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Document Title	Designation of Rent Pressure Zones - Private Housing (Tenancies) (Scotland) Act 2016

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REPORT TO: Members' Library Service

MEETING DATE:

BY: Head of Development

SUBJECT: Designation of Rent Pressure Zones – Private Housing (Tenancies) (Scotland) Act 2016

1 PURPOSE

- 1.1 To advise members of the new provision in the Housing (Tenancies) Scotland Act 2016, for local authorities to apply to Scottish Ministers for approval to designate an area as a Rent Pressure Zone.
- 1.2 To highlight to members the requirements that must be met for a Rent Pressure Zone application to be valid and the challenges in demonstrating sufficient evidence for designation within the new private rented sector tenancy regime.

2 RECOMMENDATIONS

- 2.1 Members are asked to note the contents of this report and the approach to making an application to Scottish Ministers to designate an area as a Rent Pressure Zone.

3 BACKGROUND

- 3.1 Section 35 of the Housing (Tenancies) Scotland Act 2016 took effect on 1 December 2017. The Act makes provision for local authorities to apply to Scottish Ministers for approval to designate an area as a Rent Pressure Zone (RPZ) if it can be evidenced that:
 - Rents payable within the proposed RPZ area are rising by too much; and
 - The rent rises within the proposed zone are causing undue hardship to tenants; and
 - The local authority is coming under increasing pressure to provide housing or subsidise the cost of housing, as a consequence of the rent rises within the proposed zone.

If an area is designated as an RPZ, a cap (maximum limit) is set on how much rents are allowed to increase for existing tenants with a private residential tenancy each year in that area. Any cap set by Scottish

Ministers will be at least consumer price index (CPI) plus 1%. The regulations designating the RPZ will cease to have effect after five years unless they are revoked before the five years have elapsed.

Any cap set will also enable a landlord to apply to a Rent Officer to increase the rent reasonably, to recover legitimate costs reflecting property improvements completed after the tenancy started, or since the date of the last rent review.

3.2 The Scottish Government considers that by capping rents in a particular area and using this as part of a wider housing strategy, a local authority could expect to achieve the following outcomes:

- Existing tenants who have a private residential tenancy will be protected from rents rising by too much in the same properties;
- Investors will feel confident when planning their investment, knowing that any cap set by Ministers will be a minimum of CPI plus one percentage point;
- Property investments will continue as landlords can recover costs to reflect improvements made;
- Initial rents for new tenancies are not affected by the rent cap and will continue to be market led; and
- The private rented sector will remain attractive to those that live, work and invest in it.

3.3 The Scottish Government published *Guidance on Rent Pressure Zones - Private Housing (Tenancies) (Scotland) Act 2016* in November 2017, setting out the evidence that local authorities must submit to support an application for an RPZ. Designations can only be granted if Scottish Ministers are satisfied that the criteria for designation is met in full.

3.4 Identifying an area as an RPZ is challenging in respect of the Council's ability to demonstrate sufficient evidence for designation, as follows:

- The RPZ provisions of the Act cover existing tenants who have a private residential tenancy. However, as the Act commenced recently on 1 December 2017, only a very small proportion of tenants currently have a private residential tenancy. This makes it difficult to build a profile of such tenants (in relation to house type, size, age, location etc.) and details of any changes to this profile impacting upon rent changes, in accordance with the Scottish Government's criteria, at this stage.
- The RPZ provisions are intended to protect existing tenants from rents rising by 'too much', with local authorities required to collect rent data to evidence a rent rise. Local authorities must show that rents are rising by too much across most property characteristics in the profile and most properties in the proposed area. Scottish Government Guidance states that for an RPZ application to be valid, time series administrative or survey data and / or other research evidence showing the size of the increase, for existing tenants in the same properties, in a range of property types, sizes and ages is required. Information on the sample used to

demonstrate the rent increase i.e. sample frame, methodology, size, non-response rates, sample error or biases and coverage issues, including efforts made to increase coverage is also required. With only a handful of private residential tenancies, this information is not readily available.

- Evidence of rent rises alone are not deemed sufficient to prove that they are rising by 'too much'. Local authorities need to prove that rent rises in the proposed RPZ are causing undue hardship to tenants and the rises are having a detrimental effect on the local authority's broader housing system. Authorities must also demonstrate the impact which a rent cap would have on rents in the area and subsequent impact upon easing undue hardship and easing pressure to provide housing and / or subsidising the cost of housing. As previously, with only small numbers of private residential tenancies in existence at present, supporting evidence does not yet exist in support of this.

- 3.5 When choosing the extent of the proposed RPZ, local authorities must give careful consideration as to how they will collect the required data and evidence for that area in a way that is robust. RPZ's are not intended to be applied to a whole local authority area, rather to address 'hot-spot' areas.
- 3.6 Given the above, it is currently not considered to be possible to provide robust evidence to support an application, apply appropriate methodologies to collect that evidence and specify how the evidence leads the Council to believe the Scottish Government's criteria are met, at a small area level.
- 3.7 While the Council has a good understanding of the private rented sector profile generally, including rent levels, Guidance states that such broad data and other rent data i.e. new lets, can be used as context information only and cannot be used as supporting evidence, as it may not represent the rents of existing tenants. Guidance states that evidence must comprise a mix of qualitative analysis (i.e. consultation with tenants, with surveys of existing private tenants requiring to be repeated annually to track rent rises) and quantitative analysis (i.e. statistics). Indeed it is suggested that 'councils might consider contracting with a third party with statistical and research expertise'.
- 3.8 Notwithstanding the challenges identified in relation to undertaking this work, the ability to apply to Scottish Ministers for approval to designate an area as an RPZ is welcomed, particularly given the context of a lack of affordable housing and housing pressures generally across the county. However, it is recognised that the supporting evidence required in relation to the new private residential tenancy is currently not available and may not be available in the short to medium term, with the new tenancy requiring to become established first and given adequate time to bed in.

- 3.9 The draft East Lothian Local Housing Strategy 2018-23 sets out an action to ‘consider making an application to Scottish Ministers for the designation of an RPZ’. Progress against the LHS action plan / outcomes will be formally reviewed on an annual basis. It is considered appropriate to review the ability of the Council to make an application for RPZ designation annually as part of the LHS annual review, taking account of the changing availability of supporting evidence in relation to the private residential tenancy.

4 POLICY IMPLICATIONS

- 4.1 There are no policy implications directly arising from this report.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.
- 5.2 The Scottish Government has carried out a partial Equality Impact Assessment in relation to proposals for implementing RPZ's. The findings suggest there are no potentially negative effects and highlight a variety of possible benefits for vulnerable groups in the private rented sector. The Equality Impact Assessment can be accessed at the following link: <http://www.gov.scot/Publications/2015/03/6142/311327>

6 RESOURCE IMPLICATIONS

- 6.1 Financial - None
 6.2 Personnel - None
 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Further information on RPZ's, including application requirements; application template and Improvement Costs Guidance can be accessed at the following link:
<https://beta.gov.scot/policies/private-renting/rent-pressure-zones/>

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