

HOW TO FIX RENT PRESSURE ZONES

OPTIONS FOR REFORM OF THE
PRIVATE RENTED SECTOR

POLICY PAPER #3



PROGRESSIVE
POLICY
RESEARCH
GROUP

SUMMARY

Our previous policy paper, *The Cost of Renting*, outlined the impact of high rents on poverty. In particular, we argued that, for the Scottish Government to meet its child poverty targets, action must be taken to reduce the cost of renting privately(1).

In 2016 the Scottish Government legislated to introduce Rent Pressure Zones (RPZs), giving local councils the ability to cap rents in areas of acute housing pressure(2).

In order to create an RPZ, councils must apply to the Scottish Government and prove an area meets three tests: that rents are rising too fast; those rises are causing problems for tenants; and this was putting pressure on the council to provide housing(3). The Scottish Government's own guidance on how to evidence these three tests runs to 18 pages(4).

No council has been able to meet these tests despite there being areas of obvious acute pressure across Scotland, and despite several councils undertaking studies to determine the feasibility of doing so(5). Indeed, it is estimated that it could take local authorities up to 5 years just to collate the evidence base to make an application(6).

As a result, the pressure that the private rented sector (PRS) puts on family finances, and the impact it has on child poverty rates, go

unmitigated.

This problem can be solved. In this paper we propose a range of options that could tackle high rents and empower local communities.

These range from specific reforms of Rent Pressure Zones to broader changes in housing policy.

We hope that these proposals can provoke discussion around the weakness of the current RPZ legislation and hope that further reform can be made in the next parliament.

About

The **Progressive Policy Research Group** considers how public policy can create a fairer Scotland. All PPRG members are members of the Scottish National Party. Views expressed are those of the named authors.

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EMPOWER LOCAL COMMUNITIES

The biggest burden to implementing RPZs are the onerous requirements on local government to gather an evidence base before applying to the Scottish Government.

The experience of RPZs since their introduction in law is that this approach does not work. The high standard of proof required by the current system poses the risk of a legal challenge should a scheme be implemented(7).

The most effective solution is simple: devolve the responsibility to local government in its entirety.

It should be for local councils to determine areas of high rent based

on the evidence base they see fit to use. Devolving this power to local government would increase democratic accountability and give councils the flexibility to respond to the housing markets in their area. Additionally, this would further cement the reform, guarding against the refusal of a future government to consent to a scheme.

Given the large variability in rent levels, and in rent rises not just across Scotland but even within cities and local authorities, this will allow for the most appropriate action to be taken at local levels, and will empower local authorities to make a real difference in their communities.



EXEMPT NEW BUILDS

The central objection to rent controls is that they could disincentivise investment in housing supply, thus in the long-run push up rents by failing to meet demand. The obvious flaw in this argument is that in most cases a buy-to-let investor does not affect housing supply by entering or exiting the market; they, at best, change the tenure of the property.

One exception to this rule is in the construction of build-to-let properties, where homes are constructed specifically to meet rental demand. There is a way in which Rent Pressure Zones could in fact be mobilised to *encourage* such investment.

Originally proposed by the former Local Government Minister Marco Biagi, an exemption from local rent caps for new build-to-rent developments could incentivise investors to build new properties in areas of high demand in the knowledge they will be able to outperform local returns(8).

This approach could be expanded to include those making significant refurbishments to property, for example by redeveloping a long-term empty home. This exemption should include a time-limit, for example of 10 years after construction, to prevent a two-tier system of rents developing over time.



CAP PROPERTY, NOT TENANCY

Under the current RPZ system any control on rent would apply to the individual tenancy, rather than the property.

This could mean, if an RPZ is implemented, that landlords significantly increase the rent demanded when a tenancy ends and the property is readvertised.

This could create a two-tier system of tenancies, with long-term tenants benefitting from controls while those moving into an area or between properties facing higher costs. This could disincentivise tenants moving, and in worst case scenarios could incentivise the use of eviction by landlords in order to have the opportunity to raise rents.

To combat this, RPZs should be amended to apply to individual properties - not tenancies.

This would avoid a situation where similar properties saw wildly different levels of rent due to the lengths of tenancies, and remove the tension described above - where tenants and landlords are financially incentivised to have opposing interests with regard to the length of a tenancy.

Landlords in RPZs would still be able to, as now, apply to rent officers either between or during tenancies for the ability to raise rent higher than the cap stated in the RPZ, due to improvements made to the property.

Given the poor state of repair of much of the housing stock in the private rented sector, this would act as an incentive for responsible landlords to upgrade their properties.

The guidance for such rent increases should be amended, in order to prioritise the energy efficiency of the property, and measures which will increase the wellbeing of tenants(9).

In order to enforce this shifting of emphasis from tenancy to property, greater data will be required on rent levels. This is addressed in our fourth proposal.

STRENGTHEN THE REGISTER

It would be impossible to enforce caps on property without centrally recording the level of rent charged in previous tenancies. Doing so would bring other advantages.

It would give local authorities an accurate picture of rent levels, down to a street-by-street and property-by-property level, allowing councils to target RPZs as narrowly or widely as they see fit, and providing a ready-made evidence base for their introduction. It would empower tenants, even in areas outside of RPZs, by giving them accurate information about the housing market. And the improved data levels would be invaluable for government, academics and independent researchers.

The current Scottish Landlord Register could serve this purpose. At present, the register only confirms that landlords are registered, and provides information on any outstanding repairing standards enforcement orders(10). This should be upgraded to include:

- HMO license where applicable
- Confirmation of use of an approved tenancy deposit scheme
- Energy Performance Certificate
- Information on lengths of tenancy and rent levels
- Verification that all appropriate tax has been paid on income
- Deposit information, including any grounds on which the landlord has retained all or part of a tenant's deposit

This information should be publicly searchable, so that tenants can verify that prospective landlords are reputable prior to entering into tenancies. Penalties should be applied for incomplete and wrong information, up to and including being struck from the Register altogether.

A further benefit of such an approach would be to encourage the professionalisation of the Private Rented Sector. The vast majority of landlords in the UK own 2 or fewer properties, while a majority do not use a letting agent(11). Large parts of the sector are effectively operated by amateur investors seeking to supplement their pension or income.

While this does not always lead to poor standards, it can be at the root of many issues faced by tenants. At the extreme end of this behaviour lie blatant abuses of power such as the misogynistic sex-for-rent scandal(12).

This upgraded Scottish Landlord Register should become the central data resource of a significantly more powerful and resourced regulatory body, whose purpose will be to ensure that landlords are complying with the law, and to drive up standards in the PRS.

ENCOURAGE "RIGHT TO SELL"

The policy of Right to Buy, instituted by the Tory Government in the 1980s, saw a large decrease in the proportion of Local Authority housing, and a large increase in the size of the PRS. The two trends are related.

Today, over 40% of council homes bought under Right to Buy are being rented out in the PRS, at significantly higher rents, with significantly less security, and often at significantly lower standards(13).

While Right to Buy allowed many people the opportunity to buy their own home at below-market prices, it has led to a situation where 30-40 years later the stock of social housing which allowed these people secure housing in the first place, is severely depleted.

The Government should expand

social housing programmes, and explore council house buyback and 'right-to-sell' programmes to increase social housing stock.

The Scottish Government already has the Homeowner's Support Fund, which is aimed at supporting homeowners who get into mortgage difficulty to remain in their homes by supporting social landlords to buy them, and the homeowner to become a secure tenant(14).

However, the criteria for accessing this scheme are currently quite strict.

The government should seek to widen access to this scheme, both to relieve the pressure on homeowners who are likely to get into difficulty as a result of COVID-19, and to increase the stock of social housing for future generations.



LOCAL FLEXIBILITY ON LBTT

Land and Buildings Transaction Tax is one of a small number of taxes which is completely devolved to Scotland, and is administered by Revenue Scotland. Operating similarly to Stamp Duty in England and Wales, it is a tax applied on property at the point of purchase, levied as a percentage of sale price, progressively rising as the sale price increases⁽¹⁵⁾.

Currently, second homes are subject to an 'additional dwelling supplement' on LBTT - currently of 4% (previously 3%). The Scottish Government should retain this 4% tax but devolve to local authorities the ability to augment this.

This would allow, particularly in areas where second homes and/or buy-to-lets are common, local authorities to build up capital which could then be reinvested in social housing.

Often such areas are precisely where there is a lack of social housing, or where private rents are high, such as rural areas for the former, and cities for the latter.

By devolving the power to supplement this tax alongside control over RPZs, local authorities would be given significant power to reshape their housing markets in areas of crisis.

Councils should also be given the freedom to apply such changes either across the entirety of their local authority or only in identified areas of high rents. A council could choose a modest rise of 1% council-wide to fund social housing, or could choose a much higher rise in a targeted area to ensure homes are bought by owner-occupiers. This could be particularly attractive for rural areas facing depopulation.

How could this work?

Council A:

Stagnant housing market with rents rising below inflation. No evidence of second-home buyers crowding out market. Council chooses **no rise** in LBTT supplement.

Council B:

Competitive housing market with rising rents but no problem hotspots. **Council raises LBTT supplement by 1% to 5%**, reinvesting tax raised in social housing.

Council C:

Very competitive housing market with housing costs causing rural depopulation. Council identifies towns and villages with concentration of holiday-home ownership, **raising LBTT supplement by 6% to 10%** in these areas to discourage further second-home purchases.

INCREASE TENANT AWARENESS

Ultimately, tenants may have all the formal rights required, but power imbalances between landlords and tenants will make them difficult to enforce. As discussed above, a majority of landlords do not work through letting agencies, and the rise of Gumtree, Spareroom and AirBNB have all contributed to a decentralisation and informalisation of the sector.

Even after the Private Housing (Tenancies) Act 2016 tightened up the rules on eviction, introducing the Private Residential Tenancy which has only 18 tightly defined scenarios where it is legal to evict tenants, a majority of evictions are carried out summarily - many illegally - by text or email asking tenants to vacate the property(16).

Tenants who are unaware of their rights, or not confident in asserting them, will often go along with this -

often being made illegally homeless at short notice.

An atmosphere and culture must be created where tenants are supported to know and to assert their rights under the law. The Scottish Government wrote to all private tenants earlier this year to outline their rights and the support available to them during the pandemic. This approach was welcome and should continue beyond the current crisis.

Tenants should be provided with information on their rights at the outset of their tenancy as well as at key moments such as rent rises and the end of a tenancy. An empowered Landlord Register or its replacement body could be responsible for this.

The government should also conduct a wider publicity campaign, particularly targeted at those most likely to be renters.

**Require more data on
Landlord Register**

**Allow councils to create RPZs
using new evidence base**

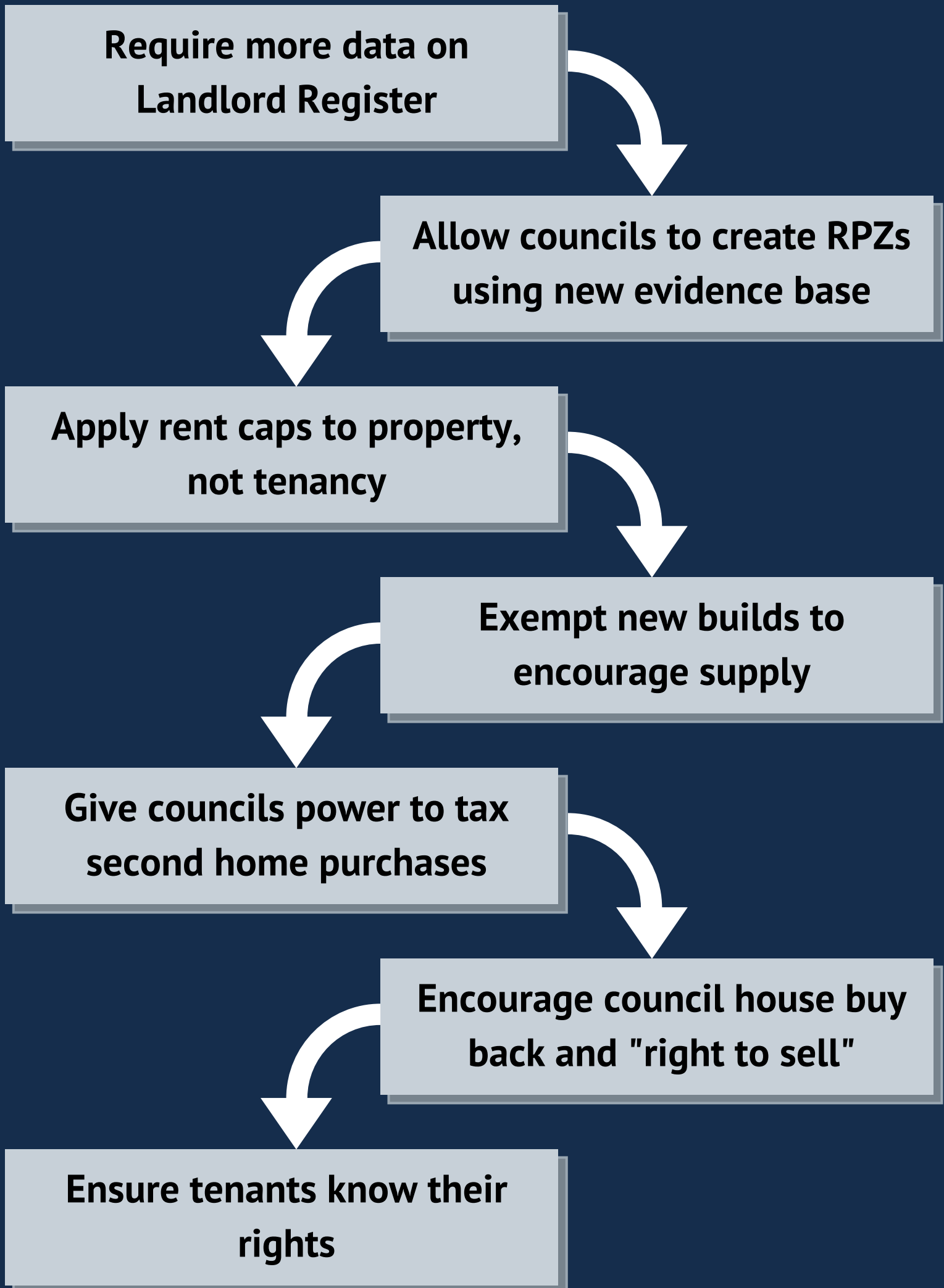
**Apply rent caps to property,
not tenancy**

**Exempt new builds to
encourage supply**

**Give councils power to tax
second home purchases**

**Encourage council house buy
back and "right to sell"**

**Ensure tenants know their
rights**



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