

## Has devolution made a difference? The pace of change in Scottish housing policy

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- In December 2000 the Scottish Executive established the Housing Improvement Task Force (HITF) to undertake the first review of housing policy and the condition of private sector housing in Scotland since 1967.
- A consultation paper on the forthcoming Housing Bill takes forward many of the HITF initiatives including; introduction of a single survey, measures to improve conditions across housing sectors, overhauling the Houses in Multiple Occupation (HMO) licensing scheme and possibly extending the private landlords' national registration scheme.
- In spite of significant opposition from some local authorities the Scottish Executive has pushed its stock transfer programme forward, nearly doubling private funding for housing associations to over £2.2 billion. A clear timetable for bringing the social housing stock up to standard has been set.
- Scotland has already driven policy agendas in the rest of the UK in areas such as secure tenancies and capping of discounts on Right to Buy sales.
- In areas such as Mortgage to Rent and the introduction of a registration scheme for private landlords, Scotland has moved in a different direction from the rest of the UK.
- The Scottish Executive has clearly been very active in formulating housing policy proposals over the last five years, to which the CML extends a qualified welcome.
- There is little doubt that, for lenders who operate at a UK level, the different processes operating in different countries presents a challenge, which is, in many ways, a natural consequence of devolved government.

### Introduction

On 1 July 1999 Scotland entered a brave new world with the opening of its devolved Parliament. A crucial question from a lender viewpoint is whether the Parliament is making a real and positive difference to the housing market five years on. The CML has been a close observer of the various housing initiatives of the Scottish Executive since devolution and has developed an agenda on behalf of lenders. This is well summarised in the document *Key housing policy issues: a lender perspective*, published in the run up to the last Scottish Parliament elections

(CML 2003) and puts forward a number of suggestions for Scottish Executive action. The most important of these are set out below.

- Assistance in making home-ownership achievable and sustainable for as many as possible who aspire to it. In particular, to reform the Scottish shared ownership model and to introduce an equity loan scheme along the lines of Homebuy in England and Wales.
- Increase the flexible assistance available to home-owners for home improvement and repair, preferably by linking grants to the levering in of private loans.
- Pursue the option of a single survey as a means to reform the Scottish home buying process.
- Encourage the development of *voluntary* accreditation schemes in the Private Rented Sector (PRS) to raise standards.
- Reject compulsory licensing of the private rented sector since the case had not been made.
- Streamline the Large Scale Voluntary Transfer (LSVT) programme and encourage partial transfers.
- Set a clear timescale for local authorities and HAs to meet the new Scottish Standard for Social Housing.

While these aims are themselves to some extent prompted by the Scottish Executive's work through the Housing Improvement Task Force (HITF) and other initiatives, they nevertheless provide a useful benchmark for assessing the degree to which devolution in Scotland has delivered from a lender perspective.

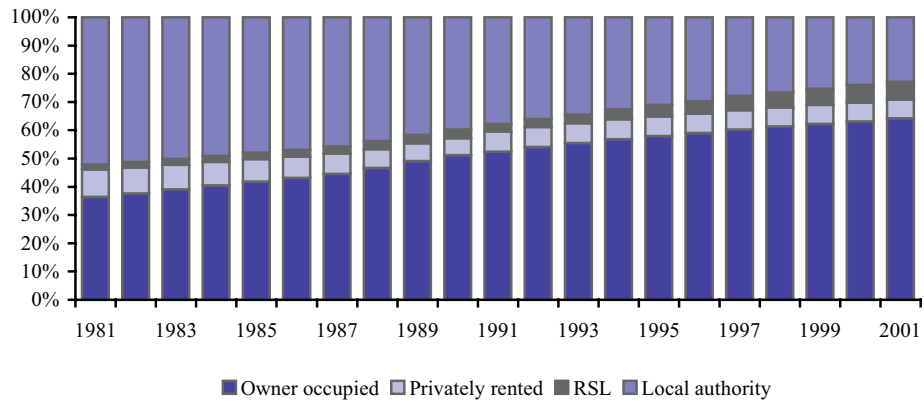
The Scottish Executive's stated aim is to deliver good quality, sustainable and affordable housing, with appropriate housing management. This article will look at Scottish Executive activity in the private housing market and social rented sectors.

### **Housing improvement task force (HITF)**

In December 2000 the Scottish Executive established the HITF to undertake a comprehensive review of housing policy as it related to the condition of private sector housing in Scotland. This was the first review since 1967. In the intervening time, the private sector has changed greatly with owner-occupation becoming the largest tenure in Scotland, while the private rented sector has declined in size and become more diverse. This trend is clearly illustrated in Chart 1.

Much of the private sector housing stock in Scotland is in good condition but poor maintenance is a common problem. Only around 20,000 homes (one per cent) fail the tolerable standard (a tenth of the proportion in the late 1960s) but about a quarter of the sector suffer disrepair to the

**Chart 1: Housing tenure in Scotland, 1981-2001**



Source: ODPM

fabric of the house; eight per cent still have lead water supply and 13% exhibit poor energy efficiency. It has been estimated that 494,000 properties (32%) require at least one urgent repair (Communities Scotland, 2002).

Poor housing conditions are more likely to be found in older housing, especially that built before 1919, in housing in the private rented sector and in flats (with common repairing obligations) rather than houses. However, the incidence of disrepair should be kept in proportion.

Comprehensive repair costs for most dwellings are less than £4,000 (Communities Scotland, 2002). The HITF produced its final report in March 2003 (Scottish Executive, 2003) and made a number of recommendations in the following key areas.

**Quality standards for private housing in the 21<sup>st</sup> century**

The HITF made recommendations to modernise the Tolerable Standard in Scotland. It also proposed a new cross tenure Scottish Housing Quality Standard as the basis for local and national planning to raise the overall quality of the housing stock and linked this to a Social Housing Standard which had already been proposed.

Following these recommendations in February 2004 the Scottish Executive introduced the Scottish Housing Quality Standard (SHQS). To meet the standard, all homes are required to be compliant with the Tolerable Standard, free from serious disrepair, energy efficient, provided with modern facilities and services and healthy, safe and secure. In the social sector local authorities and housing associations (HAs) have been asked to comply with the SHQS by 2015 and to produce delivery plans to achieve this. So far as the private sector is concerned, aside from instances where owners have been served a statutory notice, it is a matter for individual

owners whether or not to improve their properties to the SHQS. Local authorities must take account of SHQS in monitoring the condition of the private sector housing in their areas. They need to consider what measures might be adopted to encourage owners to undertake relevant works and to report on this in future Local Housing Strategies.

CML supports the introduction of SHQS (though its achievement should remain voluntary for home-owners), as it should assist in achieving the aim of improving the quality and condition of the housing stock in Scotland. From a lender's perspective, this standard will have implications in the social housing sector, both for existing borrowing and new lending to HAs. In respect of existing borrowing, HAs will need to examine the cost implications of introducing the SHQS and consider any impact on their borrowing arrangements. In respect of new borrowing proposals the existence of an agreed quality standard should make the preparation of business plans more transparent.

### **Improving the operation of the housing market**

In its review of this area the HITF focused on the house buying and selling process and, in particular, the quality of information available to buyers. It reached the conclusion that improving the information available to buyers and sellers could make a significant improvement in the operation of the market and services provided. Two key areas considered were, more information on the condition of the property when it was placed on the market and, the nature and extent of any maintenance and repairing obligations associated with the property.

The HITF wanted to address the highly publicised problem of multiple surveys. This is the practice in Scotland whereby a number of unsuccessful buyers obtain a survey or valuation on the same property. The HITF was also keen to tackle the problem of estate agents setting unrealistically low upset (equivalent to "offers over") prices; thus encouraging buyers to waste time and money on hopeless bids for properties that are out of their price range.

The HITF made two principal recommendations on home buying and selling:

- A single survey should be introduced, initially commissioned by the seller but made available to all potential purchasers and paid for by the ultimate buyer. The survey would be carried out by a suitably qualified valuation surveyor and would include a valuation and good quality information on the condition of the house. The contractual liability would be developed in such a way that liability would transfer from the seller to the ultimate buyer and to any lender.

- Sellers' agents should provide a Purchaser's Information Pack (PIP). The PIPs should contain copies of any planning, listed building consents and building warrants relevant to the property, any guarantees of work carried out and details of any common repair and maintenance burdens attached to flats and associated property management services.

The HITF recommended that these proposed changes should be piloted with a view to introducing them as market-led voluntary initiatives but with the option to legislate being held in reserve should this be required. On 14 July 2004 the Scottish Executive launched a pilot of a Single Survey. The pilot is a voluntary scheme and is expected to last 8-12 months after which a full evaluation will be conducted.

The CML believes that the introduction of the single survey could help to reduce multiple valuations and establish more realistic pricing but might also increase transaction costs or have other unforeseen effects. The CML has, therefore, welcomed the pilot to gauge the impact of the single survey in practice. If the results are positive, CML believes that a trial of PIPs may also be needed alongside the Single Survey to understand the full impact of the HITF's recommendations on the house buying and selling process. The CML has always maintained that any resulting reforms to the home buying process should be voluntary and market-led and has opposed a statutory approach.

### **Facilitating common repairs and maintenance**

Approximately 28% of the 400,000 houses in the private sector in Scotland have some degree of shared responsibility for the maintenance and repair of communally owned parts of their building (Scottish Executive, 2002). The HITF considered that effective mechanisms for ensuring that such repairs were carried out were essential if the condition of this part of the housing stock was to be improved.

In response to the HITF the Scottish Executive brought forward in June 2004 a Tenements Bill, which is intended to modernise an outdated and old-fashioned system of property law. It introduces a mandatory management system to set out the basic framework for the maintenance of every tenement. It also contains relevant rules on a number of other aspects of tenement management including ensuring emergency access for repair work and compulsory insurance.

### **Public sector intervention on private sector housing conditions**

The HITF report emphasised that the primary responsibility for maintaining and improving the condition of private sector housing rests with the owners. However, the HITF concluded that where poor housing conditions impact on owners and the wider community there was a case for

public intervention, which is proportionate to the seriousness of the problem. This could, therefore, provide a proper balance between the objectives of public policy and the rights and responsibilities of individual owners. It made recommendations across three areas in this regard:

- Direct intervention by using powers to compel owners to undertake works;
- Assistance to owners in undertaking these works;
- Strategic planning of interventions to achieve policy objectives.

It is believed that the powers to compel owners to undertake works will be contained in the forthcoming Private Sector Housing Bill. To date, there is little evidence of local authorities assisting owners to undertake work and indeed Scottish expenditure on local authority private sector repair and improvement grants has fallen from £117.2 million in 1990 to £41.7 million in 2001 (Wilcox, 2003).

### **Improving standards in the private rented sector (PRS)**

In Scotland, the PRS has been augmented in recent years by the rapid expansion of buy-to-let (BTL). Though specific figures for Scottish BTL are lacking, extrapolation from UK BTL figures published by CML suggests that there could be over 30,000 BTL properties in Scotland representing around 20% of the PRS stock as a whole. It is believed that this has had a beneficial effect on stock condition as BTL landlords have brought new stock into the sector. Lenders see BTL as a significant new market. Consequently, they are anxious that government intervention to raise standards does not place regulatory or financial burdens on landlords that would deter them from entering or remaining in the sector.

The need for the PRS to provide well-managed accommodation of acceptable quality for the diversity of tenants was recognised by the HITF. It recommended that a new Private Rented Sector Housing Tribunal be created from the current Rent Assessment Committee system to support tenants in enforcing their landlord's repair and maintenance obligations and, where appropriate, apply sanctions to landlords who do not maintain their property.

The HITF also considered the case more generally for further regulation of landlords and concluded that whilst there was a need for a review of the operation of the assured tenancy regime it would not be appropriate to attempt to impose a single, national, regulatory framework on all private landlords. It did make recommendations for the development of local accreditation schemes to be developed in partnership with local landlords, to promote and encourage better standards, and in June 2004 a voluntary accreditation scheme began a pilot to last two years.

Somewhat surprisingly, the Scottish Executive has gone against the recommendation of the HITF by supporting an amendment to the Antisocial Behaviour Bill, on private landlord registration. The amendments to the Bill, which has now passed its final stage in the Scottish Parliament, require all private landlords to register with each local authority in which they own a property. Local authorities will only register a landlord if they are satisfied that the landlord and any managing agent used by the landlord pass a fitness test. Local authorities have the power to apply to the Sheriff Court for an order to stop the rental income of landlords who rent a house where they are not registered and make it a criminal offence to let out a property without it being registered.

There has been some comment that this legislation may increase rental prices in Scotland and have a negative impact on the level of supply. Mortgage lenders will also reconsider their procedures when lending in the buy-to-let sector, as to whether they require evidence of the landlord having registered before making the mortgage advance available.

### **Consultation on forthcoming Housing Bill**

As this article was being prepared for press, the Scottish Executive published its consultation paper *Maintaining Houses - Preserving Homes* in which it sets out the proposed content of the forthcoming Private Sector Housing Bill referred to earlier. The paper draws heavily on the work of the HITF and initiatives discussed above and the CML will be responding in due course.

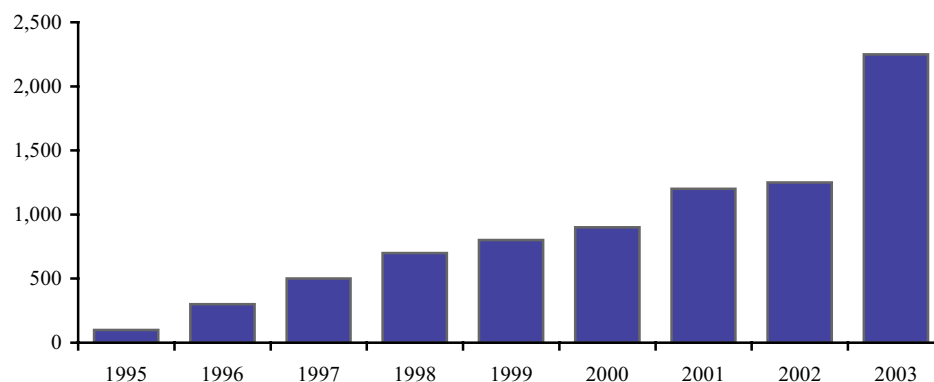
### **Mortgage to rent scheme**

The Scottish Executive has introduced a mortgage to rent scheme which assists owner-occupiers who are in danger of having their house repossessed because of financial difficulty. The property is sold to a registered social landlord with the occupier remaining in the property as a tenant of the landlord. The scheme provides subsidies to the landlord to enable a social rent to be charged and for the property to be brought up to a decent standard of repair. In its first year around 140 households are expected to take advantage of the scheme and funding is also secured for 2005/06. The scheme aims to reduce the number of repossessions in Scotland but, given the very limited numbers using the scheme and the limited funding attached to it, it is likely to have only a marginal effect. The number of possessions in Scotland has, in fact, fallen rapidly from 2,110 in 2002 to 1,350 in 2003 (CML, 2004). Based on these figures mortgage to rent might deal with approximately 10% of all possession cases.

### **Social rented sector**

Local authority housing stock has traditionally dominated this sector in Scotland. However, in recent years there has been an increasing growth in registered social landlords (RSLs) who have attracted private finance into the sector. Chart 2 shows this growth in lending to RSLs.

**Chart 2: Growth in private lending to the RSLs, 1995 – 2003, £m**



Source: Private Finance Loan Portfolio Bulletin, Communities Scotland

Committed lending to this sector amounts to £2.2 billion as at 31 March 2003, up £1.01 billion on the previous year. Competition in providing finance to the social sector is fierce; Table 1 lists the top ten lenders by portfolio size.

**Table 1: The "Scottish Premier League" – loan approvals to social sector, by lender, 2002-2003**

League position 2003		Total loan approvals		Increase 2002-2003 £000s
		31 March 2003 £000s	League position 2002 31 March 2002 £000s	
1	Royal Bank of Scotland	556,970	(1) 343,017	213,953
2	Bank of Scotland	386,545	(2) 194,008	192,537
3	Nationwide BS	227,998	(6) 77,490	150,508
4	Abbey	192,939	(5) 97,702	95,237
5	Dunfermline BS	180,125	(3) 147,003	33,122
6	European Investment Bank	152,900	(16) 2,900	150,000
7	Clydesdale Bank	150,941	(4) 139,590	11,351
8	Lloyds TSB Scotland	110,309	(8) 45,739	64,570
9	Bradford & Bingley	90,000	(9) 18,440	71,560
10	Britannia BS	77,314	(7) 77,314	0
	Totals	2,126,041	1,145,236	982,836

Source: Private Finance Loan Portfolio Bulletin, Communities Scotland

### Housing Scotland Act 2001

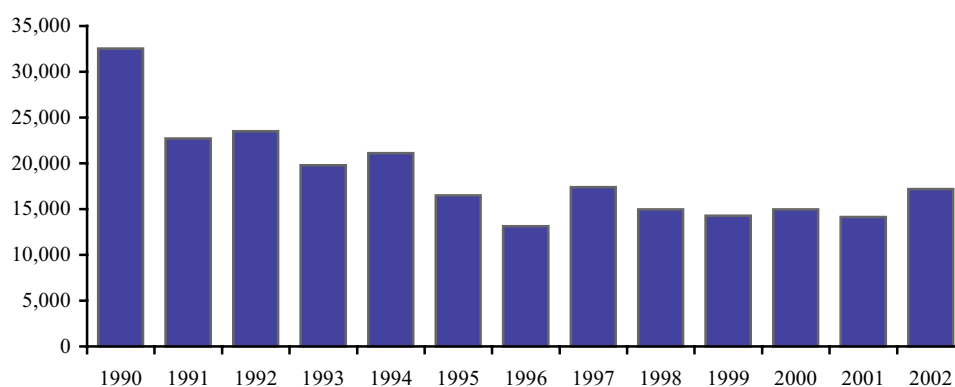
A major piece of legislation passed by the Parliament early in its lifetime was the Housing

Scotland Act 2001. This legislation brought about changes to the areas of homelessness, the Right to Buy and in the regulation of HAs. In 2002 the Scottish Executive also introduced under the Act, the new Scottish Secure Tenancy and this now applies to all periodic tenancies in local authority housing and the RSL sector.

### Right to Buy in Scotland

Chart 3 shows how Right to Buy (RTB) sales have fallen off since the early 1990s. Although in the latest year data is available, 2002, there was a slight pick up in sales. The RTB was included within the new Scottish Secure Tenancy and now applies to many more Scottish tenants.

**Chart 3: Right to Buy sales, Scotland, 1990 – 2002**



Source: UK Housing Review 2003/2004

However, tenants within the new Scottish Secure Tenancy are subject to a longer qualifying period and lower discounts - tenants have to live in the property for five years, with discounts now starting at 20% and rising annually by one per cent to a maximum of 35% of the value of the property. There was also a cap placed on discounts of £15,000. A number of new restrictions also apply to HA tenants. HAs whose properties are not covered by the RTB will remain exempt for 10 years, although they have an opportunity to apply to opt in at the end of this period. Local authorities can also apply for selective exemption from RTB in "pressured areas" where housing demand is high. These exemptions followed representations by CML and others concerned at the implications for Housing Association finances of immediate extension of the RTB to all tenants.

### Community ownership

A central plank in the Scottish Executive's policy in the social rented sector is to see houses transferred from local authority ownership into community ownership (ie, HAs). This enables private investment to be used to improve the quality of the stock without triggering the Public

Sector Borrowing Requirement. To date, three local authorities have transferred their stock by way of large-scale voluntary transfer, namely Glasgow, Borders and Dumfries and Galloway. Over the next 30 years the Glasgow Housing Association intends to invest over £4 billion in the improvement of the former Glasgow City Council housing stock, the largest public sector modernisation project in Europe. Lenders have committed lending of £835 million towards investment in the housing stock in the three areas concerned (Communities Scotland, 2003).

The Executive is increasingly linking housing transfer to regeneration and councils now have to apply to be accepted on to the Executive's Community Ownership Programme. It would appear that the transfer of housing stock out of council control is once again gaining momentum. There has, however, been some criticism of the fact that stock transfer is now the only way to secure funding to regenerate housing stock.

### **Review of affordable housing in Scotland**

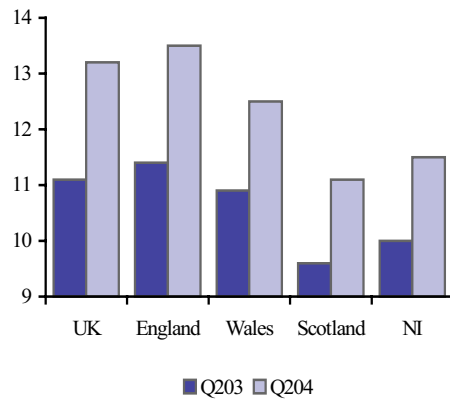
Following the Barker Review of housing supply in the UK, the Scottish Executive has also carried out a review of affordable housing in Scotland. The early results of this were published in July 2004. The analysis shows that long run house prices have been growing in Scotland at 1.5% a year in real terms, lower than growth in the UK as a whole of two to 2.5% a year.

However, since 2000 Scotland has experienced a marked upswing in house prices with a rise of 12% in real terms or around 2.8% per annum. There are hot spot areas such as Edinburgh and Inverness, which have experienced higher than average growth. Nevertheless, while affordability in Scotland, measured by initial mortgage interest payments as a percentage of income, is increasing, it remains good in comparison with the rest of the UK. This is shown in Chart 4. Ratios of house prices to income have also begun to stretch in the last couple of years, although once again Scotland is at a lower level compared to the rest of the UK. This is shown in Chart 5.

Longer-term demographics, particularly increases in numbers of households, and factors such as increasing land costs and time-lags in planning approvals have also played their part in increasing affordability pressures.

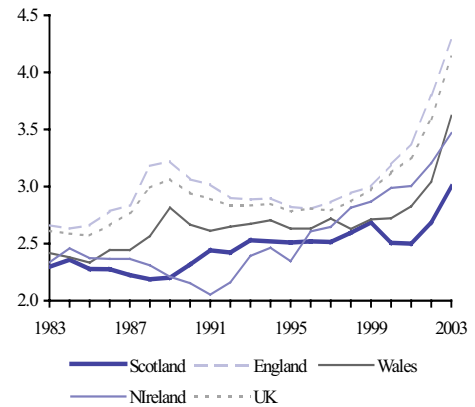
In response to the review the Scottish Executive has announced an initial package of measures. These include innovative approaches to assist people onto the property ladder, the development of affordability targets and the allocation of £20million to help increase housing supply in hot spots. CML welcomed the package of measures and the holistic view of the housing market taken by the Scottish Executive. Nevertheless, intervention carries dangers of distortion and lenders will look carefully at any practical conclusions that may result from the review.

**Chart 4: Mortgage interest payments as % income, Q203-Q204**



Source: Survey of Mortgage Lenders  
Notes: All loans for house purchase

**Chart 5: House price to income ratio, 1983-2003**



Source: Survey of Mortgage Lenders  
Notes: All loans for house purchase, averages are medians

**Conclusion: the impact of devolution on Scottish housing policy**

It is clear that the housing agenda has been a top priority for the Scottish Parliament. The pace of change in the housing agenda in Scotland has increased considerably over the last five years. In areas such as Mortgage to Rent and the introduction of a registration scheme for private landlords, Scotland has moved in a different direction from the rest of the UK. It will be interesting to see whether, if they are considered successful, these initiatives might be adopted for use in the rest of the UK. This has already happened with other Scottish initiatives; both the Scottish Secure Tenancy and the drastic curtailment and capping of RTB discounts in Scotland have influenced similar policies across the UK. There is little doubt that, for lenders who operate at a UK level, the different processes operating in different countries presents a challenge. This is, in many ways, a natural consequence of devolved government.

Overall the Scottish Parliament has clearly made a difference to housing policy in Scotland. Whether that difference may be seen as positive from a lender perspective, however, must receive a more qualified answer.

Shared ownership remains unreformed in Scotland and there is still no commitment to introduce a version of Homebuy. The Scottish Executive proposals on home repair contain the germ of some innovative work in marrying public and private funds, but the increased powers for local authorities could also be a cause of concern. The single survey is now being piloted, but the Scottish Executive is already seeking reserve powers to compel its introduction in advance of any feedback on market acceptance. It remains to be seen whether, and how, any powers are used.

The achievements in the social housing sector have been positive. In spite of significant opposition from some local authorities and others, the Scottish Executive has pushed its transfer programme forward and has facilitated the increase in private funding for HAs. A clear timetable for bringing the social housing stock up to standard has been set, although the regeneration agenda still remains to be delivered.

The recent track record of the Scottish Executive and Parliament for the private rented sector has certainly not been wholly positive. National registration is coming in without consultation and against the recommendation of HITF. Compulsory licensing of HMOs is by no means an unqualified success. The anti-social behaviour provisions for private landlords risk deterring some who fear increased burdens and erosion of their rate of return. The jury is out on this one.

As this article has sought to demonstrate, housing policy in Scotland has moved forward considerably in recent years. Given the breadth and depth of the changes introduced it is hard to see that this can continue to be the case in the next five years. More crucially in that time we will be able to better evaluate whether it has made a difference in terms of the availability, cost and quality of housing in Scotland, the efficiency and effectiveness of the housing market and measurable benefits to consumers.

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