

Housing and Economy Committee

10.00am, Thursday, 18 January 2018

Rent Pressure Zones

Item number	7.6
Report number	
Executive/routine	Executive
Wards	All
Council Commitments	1.8

Executive Summary

On 24 August 2017, the Council approved its [Business Plan 2017-22](#). The Business Plan includes a commitment to explore the introduction of fair rent zones. On 1 December 2017, Section 35 of the Housing (Tenancies) Scotland Act 2016 took effect. The Act makes provision for local authorities to apply to Scottish Ministers for approval to designate an area as a Rent Pressure Zone (RPZ). This would be the mechanism for introducing fair rent zones in the city.

This report sets out the legislative context for the provision of RPZs, including the requirements to gather evidence, consult and engage with stakeholders and proposes a framework for taking forward consideration of RPZs in Edinburgh.

Report

Rent Pressure Zones

1. Recommendations

- 1.1. It is recommended that Committee agree to:
- 1.2. Work with other local authorities and Scottish Government to develop a shared methodology for gathering evidence that complies with the requirements of Scottish Government guidance, to support the designation of RPZ.
- 1.3. Commission further analysis on the profile of rents and household incomes across localities, postcodes and data zones in the city.

2. Background

- 2.1 On [29 June 2017](#), Council agreed a motion to call for a report on the steps that need to be taken to implement a city-wide RPZ to limit increases in high rents in the private rented sector in the City.
- 2.2 Council made 52 Commitments to the city as part of the Coalition agreement. These commitments are built into the Council [Business Plan 2017-22](#), approved on 24 August 2017. Council Commitment 8 is to explore the introduction of fair rent zones.
- 2.3 On 1 December 2017, Section 35 of the Housing (Tenancies) Scotland Act 2016 took effect. The Act makes provision for local authorities to apply to Scottish Ministers for approval to designate an area as a RPZ. RPZs are one of a number of measures, including new private sector tenancy agreements called private residential tenancies, introduced by the Act.
- 2.4 The Scottish Government published guidance, [Rent Pressure Zones \(Private Housing Tenancies\)](#) (Scotland Act) 2016, on 16 November 2017 setting out the evidence that local authorities would have to submit to support an application for a RPZ. Local authorities have the responsibility for assessing need to designate RPZs. Designations can only be granted if Scottish Ministers are satisfied that criteria for designation have been met.

3. Main report

Edinburgh's Private Rented Market

- 3.1 More than one in four households in the city rent homes from a private landlord. The sector has doubled in size over the last 15 years with 53,000 homes registered on the Landlord Registration. Over a quarter (27%) of Edinburgh's households are in the sector, close to double that of the national average of 14% (Scottish Household Survey, 2015).
- 3.2 Analysis from data collected by Citylets, based on marketed private rented homes, shows that the average monthly private rent in Edinburgh is £1,048 (Q3, 2017). The next highest monthly rent in Scotland is £774 in Aberdeen. Between 2010-17, analysis by the Scottish Government, shows that private rents for a two bedroom property in the Lothian broad rental market area have increased by 33.7%, compared to an increase of 19.9% across Scotland (Private Sector Rent Statistics, Scotland, 2010 to 2017). Over the same period Consumer Price Index (CPI) has increased by 15.9%. It is projected that average rent in Edinburgh will account for 45% of average income by 2020.
- 3.3 Data on the profile of rents and incomes in areas at the locality, postcode and data-zone level is not readily available.

Rent Pressure Zones (RPZs)

- 3.4 Scottish Government guidance for RPZs states that Councils can apply to Scottish Ministers to have an area designated as a RPZ if they can prove that:
 - 3.4.1 Rents payable within the proposed RPZ are rising by too much;
 - 3.4.2 The rent rises within the proposed RPZ are causing undue hardship to tenants; and
 - 3.4.3 The local authority within whose area the proposed zone lies 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.
- 3.5 Within a RPZ, annual rent increases would be limited, (unless there is compelling evidence that other costs such as refurbishment and renewal of fixtures and fittings justify it), to a formula of CPI plus 1% plus a % to be determined by Scottish Ministers. Scottish Ministers are required to consult with tenants and landlords over the proposed RPZ once an application has been received.
- 3.6 Where a RPZ is applied, the cap can last for up to five years and will only apply to tenants who have private residential tenancies. The cap, if applied, will only affect rent rises once tenancies have started. Initial rents for new tenancies are not affected by the cap and will continue to be market-led.
- 3.7 In November 2017, the Scottish Government published guidance specifying the requirements that a local authority must meet for a RPZ application to be considered valid.

- 3.8 The guidance states that *“the provisions in the Act on rent pressure zones address the problem of rents rising by too much in hot-spot areas and that they are not intended to be applied to a whole local authority area”*. It is therefore unlikely that an application to Scottish Government for a city-wide RPZ would be successful.
- 3.9 Rent controls will not apply to existing assured, short assured or regulated tenancies. They will only apply to new Private Residential Tenancies introduced by the same Act. With 63% of all private rented homes in Edinburgh being available to let every year and an average turnover of 19 months, it is estimated that it will take nearly two years for most of existing tenancies to convert to the new tenancy.

Defining a RPZ

- 3.10 The guidance emphasises the importance of robust data being used to evidence rent rises for existing tenants, with new lets data only being sufficient for providing context. Data must include analysis of quantitative data and qualitative evidence including interviews with tenants. Therefore, the choice of research methodology used to gather the evidence will be crucial to achieving the required levels of quality and robustness. To achieve this standard, the guidance states that councils might consider contracting with a third party with statistical and research expertise.
- 3.11 Councils have to prove that rent rises are causing undue hardship to tenants. This is a complex area. The closest measure is the proportion of an individual (household) income spent on housing relative to average household expenditure. Assessing hardship within an area will require an assessment of a range of household circumstances. The test of undue hardship is not sufficiently addressed in the guidance.
- 3.12 Councils also have to prove that rent rises in area are having a detrimental effect on the housing system. Again this is a complex area particularly given the intention to apply RPZ in localised hot spots. Councils would have to show that one or more of the following is occurring as a result of rising rents in an area; lower income households can no longer afford to live in the area; social landlords are coming under pressure to provide more social rented homes; that concentrations of private rented accommodation is having a detrimental impact on particular areas. The test of detrimental effect is not sufficiently addressed in the guidance.
- 3.13 The guidance sets out criteria which must be met to evidence rents payable within the proposed RPZ are rising too much. Specifically that:
- 3.13.1 A profile of PRS property characteristics including house type, size, age, location and details of any changes to this profile impacting on rent changes;
 - 3.13.2 Time series administrative or survey data and/or other research evidence showing the size of the rent increase, for existing tenants in the same properties, in a range of property types, sizes and ages;
 - 3.13.3 Information on the sample used to demonstrate the rent increase (sample frame, methodology size, non responsive rates, sample error and biases and coverage issues including efforts made to increase coverage);

- 3.13.4 Details of methodologies used to analyse this evidence; and
- 3.13.5 A statement based on this evidence to explain why the local authority believes that rents are rising too much.
- 3.14 The guidance also states that rent data must be collected from existing tenants who have had a rent increase (in the same properties) and be representative of the PRS profile in the area. Other rent data (i.e. new lets) can be used as context only and cannot be used as supporting evidence as they may not represent the rents of existing tenants.
- 3.15 Under the new private tenancy landlords can only increase rent once in a year and therefore the first available data on rent rises will not be available until at least 12 months after the implementation of the new tenancy.
- 3.16 Sources of available data such as Citylets information and most other available data cannot be used to identify or justify a RPZ because it only tracks newly marketed properties and the data does not relate to the new residential tenancy.
- 3.17 New research will be necessary to gather the type of data required to determine which specific areas of the city could potentially meet the Scottish Government RPZ requirements and be recommended for RPZ status. Research would need to include surveys of existing private rented tenants and be repeated on an annual basis to track rent rises.
- 3.18 The guidance leaves the specific methodology for obtaining and analysing data down to individual Councils to develop. Notwithstanding the limited resources within and between Councils to undertake work of this complexity and scale, this approach, whereby different authorities bring in different methodologies, significantly increases the risk of undermining the credibility of the process and providing grounds for judicial review.

Framework for progressing policy on RPZ designation

- 3.19 In light of the significant challenges outlined above it would be prudent to work closely with COSLA, local authorities and Scottish Government to agree a shared methodology for identifying and designating RPZs. This would include exploring the development of a consistent approach to collating verifiable data on rents. This would include exploration of the future role of the Rent Registration Service
- 3.20 However, there remains value in carrying out more detailed analysis of available data to gain a better understanding. It is proposed that initial research is commissioned to provide a better understanding of rent levels and incomes profiled across the city. Although this will not be sufficient to provide evidence for designating RPZ it would provide the Council with a much better understanding of the variation in rents and incomes across the city and inform other policy approaches the Council may wish to adopt.
- 3.21 A multi-disciplinary officer working group has been established to progress the joint work with the other local authorities to develop a shared methodology and

commission further research on the link between localities, rents and incomes across the city.

4. Measures of success

- 4.1 Greater understanding of the private rented sector and the issues facing tenants.
- 4.2 Evidence on the experience of rent control measures from other European cities.
- 4.3 Full understanding of the measures available to Council to promote affordability in the private rented market.
- 4.4 Understanding of potential implications of an Edinburgh RPZ at different geographical scales.

5. Financial impact

- 5.1 The approach outlined in this report will require the commissioning of additional external analysis and advice. The initial phase of this work will be contained within budgets.

6. Risk, policy, compliance and governance impact

- 6.1 Work on the potential for a RPZ in Edinburgh will adhere to Scottish Government guidance and comply with the Private Housing (Tenancies) (Scotland) Act 2016.
- 6.2 The commissioning of independent research into the private rented sector and RPZs will comply with the Council's procurement guidelines and procedures.
- 6.3 A detailed analysis of risk and mitigation will form part of any proposal to designate one or more areas of the city as a RPZ.
- 6.4 There is some risk that landlords cease to let properties for the regulated residential market and seek to let properties to the tourist market. The Scottish Government is considering options for the introduction of regulation of holiday lets.

7. Equalities impact

- 7.1 None identified at this point but will be considered in the development of policy.

8. Sustainability impact

- 8.1 There is no sustainability impact associated with this report. This will continue to be monitored as work develops and subject to future decisions by Committee.

9. Consultation and engagement

- 9.1 A steering group with representatives from key stakeholders including landlords, tenants and third sector organisations will be established.
- 9.2 Consultation and engagement with elected members and Council officers will continue as this work develops.
- 9.3 Scottish Ministers are required to consult with tenants and landlords over a proposed RPZ once an application has been received. Extensive consultation with those affected will inform part of the feasibility study.

10. Background reading/external references

[Private Housing \(Tenancies\) \(Scotland\) Act 2016: Rent Pressure Zones – application requirements, November 2017](#)

[Citylets - Datahub, Datahub](#)

[Scottish Government Private Sector Rent Statistics, Scotland, 2010 to 2017](#)

[City Housing Strategy 2018 - Housing & Economy Committee, 02 November 2017](#)

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11. Appendices

None.