

Agenda Item	6.
Report No	CLH 04/18

## HIGHLAND COUNCIL

**Committee:** Care, Learning and Housing

**Date:** 30 May 2018

**Report Title:** Private Housing (Tenancies) (Scotland) Act 2016: Rent Pressure Zones

**Report By:** Director of Community Services

### 1. Purpose/Executive Summary

- 1.1 The Highland Council meeting in October 2017 agreed that the Council should examine the feasibility of applying for a rent pressure zone for Inverness and any other community in Highland facing similarly expensive rents.
- 1.2 This report provides more information on the legislation and guidance on Rent Pressure Zones and the evidence needed to support an application for designation.

### 2. Recommendations

- 2.1 Members are asked to:
  - i. note the information provided on Rent Pressure Zones;
  - ii. agree to continue dialogue with other Councils, COSLA, and Scottish Government officers in developing a common approach to research and data collection that would support successful applications for Rent Pressure Zones;
  - iii. note that it will take time and resources to develop the evidence base to support applications in Highland, and that there is no specific budget provision for this;
  - iv. agree that discussion take place locally with Ward Members, where requested, to discuss specific local issues of affordability in the Private Rented Sectors that

might help in identifying specific locations in which to target evidence gathering in future; and

- v. agree that further updates be provided to Members as work progresses nationally.

### **3. Background**

- 3.1 The Private Housing (Tenancies) (Scotland) Act 2016 came into force in December 2017.
- 3.2 It includes provisions aimed at enhancing security for tenants by abolishing the Short Assured Tenancy, which allowed tenancies to be terminated at the end of the term without specific grounds.
- 3.3 The legislation creates the new 'Private Rented Tenancy' (PRT) as the single type of tenancy for future private rented sector tenancies. Some exceptions apply such as purpose-built student accommodation and holiday lets which will not fall into the category of a PRT.
- 3.4 All new tenancies from December 2017 will be 'Private Rented Tenancies'. Existing Assured, Short Assured and other previous private sector tenancies will continue.
- 3.5 For Private Rented Tenancies, landlords will be unable to increase rents any more than once per year and will have to provide three months' notice when doing so. A tenant will also have the option to challenge a rent increase if they think it is unreasonable. 'Appeals' against rent increases can be made to the Rent Officer who can then determine a 'fair' rent. The Rent Officer's decision can also be subject to appeal to the First-tier Tribunal for Scotland (Housing and Property Chamber).
- 3.6 Finally, a local authority will have the ability to apply to Scottish Ministers to designate 'rent pressure zones' (RPZ's). This will enable councils to apply rent caps in specific locations which they determine as having been subject to excessive rent increases in recent times.
- 3.7 The rent controls introduced by the Act are intended to prevent landlords from forcing tenants to terminate tenancies by pricing them out through unaffordable rent increases. Historically, there has been a concern that some unscrupulous landlords may use rent increases as a route to repossess property when none of the eviction grounds would apply in respect of the tenancy.

### **4. Rent Pressure Zones**

- 4.1 Section 35 of the Private Housing (Tenancies) (Scotland) Act 2016 enables a local authority to apply to the Scottish Ministers to ask that all or part of the authority's area be designated as a Rent Pressure Zone.
- 4.2 The Highland Council meeting in October 2017 agreed that the Council should examine and report back on the feasibility of applying for a rent pressure zone for Inverness and any other community in Highland facing similarly expensive rents.
- 4.3 Guidance on the requirements that a local authority must meet for a valid Rent

Pressure Zone (RPZ) application were published on 16 November 2017. This guidance can be viewed at <https://beta.gov.scot/publications/rent-pressure-zone-rpz-application-requirements-local-authorities/pages/3/>

#### 4.4 Rent Pressure Zones can:

- only apply to a tenancy granted as a 'Private Rented Tenancy' (i.e. after 1 December 2017), and not to Assured / Short Assured or other previous legal private sector tenancy types; and
- only be applied in relation to existing tenants who have a Private Rented Tenancy. They do not limit or control the level of rent charged for new tenancies or 'relets'.

#### 4.5 There is a formal application process seeking Ministerial approval for the designation of a Rent Pressure Zone. Designation is for 5 years, unless the application is for a shorter period, or is revoked earlier.

#### 4.6 It is also explicitly stated in the guidance that the Rent Pressure Zone provisions have been designed in such way as to address the problem of rents rising by too much in 'hot-spot' areas. The guidance refers to applications and supporting data at street, postcode sector or at data-zone level.

#### 4.7 Applications need to provide:

- a profile of Private Rented Sector properties in the proposed area, including details such as house type, size, age, location etc.;
- details of the rental profile of any area and how this has changed and contributed to rent rises, including rent data to evidence a rent rise; and
- rent data specifically relating to existing tenants who have had a rent increase in the same property. The rent data must be representative of the property profile and must assess the impact of the rent rise on tenants.

#### 4.8 All of this data and information must together provide clear evidence that:

- rents payable within the proposed Rent Pressure Zone 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 to subsidise the cost of housing as a consequence of the rent rises within the proposed zone.

#### 4.9 If a Rent Pressure Zone is applied, Ministers must still allow rents in the zone to rise by at least the percentage change in the Consumer Price Index (CPI) since the last rent change (or tenancy began) + 1%. When setting the rent cap, Ministers will have the power to add additional percentage points to this if they consider this appropriate.

#### 4.10 Therefore, as a minimum, authorities will need to provide evidence of the impact of rent

rises of greater than CPI + 1% for existing tenants in order to demonstrate that rents are rising too much in the proposed zone.

- 4.11 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 that the rises are having a detrimental effect on the local authority's broader housing system.
- 4.12 The Council would need to publish details of its proposed application in advance of submission. Once submitted Ministers must lay draft regulations designating a Rent Pressure Zone before the Scottish Parliament within 18 weeks of receiving a valid application, or a document explaining why they have not done so.

## **5 Cross Authority Working**

- 5.1 A number of Councils have expressed an interest in considering Rent Pressure Zones. A meeting was held with officers from Aberdeen, Aberdeenshire, Edinburgh, Glasgow and Scottish Borders Councils on 11 April 2018. This was also attended by Scottish Government officers and representatives from letting agents.
- 5.2 Scottish Government officers confirmed that they considered that successful applications for Rent Pressure Zones would require Councils to pull together evidence from a multi-disciplinary team with skills in research, planning, GIS / mapping, and data analysis, as well as knowledge of local housing markets / economics. It was clear that successful applications will require:-
  - sound methodology;
  - high quality data; and
  - strong underpinning evidence.
- 5.3 It was confirmed that, in assessing applications, equal weighting would be given to the 3 broad criteria set out in paragraph 4.9 above, but also that applications needed to evidence a causal link between these 3 factors: increasing rents, undue hardship and additional pressure being placed on the Council.
- 5.4 There was a clear view that evidence collection will take time, and will not be straightforward. There are 2 main challenges:
  - there is no published local data on Private Rented Sector rents; and
  - reported data relates to advertised rents rather than rent increases between lets.
- 5.5 The most comprehensive data set available is the Private Sector Rent Statistics, Scotland, 2010 to 2017, published by the Scottish Government. This is based on Broad Rental Market Areas. Highland is grouped with the Island Councils into a single Broad Housing Market Area. The full report does, nevertheless, contain some rich information on rental trends, and is available for reference at:  
<http://www.gov.scot/Publications/2017/11/7528/downloads>
- 5.6 The statistics presented in this report show that the average (mean) rents in the Highland and Islands have increased for all property sizes between 2010 and 2017, ranging from an increase of 10.3% for 4 bedroom properties to 16.4% for 3 bedroom properties. This compares to CPI inflation of 15.9% across this time period. For all property sizes there have been greater increases at the top end of the market than the bottom end.

5.7 In practice, the private rented sector is complex and diverse, with rent levels driven by very localised supply and demand factors as well as wider economic factors. Any proposal for a Rent Pressure Zone in Highland would therefore require very careful analysis of specific local housing markets, and will by necessity involve qualitative methods of research and evaluation of evidence, for example through door to door surveys.

## **6. Conclusion**

6.1 The application process and criteria involved for achieving designation of a Rent Pressure Zone are rigorous and will have resource implications for the Council.

6.2 Applications require a firm evidence base. However there is no local or national reporting / existing published data on the evidence required. The guidance implies that evidence would need to be established through specific local research, with the emphasis on face to face contact / interviews with tenants affected.

6.3 It is unlikely, based on the rent data published at Broad Housing Market Area level, that evidence would support a Rent Pressure Zone for the whole Council area. Further detailed evidence will be required to consider more local applications.

## **7. Implications**

7.1 Resource - There would be resource implications for when the Council is researching and developing the evidence base to support applications for Rent Pressure Zones in Highland. This is likely to require external consultancy and / or the reprioritisation of workloads of existing staff across Corporate Resources (legal services), Development and Infrastructure (planning) and Community Services (housing).

6.2 Legal - There are no specific implications arising from this report.

6.3 Community (Equality, Poverty and Rural) - Rent Pressure Zones are a mechanism for addressing unaffordable rent increases in the Private Rented Sector, which may have a disproportionate impact on equality groups or rural areas.

6.4 Climate Change / Carbon Clever - There are no implications arising from this report.

6.5 Risk - Resources expended on developing the evidence base for Rent Pressure Zones may not support successful applications.

6.6 Gaelic - There are no implications arising from this report.

Designation: Director of Community Services

Date: 15 May 2018

Author: David Goldie, Head of Housing & Building Maintenance

Background Papers: Scottish Government Guidance on Rent Pressure Zones  
1. Private Sector Rent Statistics, Scotland, 2010 to 2017 (Scottish Government)