# Section 1. Ministerial Foreword – No questions

# Section 2. The Heat in Buildings Standard - covering heating and energy efficiency

To help reach net zero, all of our homes, workplaces and other buildings will have to move from polluting heating to clean heating. We also want all homes to reach a good standard of energy efficiency, where possible, as this will keep energy bills down, help tackle fuel poverty and enable clean heating systems to run efficiently.

## 1. To what extent do you support our proposal to prohibit the use of polluting heating systems in all buildings after 2045?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don’t know

Comments: The City of Edinburgh Council strongly supports the proposal to prohibit the use of polluting energy systems in all buildings after 2045.

## 2. To what extent do you agree that we should introduce a minimum energy efficiency standard to be met by private sector landlords by the end of 2028 (even if they are already using clean heating)?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don’t know

Comments: The City of Edinburgh Council supports measures that will improve the comfort and amenity of tenants of privately-rented homes in Edinburgh. It is suggested that careful consideration will be needed to ensure that measures do not result in unintended consequences such as large numbers of properties being withdrawn from the market, amplifying housing shortages, or that measures do not result in the costs of upgrading being passed onto tenants, further increasing cost of living pressures for people living in rented accommodation.

There is a need to ensure any fabric improvements are informed by appropriate expertise to ensure there are no unintended consequences, e.g. poor air quality, interstitial condensation, mould growth, etc.

## 3. To what extent do you agree that we should introduce a minimum energy efficiency standard to be met in owner occupied homes (which still have a polluting heating system) by the end of 2033?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don’t know

Comments: The City of Edinburgh Council supports measures that will improve the fabric of homes in Edinburgh.

There is a need to ensure any fabric improvements are informed by appropriate expertise to ensure there are no unintended consequences, e.g. poor air quality, interstitial condensation, mould growth, etc.

## 4. Do you agree with our proposal to set a minimum energy efficiency standard that can be met by either installing a straightforward list of measures, or showing a good level of energy efficiency based on a reformed EPC fabric efficiency metric?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don’t know

Comments: The City of Edinburgh Council suggests that care is needed here. Energy Performance Certificates would need a fundamental rethink to allow them to perform this function, and it is likely that greater expertise from surveyors involved would be needed. A standard list of measures would possibly err on the side of caution if avoiding unintended consequences. An overly simplistic approach is likely to give rise to issues. It is important that there is guidance to owners and a trustworthy market and supply chain.

## 5. What is your view on the initial proposed list of measures to meet the minimum energy efficiency standard?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don’t know

Comments: The City of Edinburgh Council suggests that double/triple/vacuum glazed windows should be added to the list of measures.

Many of the buildings where the normal list of measures is not applicable will be historic/listed buildings. In those cases, then there is likely a list of alternative measures that could be suitable; however, from a planning and heritage perspective, the Council has concerns around steering these properties down the route of potential external wall insulation (plus even internal insultation can cover detailing in listed buildings). Therefore, the Council considers that the standard and the equivalent standard must each have cognisance of historic/listed buildings, for which the normal list of measures are unlikely to be appropriate. It is suggested that a separate whole building survey (done by an accredited ABBE Level 3 Award in Energy Efficiency Measures for Older and Traditional Buildings qualification or conservations surveyor) may be needed for traditional buildings / tenements to ensure the most suitable measures are applied.

It is assumed that the measures outlined refer only to domestic properties. In case of non-domestic there should be supporting analysis to inform appropriate fabric interventions.

## 6. Do you think that properties for which most or all of the measures on the initial proposed list are not relevant should be required to meet an equivalent minimum energy efficiency standard?

 A. No – these properties should be considered compliant once they have installed all the measures that are appropriate for their building type, even if this is few or no measures

B. Yes – they should be required to meet the standard and additional measures should be included on the list (such as solid wall insulation, solid floor insulation and flat roof insulation), and they should be required to install all of these where feasible

C. Yes – they should be required to meet the standard and additional measures should be included on the list (such as solid wall insulation, solid floor insulation and flat roof insulation), but they should only be required to install some of these where feasible and cost effective

D. Yes – they should be required to meet the standard and additional measures should be included on the list (such as solid wall insulation, solid floor insulation and flat roof insulation), but they should only be required to install some of these where feasible, and they should be allowed additional time to do so.

## 7. Do you think that an alternative approach to setting the minimum energy efficiency standard is required?

Yes

No

Don’t know

Comments: The City of Edinburgh Council considers that the minimum energy efficiency standard foe domestic properties requires to be mindful of the limitations on interventions for certain historic/listed buildings.

## 8. Do you agree that the use of bioenergy should continue to be permitted in certain circumstances?

 No, it should be prohibited in all cases

Yes, it should be permitted for those buildings already using it

Yes, it should be permitted for those buildings who have no other clean heating system available

Yes, it should be permitted for those buildings already using it and for those buildings who have no other clean heating system available

Yes, it should be used in wider circumstances (please describe these)

Comments: The City of Edinburgh Council would propose that the use of bioenergy (in terms of boilers) is prohibited in urban areas due to its impact on air quality and the alternative clean heating systems available.

It is questioned whether wood burning stoves would be covered by this regulation.

# Section 3. Property Purchases

The Scottish Government is therefore proposing to introduce a new law which will:

* Require those purchasing a property to comply with the prohibition on polluting heating within a specified amount of time following completion of the sale.

This requirement will apply only after:

* The Bill that we are proposing to introduce has been considered and approved by the Scottish Parliament, and
* We have developed (and consulted upon) further regulations implementing the proposals. Chapter 8 provides more information on the next steps for the Bill and when it will take effect.

## 9. To what extent do you support the requirement to end the use of polluting heating following a property purchase?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don’t know

Comments: The City of Edinburgh Council notes the arguments made for placing the burden of ending the use of polluting heating on the seller. In addition to the argument that the burden of paying for a new heating system by the seller may be unfair if the reasons for selling are poverty or bankruptcy, there is a risk that the seller, should the obligation sit with them, may install a substandard system to satisfy the requirements which the buyer will then have to live with.

The Council notes that placing this burden on the seller would place the burden on the cash beneficiary of the transaction and would potentially be considerably easier to monitor given the existing requirement for the seller to procure an EPC. Additionally, the seller may be better placed to cost these works than the buyer who may be inheriting an unclear liability. It is suggested that further consideration is needed of where this burden should sit.

It is noted that the proposal that any buildings within a Heat Network Zone will not need to meet the Standard following a property purchase would mean that this requirement would potentially not apply to a significant number of homes in Edinburgh, given the extent of the proposed zones.

It is questioned what would happen if constraints (e.g. planning restrictions, grid capacity limitations) meant implementing measures was not possible.

## 10. We are proposing to give those purchasing a property a ‘grace period’ to end their use of polluting heating. Do you agree with this proposal?

Yes - the grace period should be two years .

Yes – the grace period should be three years.

Yes- the grace period should be four years

Yes – the grace period should be five years

No, please provide reasons for your view.

Comments: The City of Edinburgh Council suggests that, if the burden of ending the use of polluting heating is placed upon the buyer, it is considered that it would be reasonable to give the buyer a five-year grace period to avoid creating financial pressures for them in the years following the purchase.

Adequate time is required for the new owner to assess the optimal approach/employ such expertise as required then procure and undertake the works. For domestic boiler to heat pump replacements the methodology adopted by many is to assess consumption over previous heating seasons as oversizing a heat pump has greater impact on operating efficiency that would be the case for a boiler, so heat pump sizing needs care.

It is noted that this may have a disproportionately negative effect on first time home buyers who may have less capital (while appreciating that the point of sale is a logical trigger for improvement measures).

It is queried what would happen in the event that a property is sold on during the grace period.

It is suggested that, in some instances, it may be more appropriate for the adaptations be staged over a number of years to reflect remaining life of any existing plant or fabric (thinking of embodied carbon considerations). An assessment of this may better inform the time period allowed, and time to implement determined accordingly.

It is queried how the requirement will be applied to multi-occupancy properties which may require shared measures.

It is suggested that compliance could potentially be monitored via requiring revised EPCs to be provided after five years; this could potentially be linked to the insurance of the building.

## 11. To what extent do you support our proposal to apply a cost-cap where people are required to end their use of polluting heating following a property purchase?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don’t know

Comments: The City of Edinburgh Council suggests that, if the burden of ending the use of polluting heating is placed upon the buyer, it is considered that it is reasonable to cap this cost for domestic properties (but not for non-domestic properties). It is suggested that a flat cap is the most transparent approach to this and will give buyers unambiguous information on their maximum liability.

The question of whether caps will apply only to heating systems or also to energy efficiency measures is key.

Consideration would need to be given as to the difference between estimated and tendered costs and final costs in relation to energy efficiency measures. At the outset of any project, contingency and provisional costs are included in the estimate, costs will not be finalised until the work is complete. If the price cap is exceeded, this may then lead the owner (including landlords) to make decisions not to improve the energy efficiency of his properties and/or not agree with a scheme proposed by joint owners in a tenement.

The cost of energy efficiency measures will vary upon market conditions; installers’ labour and material prices, geographical differences, inflation, and VAT rates may change, all influencing costs.

It is noted that a property price related cost cap could result in a smaller cap for the buildings that require the most retrofit.

It is queried what would happen if the cost cap is achieved and then the property is sold again, does the cost cap reappear until the property achieves the Standard?

It is queried what would happen if the cost cap is achieved but the property does not achieve the set standard – is no further spend required? Can it be rented out? If this is the case, care is needed to ensure that every pound is spent on the most cost effective areas to deliver low energy and clean heating outcome and to avoid unintended consequences.

## 12. Which of the following methods of applying a cost-cap do you support?

A flat cost-cap.

A size-based cost-cap.

A purchase price-based cost-cap.

None.

Another.

If another, please suggest below:

## 13. To what extent do you support the proposal that the Scottish Ministers should be given powers to extend the circumstances in future (beyond a property purchase) in which people could be required to end their use of polluting heating? This could be, for example, preventing the installation of new fossil fuel boilers when replacing the heating in your home or business premises?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don’t know

Comments: The City of Edinburgh Council considers it would be pragmatic to allow for exceptions.

# Section 4. Connecting to Heat Networks

Heat networks generate heat and use a network of pipes to supply it to nearby homes, businesses, and public buildings. The heat can be generated in different ways, depending on the resources and assets available in the area. This could be through heat pumps that draw thermal energy from a local river, or from the recovery of excess heat from local businesses like distilleries, or in many other creative ways we have seen across Europe.

All heat networks will be required to generate most of their heat from renewables or bioenergy by 2045, so they are one of the systems that some of us will be able to use that meet the Heat in Buildings Standard. Several studies have examined the potential for heat networks in Scotland, and while they provide different estimates over different timescales, they all show that we could see significant growth in these schemes.

## 14. To what extent do you support our proposal to provide local authorities (and Scottish Ministers) with powers to require buildings within a Heat Network Zone to end their use of polluting heating systems by a given date?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don’t know

Comments: The City of Edinburgh Council considers that this power would be a highly useful level for local authorities.

## 15. To what extent do you support our proposal to provide powers to local authorities (or Scottish Ministers) that require developers to connect new buildings within Heat Network Zones to a heat network?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don’t know

Comments: The City of Edinburgh Council considers that equipping Councils with these powers will assist significantly with promoting the roll-out of heat networks in development areas. It is noted however that these powers would have limited impact in supporting the roll-out of heat networks in already developed areas where the bulk of potential off-takers are existing buildings.

If there is no heat network operating within a designated heat network zone, what powers would the Scottish Government see local authorities as having. Would this allow the use of fossil fuel burning heat sources to be allowed to continue operating for longer because a building is in a heat network zone where no heat network exists?

Care is needed to avoid a situation where developers are left in limbo due to there being a notional case for a heat network but this not having progressed, albeit while recognising that the local authorities / Scottish Ministers could exercise discretion over the use of these powers.

It is questioned what would happen if the heat network was not willing to receive the customer(s).

16. To what extent do you support our proposal to require occupiers of non-domestic properties to provide information about unused heat on their premises?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don’t know

Comments: The City of Edinburgh Council considers that having access to this information would be useful in developing feasibility studies for heat networks.

## 17. To what extent do you support our proposal to potentially require buildings with unused heat to provide this to a local heat network?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don’t know

Comments: The City of Edinburgh Council suggests there needs to be a recognition that this will depend upon how easy and efficient it is for the heat to be captured and transferred to any heat network.

The Council suggests that the requirement should be expanded slightly to require the buildings to provide unused heat to a heat network and / or to heat storage. (This relates to the “geo-battery” concept where heat is delivered into the ground as a means of storing it.)

It is questioned how this power would function in cases where buildings have entered into supply agreements with specific companies.

# Section 5. Monitoring and Enforcement

For any law that places requirements on us to be credible there must be a way to check that we are meeting the requirements when supposed to (monitoring) as well as a reason for us to meet the requirements (enforcement).

## 18. We will need to have a way to monitor if people are meeting the Heat in Buildings Standard, and discussed two options for this. Which do you support?

Submitting EPCs alone.

Sampling a percentage of buildings.

A combination of the two

None, there should be no monitoring.

Another method, please suggest below or explain your selected answer

Comments: The City of Edinburgh Council suggests that EPCs are the most logical means of demonstrating compliance with the Standard but that this is incumbent upon EPCs being reformed to focus more on the Standard, and upon the process for producing EPCs being strengthened to ensure the information captured is robust.

## 19. We will need to have a way to enforce the Heat in Buildings Standard. We discussed possible options to help achieve compliance. What are your views on these ideas?

I support relying on market and financial product mechanisms such as mortgages or home/ building insurance.

I support extra Council Tax and Non-domestic Rates charges, in future, for those who don’t comply.

I support the introduction of civil penalties, in future, if compliance is not achieved.

I support a mixture of the above options.

I do not support the suggested enforcement tools, but have another suggestion (please provide below).

I do not support any form of enforcement

Comments: The City of Edinburgh Council has concerns around the mooted use of Council Tax / Non-Domestic Rates as a mechanism for enforcing compliance with the Standard. These concerns include practical challenges (for example, the impact of removing a surcharge during the financial year on payment instalments; the challenges around collecting the surcharge for properties exempt from CT/NDR, e.g. properties occupied by students; and the inability of Council Tax / Non-Domestic Rates teams to assess compliance with the Standard) and reputational challenges (Council Tax / Non-Domestic Rates are charges levied to pay for services in Edinburgh and including a surcharge unrelated to this will cause confusion and generate unnecessary contact).

In the event that the decision is ultimately to use Council Tax / Non-Domestic Rates as a mechanism for enforcing compliance with the Standard, it is vital that the significant additional work this will create for local authorities is comprehensively resourced.

It is stated that private (residential) landlords will be subject to civil penalties should they not comply with the Standard. It is therefore unclear how the Council Tax surcharge would work in the case of tenants.

## 20. To what extent do you support our proposals to modify the Standard or exempt certain people from the need to meet the Heat in Buildings Standard?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don’t know

Comments: The City of Edinburgh Council considers it is pragmatic to allow for exemptions. The cases for these will emerge over time; there should be a commitment to coming to a reasonable/proportionate provision which would act as precedent.

## 21. Which people, businesses, or types of buildings, if any, should be eligible for a modified standard or exemptions?

Comments: N/A

## 22. To what extent do you support our proposals to give certain people extra time to meet the Heat in Buildings Standard?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don’t know

Comments: The City of Edinburgh Council considers it is pragmatic to allow for exemptions.

## 23. Which people, businesses or types of buildings, if any, should be eligible for extra time?

Comments: The City of Edinburgh Council considers it is pragmatic to allow for extra time in some cases. The cases for these will emerge over time; there should be a commitment to coming to a reasonable/proportionate provision which would act as precedent.

# Section 6. Public Sector Buildings

If we are asking homeowners, landlords and businesses to invest in this transition, then there is a real case for the public sector to show leadership by taking early and sustained action to decarbonise its estate. This will also help to further develop the supply chain for manufacturers and installers of new heating systems and energy efficiency products.

## 24. To what extent do you support our proposal to require all buildings owned by a Scottish public authority to be using clean heating systems by 2038?

Strongly support

Somewhat support

Neither support nor oppose

Somewhat oppose

Strongly oppose

Don’t know

Comments: The City of Edinburgh Council notes that achieving net zero carbon will necessitate ending all usage of polluting heating systems where the emissions in question cannot be captured or offset. Accordingly, the Council strongly supports the proposal to require the use of clean heating systems in publicly owned buildings by 2038. However, it is noted that achieving this goal will require giving public bodies the necessary capital funding. As present, the funding available to public bodies in Scotland for decarbonisation is far lower than required to meet the costs of upgrading what is a large, complex, varied, and in many cases historic estate. Therefore, if this target is to be set, it is considered that the funding available will require to be increased, and/or exemptions many need to be granted in some cases, for example for buildings where moving away from polluting heating systems will be most complex/costly. It is also suggested that an exemption would be appropriate for buildings earmarked for demolition.

25. We are considering the following further duties on public sector organisations to support planning for the transition by 2038. Please tell us which option(s) you would support.

Placing a new duty on public sector organisations which would, from 2025, prevent them from replacing a polluting heating system with another (unless impractical);

Creating a new duty for each public body to develop and implement a plan to decarbonise their buildings;

Placing a new statutory reporting duty on public sector organisations to demonstrate progress towards their 2038 objective (with the potential for the 2038 then to be non-statutory); and/or

Placing no further statutory requirements on public sector organisations (instead relying on their ability to plan alongside our delivery and funding programmes to meet the 2038 objective).

Comments: The City of Edinburgh Council, like many other Scottish public bodies, has a large estate and the pathway for decarbonising it will be complex. Some buildings will lend themselves to decarbonisation more easily than others. The Council considers that flexibility and pragmatism are key to achieving decarbonisation in a sustainable way. Given this, the Council would recommend that public bodies are given discretion as to how they plan the transition.

# Section 7. Amendments to existing legislation

## 26. Do you agree with our proposals to include powers in the proposed Heat in Buildings Bill to change the current requirement in legislation for a narrowly-defined renewable heat target?

Yes

No

Don’t know

Comments: N/A

## 27. Do you agree that the Heat Networks (Scotland) Act 2021 should be amended in light of the passage of the Energy Act 2023?

Yes

No

Don’t know

Comments: N/A

## 28. Are there any further amendments to the Heat Networks (Scotland) Act 2021 that the Scottish Government should consider?

Comments: Section 95 of the Act states “The Scottish Ministers must prepare a strategy setting out the costs to local authorities in relation to their duties under this Act”. This is a welcome measure. However, it is noted that the approach of the Scottish Government to date has been for local authorities to lead on developing and delivering heat network projects, with the Scottish Government playing a supporting/advisory/funding role. Given the statutory targets around heat networks, it is suggested that this approach means that local authorities have effectively been given additional responsibilities that are not articulated in the Act. Accordingly, it is suggested that the Act should more clearly articulate the respective roles of the Scottish Government and of local authorities in developing and delivering heat networks and that section 95 of the Act should reflect these to ensure these roles are being properly resourced.

The Council would also question whether statutory targets for heat networks are appropriate/useful, on the basis that the delivery of heat networks should be driven by a robust business case and where heat networks are legitimately the best solution rather than pre-judging the optimal solution.

With respect to wayleave rights, it is noted that there is interest in partial public ownership of heat networks. Local authorities are unlikely to be able to inject significant amounts of capital into heat network projects. Accordingly, local authorities may instead look to use other assets they possess as their contribution to a heat network project in return for equity. A key example is land, which could be used for building energy centres, running pipes, etc. The powers in the Heat Networks (Scotland) Act around “necessary wayleave” being granted by the Scottish Government could potentially undermine the ability of local authorities to do this by giving heat network developers the ability to use the local authority’s land “for free”. It is suggested therefore that 70(8) is amended to include local authorities as bodies to who the opportunity to make a representation is granted, and that 70(9) is amended to omit local authorities from the “necessary wayleave” provisions.