



The Scottish Parliament  
Pàrlamaid na h-Alba

## Finance and Constitution Committee

Kate Forbes  
Minister for Public Finance and Digital Economy

By email

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26 June 2019

Dear Minister,

Thank you for giving evidence to the committee on 12 June on the Additional Dwelling Supplement. Following consideration of the evidence, the Committee agreed to write to you seeking a response to the following—

### **Operation of ADS**

The Committee heard how complicated ADS was to administer and for people to understand when it applies to them or if they qualify for relief. We were told that this is further complicated by some unintended consequences of the legislation. Witnesses said that there have been cases raised whereby individuals have claimed their payment of the tax has been unjust and against the spirit of the legislation.

The Law Society of Scotland highlighted a number of anomalies which they believed need addressed. These included—

- couples who are planning to get married but who do not live together before they do and who have to sell a house that only one of them owns before they buy a house in joint names.
- people living together but not in the house that they are going to sell, they live in another other house.

- Divorcing couples who have to pay ADS if one of them departs and buys a new residence.
- ADS being payable on main properties and on any 'granny flat' or annexe.
- A lack of clarity regarding at what point inherited dwelling is treated as owned by the beneficiary.
- ADS being payable on low value shares in inherited dwelling
- ADS being payable where someone's old residence is rented not owned.

You told us that you are sympathetic to a number of these issues and acknowledged there may be a need to address them. The Committee heard that these anomalies could be addressed by a Finance Bill. Members asked how many individuals had been captured by these anomalies, but the data was not available.

You said that changing the legislation could make it more complicated and that you would need to have a better understanding of how extensive the problem was before considering making any changes to the legislation.

The Committee requests that the Scottish Government should work with Revenue Scotland to gather data regarding the number of people affected by each of these anomalies and, once collated, provide this information to the Committee. In addition, the Committee requests that the analysis of consultation responses to the Scottish Government's consultation on the future of devolved taxes is sent to the Committee.

### **Impact on the housing market**

The Committee heard that when small house builders purchase a site with a house which will be demolished, they must pay LBTT and ADS for that house and not at the commercial rate afforded to larger house builders where there is an exemption for builders buying more than six properties. Was this the Scottish Government's intent when it introduced the legislation?

You told us that supporting the small to medium-sized enterprise house-building market through housing support funds rather than amending ADS is a 'better and more flexible' approach. For clarification, can you confirm whether the Scottish Government intends to consider this issue further as part of its consideration of the future of devolved taxes and, if not, whether it intends to provide further guidance to small house builders setting out all funding streams available?

Witnesses also questioned whether it was the intention that ADS would apply to local authorities where they are buying properties to provide affordable home but have to pay ADS whereas housing associations do not. Can you confirm whether this was the intention of the legislation?

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Bruce Crawford". The signature is written in a cursive style with a large initial 'B' and a long horizontal stroke at the end.

**Bruce Crawford MSP**  
**Convener**