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Convener  
Local Government and Communities Committee  
Scottish Parliament  
EDINBURGH  
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Dear Convener

### **Fuel Poverty (Target, Definition and Strategy) (Scotland) Bill**

At the Local Government and Communities Committee on 13 March 2019 I said that I would respond further to Andy Wightman's query about the extent to which the methodology used to develop the Remote Rural, Remote Small Town and Island Minimum Income Standard (RRRSTI MIS) will be prescribed in legislation.

My amendment will introduce a regulation-making power to enable an additional amount to be added to the sum which, for these households, is sufficient for them to maintain an acceptable standard of living under the second part of the two part test for fuel poverty in section 2 (1) of the Bill. As the Committee is aware, this is to account for the higher cost of living in these areas.

The Regulations will be subject to affirmative procedure to allow for a high level of scrutiny by the Parliament. I would like to assure the Committee that our regulations would include details of the body which will determine the uplift and the approach would be in line with Option 3 as shared with the Committee. One key criteria for selecting the research organisation will be their level of experience and expertise in conducting this type of research. However, the organisation that will undertake the necessary research has yet to be determined, as this will require a procurement process. We could not therefore specify this organisation in primary legislation without overriding existing procurement law and practice.

In addition, at the meeting Graham Simpson also asked me about a list of proposed amendments to the Bill which Energy Action Scotland (EAS) has circulated to MSPs and you have since asked for my response to these in your email of 14 March. This is available in the attached Annex. The Committee should be aware that EAS has neither sent these

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amendments to me or my officials nor have they sought any meetings with me or officials to discuss their views.

Having now considered them I do not consider that any of the thirteen proposed amendments would improve the Bill and, in some cases, could actually undermine it. I am particularly concerned that several of them run contrary to the advice and recommendations of the Committee's Stage 1 report. As is shown in further detail in the Annex they either go beyond the scope of the Bill, would add additional complexity and costs for very little gain, or are already covered by existing provisions within the Bill.

I hope this information is of use to the Committee and I would be happy to provide further information.

Kind regards

**KEVIN STEWART**

## Scottish Government response to Energy Action Scotland proposed amendments

### 1 – A fuel poverty target of 2032, with 2 statutory interim targets at 2024 and 2028

#### *Response*

As the Committee noted in its Stage 1 report the 2040 target is already stretching, especially given that the Scottish Government does not have control of 2 of the 4 drivers of fuel poverty - fuel prices and income. This chimes with many stakeholder views, put forward both in response to the consultation on the draft Fuel Poverty Strategy and in evidence to the Committee at Stage 1, which expressed significant concern that bringing the date forward would be difficult to achieve. This was particularly so for those with responsibility for delivery.

For instance, with regard to the length of the target, Bill Halliday of Argyll and Bute Council told the Committee:

“We have to be careful. We had the Home Energy Conservation Act 1995, and then we had the 2016 target which was missed by a long way. This will be a long and slow process, and we have to recognise that we will not achieve change overnight. We can step up improvements to energy efficiency in housing but tackling fuel poverty and dealing with income levels and fuel costs will take a lot longer. There is still resistance to switching to lower tariffs and it will take a long time to change householders’ attitudes.”

Alexander Macleod of Aberdeenshire Council told the Committee:

“It is pragmatic to set [the target] at 2040. I know that there has been a push to bring it forward to 2032, but we have to recognise the pace of technological change and of the cost of that technological innovation coming down, which might make it impractical to deliver the target sooner, as much as we would all like fuel poverty to be eradicated earlier.”

As the quote from Alexander Macleod points out, bringing the 2040 target forward to a much earlier year would mean utilising low carbon heat technologies sooner. This could have the adverse consequence of increasing fuel poverty levels due to higher installation or operating costs for householders. An earlier target could also mean households would be required to implement further upgrades at unnecessary expense in order to move to the low carbon technologies required to comply with climate change objectives that are in synch with fuel poverty targets and energy efficient programme.

Of course on energy efficiency we want to do more and faster where we can which is why we will publish a consultation shortly on how the Energy Efficient Scotland Programme could be accelerated and will act on those findings. However, so far those calling for an accelerated target have been unable to set out an alternative credible delivery plan that overcomes the risks and is actually achievable and realistic.

The Committee should also note that in line with your recommendations the Scottish Government will lodge amendments to enshrine interim targets at 2030 to ensure there is no loss of momentum or direction on the way to the 2040 target.

## **2 – A fuel poverty support fund for the 5% of households left in fuel poverty**

### *Response*

The aims of the Bill are to set a target relating to the eradication of fuel poverty; to create a new definition of fuel poverty; to mandate the production of a Fuel Poverty Strategy; and to create reporting obligations.

The proposed fuel poverty statutory target is to ensure that, by 2040, no more than 5% of households in Scotland will be in fuel poverty. This target recognises that there will always be households that move in and out of fuel poverty due to constant changes in household incomes and energy costs. This is the same approach taken in the Child Poverty (Scotland) Act 2017.

The Scottish Government does not consider that an amendment to create a fuel poverty support fund is within the Bill's scope.

## **3 – A specific Scottish Minimum Income Standard**

### *Response*

In his evidence to the Committee, Professor Donald Hirsch of Loughborough University made clear that a Scotland specific minimum income standard would show negligible differences compared to the UK wide MIS. He noted the following based on recent research:

“We thought that most parts of the UK, particularly urban parts, were pretty much the same in terms of how people define minimum costs. We looked at pricing at national chain stores and so on, which would be accessible to somebody in Falkirk but not to somebody in Stornoway. When we did that research, it was striking that we found that there was pretty close to zero difference.”

Therefore, developing such a MIS would be costly but offer very limited added value.

Loughborough University's work on the 2018 UK MIS, which Professor Hirsch referred to, included research carried out in areas of Scotland and Wales as well as England, where no discernible differences were identified in terms of the items that the public thought should be part of a minimum household budget. In addition, key goods and services where there may be the biggest differences in costs between countries – housing costs, fuel costs and childcare costs - are deducted from the UK MIS for its use in fuel poverty measurement.

A Scottish MIS therefore is not necessary and would run contradictory to the Committee's recommendation that we deliver a remote rural, remote small town and island MIS which the Scottish Government has agreed to do. This ensures that higher costs and the need for additional goods and services in these areas are taken account of.

## **4 – MIS uplift for those with additional costs**

### *Response*

We believe the needs of disabled and long term sick householders are best addressed by the existing provisions of the Bill for the enhanced heating regime that applies higher temperatures and longer heating hours than for other households.

These households' required fuel costs will be higher than under the current definition since the 'other rooms temperature' for the enhanced heating regime has been increased from 18 degrees to 20 degrees while the living room temperature is maintained at 23 degrees. This removes a potentially harmful 5 degree difference between different rooms in the home.

This means that, all other things being equal, such households are more likely to be identified as fuel poor than households where no such illness or disability is present.

The Committee's own report at Stage 1, following evidence from a variety of stakeholders, did not recommend that such an enhancement should be applied.

## **5 – Social care costs alongside childcare costs (to be deducted from adjusted net income in the second part of the definition)**

### *Response*

Unlike childcare costs, social care costs are not included in the Minimum Income Standard, so such an adjustment would not be necessary

It is also worth noting that personal care is free in Scotland for people aged 65 or over and who have been assessed by the local authority as needing it. Free nursing care is also available to people below 65 who have been assessed as requiring nursing care services.

## **6 – Consultation on enhanced heating regime groups**

### *Response*

The Bill already obliges the Scottish Government to consult such persons as Ministers consider appropriate in respect of the regulations specifying the types of household for which enhanced heating is appropriate and this must include those with lived experience of fuel poverty.

Prior to defining in regulations which households should be covered by the enhanced heating regime, Ministers will, of course, seek expert advice and input from stakeholders including from the Fuel Poverty Advisory Panel who have already agreed to advise on this issue.

These regulations will then be subject to the affirmative Parliamentary procedure which entails a high level of Parliamentary scrutiny and requires the approval of Parliament.

## **7 – Consultation or co-production where appropriate with people with lived experience of fuel poverty in respect of the strategy and periodic reporting**

### *Response*

In its Stage 1 report, the Committee welcomed the requirements in the Bill for consultation with people who are living, or who have lived, in fuel poverty.

The existing provisions for consultation contained in the Bill are already robust and far-reaching. EAS call for individuals with lived experience of fuel poverty to be involved in identifying characteristics of households likely to be in fuel poverty without seemingly realising this is already guaranteed as part of the fuel poverty strategy under section 3(2)(c) and consultation with people with lived experience is already required for the strategy under section 4. As well as ensuring people with lived experience of fuel poverty are involved in the

development of the final Fuel Poverty Strategy, the Bill obliges Scottish Ministers to consult with such individuals when making regulations under section 2(4) or 10.

This will be an important part of assessing our progress and will help us determine and mainstream approaches that can best support people living in fuel poverty, helping prevent others from experiencing the same hardships.

In addition to this, the governance arrangements we have put in place for monitoring progress on tackling fuel poverty, through the Scottish Fuel Poverty Advisory Panel and Partnership Forum, means that those with lived experience directly inform the strategic advice to Ministers and the work plans of these new bodies.

This is ensured through the diverse membership of the two groups including an organisational representative of The Poverty Alliance, whose own members include individuals with experience of poverty, on the Advisory Panel; and a Commissioner of The Poverty Truth Commission, with direct lived experience of poverty, on the Partnership Forum.

## **8 – Parliamentary scrutiny of the progress towards the target**

### *Response*

The business of the Parliament is entirely a matter for Parliament itself to decide upon.

We have full confidence that the Parliament will continue to scrutinise this work as they do now. The Bill already requires that the necessary information to fulfil this role will be provided to Parliament in the periodic monitoring reports, which will detail the progress being made towards achieving the targets.

## **9 – Establishing an independent review commission**

### *Response*

We do not believe that giving the Fuel Poverty Advisory Panel a statutory footing would assist its work. It needs to be flexible in its composition and role in order to adapt to the inevitably changing landscape of fuel poverty over the coming decades.

As COSLA noted in its letter to the Committee of 13 February 2019, the membership of the Panel is voluntary and it is likely that significant investment would be required to turn this into a statutory independent scrutiny body, with the capacity and analytical capability to scrutinise and measure progress against the fuel poverty targets.

We share COSLA's concern that the creation of a new scrutiny body could risk diverting funding from the core objective of supporting households out of fuel poverty. For instance, according to its Annual Report and Accounts for 2017 – 18, the Committee on Climate Change had running costs of just under £3.5 million.

## **10 – Periodic reporting to every 2 years and review**

### *Response*

We note COSLA's concerns about the potential burdens more frequent reporting could place on local authorities. Two years would be particularly onerous. The Scottish Government does not want to create a situation in which the burden of reporting becomes greater than the burden

of delivering energy efficiency measures to Scottish homes. We are also keen to avoid duplication and promote coordination between different complementary government policies, particularly the Energy Efficient Scotland Programme.

### **11 – Final report on the 2040 target**

#### *Response*

We can only start to assess what the position has been in 2040 at the end of that year and it will take time to collate the necessary data. We will only know the fuel poverty rate for 2040 when the Scottish House Condition Survey is published in December 2041. Therefore, bringing forward the 2042 reporting date by a year would not be realistic.

### **12 – Power to modify enhanced heating regime eligibility**

#### *Response*

The Bill as drafted already provides adequate powers for Ministers to define those eligible for the enhanced heating regime and to revise this definition in future if it is considered appropriate. We have the power under section 2(4) of the Bill to change who the enhanced heating regime applies to via regulation making powers. Consequently, this amendment would serve no obvious purpose.

### **13 – Enhanced heating regime groups should be specified in the Bill**

#### *Response*

The bill proposes that the definition of the type of household eligible for enhanced heating is in secondary legislation. This means that it is therefore future proofed and flexible enough to be changed to keep pace with changing societal circumstances without requiring Parliament to alter primary legislation.

The Scottish Government will work with stakeholders to produce the regulations defining which households are eligible for enhanced heating. These will be subject to the affirmative Parliamentary procedure which entails a high level of Parliamentary scrutiny and requires the approval of Parliament.