

Rent Pressure Zones

Report by Kevin Anderson, Executive Director Place

Report for Decision

1 Recommendations

Council is recommended to note the report and to consider;

- a) if there is a requirement to progress additional work to establish a case for a Rent Pressure Zone as any administering of RPZ within Midlothian Council would require resource and potentially a software solution to be procured and configured, with resource implications to be assessed for full costings, or
- b) decide that there is no present requirement to progress further.

2 Purpose of Report/Executive Summary

At the Council meeting held on 10 October 2023 members requested a report to be brought forward on rent pressure zones.

To date, no Rent Pressure Zones (RPZ) have been established in Scotland despite several local authorities expressing interest in making use of the powers. Due to the level of data required to be submitted in a RPZ application local authorities have indicated that it may take several years to collate this evidence base. There is also a concern that the legislation does not sufficiently control rents as a RPZ would still allow increases above inflation and between tenancies changing.

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3 Background

3.1 The Private Housing (Tenancies) (Scotland) Act 2016 introduced discretionary powers for local authorities to apply to have an area designated as a Rent Pressure Zone (RPZ) if rents are deemed to be increasing significantly. In order to have an application approved by Ministers, the local authority must provide evidence that:

- rents in the area are rising too much
- the rent rises are causing hardship for the tenants
- the local authority is coming under pressure to provide housing or subsidise the cost of housing as a result.

3.2 A rent pressure zone will only apply to rent increases for tenants with a private residential tenancy (PRT). Rent increases for tenants with a Short Assured Tenancy (SAT) or Assured Tenancy will not be affected. 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 who have a private residential tenancy each year in that area.

Scottish Ministers must consult landlords' and tenants' representatives before they make any area a rent pressure zone.

Any cap set by Scottish Ministers will be at least consumer price index (CPI) plus 1% – for example if CPI is 1.6%, the minimum cap set by Ministers would be 2.6%. If an RPZ is granted, rent increases for tenants with a Private Residential Tenancy (PRT) will be limited to one in any 12-month period.

The cap can last for up to five years and will apply to existing tenants who have a private residential tenancy.

Landlords operating within an RPZ may also make an application to increase rents above the cap if they need to cover the cost of repairs or improvements to the property. Any cap set will also enable a landlord to apply to a rent officer (in the public agency Rent Service Scotland) to add an amount of rent to reflect any improvements made to the let property. A landlord can only do this by applying to the rent officer for a decision on how much additional rent they can include in the rent increase.

4 RPZ Application Requirements

- 4.1** The RPZ provisions are intended to be used by a local authority to protect existing tenants who have a Private Residential Tenancy from rents rising by too much. Authorities must provide a profile of Private Rented Sector (PRS) properties in the proposed area. The property characteristics will include such details as house type, size, age, location etc. If the rental profile of any area has changed and contributed to rent rises, details of this change and impact on rent rises should also be provided.
- 4.2** Authorities will need to collect rent data to evidence a rent rise. Rent data used in the application must be about existing tenants, who have had a rent increase in the same property but may include different types of tenancy. The rent data must be representative of the property profile.
- 4.3** For an RPZ to be designated, authorities must show that rents are rising by too much across most property characteristics in the profile and most properties in the proposed area. Evidence of rent rises alone will not be sufficient to prove that they are rising by too much. Authorities also 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.
- 4.4** The area to be designated might, for example, be a street(s), a postcode sector or a datazone. The data and evidence provided to support the application must match the area chosen. For example, if a street is proposed, evidence must be provided at street level.
- 4.5** Therefore, when choosing the extent of the proposed RPZ, local authorities need to give careful consideration as to how they will collect the required data and evidence for that area in a way that is robust. The provisions in the Act on rent pressure zones address the problem of rents rising by too much in hot-spot areas and they are not intended to be applied to a whole local authority area.
- 4.6** Midlothian Council does not collate this information at this time, would require resource and potentially a software solution to be procured and configured, with resource implications to be assessed for full costings.

5 Limits on a designation

- 5.1** The RPZ provisions have been designed in such way as to prohibit the introduction of blanket national rent capping. Scottish Ministers cannot designate an area as an RPZ without receiving a valid application from the appropriate local authority.
- 5.2** If Ministers designate an RPZ, the cap set by Ministers will apply to rent increases for existing tenants, in the same properties, in that zone who have a private residential tenancy.

5.3 The cap set will not affect rent increases for any other private tenants in the zone e.g., those who have a short assured or assured tenancy (under the Housing (Scotland) Act 1988) or a regulated tenancy (a private tenancy which began before 2 January 1989).

5.4 The regulations designating the RPZ will cease to have effect after five years unless they, or another enactment, provide that they cease to have effect sooner, or unless they are revoked before the five years have elapsed.

6 Outcomes

6.1 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 at least CPI + one percentage point;
- property improvements 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;
- the Private Rented Sector will remain attractive to those that live, work and invest in it.

7 Local Housing Allowance

7.1 Local Housing Allowance (LHA) was introduced in 2008 to provide Housing Benefit entitlement for tenants renting private-sector accommodation in Scotland, England, and Wales. Its introduction meant significant changes to the way Housing Benefit levels were calculated and how benefit was paid. It did not replace Housing Benefit. It was just a different way of calculating entitlement under the existing Housing Benefit scheme and assistance with housing costs. The LHA was based on the 30th percentile of local rented accommodation with restrictions being brought in over the years.

7.2 LHA rates relate to the area in which the housing-benefit claim is made. These areas are called "Broad Rental Market Areas" (BRMAs), defined as "where a person could reasonably be expected to live taking into account access to facilities and services", and a selection of rents in the area are used to determine the LHA for each category of housing in the area. The rates are shown on a weekly basis and are published once a year in accordance with legislation.

- 7.3** The Rent Officer maintains rental information for each category of LHA rates. The April 2022 – March 2023 LHA rates are set out below. All rates have been frozen at the rate last determined on 31st March 2020. This was the 30th percentile at that time.

Weekly Scottish LHA report for April 2022 to March 2023 and effective from 1st April 2022

BRMA Name	1 Bedroom Shared	1 Bedroom	2 Bedrooms	3 Bedrooms	4 Bedrooms
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Lothian (Including City of Edinburgh, East Lothian and Midlothian)	£94.82	£158.79	£189.86	£253.15	£390.08
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- 7.4** The Local Housing Allowance (LHA) rates in the UK will be raised to the 30th percentile of local market rents from April 2024, as the UKG Chancellor of the Exchequer announced in the November 2023 Autumn Statement.

8 Rent Control

- 8.1** Introduced in October 2022, the Cost of Living (Tenant Protection) Act: <https://www.legislation.gov.uk/asp/2022/10/contents/enacted> is an Act brought in by the Scottish Government in an effort to manage the impact of rising household costs during the cost of living crisis. The Act effectively enforces price caps on private rental rates, as well as providing tenants with additional eviction protections, and will be in place until 31 March 2024.
- 8.2** The Act means that most in-tenancy private rent increases are capped at 3%, but private landlords can apply for increases of up to 6%, to help cover certain increases in costs (if these apply to a specific time period and can be evidenced).

- 8.3** The Act also means that most eviction actions are paused for up to six months, except in specified circumstances. These protections apply to private and social rent sectors, as well as purpose-built student accommodation, and follow on from the protections introduced during the coronavirus pandemic. This moratorium also means that additional damages can be awarded to tenants in cases where the landlord has enforced an unlawful eviction (amount of up to 36 months' worth of rent).
- 8.4** Rent controls have led to a decrease in the supply of properties available to rent. According to a survey by the Scottish Association of Landlords, since the introduction of rent controls, 17% of landlords have sold or are considering selling their rental properties. The controls have discouraged landlords from investing in the upkeep of their rental properties as, according to the same survey, 44% of landlords have reduced or stopped spending money on maintenance and improvements since rent controls were introduced.
- 8.5** Rent control has made it more difficult for new renters to find housing, as according to the Scottish Government, since the introduction, the average time it takes for a new tenant to find a property has increased from 12 weeks to 16 weeks.

9 Report Implications (Resource, Digital, Risk and Equalities)

9.1 Resource

Not currently applicable but a decision to progress for data and evidence collection to administering a RPZ within Midlothian Council would require additional resource.

9.2 Digital

Not currently applicable

9.3 Risk

Rent controls can, in the short term, make housing more affordable for tenants, preventing landlords from imposing rent increases and tenants may enjoy more stable living arrangements, knowing their rents won't be subject to an excessive increase.

However, there is a risk that rent controls can deter landlords from entering or staying in the rental market and act as a disincentive for investment when landlords can't adjust rents to account for maintenance costs or property improvements and lead landlords to change their business model as they may begin to focus on short-term holiday lets rather than long-term tenancies.

9.4 Ensuring Equalities

Not applicable

Appendices:

APPENDIX A – Additional Report Implications

APPENDIX B - Consideration of the application and granting designation

APPENDIX A – Additional Report Implications

A.1 Key Priorities within the Single Midlothian Plan

A.2 Key Drivers for Change

Key drivers addressed in this report:

- Holistic Working
- Hub and Spoke
- Modern
- Sustainable
- Transformational
- Preventative
- Asset-based
- Continuous Improvement
- One size fits one
- None of the above

A.3 Key Delivery Streams

Key delivery streams addressed in this report:

- One Council Working with you, for you
- Preventative and Sustainable
- Efficient and Modern
- Innovative and Ambitious

A.4 Delivering Best Value

Not applicable

A.5 Involving Communities and Other Stakeholders

In the interest of transparency, openness and accountability, before submitting an application to the Scottish Ministers to request an RPZ designation, the local authority must publish on its website the fully completed application and all supporting evidence

A.6 Impact on Performance and Outcomes

Not applicable

A.7 Adopting a Preventative Approach

Not applicable

A.8 Supporting Sustainable Development

Excessive rent increases may be a consequence of the demand for housing outstripping the supply (of all tenures) in an area. Designating such an area as an RPZ will only give tenants relief from excessive rent increases for the duration of the designation. It will not of itself do anything to moderate increases in the longer term. For that to happen supply in the area would need to increase. Given that, the Scottish Government expects any local authority seeking a designation to have plans for increasing supply, either in the area to be designated or elsewhere in the authority's area.

APPENDIX B - Consideration of the application and granting designation

Before granting a designation, the Scottish Ministers will have to be satisfied that the application:

- has been made in writing;
- provides a clear description of the area to be designated including its boundary. Ideally this would be a map. There should also be a clear list of the areas within that boundary e.g., datazones, postcodes etc. This should be detailed enough to allow any member of the public to determine if their property is within the designated RPZ;
- sets out how long the local authority would like the designation to last (this cannot exceed five years) and why;
- sets out the date the local authority would like the designation to come into force (this will be a date after the local authority has adequately advertised the designation to relevant persons in the area);
- provides robust evidence to support the application, the methodologies used to collect that evidence and how that evidence leads the local authority to believe that the criteria in paragraph 18 are met;
- states what other steps will be taken, and by when, should the application be successful, to advise the relevant persons that the area has been designated as an RPZ;
- includes a recommended percentage point (X) to be added to CPI + 1 percentage point when calculating a new maximum rent increase in the RPZ
- includes an explanation of why the particular value of X, recommended in the application, has been chosen;
- provides a demonstration of the impact which the recommended level of X would have on rents in the area, and the subsequent impact that these rents would have on easing undue hardship on existing tenants and easing pressure on local authorities to provide housing or subsidising the cost of housing;
- provides evidence in the application that the Local Authority has put in place housing supply plans, policies or strategies; and
- provides confirmation that the fully completed application and all supporting evidence has been published on the local authority's website.

The Scottish Ministers will notify the local authority of their decision in writing. Ministers will have 18 weeks from receipt of a valid application to lay before the Scottish Parliament either draft regulations designating an RPZ or a document explaining why they have not done so.