence, Shelter Scotland and Citizens Advice Scotland have also raised concerns about private rent levels, and Living Rent, a tenants union, is also supportive of rent control.

Policy Contact(s) - REDACTED

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Document 3

Extracts from FMQ briefings

a) Extract from Undated FMQ Draft Briefing on **Scottish Green Party Cooperation Agreement – August 2021**

Issue:

Housing - New Deal for Tenants

Additional rights are likely to be welcomed by tenants and tenant rights groups.

REDACTED

Housing - Lines

- Our forthcoming Rented Sector Strategy will deliver a new deal for tenants that:-
 - provides tenants with additional control and security
 - improves affordability in the private rented sector through introducing rent controls
 - Introduces additional penalties and compensation for illegal evictions
 - will introduced a new housing regulator for the PRS to improve standards, enforce tenant's rights and responsibilities and ensure the system is fair.
- Tenants views and interests will be at the heart of developing our approach.
- A draft Rented Sector Strategy will be consulted published and consulted on with a wide range of stakeholders by the end of 2021.
- This will in turn inform a Housing Bill in the second year of this parliament to deliver a number of the legislative changes required to implement the strategy.

b) Extract from Undated FMQ Draft Briefing on **Scottish Green Party Cooperation Agreement - Fairer Scotland – August 2021**

New Deal for Tenants - Lines

- Our forthcoming Rented Sector Strategy will deliver a new deal for tenants, giving them more secure, affordable tenancies with improved standards of accommodation, new controls on rent and more flexibility to personalise their homes.
- This new deal will also deter landlords from undertaking illegal evictions by increasing penalties and compensation for tenants.
- To embed a strong rights based approach, we will introduce a new housing regulator for the PRS to improve standards and ensure the system is fair.
- This new deal for tenants will build on the success seen in preventing evictions during the pandemic and support our aim of ensuring everyone has a safe, warm, affordable home that meets their needs. This includes introducing new restrictions to evictions in winter when people are most vulnerable and support services less available.
- We have taken unprecedented steps to support tenants through this pandemic and protect them from eviction through a range of measures – including introducing

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extended notice periods, rent arrears pre-action requirements for private landlords as well as additional financial support.

- We welcomed the recent statement from local authorities, housing associations and private landlords which underlined the sector's commitment to only taking eviction action as a last resort.
- We have been clear no landlord should evict a tenant because they have suffered financial hardship due to coronavirus. However, tenants have a responsibility to pay their rent and when facing difficulties they should seek assistance as soon as possible.
- We will work with stakeholders including tenants and landlords to ensure this new deal will deliver for tenants by supporting a range of sustainable, affordable housing options that meet people's need

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Document 4 - Submission

From: **REDACTED**
Head of Private Housing Services Unit
13 July 2021

Cabinet Secretary for Social Justice, Housing and Local Government

SCOTTISH GOVERNMENT/GREEN PARTY TALKS: DRAFT CO-OPERATION AGREEMENT

Purpose

- To provide you with additional briefing on the development of proposals around the private rented sector part of the draft co-operation agreement, currently being developed as part of the Scottish Government and Green Party coalition talks and to seek urgent feedback to enable officials to further shape the material to support these talks.

Priority

- **Immediate** – A response by noon tomorrow (14 July) would enable officials to meet the tight response deadlines required to support the coalition talks proceeding to Phase 2.

Current Situation

- Following talks between the Scottish Government and Green Party on 1 July, we are now at the stage of preparing the first draft of a co-operation agreement. Policy officials have been asked to complete pro-formas that will inform the drafting of that agreement and the rented sector has been identified as a key area for the Green Party.

- **REDACTED**

Whilst these elements of housing are only part of the overall position, the Scottish Green Party have made national rent controls and a new deal for tenants a significant part of their manifesto commitments. In addition, the Labour Party are committed to re-introducing their Fair Rents Bill (which is seeking to introduce national rent controls), **REDACTED**

- **REDACTED**

- In Housing to 2040, we have already committed to reforming the existing Rent Pressure Zone legislation to make it a workable tool for local authorities to use in order to tackle high rents in a localised area. **REDACTED**

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Proposal

- A possible solution to this situation would be to offer to include material on national rent controls in the forthcoming Rented Sector Strategy Consultation. As we have already committed to publishing a Rented Sector Strategy that will be consulted on in early 2022, it would be entirely in line with Government proposals to-date to commit to consulting on a range of options – including national rent controls **REDACTED**

Material to Support Ongoing Discussion with the Green Party

- At Annex A we set out a draft text (“pro-forma”) for submission as part of the material to support the ongoing discussions with the Greens for agreement and comment. Further detail on the thinking behind that text and analysis on the proposals of what could be included in the Rented Sector Strategy consultation is provided below:

Areas we recommend for inclusion in the agreement and Rented Sector Strategy consultation:

- *Alternative models of rent control that could be introduced across Scotland, including options around national rent controls and Rent Pressure Zones*
 - **REDACTED**

REDACTED - OUTWITH SCOPE – DOES NOT RELATE TO RENT CONTROLS

- *A points based system for rent control*
 - The Scottish Greens specifically set out plans for a new points based system of rent controls that seeks to ensure that housing costs represent no more than 25% of a household’s income and that ties rent levels to the quality of a property. Their proposed system is supported by Living Rent.
 - Detailed advice for this is set out in Annex B **REDACTED**

REDACTED - OUTWITH SCOPE – DOES NOT RELATE TO RENT CONTROLS

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Recommendations

- That you:
 - consider the advice provided at paras 8-14 above and indicate if you are content for these to be proposed as part of the material to support the discussions with the Green Party; and
 - provide feedback on the other areas covered (paras 15-18) to allow us to appropriately shape advice on these matters as part of our completion of the proformas (draft attached at annex A).

REDACTED

Better Homes Division

13 July 2021

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| 1. Copy List: | 2. | 3. o r C o m m e n t s | 4. For Information | | |
| | | | Portfolio Interest | Constit Interest | General Awareness |
| 5. Deputy First Minister and Cabinet Secretary for Covid Recovery 6. | 7. 8. | 9. | 10. | 11. | 12. 13. 14. |

DG Communities
 Director for Housing and Social Justice
 Deputy Director Better Homes
 Deputy Director More Homes
 REDACTED, Head of Private Housing Services Unit
 REDACTED, Private Housing Services Unit
 REDACTED, Private Housing Services Unit
 REDACTED, Private Housing Services Unit
 REDACTED, Private Housing Services Unit
 REDACTED, Fuel Poverty and Housing Standards Unit
 REDACTED, Fuel Poverty and Housing Standards Unit
 REDACTED, SGLD
 REDACTED, Head of Homelessness and Housing-Related Social Security Unit
 Jeanette Campbell, Special Adviser
 REDACTED, More Homes
 REDACTED, Unit Head
 REDACTED, Communities Analytical Division
 REDACTED, Communities Analytical Division

Indicative cooperation agreement text

REDACTED – DRAFT TEXT OF AGREEMENT -
Housing

Green Party Points Based Rent Control Proposal

1. The Greens do not provide details in their manifesto of how their proposal might work but in 2019 Living Rent published an article through the 'Common Weal', which set out in some more detail how a rent points system might operate. Essentially it would award points based on the size, quality and location of the property, rather than market levels. They suggest that the criteria for points could include: the size of the property, energy efficiency ratings, access to outside space, parking, quality of kitchens and bathrooms and access to local transport links and services. They would also want points deducted for properties in a state of disrepair.
2. The stated goal of this system would be to set rents at affordable levels and this should be judged as rent that is no more than 25% of a tenants' income. This 'Scottish Rental Affordability Index' would be to keep rents below that level and would act as both a carrot and a stick for landlords; creating incentives to carry out improvement works and maintain the property to a high standard, whilst penalising those who allow their properties to deteriorate. Essentially they want to ensure that it was not financially viable for owners to rent out properties that failed to meet tolerable standards.
3. Whilst some form of points based system does exist in other European countries, the culture and rental systems are very different to the context in Scotland. For example, in the Netherlands 75% of the 3 million rental homes belong to housing associations. Social housing has a maximum rent and maximum rent increase, points for location/quality etc.. determine whether a property is subject to rent controls or not.
4. In Germany, every municipality in the country collects rental data over a 4-year period to construct an index of rental values that is then used to govern rent increases during tenancies. There are exceptions as landlords can increase by more than the going rate if the property is improved and it doesn't apply to newly constructed properties so it doesn't impede building.

Analysis of the proposal

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REDACTED - OUTWITH SCOPE – DOES NOT RELATE TO RENT CONTROLS

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Document 5 Submission

From: **REDACTED**
HSJ: More Homes
22 July 2021

Cabinet Secretary for Social Justice, Housing and Local Government

**TALKS BETWEEN SCOTTISH GREEN PARTY AND SCOTTISH GOVERNMENT
DRAFT CO-OPERATION AGREEMENT – HOUSING**

Purpose

15. To seek your agreement on the revised draft Co-operation Agreement section in respect of Housing for sharing with the Scottish Green Party (SGP) for negotiation and in particular views on affordable housing supply commitments.

Priority

16. **Immediate** – the amended draft text needs to be shared with the SGP urgently to meet overall negotiation timescales.

Background

17. You cleared the initial drafts of the Co-operation Agreement which were used in the negotiation meeting on 21 July. Revisions were made as part of the negotiation, which have now been reviewed and further amended by officials. The principle of nothing is agreed until everything is agreed remains.

Proposed revisions to the draft co-operation agreement

The proposed revised draft text is attached at Annex A. Some amendments to the text on tenant's rights have been proposed. **REDACTED**

In the areas relating to tenants' rights and rent controls we are proposing that these are presented as options that will be included in the forthcoming consultation. You have received separate advice from **REDACTED** (13 July) on the detail and potential issues. **REDACTED**

REDACTED - OUTWITH SCOPE – DOES NOT RELATE TO RENT CONTROLS

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Recommendation

18. That you:

- a. Note the latest version of the draft agreement and the proposed revisions YES/NO;
- b. Confirm that you are content with the approach in the draft agreement that tenants' rights and rent control are put forward as options that will be included in the consultation on implementing a new deal for tenants YES/NO

REDACTED – OUTWITH SCOPE – DOES NOT RELATE TO RENT CONTROLS

REDACTED

HSJ: More Homes
22 July 2021

| 1. Copy List: | 2. or Action | 3. or Comments | 4. For Information | | |
|---------------------------------------------------|--------------|----------------|-----------------------|---------------------|----------------------|
| | | | 5. Portfolio Interest | 6. Constit Interest | 7. General Awareness |
| Minister for Social Security and Local Government | | | X | | |
| Minister for Equalities and Older People | | | X | | |

Paul Johnston, DG Communities
Shirley Laing, Director for Housing and Social Justice
Madhu Malhotra, Director for Equality, Inclusion and Human Rights
Neil Rennick, Director, Justice
Stephen Kerr, Social Security Director
Ian Davidson, Social Security Policy
REDACTED, More Homes
REDACTED, More Homes
REDACTED, Better Homes
REDACTED, Better Homes
Elisabeth Campbell, Equality and Human Rights
REDACTED, Equality and Human Rights
REDACTED, Social Justice and Regeneration
REDACTED, Social Justice and Regeneration
REDACTED, Social Justice and Regeneration
James Hynd, Secretariat
REDACTED, Secretariat

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REDACTED, Secretariat
REDACTED, Secretariat
Callum McCaig, Special Adviser
Jeanette Campbell, Special Adviser

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ANNEX A – LATEST TEXT OF DRAFT AGREEMENT

REDACTED

ANNEX B – AFFORDABLE HOUSING

REDACTED – OUTWITH SCOPE – DOES NOT RELATE TO RENT CONTROLS

REDACTED

More Homes Division
22 July 2021

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Document 6 Draft submission

From: **REDACTED**
Better Homes Division
XX August 2021

DRAFT SUBMISSION – NEVER SENT

Director for Housing and Social Justice
REDACTED, Deputy Director, Better Homes

RENT PRESSURE ZONE (RPZ) UPDATE AND NEXT STEPS

Purpose

19. To provide you with an update on work that has taken place in relation to reforming Rent Pressure Zones (RPZs), and why this has now had to be paused.

Priority

20. Routine.

Background

21. 'Housing to 2040', commits us to amending Rent Pressure Zone (RPZ) legislation to allow local authorities to have the ability to control rents in localities impacted by high rents. The RPZ provisions were created within the Private Housing (Tenancies) 2016 Act, and, and were never intended to be a tool to be used on a widespread basis (ie. national rent control).

22. To reform RPZs, we were working with a group of local authorities (including **REDACTED** - to develop what this should look like. In addition, we are committed to undertaking an analysis of what is required to gather more comprehensive data on the Scottish PRS, with a commitment to set out our intentions on this by end of 2021.

23. To date, the LA working group has met only once. Our engagement was affected by the pre-election period requirements and then further impacted by team resources having to be diverted to work on the Coronavirus Act extensions and developing an unscheduled Tenants Grants fund.

Recent Developments

The ongoing discussions between the Scottish Government and the Scottish Green Party on a potential co-operation agreement – if approved – is highly likely to lead to policy changes in how we deliver work to tackle high rents within the private rented sector, as well as introduce significant new commitments. **REDACTED**

REDACTED

Housing & Social Justice, Better Homes Division

XX August 2021

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Document 7

Extract from SG/SGP – Stakeholder engagement plan – Fairer Scotland – New Deal for Tenants

This table covers the key areas where proactive plans will need to be in place for stakeholder and comms handling. It does not cover those areas of the agreement that are less sensitive/more in line with existing SG position, however we propose that a general approach to ‘reaffirming’ the relevant areas of the agreement around housing, child poverty and equality/inclusion/human rights should be considered.

Colleagues are asked to contribute to a draft and then we can consider as part of (1) overall communication and handling plans being developed and (2) where the same stakeholders need contacted bringing those communications together if appropriate.

Ahead of any draft deal being published (expected 18/19 August, if agreed) a briefing pack and script will be circulated by Secretariat to Ministers and policy teams have clear lines to use with stakeholders.

| Issue | Lead officials | Stakeholders to be notified | Who to notify stakeholders | Method of notification | Date to be done | Sensitivities | Who might react positively? | Key message to convey |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|----------------------------------------------|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|------------------------|----------------------|-----------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| New deal for tenants in including – <ul style="list-style-type: none"> • New regulator • Restrictions on evictions • Rights / penalties • Rent control | REDACTED | Scottish Housing Regulator – REDACTED | Cab Sec | Would propose two calls:- 1) 1-1 with COSLA 2) Roundtable with other housing stakeholders Subject to Cab Sec preference | Upon publication | REDACTED | Additional rights likely to be welcomed by tenant rights groups and CAS / Shelter | We remain committed to working in partnership with the sector to understand and mitigate unintended consequences with a view to best supporting tenants in line with the |

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| Issue | Lead officials | Stakeholders to be notified | Who to notify stakeholders | Method of notification | Date to be done | Sensitivities | Who might react positively? | Key message to convey |
|-------|----------------|-----------------------------------------------------|----------------------------|------------------------------------------------------|------------------|---------------|-----------------------------|-------------------------|
| | | | | officials can warm up stakeholders ahead of the call | | | | vision set out in H2040 |
| | | SFHA – REDACTED | As Above | As Above | Upon publication | | | |
| | | GWSF – REDACTED | As Above | As Above | Upon publication | | | |
| | | COSLA – REDACTED | As Above | As Above | Upon publication | | | |
| | | Scottish Association of Landlords – REDACTED | As Above | As Above | Upon publication | | | |
| | | PropertyMark – REDACTED | As Above | Phone Call or Letter | Upon publication | | | |
| | | ALACHO – REDACTED | As above | As Above | Upon publication | | | |
| | | Citizens Advice Scotland | As Above | As Above | Upon publication | | | |
| | | Shelter Scotland | As Above | As Above | Upon publication | | | |
| | | LA Leaders & Housing Convenors | Cab Sec | Letter | Upon publication | | | |

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| Issue | Lead officials | Stakeholders to be notified | Who to notify stakeholders | Method of notification | Date to be done | Sensitivities | Who might react positively? | Key message to convey |
|-------|----------------|------------------------------------------------|----------------------------|------------------------|------------------|---------------|-----------------------------|-----------------------|
| | | Housing Association Chief Executives | Cab Sec | Letter | Upon publication | | | |
| | | Tenant groups- Social sector Regional Networks | Cab Sec | Letter | Upon publication | | | |
| | | Living Rent | | | | | | |
| | | Private landlords? | Cab Sec | Letter | Upon publication | | | |