

## A Warm Homes Bill for Scotland – Autumn 2017

This is a summary of a series of briefings proposing measures for inclusion in the forthcoming Warm Homes Bill. We wish to ensure the Bill addresses barriers and creates opportunities to bring low-carbon and affordable warmth to all households in Scotland.

### Introduction

The Existing Homes Alliance Scotland welcomes the commitment from the Scottish Government to take forward a Warm Homes Bill in this parliament. Support for the Warm Homes Bill also featured in several political party manifestos. This proposed Bill should provide the statutory foundation for the new fuel poverty target and strategy, and for Scotland's Energy Efficiency Programme (SEEP). It should also tackle regulatory barriers to those programmes.

A Warm Homes Bill for Scotland should ensure energy demand is reduced and investment in energy efficiency, renewables and low carbon heating is encouraged. Legislation is required to create the right policy framework that supports industry, protects consumers and cuts energy bills.

The Warm Homes Bill should also address any barriers and facilitate opportunities to bring low carbon and affordable warmth to all households in Scotland. It should ensure equitable support for all people to enjoy affordable heat and energy use, particularly rural and remote areas.

To do this, we believe the Bill should include the following measures:

#### *Fuel poverty*

- Renewed definition and target to eradicate fuel poverty
- Actions and milestones relating to all four drivers of fuel poverty
- Provisions for accountability, scrutiny, monitoring, reporting and review of the Fuel Poverty Strategy

#### *Scottish Energy Efficiency Programme (SEEP)*

- Statutory framework including targets and scrutiny provisions
- Establishment of an independent body responsible for overseeing the delivery of SEEP
- Duty on local authorities to produce Local Heat and Energy Efficiency Strategies
- Review of existing legislation relating to the potential for tax incentives for energy efficient properties

#### *Regulation*

- Provisions to lay out timeframe for review of barriers to energy performance improvements in common works in tenements and flats (including consideration of EPCs)
- Provisions to lay out timeframe for review of building regulations with remit to include existing and new buildings
- Review of relevant regulatory frameworks (eg building regulations, planning guidance, condition standards) to ensure consistency in supporting and encouraging highly energy efficient and low carbon homes

## Priorities for the Warm Homes Bill

The Alliance undertook a gap analysis of existing legislation, policy and programmes relating to fuel poverty and energy efficiency, to explore what legislative measures could facilitate a more rapid transition to highly energy efficient homes and the decarbonisation of heat. The research resulted in the priorities detailed below.

### Fuel Poverty Targets and Strategy

The Scottish Government is committed to consulting on a new fuel poverty eradication target and strategy in Autumn 2017 and establishing the statutory basis for this in the Warm Homes Bill in 2018.

We welcome the recent reports from the two expert groups set up to investigate and advise Ministers on the development of the new Fuel Poverty Strategy.<sup>1</sup> We broadly agree with the proposals of those groups and the stated intent of the Scottish Government to use them to inform the new strategy.

The Scottish Government has also established an expert panel to review the definition of fuel poverty. Following consideration of the panel's findings the Government is due to propose a new legislative target for ending fuel poverty. We don't yet know what the proposed definition or the targets will be. However, including them in the Warm Homes Bill will allow for consideration of both by Parliament, and help deliver consistency of effort over future years and administrations.

The new fuel poverty target should be accompanied within the Bill by clear actions and, where appropriate milestones, to assess progress against all four drivers of fuel poverty: price, income, energy performance, and how households use energy. This should include for example energy efficiency targets, a review of devolved welfare benefits, and provisions for consumer advice and quality assurance.

In addition to this we believe the Warm Homes Bill should contain the following provisions related to the Fuel Poverty Strategy:

- Accountability and scrutiny
- Monitoring, reporting and review

### Scottish Energy Efficiency Programme

#### Targets

The Scottish Government has designated improving the energy efficiency of Scotland's buildings a National Infrastructure Priority. As with any other infrastructure priority, the Alliance believes this commitment should make clear the intended outcome. Including an energy performance target in legislation would help ensure ambitious progress is made by providing the necessary certainty for investment from industry, landlords, and homeowners.

The Alliance focuses on existing housing, and we are calling for the Scottish Government to set an *energy performance target* in the Warm Homes Bill for the vast majority of homes to be 'zero carbon in use' by the completion of SEEP in 2038.<sup>2</sup> We also propose an interim target for the vast majority of domestic buildings to reach an EPC band C by 2025, and for further milestones beyond that to 2038.

---

<sup>1</sup> Reports of The Scottish Fuel Poverty Strategic Working Group and The Scottish Rural Fuel Poverty Task Force to the Cabinet Secretary for Communities, Social Security and Equalities (Scottish Government 2017)

<sup>2</sup> This term is used with the understanding it allows for technical constraints, 'in use' means that any energy consumed in the building must be met by renewable sources.

Additionally, we believe it is vital that a mandatory target is set for the *reduction in end use of energy* in domestic buildings by 2038 which is consistent with targets set in the Climate Change Plan and the Scottish Energy Strategy. This too should be accompanied with suitable milestones.

#### *Independent body*

The Warm Homes Bill should establish an independent body with the remit for overseeing the delivery of the National Infrastructure Priority (NIP) in Energy Efficiency in Scotland, including SEEP. This body would be responsible for strategic oversight and coordination of SEEP and for ensuring its effective delivery. The agency would report to Ministers and the Parliament against the SEEP strategic plan and targets.

While this body's remit should include energy efficiency and low-carbon heat, there is merit in considering a broader remit including clean energy, or energy policy issues more generally.

The establishment of a body would address concerns that Government officials do not have adequate capacity or expertise to oversee the delivery of such a large infrastructure programme and ensure value for money.

This new body could provide the necessary skills, knowledge, drive and leadership for a programme that will span several governments, delivering Scotland-wide, with a budget of £10bn or more, and with a role in regulation. This would be similar to the way other infrastructure projects are managed. There are a variety of models which could be considered, for example Transport Scotland, established to manage transport infrastructure projects, Highlands & Islands Enterprise and the Scottish Futures Trust.

#### *Local Heat and Energy Efficiency Strategies*

The Scottish Government has recently consulted on a new duty for local authorities to produce and implement a Local Heat and Energy Efficiency Strategy (LHEES). LHEES is a central plank of the locally-led elements of SEEP and the new Fuel Poverty Strategy, both of which should launch in 2018. Therefore, LHEES should be taken forward without delay. The Warm Homes Bill provides the perfect legislative vehicle for introducing this new duty.

#### *Fiscal incentives*

We strongly support the deployment of a range of financial and fiscal incentives as part of SEEP to encourage the uptake of energy efficiency and low-carbon heat improvements. The Warm Homes Bill provides the opportunity to introduce new fiscal levers to incentivise action.

For example, this could be through enhancing the council tax rebate provisions in the Climate Change (Scotland) Act 2009 (CCA) and/or using the Land and Buildings Transaction Tax (Scotland) Act 2013 (LBTT) to reward action to improve energy performance in buildings.

We therefore call for the Bill to introduce duties on Ministers to review within a specified timescale:

- The operation of Council Tax and the *energy efficiency discount schemes* introduced by the CCA
- A potential for relief under the LBTT to incentivise investment in energy efficiency

## Regulation

The Scottish Government recently consulted on the regulation of energy efficiency standards in the private rented sector.<sup>3</sup> It has also stated its intent to consult on standards and incentives in the owner occupier sector, and is bringing forward legislation to regulate District Heating.<sup>4</sup> We welcome such moves and will work with the Government to help progress these areas.

However, the Warm Homes Bill provides the opportunity to review other regulations to address remaining barriers, such as difficulties in implementing energy efficiency measures in mixed tenure tenements, and to apply building standards at points of transition when home owners and landlords are most likely to undertake upgrades. The Scottish Government has already stated its intent to review building standards and methods for dealing with issues in tenements. However, given the ambitious targets laid out in the draft Climate Change Plan it is vital that this work starts as soon as is possible. The Warm Homes Bill should set out a timetable and remit for these reviews.

There is also a long-standing tension between the need to conserve Scotland's architectural heritage, while at the same time improving the energy efficiency of historic buildings in sympathetic ways. Concerns have been expressed regarding levels of consistency in terms of understanding and approaches taken across planning authorities in relation to applications for improvements. Given such concerns, and the importance of removing barriers, we believe a review of relevant planning policy guidance is justified to ensure clarity and consistency across authorities.

Lastly, recent research has found that, *'The overall regulatory framework ... is very complicated, involving national and local policies, regulations, subsidies and support across different sectors (for example building control, housing, energy, environment and fuel poverty) which overlap considerably and often contradict each other. It is hard for professionals, let alone householders, to navigate the system.'*<sup>5</sup>

It is vital that such regulatory frameworks help, rather than hinder, progress. We therefore propose that Ministers review their operation with a view to improving the integration of their aims and operations.

## Other issues

The Alliance's research also identified some issues that merit further exploration:

- Local authority powers for enforcement of minimum energy efficiency standards.
- Regulation/powers to facilitate routes to market for community energy and local authority ESCOs.

We also recommend the Scottish Government undertakes its own gap analysis of legislation to understand what provisions could be included in the Warm Homes Bill to support the delivery of SEEP and the National Infrastructure Priority on energy efficiency as well as the new fuel poverty strategy.

---

<sup>3</sup> *Energy efficiency and condition standards in private rented housing* <http://www.gov.scot/Publications/2017/04/2510>

<sup>4</sup> Ibid. pg.5

<sup>5</sup> Low Energy Apartment Futures, *Improving the energy efficiency of apartment blocks LEAF Final Report, (LEAF, 2016)*

## Conclusion

Investment in the quality of our housing stock underpins progress across so many government policy objectives – tackling fuel poverty and climate change, reducing ill-health, and creating jobs across Scotland. This would also reduce the need for costly new energy generation. The Warm Homes Bill represents a rare opportunity to provide a strong legislative foundation for the new Fuel Poverty Strategy and Scotland’s Energy Efficiency Programme to ensure Scotland meets both its fuel poverty and climate change goals.

The Alliance will continue to develop its proposals for the Warm Homes Bill and encourages all stakeholders to join us in making this a strong and effective piece of legislation.

**Further information:** Existing Homes Alliance Scotland <http://existinghomesalliancescotland.co.uk>  
Elizabeth Leighton, Secretariat, [elizabeth@leightonconsulting.co.uk](mailto:elizabeth@leightonconsulting.co.uk), mob 07792647005

*ExHA is a coalition of housing, environmental, fuel poverty and industry organisations calling for urgent action to transform Scotland’s existing housing stock.*