

SUMMARY OF CONSULTATION RESPONSES TO THE HOUSING IMPROVEMENT TASK FORCE FINAL REPORT *STEWARDSHIP AND RESPONSIBILITY: A POLICY FRAMEWORK FOR PRIVATE HOUSING IN SCOTLAND*

Introduction

The establishment of a Housing Improvement Task Force was announced by the then Social Justice Minister, Jackie Baillie, in December 2000 and it started its work in March 2001. The Task Force was asked to undertake a comprehensive review of housing policy as it relates to the condition of private sector housing in Scotland. In particular, its remit was to consider policy options concerning:

- the forms of financial assistance available for private owners
- the powers available to local authorities to compel private owners to invest in their property
- the scope for providing better information as part of the house purchase process - taking account of proposals for sellers' surveys and sellers' packs
- the arrangements in place for the management of flatted blocks in private ownership
- the need for stronger regulation of the private rented sector, for example, by extending the existing licensing arrangements which had been recently introduced for Houses in Multiple Occupation (HMOs).

In its first stage from March 2001 to early 2002, the Task Force focused on understanding and agreeing the key problems it should address. The conclusions were set out in the first report *Issues in Improving Quality in Private Housing* published for consultation in March 2002.

The second stage, exploring policy options to answer the questions raised in the first report and in the consultation process that followed it, culminated in March 2003 with the publication of the Task Force's final report *Stewardship and Responsibility: A Policy Framework for Private Housing in Scotland*. The report included 151 recommendations reflecting all aspects of the Task Force's remit.

Summary of report

The report covered five main areas, as summarised below.

Quality Standards for Private Housing in the 21st Century

The Task Force made recommendations designed to modernise the Tolerable Standard, by extending it to include thermal insulation and unsafe electrical wiring. It also made proposals for ensuring that a consistent approach is adopted to the interpretation of the Standard by the introduction of statutory guidance. It also made it clear that this guidance should set higher standards in respect of water supplies, dampness and radon gas than has previously been the case. While the Tolerable Standard should continue to operate on a "pass/fail" basis and provide a trigger for statutory action by local authorities, in the future, this action is more likely to be targeted at specific failures rather than comprehensive rehabilitation or demolition.

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 stock. This should be aligned to the Social Housing Standard already announced and subject to a separate consultation process. The Task Force made specific suggestions on the content of the Standard.

Finally it also outlined the case for a new statutory Repairing Standard which would set out clearly the obligations on private landlords, based on that applying in the social rented sector but tailored to the specific conditions found in private renting.

Improving the Operation of the Housing Market

The Task Force took the view that improving the information available to house buyers and sellers could mark a significant improvement in the operation of the market and improve services to those concerned. The two key areas where buyers and sellers need to be better informed are in respect of the condition of properties as they go on the market and the nature and extent of any common or

shared maintenance and repairing obligations associated with the property. To achieve the improvements that are sought, the Task Force made two key recommendations.

Firstly, it recommended that there should be a single survey, 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 should include a valuation, good quality information on the condition of the house, its accessibility and the extent to which it is energy efficient.

It also recommended that sellers' agents should provide a purchaser's information pack which should include 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 properties and associated property management arrangements.

The Task Force recommended that these proposed changes should be piloted with a view to introducing them as "market led" voluntary initiatives but with the option of legislation being held in reserve should this be required.

Facilitating Common Repairs and Maintenance

The Task Force focused on effective mechanisms for getting agreement between owners on what work needs to be done, deciding the respective contributions from each owner and ensuring that they all meet their share of the cost. It is also necessary to ensure that there are effective arrangements for managing the property, so that communal repair and maintenance requirements are identified and work carried out, and for ensuring that there are adequate arrangements for insurance of communal parts of the building.

It looked at the draft Tenement (Scotland) Bill prepared by the Scottish Law Commission and proposed a number of amendments to it, include provisions to ensure that, where appropriate in new developments, owners' associations are established and common building insurance policies are in place and, more generally, to ensure that non-resident owners can be contacted by others in the block. The Task Force's views were reflected in the separate consultation document on the Tenement Bill.

It also discussed ways of improving the ability of owners to recover costs from unco-operative owners and recommended that local authorities should have powers to act as a "backstop" when genuine difficulties occur, but in a way that avoids them simply becoming the automatic recourse of individual owners faced with repair problems.

Local authorities also have a role to play in encouraging the establishment of owners' associations and effective property management arrangements. The Task Force recommended powers to require owners to establish property management arrangements, linked to a proposal for a statutory power to require owners to put in place maintenance plans. It also recommended new arrangements for the accreditation of property managers in partnership with the industry, local authorities and consumer interests and that the scope of community mediation schemes should be extended to include disputes between owners.

Public Sector Intervention and Support at the Local Level

The Task Force was clear that, where poor housing conditions impact on other owners or the wider community, there is a case for public intervention that it is proportionate to the seriousness of the problem and provides a proper balance between the objectives of public policy and the rights and responsibilities of individual owners.

It went on to make recommendations across the three key areas of public policy in this respect. That is: direct intervention by using powers to compel owners to undertake works; assistance to owners in undertaking those works; and strategic planning of interventions to achieve policy objectives.

In relation to the assistance that is available to owners, it made a number of recommendations intended to ensure that financial assistance is targeted at those who most need it, with other forms of practical support available where they may be more appropriate. These included removing the link

between statutory notices or orders and mandatory grants; ensuring that services like care and repair and other assistance for those with particular needs are available nationally for all who need them; and providing powers to local authorities to offer a wider range of practical assistance other than subsidy, including advice, assistance with accessing finance or organising work and provision of equity based loans.

It also examined the powers available to local authorities generally, and proposed a number of significant changes. These include replacing the existing Housing Action Area procedures with new comprehensive area-based powers to address the physical disrepair of houses and their wider setting, including dealing with problems that arise from abandoned properties or absent owners. It also recommended more flexible enforcement options for improvement orders and disrepair notices to allow local authorities to prevent the re-occupation of a property on sale, as an alternative to enforcing the works against the current owner or occupant; powers to carry out works to bring a house up to the Tolerable Standard without acquiring it (as is required under existing arrangements); and, where appropriate, powers to address minor disrepair and require owners to put in place and operate maintenance plans for their homes.

Improving Standards in the Private Rented Sector

The task Force's approach focused on influencing conditions and standards by empowering and supporting tenants, as well as ensuring that effective regulation can be targeted at the worst-performing landlords where local priorities and conditions warrant such an approach.

In particular, it made recommendations for creating a new Private Rented Housing Tribunal 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.

It also considered the case for further regulation of landlords more generally and concluded that whilst there is 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. Rather, it made recommendations for the development of local accreditation schemes to be developed in partnership with local landlords, to promote and encourage better standards. Where this approach is unlikely to succeed, local authorities should have the power, subject to Scottish Executive approval, to put in place registration, certification or licensing schemes where particular local circumstances can be demonstrated to necessitate such action.

The consultation process

The Task Force report was launched at the Chartered Institute of Housing Conference in March 2003, where several hundred copies were distributed. Further copies were also sent out to organisations and individuals identified as having an interest in its contents. Around 1300 copies of the report have been distributed in all.

Although it was published as a final report as opposed to a consultation document, recipients were nevertheless encouraged to submit their views on its contents.

There were 98 written responses to the final report (including 48 that were primarily concerned with recommendation 93 only). 52 were from individuals and the remainder from the following organisations:

Aberdeen City Council	National Federation of Residential Landlords
Aberdeenshire Council	National House-Building Council Scotland
Angus Council	North Lanarkshire Council
Angus Care and Repair	Orkney Islands
Chartered Institute of Housing in Scotland	Perth and Kinross Council
Edinburgh City Council	Professional
Commission for Racial Equality in Scotland	Professional
Council of Mortgage Lenders	Registrars of Scotland

Dundee City Council	Renfrewshire Council
Dumfries and Galloway Care and Repair	Royal Environmental Health Institute of Scotland
East Ayrshire Council	Royal Incorporation of Architects in Scotland
East Lothian Council	Royal Institution of Chartered Surveyors in Scotland
East Renfrewshire Council	Scottish Consumer Council
Energy Saving Trust	Scottish Federation of Housing Associations
Falkirk Council	Scottish Landowners Federation
First Scottish Property Services Ltd	Scottish Law Agents Society
Friends of the Earth Scotland	Sheltered and Retirement Housing Owners' Confederation
Glasgow City Council	South Ayrshire Council
Highland Council	South Lanarkshire Council
Home in Scotland RSL	Tayside Solicitors' Property Centre
Institute of Maintenance and Building Management	UK Metric Association
Kidde Fyrenetics	West Dunbartonshire Council
Moray Council	West Lothian Council

In addition to written responses, Scottish Executive officials held meetings to discuss the report's contents with representatives of the following organisations:

Chartered Institute of Housing in Scotland	Royal Environmental Health Institution of Scotland
Friends of the Earth Scotland	Royal Institution of Chartered Surveyors in Scotland
National House-Building Council Scotland	Scottish Federation of Housing Associations
Property Managers Association Scotland Ltd	Shelter Scotland

Views arising from these meetings are reflected in the summary, particularly where they offer a different perspective from that expressed in the written responses.

Also, a consultation workshop to consider the recommendations and gauge opinions on areas for priority action was held in June and was attended by around 30 delegates, mainly selected from participants in earlier workshops that had taken place during the second stage of the Task Force's work. A separate detailed report of the proceedings is also available on the HITF website at www.scotland.gov.uk/hitf.

Consultation summary

Although responses to the report were invited and welcomed, because it was not intended primarily as a "consultation" document it contained no specific questions upon which views were sought. As a result, written responses tended to be wide-ranging and to some extent unstructured. Some respondents merely "welcomed" or otherwise generally acknowledged the contents of all or part of the report, and many clearly only commented where they wished to disagree with or add to specific point or recommendation. Some respondents asked that their comments be treated confidentially, so these have not been included in this published summary.

Where possible, copies of the full responses have been posted on the HITF website. Since this summary has obviously edited responses and attempted to sort them by topic, it is suggested that the full response is referred to in order to see any particular comment in its full context.

Responses are summarised broadly according to the subject matter as it was addressed in the Task Force report.

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GENERAL COMMENTS

Some responses questioned the starting point of the HITF report.

Council of Mortgage Lenders	As with the first report of HITF, it is unfortunate that the alleged issue of poor property condition is given prominence at the front of the report. According to successive editions of the <i>Scottish House Condition Survey</i> stock condition is steadily improving. Repair costs are not disproportionate to the value of properties, and should be seen in the context of the Scottish housing market which delivers homes that are more affordable than for the UK in general.
Scottish Law Agents Society	<p>The stated aim of creating a clear incentive to maintain properties will not be achieved without addressing the lack of supply which is artificially distorting the market.</p> <p>Property rights are enshrined in Protocol 1 to the European convention of Human Rights which is incorporated into Scots law by the Human Rights Act 1998. Generally, an owner can make such use of his property as he pleases, provided that third parties rights are not affected. Thus an owner can consume his property and has no duty to maintain it. Any incentive to do so must therefore be economic.</p>

However, most general responses did not question the starting point or overall approach, but highlighted particular prioritisation and resource issues, particularly where there appeared to be increased roles and responsibilities for local authorities:

Aberdeenshire Council	<p>Serious consideration must be given to widespread publicity of changes and their implications.</p> <p>Executive should recognise all resource implications prior to any decisions on action.</p>
Angus Council	<p>Of the 151 recommendations, over a third mention local authorities ... but the overall impact on resources does not appear to have been a major consideration in preparation of the proposals. If a local authority is to be 'ready and able to intervene effectively' it needs a consistency of resources to do so.</p> <p>There are some concerns about the extension of housing advice services to include advice (perhaps legal advice) on the private sector, its implications for professional indemnity, perceived endorsement of options and potential conflicts of interest.</p>
East Lothian Council	<p>Given the overall extent and wide-ranging nature of the report it is important that a sense of prioritisation and the key actions and initiatives are outlined clearly. The Scottish Executive in conjunction with all stakeholders should develop a national strategy for taking the key areas forward. However, local authorities should also be allowed to prioritise at a local level as to the key policies and actions that need to be taken in the context of the development and implementation of their Local Housing Strategies (LHS). The LHS is the primary process for identifying problems within the local housing system and developing intervention strategies to deal with them.</p> <p>It is important that the new Scottish Housing Quality Standard is applied across all tenures and measured accurately and consistently. There is an issue as to how the assessment of problems in the private sector feeds into the overall resource allocation for local authorities to intervene in the private sector.</p>

	<p>Specific funds should be allocated through the Local Housing Strategy process to deal with the development and implementation of private sector housing strategies (private sector stock condition assessment, developing private rented sector initiatives, implementing the modernised repairing standard for private landlords).</p> <p>The implication of the introduction of the purchaser's information pack will have to be considered by local authorities with regard to RTB properties. In East Lothian around 50% of the Council stock has already been sold through the RTB and it may be the case 'that the horse (or house) has already bolted' with regard to implementing this.</p> <p>Generally we would support the various initiatives that will improve factoring, encourage participation of owner-occupiers/private landlords in common repairs/improvement programmes. This needs to be linked to wider strategies to reduce social exclusion such as those based on maximising incomes. There has to be a recognition that previous government policy (i.e. RTB, low interest rates) has created a large swathe of lower income owner-occupiers who may in the future need assistance to maintain and improve properties.</p>
Edinburgh City Council	<p>As many of the proposals are closely inter-linked we recommend that the Scottish Executive establish an implementation group to take forward the Housing Improvement Task Force proposals to assist in co-ordination and planning of the different policy initiatives. The group should involve the range of private sector interests and local authorities.</p> <p>However it is unclear if it is the Scottish Executive's intention to provide resources for all private sector initiatives through PSHG. Further clarification on the role Private Sector Housing Grant will play in supporting the delivery of the framework set out by the HITF would be welcome.</p>
North Lanarkshire Council	<p>Some of the proposed measures may have limited usefulness at local level. Overall, local authorities should be allowed adequate revenue and capital resources to play a major enabling role in private housing to suit their own circumstances.</p>
Perth and Kinross Council	<p>We anticipate that it will not be possible for the Scottish Executive to act upon all of these recommendations quickly and some would clearly require further primary legislation. We wish to identify the provision of guidance on the following as priorities for Perth & Kinross Council:</p> <ul style="list-style-type: none"> • availability of funding for pump priming the setting up of owners associations and common repair sinking funds • setting up owners associations and common repair sinking funds; and • accreditation schemes for private rented sector.
Renfrewshire Council	<p>The level of Below Tolerable Standard housing within the private sector in Renfrewshire, measured through our most recent house condition survey, is approximately 50% above the national average. The BTS stock is concentrated almost entirely within the pre 1919 tenement sector. Any new private sector policies must reflect the high level of disrepair within this sector, and this cannot be addressed without both robust legislative powers, and critically, the financial support through a grants programme that provides assistance to those who require it, to the mutual benefit of all owners groups of houses.</p> <p>There are concerns that the test of resources within the new housing grants system will reduce the potential for co-operation between owners within blocks in multiple ownership. While the possibility of 100%</p>

	<p>assistance in qualifying cases is to be welcomed, the likelihood of some owners receiving a lower level of grant than under the present system will lead to delays in realising projects and tackling BTS housing. This is of particular concern as the incidence of houses within the BTS private rented sector is increasing, and it is this form of tenure where co-operation to participate has traditionally been more problematic.</p> <p>The revised private sector policy framework should be supported by a realistic level of resources through the introduction of Private Sector Housing Grant as a 'ring fenced' resource. Under the current funding arrangements Renfrewshire Council have been unable to meet the quantifiable and real demand for financial assistance for private sector improvement and repair. The location of much of the remaining BTS property, within our town centres, and often above trading commercial units, makes alternative strategies to repair and improvement such as demolition, untenable, thus making the lack of adequate resourcing an increasing concern.</p> <p>In addition to the BTS programme the Council are currently unable to fully support demand in key categories including disabled adaptations, Care and Repair and lead pipe replacement. These needs will continue within the new grants structure. The allocation of sufficient resources through the new PSHG system is required to reflect real need, and realistically address private sector disrepair.</p>
<p>Royal Incorporation of Architects in Scotland</p>	<p>The Standards identified in the report are broadly acceptable and very necessary in order to make statistical assessment of the current situation against previous standards. For future performance, the key issues are</p> <ul style="list-style-type: none"> • the standards existing in that substantial proportion of the housing stock which is only marginally above the minimum standards • the funding of future improvements. <p>It is evident that current government policy is directed to replacement rather than repair. The RIAS accepts this as being appropriate in the circumstances but feels that the policy of "replacing" or "repairing" should be clear in both public and private sectors. The RIAS foresees a looming requirement for improvement of a substantial proportion of the housing stock, both privately and publicly owned, where the property is at or near the lowest standards.</p> <p>There should be mechanisms applicable across all sectors for assessing the position. The RIAS suggests engaging with parties such as Communities Scotland, Homes for Scotland and Local Authorities in a joint effort. The private sector, left to its own devices, is unlikely to take an overall view and will naturally concentrate in its own priorities. At the middle and upper end of the market the private sector may present little problem but at the margins of economic viability the public purse may well have to be resorted to.</p> <p>Management of the existing privately owned stock is essential. The RIAS is critical of the terms of the provisions of currently typical ownership title deeds in this respect. Essentially, owners seek to minimise their commitment to communal facilities and maintenance.</p> <p>The following should be addressed for the joint benefit of all -</p> <ul style="list-style-type: none"> • The complexities of joint ownership of the building fabric and services (applies especially to flats) • The environment and locality

	<ul style="list-style-type: none"> • Facilities and services • Accessibility • Energy Consumption/Sustainability <p>The RIAS would like to see “model” forms of title that include common arrangements for subsequent management of shared interest. This, we think, would result in a considerable benefit to individual householders and the community as a whole e.g. the mechanisms in the Tenement Bill should be expanded to all residential properties.</p> <p>The RIAS recognises that the potential to provide a support network of expertise has never been higher in terms of RSLs, Local Authority and indeed consultants working in the commercial sector. This expertise needs to be harnessed for the benefit of the private sector.</p> <p>However, the RIAS sees the need to focus and channel these capabilities. A “guardian” is needed at local level to direct things. Perhaps this is a role that should reside in advisors to Local Authority Planning Departments, Community Councils and Residents Associations. The RIAS feels that it is appropriate to think in terms of locality in dealing with these matters. Professional consultants, architects included, are more than willing and able to contribute. Perhaps this is a matter that can be taken forward under the Community Planning banner?</p> <p>The RIAS has concerns that the report is not forward looking in terms of improving the built environment. The emphasis is on achieving minimum standards. Given that the life cycle of housing is generally long, government should be adopting much more ambitious targets in for example, space standards, energy/CO2 performance, transport facilities, public open space and the like. We think that a forward-looking assessment of needs and aspirations should be made. Do we not need a group of rehabilitation energy advisors for instance?</p> <p>Minimum standards tend to concentrate on the poorest quality stock. What about the middle ranking run of the mill property? Will that prove adequate for the needs of the 21st Century? Perhaps considerable stock will have to be written off. Is the quality of recent and current construction such that ‘Assessments of Obsolescence and Sustainability’ need to be made? Professional advisors agree, for instance, that the products of the 60s present very little scope for upgrading due do the minimal space dimensional standards prevalent at that time.</p> <p>Resourcing</p> <p>Whether the private sector has the will and the ability to regenerate the housing stock is unclear. Undoubtedly, successive governments have attempted to move “housing” into the private sector but the question remains – if private tenants and landlords are not able to upgrade the existing stock, will the government step in? What are the implications for the housing legacy in 50 years’ time?</p>
Shelter Scotland	<p>The report contains no conclusions regarding the level of investment needed. Shelter believes that had the report made such recommendations, it would have strengthened the hand of those who are currently campaigning for increases in government investment in housing. It is important that this report becomes a building block of the next Comprehensive Spending Review in 2004.</p>

QUALITY STANDARDS FOR PRIVATE HOUSING IN THE 21ST CENTURY

Tolerable Standard (TS)

Most respondents supported modernisation of the TS and its continued use as the basic 'pass/fail' standard, although one suggested a 'scoring' system instead. Another suggested instead a UK wide standard, perhaps the 'Unfitness' standard used in England, Wales and Northern Ireland.

Rising and penetrating dampness

2 local authorities urged a strengthening of the 'rising and penetrating dampness' element:

East Ayrshire Council	The test in the present standard in relation to rising and penetrating dampness should be enhanced, so as both to formalise the interpretation of the standard and to meet aspirations, particularly given the established links between dampness and poor health for the occupants.
Glasgow City Council	The HITF also implies that there is such a thing as penetrating damp which will not cause further damage to the property. This is not the case. Any penetrating dampness will in the longer term result in some physical damage.

Wholesome water supply

4 respondents made suggestions about what should be included in the 'wholesome water supply' element:

Angus Council	It is agreed that the presence of any lead in the water supply pipe should be grounds for failure but it should be made clear that the owner should be responsible for <u>any</u> parameter failure once the pipe enters the curtilage of a house. Although supporting lead piping as a ground for failure, it is noted that a water supply can be of an acceptable standard with lead piping so we would recommend that its presence should be treated as a passport to grant aid or advice and condemnatory only if it fails a water quality test.
East Ayrshire Council	The measure of a wholesome supply of water should also be enhanced, so as to reflect the fact that where the water supply contains lead in excess of the limits set for the public water supply system, the house should fail to meet the standard.
Scottish Federation of Housing Associations	TS in respect of the disposal of foul and surface water should be altered to read '...have an effective system for the drainage and disposal of foul and surface water into the public water systems where either or both of these exist in the vicinity.' The reason for this is that there seems to be a policy vacuum with owners currently discharging into adjoining properties and/or the sea sometimes with discharge consents. Scottish Water has no power to compel connections when upgrading sewerage works. SEPA has no grant-giving powers and owner-occupiers may lack the means to make the necessary capital contributions.

2 local authorities noted the increased sampling, etc. that would be required:

Glasgow City Council	In order to deal with lead in water supplies, sampling, analysis and enforcement action need to be reinforced and strengthened. The role of direct public health action in relation to this specific issue in some cases, rather than the slower procedures of the TS, should not be ignored.
Moray Council	The proposal that any lead in the water supply should be grounds for failure will put additional pressure on local authorities to sample and analyse water supplies.

Thermal efficiency

2 respondents, while generally supportive of the recommended “flexible” approach to thermal efficiency, had concerns about how this would be expressed and/or emphasised the importance of detailed guidance:

Chartered Institute of Housing	Instead of ‘basic’ the Institute would like to see this changed to ‘adequate’ or ‘sufficient’ thermal insulation supported by detailed and stringent guidance.
Energy Saving Trust	EST would welcome the opportunity to be involved developing guidance and would be happy to provide further information on remedial measures and technical solutions for hard to treat homes.

Another, while not actually disagreeing with the flexible approach, suggested it might be inconsistent with the SHCS measure:

South Lanarkshire Council	Is there any conflict with the intention for the national condition survey to continue using NHER as a proxy for poor thermal insulation?
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5 went further and suggested that the “flexible” approach was perhaps inadequate:

Friends of the Earth Scotland	We would, therefore, back the introduction of statutory powers for local authorities to carry out work to ensure that a house is brought up to the Tolerable Standard. With an extended Tolerable Standard which incorporates thermal insulation, local authorities will have, for the first time, the ability to make actual physical improvements in stock other than their own.
East Ayrshire Council	Without clarification of the detailed guidance proposed, it is difficult to establish how this element will be measured without recourse to either an overall house energy cost measure or a building material heat transmission measure.
Individual: Derek O’Carroll	It is unnecessary for this level of vagueness to be proposed given the existence of objective and establish technical measures such as the NHER and SAP.
Royal Institution of Chartered Surveyors in Scotland	Thermal efficiency would be best assessed by a Standard Assessment Procedure (SAP) rating as opposed to ‘a basic level of thermal insulation’ as this term is yet to be defined.
Scottish Federation of Housing Associations	The proposed thermal efficiency standard is not detailed enough, and more technical detail should be added to make it more meaningful.

At the other extreme, 2 expressed doubts about the inclusion of a thermal efficiency element at all:

Renfrewshire Council	It may be possible to adopt the NHER system as this is consistent with the LHCS reporting process. [However] we have concerns as to the inclusion of thermal insulation as a failure given the potential difficulties in assessing levels. We feel that this would be better placed within the general Quality standard.
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Scottish Federation Landowners	There is a real possibility that such a measure would result in the failure of a great number of Private Rented Sector (PRS) houses to meet the revised standard. It would only be a practical measure if processes are put in place to assist remedial works to rectify problems.
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Condensation or mould growth

4 respondents wished to see 'condensation or mould growth' included in the Standard:

Glasgow City Council	Would prefer to see condensation and mould growth included as an item in the standard rather than being taken into account indirectly.
Moray Council	...it is sad to note that condensation has not been included.
Individual: Derek O'Carroll	While it is true to say that condensation dampness is a product of heating, ventilation and insulation elements, it seems to me that from the tenant's perspective, that is not to the point. The approach is to confuse cause and effect. A house that is infested with mould is not fit to live in and must be below the tolerable standard without more. The <i>cause</i> and the <i>cure</i> will probably lie in addressing one or more of the three factors. The same approach is not taken as regards rising damp and penetrating dampness (i.e. the test for these is whether they exist, not whether the house has an effective DPC or whether there is a hole in the roof). A consistent and realistic approach should be taken in my opinion.
Scottish Federation of Housing Associations	The issue of condensation and mould growth should also be added to the TS, as it affects much of Scotland's housing, particularly in the council and privately rented sector.

While a 5th perhaps hinted that it should be:

Perth & Kinross Council	We note the Housing improvement Task Force's view that condensation should not be included and feel that, if this continues to be the case, then clear guidance should be given on the interpretation of this as a symptom of other defects.
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2 supported its exclusion and made the further point that an occupier's failure to use heating/ventilation systems properly could cause/add to the problem:

Royal Institution of Chartered Surveyors in Scotland	Condensation can occur because of deficiencies in heating, ventilation and/or the insulation of a property. However, it may be the case that heating and ventilation systems are not being used properly. In the first case, replacing or improving the current system can resolve the problem. In the second case, the requirement is to provide advice to residents to ensure they can use their equipment properly.
Scottish Federation Landowners	The SLF agrees that to include condensation and mould growth in a new Tolerable Standard would not add to its effectiveness. Using the presence of these as an indicator of the failure to provide insulation, heating and ventilation must be qualified by the fact that a tenant's own failure to operate ventilation systems provided could significantly contribute to the presence of condensation and mould.

While a third had concerns about it even being referred to in guidance:

Falkirk Council	It is noted that the presence of condensation and mould growth should be dealt with specifically within guidance to the effect that the moderate or severe occurrence of either should <i>normally</i> be regarded as an indicator in respect of insufficient thermal insulation, heating or
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	ventilation. It is considered that this would impose increased obligations on landlords and therefore particular attention would require to be paid to the definitions of 'moderate' and 'severe' contained within the guidance.
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Electrical wiring

This 'electrical wiring' element provoked little response:

East Ayrshire Council	Without clarification of the detailed guidance proposed to define 'adequate' and 'safe in use' at a given time, it is difficult to establish how this element will be measured.
Individual: James Donaldson	An insulation and safety check should be undertaken on wiring after 25 years from first installation and thereafter every 10 years.

Radon gas

And 'radon gas' even less, with the only comment rather straying off the point:

Individual: James Donaldson	Information on radon gas should be collated by council planning offices and made available to developers. Should an area be considered 'unsafe' then landowners should be informed that the land is not suitable for development.
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Serious disrepair

3 respondents wanted 'serious disrepair' to be included:

Chartered Institute of Housing	The Institute believes that serious disrepair should be included in the updated Tolerable Standard and not in the new Housing Quality Standard.
Glasgow City Council	The Council continues to want serious disrepair included. The impact on the dwelling of structural instability or cumulative disrepair should be taken into account.
Scottish Federation of Housing Associations	The lack of inclusion of serious disrepair also gives cause for concern when a good proportion of privately rented accommodation is likely to come under this category.

While another merely hinted that it might be:

East Ayrshire Council	As the component parts of the likely cause of disrepair are already contained in the standard... the inclusion of 'serious disrepair' would require to be properly defined, so as to establish that it is not one of the elements already contained in the standard.
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Gas safety

2 suggested that 'gas safety' should be included as an additional element:

Aberdeen City Council	We wondered how the Executive would address this aspect of safety within a property.
Royal Environmental Health Institute of Scotland	This should be addressed.

Fire safety

One individual wished comprehensive 'fire safety' measures to be included:

Individual: James Donaldson	Access to external doors insufficient, it must lead via a protected route to a place of safety to satisfy a prearranged fire escape plan acceptable to the fire brigade and cater for the needs of the infirm and disabled. A case could be made for the fire brigade visiting every block of flats to ensure that locks on external doors can be overridden from within without the use of keys, escape routes are at least 900mm clear width, the route boundaries have at least a 30 minute fire and smoke barrier, door sills are not in excess of 100mm in height, fire escapes are maintained, etc.
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Minority households

1 authority was concerned at the suggestion in para 74 that exceptions to the Standard might be allowed in certain circumstances.

Scottish Housing Quality Standard

General

There is broad support for a cross-tenure approach. Again, one call for consistency between the Scottish Social Housing Standard (SSHS), the Scottish Housing Quality Standard (SHQS) and other standards operating in the UK. In fact, these responses on the SHQS were looked at in conjunction with those from the separate consultation on the SSHS.

Also, some differences of opinion about 'pass/fail' or 'benchmarking', and what level (high or low) it should be pitched at. Some believed that an 'aspirational' standard would never actually be pursued, so a mandatory approach was necessary.

Serious disrepair

As noted above, some respondents wanted 'serious disrepair' included in the Tolerable Standard.

What further comments were made in respect of its inclusion in the SHQS focused on its definition:

Angus Council	We support some measure of a house being free from serious disrepair but note that there will be difficulties with a practical definition of what constitutes 20% for any given component.
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Energy efficiency

There was no objection to including 'energy efficiency' within the SHQS, with comments confined to how it should be expressed/measured:

Friends of the Earth Scotland	In light of government commitments on fuel poverty and climate change, a national target should be set in relation to the energy efficiency component of the Scottish Housing Quality Standard. While
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	the Scottish Executive does currently have a target relating to domestic energy efficiency, it covers only a small section of Scotland's housing stock. A national, wide-ranging target should be introduced and monitored. We also support the recommendation that monitoring should be enabled by altering the Scottish House Condition Survey.
Perth & Kinross Council	The inclusion of any thermal efficiency targets within the standard should link with any targets within Fuel Poverty Strategies.
Scottish Landowners Federation	The measurement of energy efficiency should be of a form which is fully understood by tenants and landlords. A clear and practical measure of energy efficiency is required, in order that landlords can identify houses requiring attention in this respect.

2 responses urged a higher NHER rating, generally or in specific household circumstances:

Energy Saving Trust	Consideration should be given to setting a higher minimum NHER score for the standard. In Wales the minimum SAP rating necessary to meet the standard for the 'average' property (a 3 bed semi) is 66, which equates to an NHER rating of 6.8. Even when the differences between the countries are taken into account, this appears significantly higher than the standard proposed for Scotland.
Glasgow City Council	NHER ratings are modelled in relation to a standard household, where the adults are assumed to be in work. A value of 5 is relatively low in relation to the requirements of a household where the adults are out of work or elderly, and both have low income and need to heat the house for longer than the standard hours. There should be some recognition that where it is known that houses will be occupied by a generally out of work population, the NHER will need to be higher.

However, 1 felt the proposed level to be already too high in some cases:

Highland Council	Whilst the Council supports the principle of energy conservation as a component of any Housing Quality Standard, the use of a NHER score of 5 or better is impracticable in areas where there is no gas supply (e.g. most of the Highlands) or for older properties which are otherwise in good condition.
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2 respondents wanted SAP to be used rather than NHER:

Royal Institution of Chartered Surveyors in Scotland	Building regulations refer to SAP ratings, as do most government agencies. We find it confusing that the report refers to NHER and query why.
Angus Council	For energy efficiency, we... would urge amending the overall rating criterion to include the option of using SAP 50, as an alternative to NHER 5 to allow flexibility.

2 respondents considered the loft insulation proposal inadequate:

Energy Saving Trust	To meet the standard, dwellings should have loft insulation to 250mm. In order to achieve the U values required under Part J of the Scottish building regulations, using the elemental method it is generally necessary to fit a minimum of 250mm of loft insulation. It is important to note here that for electrically heated properties in Scotland to meet the building regulations the thickness of loft insulation must often be greater than 250mm. In addition, loft insulation provided under EEC and the Scottish Executive's grant schemes is generally installed to a depth of 250mm. We believe it would be sensible to have a consistent standard and therefore recommend that a single standard of 250mm
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	should be adopted
Individual: James Donaldson	'200mm of loft insulation' is a meaningless statement without also quoting the density of the material. Consideration should also be given to fitting a non-combustible breathable 'film' over glass/rock wool insulation to limit dust impregnation onto the wool. The use of 'floating floors' over suspended floors, triple glazing, insulated doors and a system of re-circulation of 'conditioned' warm air should be encouraged.

1 respondent suggested that particular problems with 'hard to treat' homes need to be addressed:

Energy Saving Trust	Including an overall energy rating will ensure there is provision for 'hard to treat' homes. However, improving the overall energy rating of such properties will be significantly more challenging than for properties where 'staple' energy efficiency measures can be installed. We therefore recommend that treatment of hard to treat homes be addressed in guidance, showing how the standards could be met in hard-to-treat homes. This could link into or form part of the guidance proposed for the Tolerable Standard.
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Modern facilities and services

Whilst there was no objection to a 'modern facilities and services' element being included, a few concerns were expressed with what it might mean in practice. (One response appeared to refer to the more detailed Scottish Social Housing Standard proposals.)

Angus Council	For kitchen facilities, the suggested 2m minimum dimension should be "in at least one direction" given the impracticality of altering galley kitchens in some houses.
Scottish Landowners Federation	The definition of 'adequate' in terms of condition, space and layout should be clarified.
South Lanarkshire Council	There are some aspects of the proposed standard which might be of limited value to strategic planners or owners. For example how feasible would it be to alter the size of kitchens if the dwelling physically cannot accommodate it. This would apply for the provision of a second WC in four apartments in older housing. This would mean a standard that showed stock permanently failing the national standard.

Healthy safe and secure

1 respondent felt the 'safety' and 'security' aspects needed to be tightened up generally:

Scottish Landowners Federation	The definition of 'reasonable' in terms of security and safety should be clarified.
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1 respondent stated that the mere existence of a 'full house central heating system' was not in itself sufficient:

Energy Saving Trust	A 'full house central heating system' must be an efficient one. The term 'full house central heating system' implies that a central heating system of any form or age will be adequate. We therefore recommend that the term be expanded to an efficient full house central heating system with thermostatic controls, and that a minimum efficiency be set. EST would be happy to provide guidance for the minimum
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	specification. We would also draw attention to the existence of the Housing Energy Efficiency Best Practice Programme's Central Heating System Specifications (CHeSS) which provide basic and best practice specifications for the components of domestic wet central heating systems that are critical to energy efficiency. This can be downloaded from www.est.org.uk/bestpractice .
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With regard to 'safety', one respondent suggested a property-specific, risk-assessment approach and also pointed out that existence of e.g. smoke detectors did not in itself ensure safety:

Scottish Federation	Landowners	Installation requirements need to be acknowledged and respected. 'Risk' should be quantified as all houses create a degree of risk. The SLF suggests that a 'hazard assessment' approach would be more pragmatic.
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Another made a similar point but took it rather further:

Individual: James Donaldson	Before anyone takes over the tenancy of a house, council or private, a simple testing procedure should be undertaken in the presence of the prospective tenant to confirm that everything works as intended and a signature obtained from the tenant. A plan/statement showing the disposition of all safety devices and fire escape arrangements should be provided in a metal tube and placed adjacent to each external door to assist the fire brigade.
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1 respondent felt that a battery smoke detector was adequate:

Angus Council	A battery smoke detector is adequate and, although a hard-wired detector has an advantage in terms of making misuse by a householder difficult, its absence should not constitute a failure.
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2 respondents had doubts about the inclusion of CO detectors:

Individual: James Donaldson	The circumstances where carbon monoxide detectors are considered necessary should be stated. Where the gas-consuming appliance is situated in a compartment with ventilation independent of the remainder of the house, i.e. direct from/to atmosphere, such detectors would seem unnecessary.
North Lanarkshire Council	One item it is recommended should be removed from the standard proposed is the inclusion of CO detectors. Although providing a 'peace of mind' facility for occupants, the installation of CO detectors does not remove the need for regular servicing of all fossil fuel appliances. It would be concerning if residents on the lowest income levels felt that the installation of detectors removed the more costly need for regular checking and servicing of their fossil fuel appliances.

A particular point was made about electrical wiring:

Individual: James Donaldson	The routing of electric wiring to avoid contact with polystyrene should be addressed.
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With regard to security, one authority pointed out that there could be a conflict with safety:

Angus Council	Windows can be secure without having a lock and the need to have keys is a significant problem or even a hazard in itself, so the word "locks" should be removed.
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The same authority highlighted potential difficulties with security measures in mixed tenure blocks, as did another:

Angus Council	There are significant resource and organisational implications with the recommendations for emergency lighting, secure rear access and door entries in all common stairs, although they are laudable. Even with the proposed new legislative framework to encourage mutual owners to meet their repairing responsibilities, these measures will be considered improvements and cause conflict.
South Lanarkshire Council	In respect of door entry systems, whilst it is recognised that changes to the grants system aim to assist in encouraging owners to take part in projects for installation, this cannot be compulsory. In reality many properties without door entry systems either do not have them because not everyone agrees to it or because they don't need them. The latter would be a local judgment.

Accessibility

4 respondents advocated the inclusion of an accessibility measure for all properties:

Aberdeenshire Council	It is essential that the needs of those with disabilities is considered and should be included within the Standard, especially towards the principle of Lifetime Homes.
Perth & Kinross Council	Issues of accessibility to properties should be included within the proposed <u>Social Housing Standard</u> , but do acknowledge that an issue of practicality will occur for existing properties. It would be even more difficult to apply this standard to other sectors, other than for new housing schemes.
Individual: James Donaldson	Surely some comment on the suitability of toilet and cooking facilities and door widths to suit a person with special needs could be made, particularly if the surveyor is made aware of such needs in advance.
Scottish Landowners Federation	Innovation and technology continues to improve the construction of new housing for the disabled, such that barrier-free homes are available to all without discrimination. Pressure on suitable houses currently exists leading to a concentration of people with disabilities in some areas. The SLF considers that it is neither sensible nor right to segregate communities on the grounds of ability.

However, 4 suggested that it could only apply to certain properties:

Angus Council	...the lack of adapted or adaptable property in the private sector cries out for some barrier free or adaptability benchmark, which could be applied to properties with a ground floor. Local authorities could be given a target percentage of accessible or adaptable properties in any given sector or area, with an allowance made for the percentage of flats above ground floor in the stock.
Glasgow City Council	Where it is clear that houses are mainly intended for or are likely to continue to be occupied by tenants who require barrier free standards, these should be included.
North Lanarkshire Council	Further work will require to be undertaken as to an appropriate form of measurement for properties such as upper flats will not be capable of meeting such requirements but could not be classed as providing generally unacceptable standards of accommodation.
South Lanarkshire Council	It is recognised that not all stock and locations can or will be accessible to all and therefore if included as a standard, allowances would have to be made for stock which would have to be exempted

	rather than failed for not meeting the standard.
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2 respondents focused on the information gathering aspect, as opposed to inclusion as part of the Standard:

Chartered Institute of Housing	While no property should pass or fail a quality standard on the basis of accessibility, the introduction of such a standard is an opportunity to collate data on this subject.
Scottish Federation of Housing Associations	Whilst acknowledging that most housing can never be barrier-free or wheelchair accessible...local authorities should be required to collect appropriate information on their adapted stock and to track adapted stock that has been sold to find out if it remains suitable for disabled people.

Noise insulation

8 respondents (including 5 councils and the SFHA) wished to see noise insulation/attenuation included in the SHQS:

Angus Council	There should be a minimum noise attenuation standard for party walls developed and included in the SHQS.
East Lothian Council	While sound insulation measurement is potentially complicated and costly to measure we agree that it should be considered further as part of the Scottish Housing Quality Standard.
Falkirk Council	There is evidence that poor [sound] insulation can contribute to neighbour disputes. Minimum standards of sound insulation would go some way towards minimising or even eradicating this.
Renfrewshire Council	We agree that sound insulation should be included within the housing quality standard.
South Ayrshire Council	Although noise nuisance is not dependent on the fabric of buildings the level of sound attenuation within a house and between properties is controlled by the physical construction of floors and walls. It is also common practice to measure the ability of different forms of construction to achieve noise reduction and consequently, the level of nuisance is also reduced. For these reasons we would suggest sound insulation is seriously considered for inclusion.
Individual: James Donaldson	Regarding noise, a basic standard could be readily devised to limit noise between houses, perhaps based on that for Merchant Shipping.
Royal Environmental Health Institute of Scotland	...notes that noise nuisance is not included in the standard and recommends that this be addressed.
Scottish Federation of Housing Associations	The exclusion of noise insulation... is a missed opportunity to really tackle some of the major problems evident in housing today.

2 accepted the difficulty of including it but nevertheless supported further investigation of the issue:

Chartered Institute of Housing	The CIH believes that further consideration should be given to the inclusion of noise insulation. It may be the case that the Housing Quality Standard is not the correct method to tackle this problem, however the Institute would urge the Executive to examine the issue in detail to determine what steps can be taken to alleviate noise nuisance.
Edinburgh City Council	While it may not be appropriate to address noise issues within the Scottish Housing Quality Standard or the Tolerable Standard we suggest that the Scottish Executive carry out an examination of the causes of noise disturbances and the possible remedies.

Another doubted whether it could realistically be addressed at all:

Perth & Kinross Council	Whilst agreeing that sound insulation can be a significant issue in older properties we feel that there would be significant difficulties in implementing any requirements for improving this in existing dwellings for any sector.
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Common parts

2 respondents want common parts to be included:

Chartered Institute of Housing	Common parts within a tenement should be included as this will also encourage owners to take responsibility for the repair of such areas The Institute seeks further clarification as to how the Standard relates to the common property and suggests that it includes all items listed as scheme property in the draft Tenements (Scotland) Bill.
Edinburgh City Council	We recommend that further consideration is given to identifying the extent to which the Scottish Housing Quality Standard should specify common parts in tenement buildings. The proposed Standard will cover elements like common windows/roof lights, door entry systems and secure rear door access. It should clearly state that it includes common roofs and chimneys. It should also include secure access to the common parts of buildings. This would include main and back doors but also access to common roofs and roof spaces. We also believe that the Scottish Executive should also include items such as adequate drainage and service risers in properties but particularly common properties like tenements.

Environmental quality/management

2 of the largest city councils go further than 'common parts', to advocate including aspects of the wider environment, as does the SFHA:

Dundee City Council	Environmental quality and environmental management should be included in the Scottish Housing Quality Standard as we believe that the environmental area particularly that associated with the back courts of tenemental property can have a significant impact on the quality of the building. In terms of property management it is easily incorporated into a management scheme and can indeed be the simple foundation of a management scheme.
Glasgow City Council	Common areas outwith the dwelling. In practice [common areas, often in bad condition] are vital issues to address in driving up standards and establishing safe, strong and sustainable communities. The Council does not accept that technical difficulties of measurement should in practice prevent inclusion of these issues in a common-sense way. The essential items are paths, walls or fences, bin stores, back courts and commonly owned private lanes. Streetscape. Adequate quality of 'streetscape', i.e. traffic calming and pedestrian safety, parking bays and street furniture has become a standard item in social housing improvement projects.
Scottish Federation of	The exclusion of... the external environment is a missed opportunity to

Housing Associations	really tackle some of the major problems evident in housing today.
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However, the CIH (which supports inclusion of ‘common parts’) specifically does not want the Standard to go beyond that:

Chartered Institute of Housing	The Institute does not believe that a house should pass/fail the Quality Standard due to problems in elements outwith the owner’s control and therefore environmental elements should be excluded from the Standard.
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Landlords’ Repairing Standard

There was a general welcome for this proposal, albeit with some qualifications:

Council of Mortgage Lenders	We would stress the diverse nature of the letting market, and ask the Scottish Executive to take account of this in determining the impact of cost and the timescale for implementation.
Scottish Landowners Federation	[Publicity on modernised repairing obligations] should be coupled with equally widespread publicity that all tenants have ‘responsibilities’ as well as ‘rights’. There must also be a permitted period of adjustment to such changes.

However, one respondent suggested that the proposal contained a fundamental misunderstanding of the current legal position:

Individual: Derek O’Carroll	<p>The document inaccurately represents the current legal position as regards landlord repair obligations. The correct position is as follows. The authorities for these propositions are found in the legal notes to the Model Scottish secure Tenancy Agreement.</p> <p>Section 113 and schedule 10 of the 1987 Act apply to nearly all housing let for human habitation whether the housing is in the private sector or not. That position has <i>not</i> been changed by section 27 and schedule 4 to the 2001 Act. The 2001 Act did not in any way disapply the provisions of the 1987 Act to Scottish secure tenancies.</p> <p>Schedule 4 has a very limited effect. Paragraphs 1(a) [first clause only], 1(b), 2(a), 3(a), 3(b) put into statutory form the equivalent obligation at common law. That is, those obligations are to be implied into the leases of all Scottish secure tenants by statute. Were it not for these paragraphs, those same obligations would have been implied in any event, but by the common law (with therefore the theoretical possibility that the landlord could contractually remove such obligations: not in practice ever done in the public residential letting sector). However, given that all these obligations are incorporated contractually in the Model Scottish Secure Tenancy Agreement, their importance is limited further still.</p> <p>Paragraphs 1(a) [second clause], 4, 5 and 6 reproduce almost exactly what is found in schedule 10 to the 1987 Act. They add nothing to the law. They reproduce some parts of the current legislation.</p> <p>It cannot be that the draughtspeople had intended that schedule 4 supplant schedule 10, for if that had been the intention, that would have produced in some ways a diminution of tenants’ rights which would have been contrary to the stated political objectives and policy aims.</p>
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	<p>Accordingly, at present, the repair rights and obligations in the private sector and public sector are identical (albeit the source is now slightly different and enforcement is a little different).</p> <p>The misunderstanding of what is the correct legal position is the cause of the misguided proposals for the modernised repairing standard in paragraphs 100 to 107.</p> <p>The proposal in paragraph 102 to adopt parts of schedule 4 is otiose in that paragraphs 4, 5 and 6 already apply to private tenants.</p> <p>The proposal in paragraph 103 to add parts of schedule 10(3) to schedule 4(1) is otiose as those obligations already exist.</p> <p>The proposal in paragraph 107 to repeal schedule 10 would lead to a reduction in obligations on private landlords. In particular, there would be no replacement for paragraph 2 (provision for agricultural tenants), paragraph 3 (as amended by the Housing (Scotland) Act 1988) (repair obligations where house part of a larger building: e.g. a tenement) and the anti-avoidance measures in paragraph 5. Tenants would be worse off.</p>
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And proposed a different solution:

<p>Individual: Derek O'Carroll</p>	<p>First, abandon any approach that is based on schedule 4. That schedule is flawed for the reasons given above. Second, take schedule 10 as the starting point. It certainly needs updating and simplifying. Third, examine the common law more thoroughly and consider and candidates for statutory enactment. Fourth, in the light of the rest of the conclusions of the HITF, consider whether there are any further obligations that should be included as part of the repairing obligations (a good candidate is found at paragraph 103 of the Report). Fifth, repeal both schedule 4 and schedule 10 and replace them with a comprehensive repairing code that covers all tenants, whether in the private or public sector.</p> <p>There is no sustainable case for differentiating between private and public sector tenants as regards the extent of their landlord's repairing obligations. The types of obligations in question are fairly basic. It should not matter whether the landlord is public or private. The effect of the disrepair on the tenant is the same. There is however perhaps a case for differentials in enforcement so that public landlords are subject to the strict requirements of the Right to Repair Regulations.</p> <p>Paragraph 108 is right to propose that the repairing obligations must be contained in tenancy agreements. I propose that this be taken further in two ways. First, that model short assured and assured tenancy agreements be published so that a wider range of matters be covered in writing. Such agreements would be rather less prescriptive than the Model SST Agreement and would concentrate on the essentials such as repair obligations, return of deposits and termination of tenancies. Second, although the vast majority of tenancies in the public sector are SATs or ATs, many are not. They too should have the right to a written tenancy or occupancy agreement.</p>
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Others emphasised the difficulties in ensuring compliance:

<p>Aberdeenshire Council</p>	<p>In principle agree... although consideration should be given to the</p>
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	regulation of such and the resource requirements.
Angus Council	...much welcomed, although enforcement or compliance will be problematical.
West Lothian Council	The difficulty here is in managing this process and implementing action in cases of default.

with some suggesting a link to some form of regulation:

East Lothian Council	Another good idea but it would be better to tie this in to compulsory registration of private rent properties as outlined in "Regulation & Accreditation" on page 111.
South Ayrshire Council	There is a worthwhile case to strongly link recommendations 13-18 for Repairing Standards with any future HMO Licensing requirements.

Another identified possible obstacles for landlords who did want to comply:

Falkirk Council	Private landlords' rights of entry, for purposes of carrying out inspection/repair, would benefit from clarification and strengthening ins a situation where tenants delay or refuse to respond or allow entry.
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Some respondents pinpointed potential difficulties with the detail of the Standard:

Renfrewshire Council	[re 'wind and watertight'] there are implications for property in common ownership. Standards will be easier to apply internally, or to properties in sole ownership, rather than externally to properties in multiple ownership.
West Lothian Council	We query the use of definition of a duty in box 2 (pg25) "state of repair" and consider this needs more closely defined.

A large local authority suggested a further item for inclusion:

Edinburgh City Council	We recommend that the Scottish Executive consider including in the new standard provision for the repair and maintenance of safety features. (This should include the provision and maintenance of fire detection and prevention equipment as part of the standard).
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IMPROVING THE OPERATION OF THE HOUSING MARKET

General

Council of Mortgage Lenders	<p>The proposals of HITF are market led. This is sensible; attempts to prescribe the housing market are likely to lead to distortion. If an idea is sound and receives proper backing from Government and responsible bodies, the market is likely to take it up. If the market does not do so, there must be a strong presumption that the idea is flawed. For this reason, attempts to use legislation to compel the adoption of a particular system would be opposed by CML and its members. Similarly lenders would resist any attempt by government to change established and justifiable lending practices (such as those in relation to the commissioning of valuations) by legislation.</p> <p>In choosing to pursue reforms to the home buying and selling system such as the single survey or sellers' packs, the Scottish Executive should not lose sight of the changes to the system that are taking place, or will take place due to developments within the market itself. Such</p>
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	<p>developments include innovations in Information and Communications Technology (ICT), moves towards instant credit referencing, developments towards electronic conveyancing and greater system integration of different businesses using their own IT systems. These will all have their impact, notably on ease of access to information and on the speed of the overall buying process. The potential interaction of market changes with Government reforms should be carefully considered.</p> <p>Another important consideration for both consumers and lenders is the need for buying and selling processes that do not needlessly differ across the UK. Most lending in Scotland is undertaken by banks and building societies that operate across the UK. As far as possible these lenders will wish to develop processes that can operate UK wide. Ultimately, this brings cost benefits to customers. Buyers and sellers also operate across national borders, and in the interests of promoting stronger understanding of the processes leading the largest purchase or sale most will make, it is important that differences in process and terminology be kept to the minimum necessary to deal with country specific problems.</p>
Shelter Scotland	<p>The report has failed to recommend specific changes or improvements to the market and the extent to which condition is a feature within it.</p> <p>There are no recommended changes to tax and benefits.</p> <p>Relying on a market lead approach may not achieve the desired objectives.</p> <p>The approach could have been strengthened by other policy options including:</p> <ul style="list-style-type: none"> • the introduction of log books • abolishing or amending caveat emptor • legislation to require a minimum notice period; • legislation to oblige local authorities to provide repair and maintenance information <p>If the pilots demonstrate that the voluntary approach is failing it may be necessary to reassess some of the other policy options rejected in the report in favour of the single survey and purchaser's pack.</p> <p>It is vital that the quality of information provided by the single survey and purchasers packs be reviewed after the pilot phase, particularly as the report anticipates there being no scope for the surveyor to be available to answer any points of clarification arising out of the report.</p> <p>If a voluntary approach does not deliver that then a statutory approach is needed.</p>

Single survey pilot

Most respondents who commented were in favour of at least piloting the single survey, even although they might have reservations about certain aspects of it:

Council of Mortgage Lenders	CML Scotland believes that the single survey (SS) concept has merit and deserves to be piloted. Lender support rests on two key conditions:
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	<ul style="list-style-type: none"> • It must be demonstrated that liability (and hence indemnity) for the SS and, in particular, its valuation can be shifted successfully from the seller to the buyer and their lender • Lenders must retain the right to commission their own independent valuation where appropriate. CML Scotland believes that it is likely that lenders will use the SS valuation in a large majority of cases. There are situations, however, where lenders would commission a further valuation. These would include some instances of high loan to value lending, situations where demand for a property was suspect, or where the reputation of the valuer used had led to a lack of confidence in their work. <p>There is a suggestion in the HITF report that legislation might have to be introduced if a market led approach to introducing the SS failed. If such legislation were to take the form of placing a legal obligation on lenders to accept a particular valuation, then such a proposal would be strongly resisted. Such legislation would, in any case, arguably fall outside the powers of the Scottish Parliament.</p> <p>There are a number of concerns about the SS that remain, and that should be tested in practice:</p> <ul style="list-style-type: none"> • Whether increased and redistributed (i.e. away from unsuccessful bidders towards the seller and/or the successful buyer) transaction costs are having an undesirable dampening effect on the housing market and, in particular, whether sellers are deterred from placing properties on the market for fear of the costs that could be incurred if a sale is not forthcoming • Whether it will have unforeseen effects in areas of low housing market activity or low demand, where the need to prepare a valuation and survey outlining the condition of the property may be an additional deterrent to sellers in these areas, or even to buyers • Whether in areas of high housing activity and rapidly rising prices, where it is possible that a valuation undertaken at the beginning of the selling process will be more conservative than one taken at the offer stage, a second valuation might be necessary where the first did not support a high loan to value ratio mortgage • Whether it is priced competitively, and that pricing is transparent • Whether, because there may be pressure on lenders to accept valuations from valuers who are not on their panel, RICS Scotland can enforce adequate standards for those doing this work. Such standards would include minimum levels of professional indemnity cover, length of experience, and service delivery guarantees • Whether, in cases where buyers and/or lenders would otherwise seek further information, the proposed inability to obtain it could cause difficulties.
East Ayrshire Council	<p>Concern if the proposed cost of ss was to be as high as suggested, particularly at lower end of the market.</p> <p>Provision of latent defects guarantee on an optional basis could lead to a two-tier system, with one seen as better than the other.</p> <p>Need for a system that specifically monitors performance re the survey process and enables evaluation and improvement over time.</p>
Edinburgh City Council	<p>Notwithstanding our general support for the concept of the single survey we have a number of concerns which we believe need to be explored further by the Scottish Executive before piloting the proposed survey:</p>

	<p>Lenders may require a further valuation or survey to be carried out before making a lending decision depending on the information contained in the single survey. The danger is that if this became the rule rather than the exception then this would inevitably raise the costs of purchase for house buyers.</p> <p>We are also concerned about the potential for increased costs through increased insurance premiums for surveyors which would almost inevitably be passed on to customers. However we recognise that these costs may be higher at the start of the scheme – particularly during the pilot phase – until there is enough volume in the system to reassure insurance brokers and premiums reduce.</p> <p><u>Piloting the survey</u></p> <p>Both buyers and sellers may be less willing to use the single survey because they are simply not familiar with the concept. We therefore recommend that the pilot for the single survey should run for 12 months rather than 6 to allow owners and markets to get used to the single survey.</p> <p>We would also support the view that ultimately legislative measures may be required to introduce the single survey across Scotland in a consistent manner. However the Scottish Executive would need to develop some criteria for undertaking this exercise.</p> <p>We recommend that an assessment is undertaken of the potential market impacts of piloting the single survey before final decisions are made on the pilot areas. If this is not possible it should certainly form part of the criteria for assessing the impact of the pilots.</p> <p>While it would be difficult to extrapolate the impact of the single survey on house prices from wider economic factors it is important that this becomes a factor in any assessment of the pilots.</p> <p>We further recommend that the impact of single surveys on blind bidding and low upset prices should form part of the assessment of the pilots.</p>
Falkirk Council	<p>Recommendation that there is no shelf life to the single survey should be reviewed after the pilot. A limit of perhaps 6 to 12 months may be appropriate as the condition of the property may deteriorate for reasons other than fair wear and tear, e.g. flooding, or because market conditions may change.</p> <p>Additional legal work involved in amending missives, drafting single survey contracts, etc., may increase legal costs for buyers and sellers.</p> <p>May be some benefit in there being a time limit within which the survey should be made available to prospective purchasers in, e.g. closing date situations.</p>
Moray Council	<p>Care will be required that the introduction of a single survey instead of the current multiple survey arrangements will not substantially increase the cost of survey. Although surveyors, being able to charge for only one survey may increase the cost, the competition for surveys may help keep the cost down.</p>
NHBC Scotland	<p>Supportive of single survey but where a new home (including one being created by converting or extending an existing property) is being considered, the necessity to produce a house condition report should be</p>

	<p>relaxed if there is evidence that the home is registered with the NHBC. In the new homes market, homeowners are well protected if an NHBC warranty is in place, so that an additional survey simply adds an additional layer of costs and delays.</p> <p>There would be considerable advantage to consumers if an exemption from a home condition report extended to the length of the warranty period, on condition that the seller chooses an alternative option of a re-inspection by the warranty company. Such a re-inspection would offer the additional advantage that the warranty company might take the opportunity to offer enhanced consumer protection through extension of cover based on a fresh perspective of the risk associated with a property of known condition and history.</p>
North Lanarkshire Council	<p>In addition to the single survey, it should be considered whether other options should be piloted. One option would be selling agents keeping a log of the surveyors who survey a property so that potential buyers could purchase copy at a discounted rate, with a subsequent reimbursement to the person who originally commissioned it.</p> <p>Recommendation that there should be no shelf life is welcomed, but guidance with regard to timescales would be appropriate.</p> <p>Recommendation to include a valuation merits more discussion, as sellers in slow markets might require after some considerable time to re-establish a selling figure for their home, which would increase their costs.</p>
West Lothian Council	<p>We agree with the approach of piloting the single survey, aiming to allow market led adoption over the whole market, but acknowledge that legislation may be required.</p>

Some doubted whether a market-led approach would work well and suggested that a more prescriptive system was preferable from the outset:

Renfrewshire Council	<p>We take the view that the operation of the single survey system should be prescriptive to ensure consistency over the housing market. However the increased obligations being place upon owners relative to providing detailed reports on their properties could in our view lead to a reduction in properties placed on the market, particularly in residential areas of low value which are characterised by properties with high maintenance requirements. This could act against one of the principal Taskforce aims of improving property condition.</p> <p>For the SS to be meaningful in practice, consideration should be given to issuing clear guidance to buyers on the period during which the survey could be relied upon.</p> <p>A system of licensing of surveyors able to offer the ss should be considered, with the system potentially being administered through the RICS.</p> <p>A system of deposits should be considered to ensure coverage of costs to sellers. This would cover, for example, aborted sales.</p>
South Lanarkshire Council	<p>Because of the voluntary nature of the scheme, the concern would be that very different practices continue to exist with differing impacts on different areas of the market. The chapter's opening comments that the local market may determine the extent to which property values increase whether or not it is maintained reflect the need to create a policy change which ensures that properties do not fail. The need for a statutory</p>

	scheme should be kept under review.
UK Metric Association	Concerned about the effectiveness of making the ss market-led. Instead, recommends a clean and swift changeover from current practice with limited exemptions, plenty of public information on the benefits of change and sanctions for non-compliance.

However, enthusiasm for the single survey concept was not universal:

Donaldson, James	<p>I would not trust a survey/valuation commissioned by the seller. The seller and his agent will want to play up features that maximise the selling price and underplay any problems.</p> <p>Question is “who benefits from the survey/valuation report?” Since the beneficiaries are all those who have accessed it and used it as the basis of submitting or not submitting an offer, the cost should be shared amongst them all.</p> <p>Why should contractual liability be limited to eventual purchaser and lender?</p>
Scottish Law Agents Society	<p>In a typical residential transaction, neither party is acting in the course of a business. The approach of the Task Force is to apply consumer solutions ...which, in our view, are inappropriate.</p> <p>The Task Force proposals will increase costs and slow the process by making processes which are presently concurrent, sequential.</p> <p>Cost is the reason why many choose to have only a scheme 1 valuation. If purchasers make an informed choice between the two reports then it ought to be their right to choose. A standard disclosure of the differences in the types of report would be sufficient. We see no need to impose a scheme 2 report on all where the purchaser makes an informed choice.</p> <p>We question whether (multiple surveys and valuations) is a problem. The concept of buying the market rate for information is in our view appropriate.</p> <p>(Because valuations are subjective and subject to considerable variation whilst nevertheless remaining essentially “correct” as tested in Court by alleged negligence cases) the existence of multiple surveys is likely to assist the seller in obtaining realistic price. This is a legitimate objective of any system. Multiple surveys are likely to lead to a more efficient market in our view.</p> <p>We have anecdotal evidence that where a seller’s survey has been commissioned in very active markets prospective purchasers are accessing this information and then commissioning their own scheme 1 valuation with a view to getting a “better” valuation. In other situations, prospective purchasers are offering at closing dates subject to survey. This suggests to us that any voluntary scheme is unlikely to succeed in Scotland.</p> <p>We see no need to require the single survey to contain extra items which may or may not be required by a purchaser, e.g. access, security and energy efficiency reports. One of the cost advantages of the current system is being compromised by this proposal.</p> <p>Given that many lenders require that the survey report is dated within 3 months of the settlement date, and that it takes around 6 weeks form</p>

	<p>offer to settlement, we suspect that a survey will have a shelf life of around 6 to 7 weeks. In active markets this will be enough but in less active it will not. The report is silent on how properties in low demand areas will be treated.</p> <p>While we understand the reasoning for follow up queries not being possible during the offer phase, it will be very obstructive if the party who offers for a property cannot subsequently discuss matters with the surveyor. Also, it is usual for the purchaser's solicitor to pass on copies of documents, etc. to the surveyor to check that consents, etc. match up with the surveyor's observations. If this cannot be done then the surveyor's responsibilities will have decreased and the purchasing solicitor's will have increased.</p> <p>Suggestion that surveyors might agree to postpone billing the survey until the property is sold is very concerning. Concerned that our members would be expected to roll up the cost of surveys into the sale expenses and that they would be settled from the sale proceeds. Many legal practices engaged in residential property transactions are not making adequate profits at present ... and an additional strain might lead to a reduced number of players in the market and is likely to mean an increase in fees to cover cost of funding.</p>
Tayside Solicitors' Property Centre	<p>In our view, responsible agents will invariably recommend that their clients obtain as much information about a property as possible and where appropriate this would mean a Scheme 2 Homebuyer's Report and any further reports (i.e. timber specialists, roofing reports, etc.) recommended by the surveyor. It must be recognised, however, that many purchasers, particularly first time buyers, have limited resources and will be unwilling to incur the expense of obtaining more detailed reports.</p> <p>Considerable concern has been raised with regard to the problem of multiple surveys and valuations. A number of surveyors' firms in Dundee employ a system where the details of Scheme 1 valuations which they have carried out are made available to other prospective purchasers at a reduced charge, and a full valuation fee is subsequently charged to the successful purchaser for whom the surveyor will normally have to submit a report to the mortgage lender. This system generally works very well, and there would appear to be no reason why it could not also work well in other areas of the country. This would, however, only apply to Scheme 1 surveys, as details of Scheme 2 Homebuyer's Reports will only be passed to other parties with the express consent of the person who originally instructed the Scheme 2 survey.</p> <p>The principal concern which solicitors have with regard to proposals for sellers to obtain a single survey relates to the cost, particularly if the report requires to be constantly updated. Whilst the proposals may seem appropriate in a buoyant market, particularly in the more affluent areas where properties are expected to sell quickly and at a good price, they may present serious problems for sellers whose properties are not guaranteed to sell quickly. The costs outlined in Paragraphs 137 and 138 of the Report may be prohibitive for many home owners, particularly in a depressed housing market.</p> <p>This would be exacerbated if, as is often the case, their property remains on the market for a considerable period of time during which the homeowner must continually pay for updated reports.</p> <p>It is not difficult to envisage a situation where homeowners, particularly those on the lower rungs of the property ladder, are simply not in a</p>

	position to market their property, resulting in less properties being available for first time purchasers, and less potential purchasers being in the market for the purchase of higher priced properties.
West Dunbartonshire Council	<p>We are unsure about the practicality or indeed the desirability of the single survey concept. If such a duty is placed on sellers it is our opinion that the format of such surveys should be specified by law rather than “market-led” or voluntary.</p> <p>We agree that the principle of <i>caveat emptor</i> tends not to be abused by sellers and there is an argument that it would be better to retain this general principle. It is our opinion that the seller’s survey does not fit well with the long-established and understood principle of <i>caveat emptor</i>.</p>

One or two wondered about the impact on ‘Right to Buy’ sales:

Scottish Federation of Housing Associations	Under current RTB legislation, the RSL pays for feu plan to be prepared, the cost of which is not recoverable from the tenant if he/she pulls out at that stage. Will the single survey operate similarly for RTB sales and, if so, how will any loss incurred by the landlord be recouped? More generally, there will be a cost in any case that will only be recouped post-sale. Although the proposal is that the ss will not be mandatory, RSLs on the whole accept good practice and buyers may well expect them to adopt the ss in view of the publicity surrounding this aspect of the HITF report.
Renfrewshire Council	Guidance is also required relative to the applicability of SS to houses to be sold under right to buy. In our view Council’s should not be required to provide a survey in these instances, as there is a defined buyer who is already resident in the property, and it should be the buyers responsibility to satisfy themselves on the condition of the subsidised acquisition.

Some respondents had particular views about what should be included in the survey report:

Donaldson, James	<p>By adopting a standardised format for survey/valuation reports and a condition coding system (say 1 ‘poor’ to 10 ‘excellent’) for the various items covered it should be possible to obtain a “condition factor” and thus minimise time and cost.</p> <p>Where access cannot be obtained to the main structure, etc. it is quite unreasonable to seek a hidden/latent defects guarantee.</p> <p>The surveyor should be prepared to enter the loft over walkways and go below the ground floor via any access hatch, etc. provided someone else was in attendance should an emergency arise.</p> <p>‘Location’ should include proximity to hills, burns, sea, roads, exposure to wind, pollution of all forms (including flooding, odour and sewage).</p> <p>Under ‘Dampness’ reference should be made to ventilation and include a recommendation as to how any problems could be overcome.</p> <p>RICS surveyors should call in colleagues for a second opinion rather than recommend employing specialists.</p> <p>The ‘Security’ report should refer to the means of escape from each room in event of fire.</p>
East Ayrshire Council	Provision of information about security could be extended to comment on the area, with regard to the provision of good street lighting, CCTV, Neighbourhood Watch, etc.

East Lothian Council	This area does need to be improved with prospective owners being given clear information and the implications on all defects and also on shared elements. Roof and chimney surveys should be included.
Energy Saving Trust	<p>EST supports the HITF's recommendation to include as standard an energy efficiency report within the proposed single survey. Poor energy efficiency can lead to damp and condensation and result in high fuel bills and impaired health and quality of life. The provision of this information is also likely to incentivise the seller to raise energy efficiency standards in order to make their house more saleable.</p> <p>In addition, it is important that both buyers and sellers have information on options to improve the energy efficiency of the properties they are either buying or selling. We therefore recommend that, in line with proposals in England, the energy efficiency report contain property specific energy efficiency advice on cost-effective measures. If it is already the intention that 'improvement options' are property specific then we recommend this is made explicit. The European Directive on the Energy Performance of Buildings requires that such information be provided upon sale of a home as of January 2006, and it would be an opportunity lost not to allow for this as part of the standard report.</p> <p>The Scottish Executive is currently funding through EST a project to evaluate the use of energy audits as part of the home-buying process. The project will examine the extent to which information on energy efficiency influences decisions by potential buyers' to put offers on properties. It will also examine whether buyers, who have moved into their new homes expect to make use of the information in the future. The results of this project are due in December 2003 (interim data may be available if required).</p> <p>It is our view that a mandatory system is likely to be more desirable than a market led voluntary initiative; however we will reserve our judgement until the results of the pilot are available. As such we would welcome the opportunity to view the results of the pilot and contribute to further consultation on this issue.</p>
Friends of the Earth Scotland	<p>The EC Directive on the energy performance of buildings, which came into force in this year, will require the energy labelling of all buildings by 2006 (potentially 2009 if the UK applies for an extension). The introduction of single-surveys would provide a mechanism for this to happen. When a seller commissioned a survey of their property an energy audit could be carried out and the result, the energy label of that property, included in the survey that buyers see. The very short timescale for the introduction of the Directive means that some proposal for a mechanism by which it can be introduced needs to be brought forward as a matter of urgency. This also makes it vital that if and when single surveys are introduced they contain an energy efficiency report as mandatory.</p> <p>As highlighted above the timescale in which the Buildings Directive must be implemented is very short. As such, if single-surveys are to be used to introduce it this recommendation is likely to be overly optimistic. Plans should be put in place now to introduce legislation to bring single surveys and the Directive into operation in time for the 2006(2009) deadline.</p> <p>In relation to the format of the house condition survey we would also recommend that the potential powers highlighted in the report (p39) for the Scottish Executive to specify the format are created. It makes sense,</p>

	in terms of ease of use and comparability between one property and another, for the format of single surveys (and energy audits) to be uniform.
UK Metric Association	<p>Advocates the inclusion of accurate, standardised, metric dimensions and areas, together with a floor plan, as part of the proposed single survey.</p> <p>Standard information should be supplied in 3 categories:</p> <ul style="list-style-type: none"> • Mandatory for all properties, e.g. room dimensions and internal floor areas (including circulation and storage space) • Mandatory if applicable, e.g. size of garden, floor level (of a flat) • Optional, e.g. date of construction/extension <p>This information should be accompanied by floor plans at 1-100 scale and of the plot at an appropriate scale, together with a northpoint.</p> <p>All this information could be neatly summarised in a “Homelabel” similar to the sort of technical data provided by sellers of electrical appliances and cars.</p>

Purchaser’s Information Pack

Again, the idea of the piloting the pack received support, although this was sometimes qualified:

Aberdeenshire Council	Purchaser’s Information Pack process must be transparent to be credible.
Angus Council	Recommendation 38 misses an opportunity to include [as aspirational best practice] a house log book with as-built drawings, if possible, and any available information on component life cycles and repairs.
Council of Mortgage Lenders	<p>Sellers may be discouraged from putting their properties on the market where they have to incur a sizable additional up-front cost that will not be recouped if there is no sale. This could have a negative impact on housing market activity.</p> <p>This problem would be compounded in areas of low value or poor demand. It has been suggested that such areas might be exempt from producing a pack, but the resultant stigma of being labelled as an area of low demand/poor property values could be at least as damaging. In England, ODPM have decided to introduce their Home Information Pack (HIP) for all sales, except where the transaction value is less than £10,000. This approach has yet to be tested, however.</p> <p>The HITF report offers a list of contents of the PIP. The list covers many of the items that would be needed to enable a purchaser’s solicitor to convey the property, but not all the items that would be necessary in all cases. It is essential, if the Pack is to be as useful as possible, that all necessary items required by the lawyers are included. Since this varies from property to property (the report accepts this in the case of Coal Authority Reports), it would be sensible to make a general requirement that packs contain all necessary searches, etc. The methodology for deciding what is necessary in a particular case is becoming more sophisticated, and such a requirement should not cause difficulties in the longer term.</p> <p>The PIP should be piloted, preferably together with the SS, given the concerns that exist about its impact on the housing market. Any decision</p>

	<p>as to whether to introduce the PIP permanently should be dependent on the outcome of a comprehensive pilot along the lines suggested for the SS.</p> <p>HITF favours a market-led approach to introducing the PIP, but suggests that legislation might ultimately be required to enforce its use. CML Scotland believes that the market-led approach is the right one; if the market does not take up this innovation, then government should consider carefully the reasons for its failure before attempting legislation. Markets tend to accept changes that have proved themselves in practice.</p>
Donaldson, James	Should be available to prospective buyers for a nominal fee to cover production costs.
East Ayrshire Council	<p>Welcomed but must recognise that it will take time to get copy warrants and permissions, building standards inspection reports, guarantees, etc.</p> <p>Also, information on common burdens is not always readily available.</p>
East Lothian Council	This could potentially stop some properties ever coming onto the market or owners trying to sell because of information required and legal recourse for bad information by vendor. It would be good to pilot - on a voluntary basis - although it could be difficult to assess the benefits.
Edinburgh City Council	<p>We suggest that agents be encouraged to include information about local services including advice and information about property maintenance.</p> <p>The pack must also include a plain English guide to the property's title conditions, particularly those that state any common repairing or maintenance provisions. Where titles are silent the pack should contain information about the Tenement Management Scheme, which will operate as a default provision [assuming it is brought in by the passage of the Tenements Bill].</p> <p>We are unclear why the report seems to suggest that the Pack should be introduced as a pilot separately from the single survey. We recommend that the Scottish Executive consider introducing both the purchasers' information pack and the single survey as a combined pilot in at least one area.</p> <p>Like the single survey pilots, an assessment of the impact of the Pack on the house purchase market should be made as part of the overall assessment of the pilot.</p> <p>The promotion and development of single surveys and purchasers' information packs should be a key part of local authorities' local housing strategies and guidance on local housing strategies should reflect this. Local authorities should ensure that the transition to the new system is undertaken in a way that benefits consumers and can be managed effectively by the industry in their local area.</p>
Moray Council	The recommendation that sellers of residential properties should provide "seller packs" is also welcomed but the whole process must be transparent to be tenable.

Some respondents felt that all or some of the elements of the Pack might be better made compulsory:

Shelter Scotland	Homeowners may feel there is little incentive to outlay extra money whilst the initiative is voluntary.
South Ayrshire Council	Para. 174 indicates that building standards inspection reports will replace

	<p>"letters of comfort". This is a matter under discussion and will very much depend on the development of detailed statutory procedures and the practicalities involved with the new system.</p> <p>We consider it is important to make it compulsory to have a logbook to ensure any changes to the construction are properly recorded. There is also merit in maintaining a log book to ensure the occupier is fully aware of management issues e.g. boiler controls to achieve thermal efficiency.</p> <p>Recommendation 34 indicates the Purchaser's Information Pack should contain consents and we suggest a specific reference to Completion Certificates is included.</p>
South Lanarkshire Council	<p>The proposals for an information pack containing standard documents for prospective buyers is welcomed in principle although the extent to which a voluntary scheme will be adhered to is in doubt since it will incur additional costs to sellers in providing information. The extent to which a seller can be held to account for the accuracy of its contents may preclude some sellers from disclosing specific information. In addition, some sellers may simply have a difficulty in verifying information because of the length of time since works were carried out and loss of documentation or firms no longer in existence. (e.g. rot works guarantees which extend for 20 years.</p>

Although there was perhaps less outright opposition to the idea of the Pack than there was to the single survey idea, some felt that the proposals did not take into account current practices and likely developments in conveyancing, property registration, etc:

Council of Mortgage Lenders	<p>It should not be forgotten that the housing market will be subject to a number of changes summarised in the CML research report Future Developments in Home Buying and Selling. While the report focussed on the market in England and Wales, it identified changes that will impact across the UK:</p> <ul style="list-style-type: none"> • the impact of ICT developments on the level of information available to consumers and the speed of delivery • measures such as instant credit referencing that can reduce the time needed to produce a mortgage offer • developments towards electronic Conveyancing (not as far advanced in Scotland) • greater systems integration which will happen in the next five years with XML protocols enabling the speedy transfer of data between businesses using different IT systems. <p>The above report concluded that the development of a PIP would not be necessary if other developments were fully embraced, though it also expressed the view that this could (in England and Wales) lead to complacency amongst some players.</p> <p>It will be important that, in considering whether to introduce PIPs, the Scottish Executive takes into account the above developments and produces a pack that is technologically up to date. Information should be available in electronic form for instant communication, and should be in compatible form for the new emerging systems of lawyers, lenders and others. The PIP should contribute towards speeding up the process of buying and selling, rather than functioning only as a source of information for customers and a marketing tool.</p>
Registrars of Scotland	<p>Re inclusion of a copy of the Land Certificate within PIP. I note that a Land Certificate is covered by Crown copyright. The Keeper has a</p>

	<p>delegation of authority from the Controller of HMSO to license the reproduction of Crown copyright material produce by the Registers of Scotland. Standard procedure is for the Keeper to grant copyright licences for the reproduction of Land Certificates (excluding Title Plans) free of charge in any format or medium. Title plans are excluded from the licence because they derive from the Ordnance Survey Map and the Keeper himself produces them under license from the Ordnance Survey.</p> <p>Leaving aside the copyright issues associated with the Title Plan part of the Land Certificate, the issuing of licences by the Registers of Scotland in connection with the purchasers packs would place an intolerable administrative burden on the Keeper.</p> <p>In any event a copy of the Land Certificate is perhaps not the most appropriate document to include in the pack. Where the property in question is mortgaged the Land Certificate will generally be held by the secured creditor. In most cases the secured creditor will charge a fee for its release, if indeed they are prepared to release it. A Land Certificate is also only accurate as of the day it was issued. Thus, for instance, if the last title transaction was in 1983 the Certificate will show details 20 years old. Some of these details might be out of date, e.g. on the one hand there may be spent entries such as expired improvement grants, while on the other hand it may not reveal a second mortgage if the owners have taken one out.</p> <p>A potential solution would be for the seller's agent to download sufficient copies of the Title Sheet from the Keeper's online service, Registers Direct. The Registers Direct copy shows the up to date position.</p>
<p>Scottish Law Agents Society</p>	<p>Report is very disappointing in that it looks only at old fashioned paper based solutions. There is no discussion of how the Executive or local and other public authorities can assist in making information available quickly and cheaply. What is need is a comprehensive geospatial dataset which be accessed over the internet in real time at reasonable cost. The commitment of the Executive to a comprehensive Scot LIS project would be a significant improvement to the buying and selling process which would render the production of paper based packs obsolete.</p> <p>Evaluation of the Bristol pilot disclosed that only 42% of purchasers looked at he packs before making an offer and 40% of those did not look at the copy title deeds or other legal documents. Only 3 documents were important to purchasers: the sales schedule, the survey report and the draft answers to the pre-contract enquiries (which has no direct counterpart in Scotland). This suggest that PIPs serve little purpose and that there is little need to have the copy title deeds, etc. available prior to marketing the property.</p> <p>Note that the suggested contents do not included a local authority property enquiry certificate ... but suspect in most cases it will be necessary to obtain a property enquiry certificate to ensure that the consents, etc. in the pack are complete.</p> <p>Because at present most properties will only have Sasine recorded titles, examination of title (to summarise maintenance burdens) will require to be done by the selling agents and will later be duplicated by the purchasing agent. In our view a fee of £250+VAT might be required to cover the costs of the work. It also seems unlikely that the selling</p>

	<p>solicitor will summarise anything, as the omission of any information might give rise to a claim in delict by the purchaser.</p> <p>In many cases our members advise that lenders do not respond quickly to requests for title deeds and if all relevant documentation is not in the bundle it will take time to assemble this. We suspect that sellers will be unwilling to wait perhaps 20 working days to place their property on the market.</p> <p>If the seller is obliged to assemble this information first it is inevitable that the whole sales process from start to finish will get longer.</p> <p>Pilot or pilots need to test:</p> <ul style="list-style-type: none"> • Full costs • Uses of packs made by purchasers • Impact on legal practices and ability to compete in the market • How low value / low demand properties should be treated.
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There was some outright opposition, however:

<p>Tayside Solicitors' Property Centre</p>	<p>The TSPC recognises that it is good practice for selling agents to obtain and make available as much information about properties for sale as possible. However, there are grave concerns over the proposals for the introduction of a compulsory purchasers' information pack, particularly with regard to the following:-</p> <p>The costs involved in putting together an information pack are likely to be substantial and, in many cases, prohibitive. The National Association of Estate Agents has calculated that an information pack would cost an average of £600 to compile, and this figure is not unrealistic. Compilation of the report is likely to involve charges for the following:-</p> <ul style="list-style-type: none"> (i) Lender's administration fee for releasing title deeds (ii) Cost of obtaining copies of prior title deeds not held with the principal titles for the property (iii) Costs involved in obtaining any documentation relating to alterations to the property (i.e. planning permissions, building warrants, Letters of Comfort) if not with the principal title deeds or held by the seller (iv) Cost of copy timber specialist reports and guarantees if not with the titles or held by the seller (v) Coal Authority report (vi) Copying fees (vii) Agents' charges for compiling information pack. <p>It would therefore appear that the cost of preparing the information pack, obtaining a single survey and even basic advertising of the property is likely to be close to, or exceed, £1,000 which may well prove prohibitive to sellers, particularly at the lower end of the market.</p> <p>A further major concern is that the requirement for a purchasers' information pack will inevitably result in delays in marketing properties. Many lenders take two weeks, or even longer, to deliver title deeds, and there may be further delays if the title deeds are at the Registers or if the property owners have recently re-mortgaged. If, on receipt of the title deeds, it is discovered that not all relevant titles, timber specialist reports and guarantees, local authority documentation, etc., is available, there will be further delays while copies of these documents are obtained. It is</p>
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	<p>not unreasonable to assume that in many cases it will take up to four weeks or longer to compile the purchasers' information pack with the resulting delay in marketing the property. This would mean that prospective purchasers would often be unable to offer for a property as they would not be in a position to market their own house immediately. This could therefore have a seriously detrimental effect on house sales.</p> <p>If, as is possible, the additional costs involved in marketing a property result in fewer houses on the market, it may well be that house prices would rise and purchasers would have more difficulty in finding a property.</p> <p>It is also probable that the introduction of a purchasers' information pack will in fact increase purchasers' legal costs. As stated in Paragraph 124 of the Report, the purchaser's agent examines the title deeds and various other certificates and warranties once an offer has been accepted. If, however, all the relevant information is provided to purchasers prior to their submitting an offer, it is probable that contracts for the sale and purchase of properties will evolve to take this in to account, and in future a purchaser will be deemed to have satisfied himself on all such matters prior to submitting his offer. This is akin to the current situation where properties are sold at auction, where it is necessary for purchasers to make all necessary investigations prior to submitting their offer, as they are contractually bound to purchase the property once the hammer falls, notwithstanding any problems which they may subsequently discover with the property.</p> <p>In practice, this would mean in the majority of cases prospective purchasers would require their solicitors to carry out an investigation of the purchasers' information pack, including titles, local authority documentation, etc., prior to submitting an offer, and inevitably this will increase the purchaser's expenses. There is a very real possibility that the end result will be a number of solicitors having to investigate titles for properties which their clients subsequently do not purchase, and for purchasers paying for the title examination of properties which they subsequently do not purchase.</p>
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As with the single survey proposal, there were views expressed about the Pack's application to Right to Buy sales:

Angus Council	Concern about how PIP will impact on cost of processing RtB sales.
Falkirk Council	Unlike private sales, councils have to respond to RTB applications, and administrative costs of preparing a pack could be significant. Will it be possible to pass on the cost of preparing a pack to the purchaser?
East Lothian Council	One area of limited benefit would be in Council House Sales where the L/A would explain in simple terms what the owner is responsible for, what is shared and with whom although there are resource implications flowing from this. Unfortunately as so many Council houses have been sold this may be too late, but certainly the "second hand" market could benefit in increasing awareness and responsibility with regard to home ownership and property maintenance and repair.
North Lanarkshire Council	Supports PIP for RTB properties, even although this might result in some costs that would have to be passed on to the buyer.
Renfrewshire Council	We would wish to consider the administrative impact relative to the production of the customers information pack for each RTB property, and the impact on performance targets for the sale of Council houses.

	Statutory enforcement of the proposals may reduce the number of houses offered for sale, with a consequential impact on the market. This in turn could lead to changes in the levels of house prices depending on the effect on supply and demand in specific areas of the market.
West Lothian Council	We do have some concerns over the Purchasers Information Pack, particularly where Councils are selling Right to Buy houses which are moving into the private sector for the first time. We are concerned over the administration time involved in amending and collating the information for hundreds or in some cases thousands of homes sold per annum. We are also cautious over the level of implied warranty and therefore implied liability, when the seller is a Council, which some would assume to have access to high levels of information. While this might or might not be the case for the Council as a whole, the level of knowledge at the point of sale, e.g. a house sales officer, or team, would have to be clearly defined. We propose that detailed guidance should be produced which gives clear liability restrictions, particularly for local authorities.

Other possible changes

The proposals regarding other possible changes to the house buying and selling system generated very little specific comment, although action to discourage low upset prices was mentioned by a few authorities:

East Ayrshire Council	Desirable to restrict the setting of low upset prices, through introduction of a test within the context of existing legislation.
Falkirk Council	Requiring Trading Standards officers to examine and test the setting of upset prices may require additional staff training and there could be significant financial implications for unsuccessful 'test' cases.
South Lanarkshire Council	The extent to which the single housing survey will help govern 'low upset prices' however will require to be monitored over time. The potential need for a legislative solution in respect of setting upset prices relative to an independent valuation may be required.

The Scottish Law Agents Society was concerned about possible intentions to alter the relationship between buyer and seller:

Scottish Law Agents Society	<p>Concerned that offers to sell are inappropriate as they reverse the roles of the seller's and buyer's agents (who would normally seek to minimise and maximise respectively the obligations of the seller). It is not the function of the Conveyancing Committee of the Law Society to determine what the relationship of purchaser and seller should be.</p> <p>The one area where offers to sell are the norm is where properties are sold at public auction. Because the articles of roup provide no warranties whatever, not even with regard to title deeds, the purchaser is required to examine the titles and obtain all other necessary information in advance of the auction. There is a very real danger that an offer to sell will be very similar to articles of roup, so that the so-called multiple survey problem will be replaced by each prospective purchaser requiring to instruct a solicitor to carry out a full examination of title, etc, prior to offering. This will significantly increase costs for purchasers.</p>
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The Council of Mortgage Lenders, not surprisingly, commented on the role of the lenders in relation to retentions:

Council of Mortgage Lenders	Recommendation 47 rests on a misunderstanding. Retentions are used
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	<p>less frequently than in the past, but there are good reasons for this. There now exists an extremely competitive mortgage market which has delivered a wide choice of mortgage products to the borrower as well as low mortgage rates. Retentions do not work well in a competitive environment where consumers rightly have the ability to shop around for the deal that best suits their needs. Retentions have not proved an effective sanction in the past for ensuring repairs are carried out. Borrowers can often circumvent a retention by choosing to withhold equity from a previous sale or by some other means. It should not be forgotten that evidence suggests that most owners do repair and maintain their homes. Where they do not the reason is usually inability to afford what is known to be necessary. In these circumstances, it is perverse to insist on a retention.</p> <p>It should also be remembered that CML is a representative trade body. It can inform (and has informed) its members of this recommendation. Nevertheless, its role is not to intervene in what are essentially individual commercial lending decisions made in a competitive environment. Such intervention to moderate competition would be considered undesirable in principle by many commentators.</p>
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Improving confidence in the building industry

Views on the likely success of the Construction Licensing Executive scheme were mixed:

Aberdeen City Council	<p>Executive should monitor CLE scheme to assess whether it is an appropriate template for the Scottish Building Standards Agency (SBSA) scheme, subject to the scheme criteria being robust enough to demonstrate that construction work covered will be to a suitable quality. A proper audit trail must be in place to monitor the quality of the work and the suitability of operatives carrying it out.</p> <p>We do not believe a mandatory licensing scheme is realistic and do not consider that this is the aim of the SBSA.</p>
East Ayrshire Council	CLE scheme needs to be monitored and, if not successful, consideration given to a licensing scheme.
Edinburgh City Council	<p>We agree with the report's recommendation that the Scottish Executive should monitor the effectiveness of the Construction Licensing Executive. We recommend that the Scottish Executive publish the conclusion of any monitoring at some future date. This should include some independent customer research and feedback on the effectiveness of the CLE licensing scheme.</p> <p>Poor customer service and concerns about the quality of work lie at the heart of most complaints about the construction industry. The Scottish Executive should ensure that customer service, complaints criteria and redress are addressed in any monitoring of the Construction Licensing Scheme.</p>
Falkirk Council	Recommendation 51 (CLE) should not detract from the main issues of quality and cost of works.
Scottish Federation of Housing Associations	Concern that the CLE initiative will not go far enough, particularly in respect of builders' treatment of disabled or older people. Mandatory licensing may increase faith in the building industry and it would be difficult for any firm to argue against the prospect of happier customers and more work.
South Ayrshire Council	In para. 239 reference is made to the Building (Scotland) Bill setting up a

	system for approved builders certifying certain works. This appears one-sided because the Bill also allows anyone to certify works as complete and in compliance with current building standards. Furthermore, we are not convinced the licensing scheme for building contractors will provide the quality controls expected by the Task Force.
South Lanarkshire Council	The Council recognises the difficulty of regulating the construction industry; however the impact of a lack of confidence in the industry on improvement and repair cannot be underestimated. The self regulatory scheme which has been developed may provide some improvement, however its limitations are the coverage across the industry and consumer faith in the scheme. The quality of work relates also to a broader issue of comprehensive training in the industry and efforts to encourage greater investment in training should be promoted. The Council supports the view that the voluntary scheme should be closely monitored and that a compulsory scheme implemented if this fails.

One individual suggested another approach, backed up by a compulsory arbitration scheme, whilst the NHBC also suggested something more wide-ranging:

Individual: James Donaldson	Guarantees by way of bond, secured by a UK bank, should be available to customers to provide some surety for work undertaken. If builders do not come forward with a simple, economic, arbitration scheme they should be forced into it.
NHBC Scotland	NHBC operate a regulatory framework over our 18,000 registered members and have systems in place to monitor their financial status, technical capability and ongoing performance. NHBC would be willing to work with the Executive should consideration be given to introducing a wider registration scheme for the building industry in Scotland.

2 authorities thought more could be done to improve standards through Care & Repair schemes:

Aberdeen City Council	The Executive could do more to encourage Care & Repair schemes that use only reputable tradesmen. An increase in the use of C&R would have a positive impact on reducing 'cowboy' builders targeting elderly people.
Dundee City Council	There is widespread demand from grant applicants and Care & Repair applicants for lists of "Approved Contractors" supported by comments in our customer satisfaction surveys. We note with interest the Scottish Construction Licensing Executive scheme and would support any independent scheme which encourages confidence in the building industry and overcomes some of the issues associated with Local Authority based Approved Contractor Schemes.

Tax and benefit incentives

Some respondents suggested reforms rejected or not considered by the HITF:

Council of Mortgage Lenders	CML has recently urged Government to ensure that the take up of the recently introduced Tax Credits increases from its present low level and has consistently argued for the introduction of a tenure neutral Housing Credit. The latter would be available to those on low incomes and would go some way to redress the imbalance between the public housing assistance received by tenants compared to owner-occupiers. It has been estimated that over 50% of the poorest decile of UK home owners are in owner occupation, but that they receive less than 10% of state
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	assistance in respect of housing. The Scottish Executive may wish to add its support to the above initiatives when considering the HITF report.
Dundee City Council	Currently Private Landlords supported by the Housing Benefit system have little incentive to maintain or manage their property. The introduction of Mandatory HMO Licensing is limited in our ability to identify these properties, particularly the effects of data protection. The Council would therefore support a link between Housing Benefit payments and the standard of the accommodation including whether it is an unlicensed HMO.
Edinburgh City Council	<p>We are disappointed that the HITF rejected the proposal to require owners to carry out 5 yearly inspections on properties.</p> <p>While we can understand their limited value and the intrusiveness of such measures in solely owned property such a requirement would potentially assist in promote effective property management arrangements and greater awareness of property conditions in buildings in common ownership.</p> <p>We have consistently promoted the development of owners' associations, as corporate bodies, with responsibility for common repairs and maintenance in both new and existing property. A corollary of this would be the requirement on an association to carry out a regular property inspection.</p> <p>We recommend that the Scottish Executive consider further the options for requiring owners in common buildings to carry out a regular survey of the common parts of their buildings. Such a survey should include, in particular, health and safety issues and risks arising from the condition of the building for members of the public.</p> <p>Where a survey has not been carried out local authorities should be given powers to serve notice to require owners to carry out a survey of their building. Where owners refuse to carry out such a survey the local authority could carry it out and charge owners for the costs involved.</p>

Changes to the VAT treatment of repairs were supported by a number of respondents:

Glasgow City Council	Opportunity has been missed to argue for harmonisation of VAT levels on repair/ improvement and new build. Currently there is a major disincentive to most improvement, repair and conversion. The discrimination in VAT is a major factor diverting investment from the existing stock towards new building. As it is, the VAT charge goes a long way to offsetting the value of any grants made by the public sector. There is a strong case at least to exempt works from VAT in the postcode sectors that have been exempted for stamp duty. This is a key issue from the point of view of environmental sustainability as well as housing conditions.
Perth and Kinross Council	In particular, we fully support the recommendation that there should be a change in the application of VAT to repairs and improvements to existing properties as this acts as a disincentive to both carry out essential work and to employ reputable registered builders.
Renfrewshire Council	Changes to VAT rules in general by reduction would be welcomed relative to encouraging owners to carry out repair work.
Scottish Landowners Federation	In considering Value Added Tax, the SLF considers that a great benefit to encouraging better maintenance in the rural PRS would be to remove the exempt status and make properties zero VAT rated. The rate of VAT that would then apply becomes irrelevant, as landlords would be able to

	reclaim all their input VAT. This would also greatly reduce the cost of new build accommodation for rent, thereby allowing the rural PRS to play an even greater role in 'affordable' housing provision in remoter rural areas.
South Lanarkshire Council	Like the Task Force, the Council is sceptical about the extent to which taxation and benefit reform will help to bring about significant improvements, although as a package of measures it may help to promote change. Changes in VAT levels for repairs in limited circumstances may be of assistance, but would potentially difficult to administer. As a Westminster matter, it is unlikely that any such changes will be taken forward quickly and they would have to sit within a Nationally applicable policy framework. The Council would support the recommendation to enter into discussion with UK Ministers to assess how to take matters forward.

The SLF also urged other taxation measures:

Scottish Federation	Landowners	<p>The SLF broadly agrees with this Recommendation, but does urge the Scottish Executive to make the strongest representations for changes in the tax system that would benefit housing provision of all types across Scotland. For example, rollover Capital Gains Tax should be available for capital investment to upgrade existing poorer quality properties, as well as for re-investment for better quality properties.</p> <p>Another major fiscal step would be to allow improvements to become eligible for tax relief. This would make a huge difference to the landlord's incentive not just to repair but to improve property, such as the provision of central heating. This very clearly illustrates the distinctive and important difference between urban and rural landlords, as in general the rural landlord does not regard his or her property investment in relation to other investment vehicles. Rural rented houses are not bought and sold in the same way as other investments, including urban housing, and therefore the return on improvements is seldom achieved through the sale of the property.</p>
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COMMON REPAIRS AND MAINTENANCE

A number of authorities stressed the resource implications of some of the proposals in this chapter:

Aberdeen City Council	The Council is unsure of what resources would be made available to instigate these new powers and would emphasise the substantial cost implication for both the capital and the revenue pot.
Aberdeenshire Council	Resource implications for e.g. enforcing common buildings insurance, establishing owners' associations, could prove high and would have to be recognised by Executive prior to implementation.
East Ayrshire Council	Proposals for local authority assistance, grant aid and payment of works and recovery from defaulters all have serious resource implications, with risk of long delays before any recovery.
Falkirk Council	Recommendations to increase authorities' responsibilities all have additional resource implications.
Perth and Kinross Council	We note the suggestions made for additional powers to be granted to Local Authorities to encourage and support owners and would welcome clarification as to whether funding for such initiatives will be eligible for Private Sector Housing Grant.

One respondent proposed a national scheme which he hoped would facilitate action which otherwise would be very difficult to pursue:

Stephen Cunningham (West Lothian Council)	<p>I wish to propose the setting up of a centrally administered 'Communal Repairs Fund' (the Fund). This fund, possibly administered by Communities Scotland, could underwrite the shares of absent or difficult owners for essential repairs. The money would be reimbursed to the Fund on the sale of the property.</p> <p>In addition the Fund could underwrite defaulting insurance premiums under the proposed common policy which would otherwise cause legitimate claims to be refused at the point of claim. While this would require substantial agreements with insurance companies for information sharing, this is likely to be a specialist market with few companies involved and formal agreements could be struck. Any amount of defaulted premiums should also attach to the property, on say, an annual aggregated basis, and recoup to the fund on the sale of the property.</p> <p>I consider that should only accredited Property Managers have access to the Fund, and that this was publicised, then this would push Property Managers to become accredited, so driving up standards. The use of the Fund would have to be audited, and this would lend significant confidence to owners that open competition would be put in place in the procurement of repair work.</p> <p>I would like to see the ability to have existing poorly written Title Deeds updated to an agreed quality model, where there is agreement of the owners, promoted widely. Accredited Property Managers should be responsible for promoting this, as should Councils where there is a factoring or stair management schemes in place.</p>
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Contact addresses

Whilst the benefits of knowing who owns what are incontestable, there were also doubts as to how a requirement to supply a contact address could be enforced:

Dundee City Council	The Council's experience with the Mandatory Licensing of HMOs has shown the benefits of neighbours being able to identify and contact non-resident owners, causes us to fully support the recommendation that there should be a duty on non-resident owners to provide contact details to other owners. The simple knowledge of who to contact in case of a problem can go a long way to an early resolution.
East Ayrshire Council	Duty on owners to provide other owners with contact details is a little naïve, since one reason for currently not disclosing is to avoid paying for share of costs.
Edinburgh City Council	In our response to the first report of the Housing Improvement Task Force we recommended, for example, that it would be a requirement of any property owner to register their main residence on the Land Register when they purchase a property. Clearly this would not deal with people who move from residing in a property to renting the same property.
Falkirk Council	Duty on owners to supply contact details to other owners could be difficult to enforce. Presumably there would have to be penalties for failure to disclose.

Insurance

Again the benefits of common insurance were recognised by some, but with some doubts expressed also as to enforcement:

Dundee City Council	We would suggest that it should be a pre-condition of any grant assistance or other form of assistance that the owner of any property should provide copies of current property insurance, as is the case in HMO Licensing.
East Ayrshire Council	Supports provision of common insurance, but notes duty on property managers to ensure level of cover is kept up to date.
Glasgow City Council	It will be important that any compulsory insurance policy makes clear exactly who is covered for what.
Renfrewshire Council	Given the practical difficulties in enforcement we would agree with the view expressed in the Tenement (Scotland) Bill consultation that insurance should be mandatory. We support these proposals that owners require to have common insurance in certain circumstances. However we have concerns relative to how such a system could be implemented and monitored, and how penalties for non compliance could be applied.
West Dunbartonshire Council	We are particularly pleased to note the finding that compulsory common insurance policies are the only device that ensures appropriate cover.
West Lothian Council	We support the proposal within the report and from the Scottish Law Commission that insurance should be made compulsory, and moreover that, wherever possible, this should be a common policy.

Mediation

Using community mediation to resolve disputes was supported:

Aberdeenshire Council	Community mediation should be considered in conjunction with e.g. anti-social behaviour.
East Ayrshire Council	Clarification required on whether technical building expertise is required, because the cause of dispute is often whether the work needs to be carried out at all, and to what extent.
North Lanarkshire Council	If mediation proposals are pursued, the position with regard to professional advice being offered and the insurance implications for officers would need to be considered.
Renfrewshire Council	There may be benefits in extending mediation to include disputes between owners and Council.
Shelter Scotland	Shelter supports the views on use of community mediation and its role in resolving disputes regarding communal repairs and maintenance. This however must be seen as part of a wider plan to prevent disputes arising in the first place.

Decision-making, owners' associations and maintenance plans

A number of authorities supported proposals to encourage the formation of owners' associations, although there were some doubts expressed and resource implications were again emphasised:

Dundee City Council	We support the view that Local Authorities should have the power to promote the establishment of owners' associations and maintenance plans, including the provision of set up grants, as a pre-condition of being declared a Housing Renewal Area and/or receiving grant
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	assistance.
East Ayrshire Council	Edinburgh Stair Partnership could be replicated, but it is noted the profile of owners involved is more affluent than the majority elsewhere, with high value properties.
East Lothian Council	Co operation is again the crucial item in this and if it is to fall on the L/A to enforce this it would probably be better for the L/A to provide this and recover costs unless the owners can demonstrate they have a viable alternative. L/A could be contact and do small repairs to e.g. lights, door entries, guttering and roofs, again recovering costs as appropriate.
Moray Council	The recommendation that local authorities should provide encouragement to the establishment of owner's associations and provide modest funding to help set up these is welcomed but again the resource implications need to be taken into account.
Renfrewshire Council	Could it be made a condition of grant award that owners form an association? How would these powers to require a maintenance plan be implemented, given deterioration is often a consequence of lack of interest in maintenance, absentee owners etc.?
South Lanarkshire Council	Whilst the proposals for authorities to have powers to give grants to establish owners associations, it is not clear what the level of funding anticipated is, how it will be paid for and the staffing / administrative and support time required.
West Lothian Council	We support the idea of promoting owners associations, and in particular, if this was combined with a general principle of 'majority decides'. This would raise interesting discussions where a local authority was the majority owner in flats. What would be particularly useful would be to extend the majority decides proposal to "improvements" as against only repairs. We would expect that this would come with an obligation to offer a choice of funding routes, such as equity release or loans.

However, Edinburgh City Council wished to go further and make associations compulsory for all blocks:

Edinburgh City Council	<p>We disagree with the HITF's view that it would be impractical to try to legislate to require all existing owners to establish owners' associations.</p> <p>While we agree that it would be difficult to introduce owners' associations overnight we do believe that other alternatives could be examined. For example, owners associations could be phased in over a period of time say 10 years. In our response to the first report of the Housing Improvement Task Force we suggested that the HITF consider a dual approach of phasing in owners associations and a property management scheme over a period of time.</p> <p>We recommend that the Scottish Executive consider introducing owners associations for existing property – these should be formed as corporate bodies and membership of these would be an obligation of flat ownership.</p> <p>We welcome the encouragement given to local authorities to establish owners' associations in existing blocks of flats but believe that these should become an obligation of flat ownership by a certain point in the future.</p>
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Particular difficulties for older people in running owners' associations were highlighted:

Sheltered and Retirement Housing Confederation Owners'	<p>Setting up and maintaining owners' associations may not be so easy for Sheltered or Retirement housing, because of:</p> <ul style="list-style-type: none"> • Age, physical and mental ability of owners • Apathy of older owners seeking a quiet, untroubled existence • Recruitment and necessary replacement of personnel • Administrative requirements on owners not used running organisations • Anxiety or diffidence in dealing with local authorities, tradesmen, lawyers, etc • Reluctance to manage their neighbours' affairs, particularly with regard to money.
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Sinking funds

Views on the likely success of promoting and/or enforcing sinking funds were mixed:

Dundee City Council	The Council would agree that it should have discretionary powers to require the establishment of a reserve or sinking fund, in support of a power to require the establishment of owners' associations and maintenance plans.
Edinburgh City Council	<p>We agree with the recommendations that the Scottish Executive develop further advice and information on the creation of reserve and sinking funds. It is unlikely that many groups of owners would establish some form of sinking or reserve fund. The management of such funds is clearly problematic particularly among an ad hoc group of owners.</p> <p>However we do believe that reserve or sinking funds are more likely to be developed within a framework of owners' associations and/or through the increased use by owners of professional property managers. These would give property owners more comfort and confidence that their funds were being managed properly.</p>
North Lanarkshire Council	Unclear why the report does not recommend the setting up of sinking funds in new developments, where the problems concerning title deeds do not exist. The evidence of good practice in this area and the missed chance to introduce it to reduce future problems requires further consideration.
Renfrewshire Council	<p>Further guidance is required on how this proposal to require sinking funds would be promoted and implemented.</p> <p>How would grant aid to establish a sinking fund be administered? It is not the sort of service that would normally be eligible under the current system. Will PSHG give Councils more options relative to the distribution of resources?</p>
West Dunbartonshire Council	Reserve or sinking funds to cover works of repair and maintenance are desirable and demonstrate a sound property management approach. However, we have doubts about the feasibility of enforcing any mandatory scheme, as it is our experience that many owner-occupiers are on low or fixed incomes with little scope for contributing to such funds.

Funding repairs, non-compliant owners and costs recovery

Proposals for authorities to carry out works and recover costs received mixed reactions:

Angus Council	Recommendation 63 (to meet the cost of works and apply a charging
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	order to recover it) may not sit well with financial regulations and local authorities' duty to 'follow the public pound'. Also hard to see how this can be separated from an authority's building control function.
Dundee City Council	The use of the Local Authority as a "backstop" is accepted but with the qualification that sufficient funding is available to accommodate this position. The funding of this area might possibly be subject of separate allocation within the proposed new Private Sector Housing Grant. It is clearly likely to be much easier for the Local Authority to recover outstanding debt from non-compliant owners than for the remaining compliant owners.
East Ayrshire Council	Clarification required on whether debt attachment would apply to solely to debts associated with maintenance, or to any outstanding debt over the property, in which case a purchaser could be liable for any debts occurred by past owners. In case of negative equity, result of land attachment procedure would simply be homelessness with no actual debt recovery
East Lothian Council	Most owners are more than happy to let someone else take on running a repair and so it falls on Councils, and most owners are happy with that. Councils can guarantee payment to contractors, which is crucial to the running of the contract, and owners can repay the Council at a time that suits them, but usually on completion of work and all costs are known and extension of house loans can be obtained.
Edinburgh City Council	While we broadly welcome the proposal to have local authorities act as a backstop and cover the costs of owners who refuse to contribute we are concerned about the financial and resource implications this may have for local authorities. It is difficult to assess the financial implications – particularly the up-front costs - which would be involved. Local authorities would need to meet the initial costs of this and they may be substantial. Additional revenue costs would be incurred to run such a scheme. Administration costs are likely to be significant and difficult to predict until the level of demand is assessed. We recommend that this power should be tested in some way before being implemented more generally and further examination of the ways in which local authorities could recover costs is examined.
North Lanarkshire Council	Proposal that LAs might step in to meet costs where owners are unable or unwilling to pay their share has significant staffing and resource implications. Given existing pressures on resources, some prioritisation would be required – how would an authority decide which owners to assist? Also, how would this work in conjunction with the mediation proposals?
Renfrewshire Council	We endorse the 'majority prevails' proposal. However we have concerns regarding the burden of debt which may be carried by the Council and the mechanics of cost recovery. Increasing the cost of work to be met through charging orders is of concern to the Council. Legislation currently exists to allow Councils to utilise charging orders for works carried out under for example Section 108 notices. The extensive use of 'owners notices' placing an obligation on the Council to take action may lead to increasing concern over the level of debt carried and the extended recovery periods.
Scottish Federation of Housing Associations	Re the proposed power for local authorities to intervene to get works done when one or more owners are blocking works, SFHA recommends that an independent arbitration scheme also be set up which has powers

	to enforce the decisions it makes.
South Lanarkshire Council	The Council welcomes the proposed range of measures to encourage owners to fund communal works costs. However, although new powers are proposed for authorities to help achieve this, the Council feels that funding to allow it to meet up front costs (pending recovery action from non compliant owners) as well as the additional administrative burdens should be made available to councils. The proposals that authorities would be able to recover costs when the property is subsequently sold, could mean significant levels of expenditure are incurred for long periods of time with no timescales for its recovery.

Whilst generally supportive of the proposals, Edinburgh City Council did not think they went far enough:

Edinburgh City Council	<p>While we understand the concern of the HITF about riding roughshod over existing titles we currently use equal share apportionment with statutory repairs notices and the Edinburgh Stair Partnership with little or no complaint from owners. The apportionment of costs should be equally shared between flat owners whatever the size of the properties involved.</p> <p>We consider that the lack of effective proposals to assist owners recover costs from other owners is a major weakness in the proposed policy framework. It is essential that responsible owners – preferably through an owners’ association – can take effective action against other owners who cannot or will not contribute towards the cost of repair and maintenance works.</p> <p>The HITF raises concerns about using forced repossessions to recover costs from owners who refuse to pay for scheme decisions. We agree with the view that such measures should only be considered in a relative handful of cases and suggest that they should be restrained by having recourse to a sheriff’s discretion.</p> <p>However such measures would give the majority of responsible owners and the property manager or factor an effective deterrent with which to encourage owners who can afford to contribute to meet their share of the costs of any work.</p> <p>We welcome the proposal for the development of land attachment orders and look forward to the Scottish Executive taking forward this proposal with a view to legislation.</p> <p>Ultimately responsible owners should not be expected to subsidise owners who do not wish to contribute towards the costs of common repairs or maintenance. Other means of recovery need to be developed by the Scottish Executive to help responsible owners and property managers recover costs, particularly smaller sums.</p>
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The implications for lenders of the proposals were noted:

Council of Mortgage Lenders	Lenders’ primary interest is in the arrangements for the recovery of costs and, particularly, enforcing an obligation to meet common costs on owners who may not have the money or to reclaim costs incurred by others. It is important that owners are not put in the position where their mortgage payments may be at risk. Lenders would be concerned at any proposals to allow repair or improvement costs to be placed as a charge
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	against the property concerned. Any such charge would have to rank behind that of the mortgage lender if the risk and hence the costs of lending were not to rise, and were the imposition of a second charge to produce a situation (particularly in areas of low demand) where owners were in negative equity the problems securing the execution of repairs or of recovering costs could be compounded.
North Lanarkshire Council	Clarification required of whether costs attaching to a property would rank before or after the existing secured loans to lenders. If before, it is likely to affect lenders' willingness to lend. Nevertheless, the recommendation that sellers must meet any outstanding repair debts prior to the sale is considered crucial.

Property managers

Whilst it did not generate many specific responses, accreditation of property managers did get some support:

Edinburgh City Council	<p>Local authorities have an important role in promoting good quality property management services from across the commercial and RSL sector in their areas and encouraging owners to employ them.</p> <p>Many commercial property managers and indeed RSLs are reluctant to get involved in property management and factoring particularly in older tenemental property.</p> <p>The factors which contribute to this reluctance include the relatively small scale of most older tenements compared to newer modern developments, the inadequacy of title conditions (including difficulties in securing payments from owners) and the condition of many properties which have not been maintained properly. Yet it is exactly where these properties exhibit these problems that property management is needed.</p> <p>We agree with the recommendation that a national accreditation scheme should be established. However this should not prevent local schemes being developed to help promote the industry at a more local level.</p>
South Lanarkshire Council	The proposals for a National accreditation scheme for property managers is welcomed although as with other proposals in this report, this would have to be kept under review to ensure that it was working effectively.

2 responses supported registration/licensing in addition to accreditation:

Donaldson, James	Anyone who sets themselves up as a property manager should require to demonstrate by examination their ability in basic housing law, hold indemnity insurance for a percentage of the value of the properties they are managing, and be licensed.
Shelter Scotland	While Shelter welcomes the proposal to introduce accreditation for property managers, it is disappointing that regulation seems to have been ruled out.

Meanwhile, one authority was concerned about its own future property management role:

Dundee City Council	The proposal within the Title Conditions Bill to allow two-thirds of owners to dismiss the property manager could have a significant impact on the Council's status as deemed majority owner in mixed tenure blocks.
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Information and advice

The importance of providing good advice was acknowledged:

Dundee City Council	The Council consider that a duty to provide owners benefiting from Local Authority assistance with standard guidance on the management and maintenance of common property would support other proposals aimed at creating owners associations and maintenance plans.
East Lothian Council	The purchasers' information pack could help to solve this, and in time every owner of a property would have an advice document. If factoring became the norm the agent could supply this advice.
Edinburgh City Council	Further advice and information is needed for owners but we need to think about this more creatively than simply developing more leaflets. While we agree that there is an important role for Homepoint local authorities must take a more dynamic role in promoting and publicising property management for tenement flats.
Glasgow City Council	Should perhaps be greater emphasis on the potential of the internet to provide continuously updated advice and information to owners.
Renfrewshire Council	Owners should also be obliged to formally acknowledge receipt of information relative to their property obligations.
Shelter Scotland	A much bolder approach to integrating advice across the housing sector needs to be taken.

PUBLIC SECTOR INTERVENTION AND SUPPORT AT THE LOCAL LEVEL

The general resource implications of this chapter were pointed out by several authorities:

Aberdeenshire Council	Resource implications re private sector grants will impact on timescales for delivering BTS plan. LHS guidance needs to be strengthened to reflect these recommendations and to reflect experience of pilot authorities. High resource implications for all scheme of assistance and Care & Repair recommendations.
Angus Council	Recommendations 90-115 will require the development of more proactive systems, significant service redesign and continuity of new resources. It is noted that the problem with Housing Action Areas dragging on was due primarily to the boom and bust of inconsistent capital funding.
Glasgow City Council	Essential that adequate resources are allocated by the Executive, especially given the substantial raising of standards that is being proposed.

Strategic planning

No-one doubted the importance of strategic planning, but there were a range of views expressed on the extent to which national or local priorities should take precedence, and on the LHS guidance:

Angus Council	Recommendations re strategic planning welcomed with the caveat that national objectives or targets should be tempered where appropriate by local conditions. For instance, there is doubt about the cost-effectiveness of vigorously pursuing the improvement of BTS housing
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	when [at least under present regulations] numbers are extremely low and properties hard to locate in rural areas.
East Lothian Council	The proposals to amend LHS guidance should be considered as an ongoing process of updating given the current Scottish Executive deadlines of September 2003 and April 2004 for submission of LHS by local authorities.
Edinburgh City Council	<p>We agree with the proposal to amend the 2001 Act to include “promoting improvements in housing quality”. However we would also suggest that this could be improved by expanding this to include “promoting the maintenance and management of housing by property owners”.</p> <p>Guidance should be strengthened to include strategies for improving the maintenance and management of tenemental property and supporting the development of good quality private rented sectors. This should be in addition to further guidance on the proposed new duties outlined in the report.</p> <p>It is also important to emphasize the need for local authorities to develop better consultative arrangements with the different interests in the private sector and involve them more closely in the strategic decision making framework.</p> <p>We recommend that the Scottish Executive develop guidance with local authorities but more importantly, private sector interests, on how local authorities should engage with the private sector in a housing context.</p> <p>The Scottish Executive and Communities Scotland should ensure that the funding and planning implications of the policy framework set out in the Housing Improvement Task Force are taken into consideration when developing the framework for Private Sector Housing Grant.</p>
Glasgow City Council	Essential that targets should be set by the Executive in discussion with local authorities.
Highland Council	<p>The Council fully supports these recommendations in relation to public intervention at a local level, particularly in relation to bringing all houses up to the minimum tolerable standard. However, additional funding will have to be identified if local authorities can significantly reduce the number of BTS properties within any given timescale.</p> <p>The Highland Council considers that it should be local authorities not the Scottish Executive that set the areas targets for the reduction in the number of Below Tolerable Standard houses and other relevant targets based on local information on numbers of BTS properties and likely investment levels. The local authorities would agree these targets with the Scottish executive and these would form part of the national targets included with the Local Housing Strategy.</p>
Moray Council	The recommendation that the Scottish Executive should set targets for the reduction of below Tolerable Standard houses and other relevant targets which might be measured against any new Scottish Housing Quality Standard is encouraging. The introduction of means testing for all improvement Grant applications however may present problems in targeting these properties. The available resources for private sector grants will determine timescales in achieving any targets.
Perth and Kinross Council	Perth & Kinross Council fully agrees with general principle that Councils should be including strategies for private sector housing standards and for dealing with Below the Tolerable Standard (BTS) housing within their Local Housing Strategies. We would, however, have some reservations as to the extent to which additional <i>obligations</i> should be placed upon

	Local Authorities, as one of the purposes of Local Housing Strategies is to set out the local context and priorities for actions. We also note the detrimental impact of the removal of ring fencing of the previous “non-HRA Block B allocation and feel that an appropriate and sufficient level of funding must be made available through the new Private Sector Housing Grant if these priorities are to be addressed.
Renfrewshire Council	We agree that time scales [for tackling BTS housing] need to be set and these must be linked to resource availability through the PSHG process. As noted previously we do not believe that disrepair in the tenement sector can be realistically addressed without a reasonable level of grant support.
Scottish Landowners Federation	Strengthening of LHS guidance: Agreed, as the current guidance provided in the Housing Market Context Statements produced by Communities Scotland largely ignores the potential of the rural PRS to assist Local Authorities in delivering on their Local Housing Strategies. Targets alone are not going to be effective without adequate funding support.
South Lanarkshire Council	The proposals to revise LHS guidance to ensure authorities set out clear private sector strategies and action plans will only be effective if other issues such as revised guidance on the constituent parts, Resourcing, where appropriate and legislative changes outlined elsewhere in the task force report are put in place as well.

The SFHA identified a lack of information on how this section would affect RSLs:

Scottish Federation of Housing Associations	More clarification required on the role of RSLs in strategic planning.
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Some authorities complained that information on the condition of stock was inadequate:

Dundee City Council	The view that it would be appropriate to set targets for the reduction of BTS housing will be dependant upon being able to accurately identify the numbers of BTS properties in a Local Authority area. We have little confidence in the ability of either the Local or National House Condition Surveys to provide accurate statistics.
East Lothian Council	The proposal for local authorities to publish targets for the reduction in the number of BTS houses requires accurate baseline measures to be set and our understanding is that previous Scottish Executive research demonstrated current difficulties throughout Scottish local authorities in attempting to accurately estimate numbers. It would be interesting to know how the Scottish Executive would intend to address these in this context.
Glasgow City Council	The SHCS does not currently attempt to establish the full extent of unsatisfactory conditions, particularly in relation to older housing. A thorough review of the SHCS is called for. One input to this should be the results of the Council’s current survey of older private housing.
Renfrewshire Council	We have had to proceed with a LHCS with anticipated SHCS bolt-ons to source the information required for LHS purposes. Indications are that a revised and updated LHCS could take some time to emerge.

Providing assistance to owners

Also, whilst most were in agreement with the broad framework for assistance, some authorities stressed the importance of local priorities and strategies:

Edinburgh City Council	The report proposes that public assistance should normally be provided
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	<p>to assist bring a house up to a defined standard either the tolerable standard or Scottish Housing Quality Standard with some flexibility to allow for locally determined higher standards in Housing Renewal Areas or for providing assistance for adaptations.</p> <p>We are concerned that this could restrict the provision of assistance. Different types of assistance may be more relevant for different types of work. In Edinburgh we may wish to provide assistance through loans, rather than grants, say, to help owners with common repairs. Given the difficulties which face owners trying to organise common repairs and maintenance, some form of assistance may act to encourage owners to take part.</p>
Highland Council	<p>The Council agrees that the improvement of BTS houses and adaptations for disabled people should be defined as national priorities. However this should not be framed in such a way which precludes the ability of Council's to target other priorities.</p> <p>The establishment of a national framework could be assistance to local authorities provided that this is seen as delivery tool of the local housing strategy.</p>
Perth and Kinross Council	<p>Local Authorities should be empowered to deliver the most appropriate package of support and advice in each case to both help individuals and to ensure that individuals cannot impede the wish of the majority to improve housing conditions. It is important that the emphasis be on encouraging owners to take responsibility for their properties.</p>
South Lanarkshire Council	<p>The Council broadly supports the recommendations in respect of linking various interventions within a national framework. However, it is essential that any national framework takes account of local strategies, priorities and circumstances.</p>

One authority wanted to see greater simplification:

West Lothian Council	<p>We would like to see proposals for the simplification of the administrative process in providing assistance to owners. Most of the processes have evolved to minimise the risk of fraud, and, in general, audits of procedures have resulted in recommendations to give further protection to the public purse. We would therefore be interested to see how the process could be simplified while still protecting the public purse. We particularly welcome the points about the co-ordination of housing and social work functions and targeting of resources in a person-centred way.</p>
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On the other hand, Shelter was concerned at the prospect of too much local discretion:

Shelter Scotland	<p>We are concerned at the high level of discretion being given to local authorities regarding the type and amount of assistance proposed. Some guidance should be produced by the Scottish Executive to ensure consistency and that local authorities are sure of the policy intention.</p>
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There were a number of comments about the resource implications:

Angus Council	<p>In developing a range of assistance options, it should be noted that authorities have significant restraints in terms of value for money, 'following the public pound' and the ring fencing of the HRA.</p>
Dundee City Council	<p>There must be however a recognition that the provision of such services, whether in the form of advice and guidance, practical assistance, loans or grants, will bring training and resource implications which will require</p>

	adequate financial provision.
Edinburgh City Council	The report proposes the introduction of schemes of assistance which would provide a range of practical services for people with particular needs. It is inevitable that such schemes, if for people from vulnerable groups, would be for households largely with low levels of income. Such schemes could be resource intensive if not developed without some rationale for which vulnerable groups would be served and the scope for such services.
South Lanarkshire Council	In taking forward such a scheme, whilst it is recognised that assistance needs to be targeted, authorities will need to be adequately resourced to do so.

However, one authority was more positive:

East Lothian Council	The new grants system due to come into force after Scottish Parliament approval on 1 October 2003 will go a long way to meeting the Task Force ideals, particularly if monies are "ring fenced"
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The CML urged a more fundamental review of support mechanisms and the introduction of a new Housing Credit:

Council of Mortgage Lenders	<p>Given the significant increase in the numbers of home-owners in Scotland and the proportion who have low income, CML Scotland believes that there needs to be a more fundamental review of the level of public support for owner occupiers whose financial circumstances mean they are unable to meet their commitments. This should include recognition of the significant reductions in expenditure by Local Authorities on improvement and repair grants, and also the examination of tenure neutral support to low-income households, including the establishment of a Housing Credit.</p> <p>The recent Communities Scotland report <i>The Future of Owner Occupation in Scotland</i> (2001) suggests that some 38% of the lowest income decile households in Scotland live in owner occupation. UK wide the 57% of households in owner occupation receive less than 10% of public housing expenditure. The abolition of MIRAS and cuts in income support for mortgage interest has both contributed to this situation in recent years. Against this background, CML Scotland believes that there needs to be recognition that some owners will require financial support to improve their houses to modern standards. Assistance might take the form of grants or loans or a combination of both. CML has campaigned for the introduction of tenure neutral Housing Credit that would improve the position of low-income homeowners in work and would begin to rectify the imbalance in the provision of public housing assistance between tenants receiving housing benefit and owners.</p>
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The difficulties encountered by owners of some commercial premises were noted:

Glasgow City Council	The national scheme of assistance needs to make adequate provision for commercial premises. Deeds of conditions often put an unfair burden on small shops which may already be struggling.
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The SLF proposed particular treatment of assistance to landlords who make properties available at affordable rents:

Scottish Federation	Landowners	Re eligibility for assistance, if this is an indication of 'means testing', then the SLF firmly believes that it should be absolutely understood that
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	where landlords make properties available at affordable rents (i.e. acceptable for housing benefit) then means testing should not apply and assistance should be given. It is the poor economic return from renting properties at the lower end of the rent scale in the rural PRS that often results in poor conditions.
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While there was support for the principle of extending care and repair / small repairs services, achieving this would be dependent on adequate funding:

Angus Care and Repair	We have wide ranging services with wide ranging funding sources and ... would appreciate reassurance that the new and simplified funding mechanism will ring fence funding to enable the Council to continue to support <u>all our</u> services and indeed expand our current staffing levels to enable Care and Repair to advise clients about loans and extend our client base to include vulnerable people.
Angus Council	Recommendation 79 [re Care & Repair services] is taken to mean the development of such services within the voluntary sector as it would be difficult to do so in-house without a substantial increase in resources.
Dundee City Council	The provision of a "Handy-man" service to complement the existing Care & Repair Service operated by Dundee City Council is desirable but again will be influenced by funding.
Falkirk Council	Provision of a common repairs service in addition to existing Care & Repair service, would need to be adequately funded.
Renfrewshire Council	Further investigation will be required to gauge demand and staff resourcing for a small repairs service.

Some respondents had particular views on when grants should be available:

Donaldson, James	Grants from the public purse for improvement should be allowed where 'improvement' means necessary repair to the current building standard as distinct from an older standard.
Edinburgh City Council	We agree with the proposal to break the link between notices and mandatory grants. Where notices have to be served because owners have failed to maintain property loan assistance may be the maximum allowable. It may be the case that grants should only be given in cases where some form of improvement in line with public policy objectives e.g. adaptations for disabled access is required or sought.
Glasgow City Council	There may be conditions which always warrant some form of grant on the service of a notice, to bring about the desired change for health reasons. Lead in water could be an example where a mandatory grant is available to all.

There was some support for the proposals for authorities to facilitate or provide loans, including some detailed proposals from Edinburgh City Council:

Council of Mortgage Lenders	In considering how to make each of the forms of assistance available in its area, local authorities should consider the use of grants in conjunction with commercial loans to achieve value for money. Lending for housing is extremely competitive, and the use of grants alongside commercial loans is an efficient means of raising finance. The provision of loans by local authorities themselves should be assessed against the option of provision by commercial lenders.
Edinburgh City Council	We strongly believe that loans need to take a much more prominent part in the range of options available to help owners pay for repairs and maintenance. We believe that the increased use of equity loans for

	<p>improvement or major repair work has substantial potential for unlocking resources particularly in Edinburgh.</p> <p>The report suggests that local authorities take a leading role as a provider of loans to property owners for housing repair and improvement. However we think that there are potential problems with the provision of loans by local authorities which the Scottish Executive should take into account. It may be difficult, for example, to find sufficient resources to set up an initial loan fund. Any service providing loans is likely to be, or at least, should be subject to regulation which, if applied to local authorities, may be very resource intensive to establish.</p> <p>Much clearer powers, created under 2001 Act secondary legislation, may provide a suitable framework to allow local authorities to provide loans. These should give local authorities powers to provide a range of different loan products in a wide range of circumstances. Loans, like other elements of scheme assistance, should be prioritised at a local level in line with local housing strategy priorities.</p> <p>We also recommend that resources are made available specifically for subsidising large loan funds and the additional administrative costs which are likely to be incurred in managing such funds.</p> <p>There are two further options. One is to encourage commercial providers to establish loan products, including equity products, for housing improvement and repair and for specific client groups that they may not otherwise have funded.</p> <p>The second option is to establish an intermediary body at arms length from the local authority which would administer the provision of loan products and financial assistance to home-owners.</p> <p>We recommend that local authorities, in partnership with commercial lenders, are empowered to establish and, where necessary fund, third party loan providers. This could be done through some form of trust for example. We think that there would be significant advantages to loans being provided through an intermediary rather than directly by the local authority itself.</p> <p>However loans and other financial products are managed the Scottish Executive should bring forward proposals for loans as soon as is practically possible. Ideally we believe that changes to the current regime of repair and improvement grants should have been delayed until a more comprehensive framework of financial assistance including loans was available for home-owners.</p>
Moray Council	<p>The recommendation that local authorities should be encouraged to make loans for works of repair, improvement or adaptation is welcomed, but this will put additional pressure on budgets already heavily committed.</p>
Shelter Scotland	<p>Shelter supports the proposals to make loans available to those households that find it difficult to obtain them with commercial banks. While Shelter supports the policy intention, we are also concerned about not burdening low-income households with high levels of debt. Debt advice and assistance should be made available to all those participating in the loans scheme.</p>

However, enthusiasm was not universal:

Dundee City Council	This Council has not offered loans as a form of assistance for some time and we are concerned about the administrative burden of loans, particularly small loans.
Dumfries and Galloway Care and Repair	Our main feedback is concern over the provision of local authority loans, particularly the equity release loans. We feel that there may be a resistance by prospective clients and their families to taking on a loan commitment.
East Lothian Council	There is a question over subsidised loans by L/As particularly when the money market is flooded with loan possibilities. This Council does offer a loan on Common Repairs for owners own share (after grant award) to cover shortfall and admin charges, but we do charge well over Bank Rate. The benefit is the flexibility. Loans are secured with a Charging Order.
Highland Council	Any system which would result in offering loans to people for whom a normal commercial loan is not practicable would require to be carefully structured to ensure that the authority were not encouraging people to build up levels of debt which would endanger their security . It is not clear who this type of loan would assist. With regard to subsidised loans, the Council has concerns that it would be unable to obtain better rates of interest than could be achieved on the commercial market, therefore we don't understand how we can realistically subsidise conventional loans by reducing interest payments unless through some form of grant mechanism.
North Lanarkshire Council	The proposal that owners potentially borrowing from an authority should have access to financial advice has cost implications. Also, would administrative costs associated with loans be charged back to the borrower?
Renfrewshire Council	From what source would loan finance be made available? PSHG?

Some authorities saw difficulties in the proposals about change of tenure:

Dundee City Council	The Council has some concerns in respect of the proposals for change of tenure. There is already a significant surplus of Local Authority properties in Dundee and the implications of this proposal particularly with Right to Buy ownership would have to be fully researched.
Renfrewshire Council	Change of tenure proposals could lead to Councils or RSLs acquiring random and scattered 'non scheme' properties outwith their core areas of operation. This in turn could result in management and maintenance problems.
Scottish Federation of Housing Associations	Re options for change of tenure, this seems to be an extension of the 'Mortgage to Rent' Scheme – clarity is needed here if this is the case.
West Lothian Council	Buy back of Right to Buy properties under the HRA Capital Improvement Programme is an interesting possibility, but we would perceive significant resistance to this depending on how such houses are valued in light of experience with owners in upgrading programmes. The expectation of owners to make a profit from buying their council house is often their prime consideration. This makes negotiations around financing of loans, grants and various levels of advice and checking whether an owner has had access to suitable financial advice, an onerous burden for Local Authorities.

However, there was some support expressed:

Highland Council	The Council fully supports the principle of flexible tenure as proposed , which would be of assistance in tackling a number of very difficult cases,
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	and considers that local authorities are the most appropriate vehicle to give this assistance rather than through a national agency.
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The need for conditions on granting assistance was generally accepted, although there was some difference of opinion about exactly what these conditions should be:

Angus Council	Recommendation 89 [on extension of conditions applying to loans or grants] will require a more proactive and interventionist approach to be effective in protecting the housing stock
Edinburgh City Council	<p>The current conditions of assistance have proved to be difficult to implement and we believe that the scope for further conditions and their implementation need to be considered by the Scottish Executive. Setting conditions requires some form of policing which local authorities have not always found easy or straightforward to operate.</p> <p>We agree that conditions should last for 10 years rather than 5. However conditions need to reflect market realities and, in Edinburgh at least, the substantial movement of property between owner-occupation and private letting. Conditions should retain the flexibility to allow a house to move between residential ownership and letting within that period.</p> <p>We recommend that where grant or a loan is provided for a common repair or improvement then the owners should be obliged to implement a common property management scheme or be required to appoint a property manager.</p> <p>These conditions would be much stronger than simply requiring a property to be kept in good condition for a minimum period of time. The time period for which conditions should be set should be subject to a maximum period but local authorities should within that have discretion to set conditions for lesser periods.</p>
Falkirk Council	Extension of conditions period to 10 years may be excessive, given that people move house on average every 6 years.
Glasgow City Council	A local authority should have the power to require a formal maintenance arrangement as a condition of grant or loan. This is discussed at para 374 but there is no formal recommendation. [Note: Recommendation 93 allows for authorities to require maintenance plan.]
Highland Council	The raising of the 5 year rule to 10 years, which is welcomed, would be assistance in fragile rural areas, helping to protect council investment. It is possible that the freedom to impose additional conditions over the use of the houses within the 10 year period could be helpful, but apart from the condition pertaining to the requirement for use as sole or main residence it is not clear what other additional conditions would be useful.
Renfrewshire Council	Given that under the revised grants legislation there is the potential for repair/improvement grant of £20,000, and we will be no longer be required in certain circumstances to take previous grants into consideration, should a condition be included to repay grant if the property is sold within, say, 5 years and where it has resulted in an increase to the value of the property?

The proposals regarding provision of advice generated comparatively little comment, but with apparently differing opinions on the merits of a standard, national, approach:

Edinburgh City Council	We believe that local authorities should take a stronger role in providing advice and information to property owner in the private sector and that this should reflect the priorities set out in the local housing strategy. We welcome the report's proposal that Homepoint should develop additional
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	<p>information for private sector housing and has an important role in this area.</p> <p>However it is important that the material produced is supported by communication and publicity strategies to ensure that property owners get the information they need in formats that make it accessible. It is also important to recognise the role that many other organisations play as sources of advice and information to private sector property owners. These include lenders, surveys, solicitors, contractors and builders.</p>
Renfrewshire Council	Housing advice should be provided in a standard form nationally.

Powers re individual properties

Once again, the CML's concern was primarily about the use of charging orders:

Council of Mortgage Lenders	The primary concern of lenders is in respect of the proposals for increased flexibility in the power of local authorities to make a charging order. As stated elsewhere in this response, any changes should not prejudice the position of lenders and their security. At present a local authority charge in respect of work it has carried out ranks in front of a lender's charge though this would not be the case if work was carried out by a managing agent. Any extended powers given to local authorities should not result in additional charges that rank in front of a lender charge; such charges would tend to undermine lender confidence when considering lending on properties where such powers might be used.
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The SLF warned about precipitate use of improvement orders that could be counterproductive in the rural context:

Scottish Landowners Federation	The SLF seeks clarification as to whether Improvement Orders would only apply to occupied properties. The SLF does not think it unreasonable for a landlord to keep accommodation vacant until sufficient funds, planning permission, etc. are marshalled to achieve the appropriate standard. That process can take twelve months or more. If Local Authorities force the pace of the renovation programme, this could destabilise the financial basis or deter potential rural PRS expansion.
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The proposal that authorities should carry out works to BTS houses and recover the costs has, as with similar proposals relating to common repairs, resource implications:

East Ayrshire Council	Proposals to carry out works (to BTS houses) and recover costs through eventual sale are subject to vagaries of housing market and possible inability to recover the debt.
Edinburgh City Council	We welcome the proposal that there should be enforcement options other than compulsory purchase for BTS properties. Powers for local authorities to recover expenditure should be wide and not restricted to charging orders.
Renfrewshire Council	Carrying out works in default opens the Council to the potential for carrying debt for prolonged periods. This is a significant issue for Renfrewshire where existing debt levels are relatively high due to previous intervention and support within HAAI's etc.
West Lothian Council	The extension of Local Authority powers to be able to enforce work to ensure that a house is brought up to the revised Tolerable Standard is attractive, but raises other issues. We would wish to see guidance on enforcement. Although the report proposes recovery of the costs from owners, in practice many of the BTS properties are occupied by persons

	unable to pay by any means, and this would have been 'proven' by the level of "assistance" that would have been offered up to this point. Again we look for guidance on how this would work in practice.
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Reactions to recommendation 92 on extending disrepair notices were mixed:

East Lothian Council	Enforcing improvements beyond serious disrepair. This is always contentious but perhaps can be achieved with the carrots of grant funding and the explanation of the increased value on the property. Potential provisions within Draft Tenements (Scotland) Bill may assist in this.
Renfrewshire Council	Detailed guidance would be required as to what constitutes a defect arising from a lack of maintenance. This may be beneficial, especially in capital projects where the disrepair is not yet extensive enough to warrant a Section 108 notice.

Edinburgh City Council was wary about the possibility of a single notice suggested in paragraph 400 but perhaps implied in recommendation 92:

Edinburgh City Council	<p>Paragraph 400 proposes that a single notice should be developed to cover serious disrepair and other repair related defects. It implies that a single notice should be developed which would replace the existing powers under the 1982 Act and the 1987 Act. This proposal does not appear in the report's recommendations however and we would suggest that the Scottish Executive further clarify its intentions.</p> <p>A single statutory repairs notice may have some advantages but it would need to be drawn very widely to ensure it covered a wider range of situations. It would be an opportunity to address weaknesses in the current range of statutory notices available to local authorities.</p> <p>It is essential that any new notice does not remove important local authority statutory powers without replacing them with something more effective.</p> <p>The Scottish Executive should undertake further consultation on the proposal for a single repairs notice. It would be helpful if the HITF could clarify if this proposal is a formal recommendation of the HITF to the Scottish Executive.</p>
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Proposals regarding maintenance plans were not universally welcomed, although it was the subject of a large body of support from residents of a particular area:

East Ayrshire Council	<p>In relation to maintenance orders, there is a question as to how an authority is to establish that 'future maintenance will otherwise be inadequate' without surveys of all properties with common obligations.</p> <p>Details required on what assistance authorities will provide to owners in drawing up maintenance plans.</p>
Edinburgh City Council	<p>We fully support the proposal to allow local authorities to serve a notice requiring owners to put in place and implement a maintenance plan. This would be an important new power and would go some way to address the need for more preventative measures which would complement powers to tackle repairs.</p> <p>With respect to buildings in multiple ownership the local authority should</p>

	have clear powers to appoint a property manager to implement the maintenance plan if it felt this was necessary.
Renfrewshire Council	The proposal that an authority should be able to implement, and recover costs of, a maintenance plan is supported in theory but in practice may result in Councils having to constantly step in to support notices. Once again the level of debt carried and cost recovery then becomes an issue. There are major concerns regarding the implementation in pre 1919 tenement blocks where in recent years many factoring arrangements have broken down.
Spateston Residents Association, etc.	49 responses in support of recommendation 93, particularly with reference to maintenance of gardens.

2 authorities saw unwelcome consequences of the use of suspensive notices:

East Ayrshire Council	Use of suspensive notice could allow further deterioration I the intervening period, possibly adversely impacting on the occupier's health.
Renfrewshire Council	It may take several years for work to be carried out and in the intervening period further deterioration could negate the value of the notice. A suspensive notice may however be appropriate for single failure items such as, for example, lack of standard amenities.

Area-based powers

Reactions to the proposals for Housing Renewal Areas were mixed:

East Ayrshire Council	Unclear how last feature in declaration of HRA (sustaining local market, etc.) would be identified, given that this is not a measurable housing quality problem.
Edinburgh City Council	We welcome the proposal to replace Housing Action Areas with the expanded Housing Renewal Area definition set out in para 413 of the report. The definition should be drawn broadly enough to capture relatively small geographical areas as well as larger areas of poor housing condition or decline. We recommend that the range of improvements required in a Housing Renewal Area should be at the discretion of the local authority. However it would be helpful if the proposed guidance on Housing Renewal Areas is developed to provide some direction as to what improvements would be deemed reasonable.
Highland Council	The Council fully supports the increase in powers to tackle BTS properties in a strategic and area wide manner. However we consider that the threshold of 50% set under recommendation 99 is too high. The level of concentration of properties in any given which fail the tolerable standard or are in condition of serious disrepair or disrepair which is likely to deteriorate rapidly , should be reduced to 30% in order to allow Councils to declare Housing Renewal Areas to those areas which require direct intervention.
North Lanarkshire Council	Improvement work is probably the issue around which most disagreements with RTB owners arise. It is anticipated that these new powers would only be applicable in a limited set of circumstances and there will remain a significant number of areas in which we cannot progress improvement work.
Renfrewshire Council	We welcome the broadening of legislative powers, and linkages to the LHS process, to allow Councils to tackle elements other than serious disrepair and BTS through a legislative route. However we do have

	<p>concerns regarding a 'one notice fits all' scenario. We believe that with one notice a BTS area will be viewed in the same way as a disrepair area with the resultant stigma that may become attached to areas that may be relatively attractive despite lower level repair requirements. Either way a Renewal Area is likely to reflect the same broad problems of mixed tenure and the difficulties in securing co-operation from a the various ownership categories. We believe that to make this model work significant levels of (discretionary) grant assistance will still be required.</p> <p>The Housing Renewal Area as defined could apply to significantly sized areas of mixed tenure estates inc. local authority areas where there has been reasonably substantial RTB activity. The implications of serving a notice will therefore impact on the owners and the Council in terms of their ability to meet costs.</p> <p>The reduction in HAA declarations is due not only to the decrease in BTS properties but also to the reduction in funding available to support mandatory grant, which precludes the use of notices on known BTS properties.</p>
Scottish Federation of Housing Associations	There is no direct mention of the need to consult with RSLs under the HRA proposals.
South Lanarkshire Council	<p>With regard to housing renewal areas, the main concern the Council has is that the proposals don't address the problems of improving mixed residential and commercial properties. This problem is made more acute where the property values are low and the costs associated with refurbishment are far in excess of the upgraded value of the property.</p> <p>In many areas where councils are involved in regeneration, the solution for the authority's own housing is achievable. The costs and time to deal with owners and commercial interests are more complex and can often preclude more comprehensive action. The availability of resources to intervene therefore is a key concern. Without a resolution to these issues, many projects will be unable to proceed.</p>
West Lothian Council	<p>The concept of housing renewal areas outlined in the report is an interesting one and we welcome the objectives that it seeks to achieve, however, many of the aspects of this process do seem extremely cumbersome and are not likely to deliver the outcomes which might be desired. While we do accept that there must be appropriate public consultation, we do feel that the eventual decision-making process should be left to local authorities and elected members</p> <p>A new power to require works of improvement includes new Housing Renewal Areas. The report goes on to say that although such a power should not be "generally available". "Where such a power is used the onus should be clearly on the Local Authority to demonstrate...cost effective and practical long term solution..." We ask you to consider a "hard to treat" property with serious and accelerating deterioration in the condition of the external wall, where the occupants can be demonstrated to be in Fuel Poverty, but an owner objects to a local authority proposal to envelope the wall in external wall insulation (EWI). The Local Authority could demonstrate that the provision of EWI would provide the only "cost effective" and 'practical long-term solution' to the problem being addressed, but from experience this would not be readily accepted by some owners.</p>

Some particular doubts were expressed about the use of control orders:

East Ayrshire Council	Re control order to enable completion of works where owner unknown,
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	absent or unco-operative, clarification required on when 'it is deemed to be in the interest of the occupiers of the property or neighbouring properties'.
Edinburgh City Council	<p>The HITF proposes to extend the use of control orders beyond HMOs to properties in Housing Renewal Areas. The use of control orders is not straightforward. For example, the time limit on producing a schedule of works, currently set at 8 weeks, is too short and would not be practicable particularly in the context of wider area regeneration works.</p> <p>We recommend that before extending the current control order provisions that the Scottish Executive review the operation and effectiveness of existing control order powers.</p>

IMPROVING STANDARDS IN THE PRIVATE RENTED SECTOR

The CML was supportive of the role in the market of small landlords, and urged that their contribution be recognised and encouraged:

Council of Mortgage Lenders	<p>CML Scotland welcomes the application of the principle that private landlords should bear the primary responsibility for repairing and maintaining their properties. In considering measures to enforce those responsibilities, however, the Scottish Executive should be aware that the largest proportion of landlords own only one property for rent. Many, in addition, are not landlords because they have taken a decision to start this type of business, but because of "accidental" factors, such as inheriting a property or needing to let a holiday home.</p> <p>Small landlords typically lack staff and do not have access to substantial funds for investment. In addition, returns in the PRS are low and have fallen in recent years. In these circumstances, a decision to raise standards in the sector through regulatory or enforcement measures has to be balanced against the likelihood that some landlords will be unwilling to face extra administration and red tape, or will be unable to make the necessary investment. Such landlords may well leave the sector altogether. Reform, therefore, becomes a matter of establishing a balance between raising standards and cutting the supply of rented homes.</p> <p>A special and growing category within the PRS, though one that is difficult to define precisely, is the buy-to-let sector. This has been encouraged by deregulation in recent years and by the provision by lenders of appropriate mortgage products. Lending for buy-to-let now amounts to over £21 billion UK wide. Buy-to-let properties are believed to be generally in good condition, and to be well managed. This growing area has made a significant contribution to increasing the size of the PRS. It is important that proposed reforms do not damage this market. CML Scotland would support research into buy-to-let and its impact on the wider PRS.</p>
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The NFRL also wished to see more support for the PRS:

National Federation of Residential Landlords	Nothing is said in the report about the need to phase in and prioritise a repair and refurbishment programme in the PRS, nor where the necessary money will come from. Nor are there any recommendations for grants, even for regulated tenancies and housing benefit accommodation.
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Some local authorities also expressed the importance of engaging with the PRS:

Moray Council	It is encouraging to note that HITF is recommending that the Scottish Executive should develop a much greater interest and engagement with the private rented sector. Most if not all the recommendations will have resource implications and the Scottish Executive should take this into account before final decisions are taken on proposed action.
South Lanarkshire Council	<p>As part of the LHS, the Council will undertake work to assess the role of the private rented sector and how this can be developed. However, whilst recognising that a well developed private rented sector plays a key role in providing diversity and responsiveness in the local housing market, the costs of extensive provision / supply (in relation to the housing benefit bill) suggests that in some market areas, there is a need for more affordable homes. The costs of procuring new affordable homes via housing association providers in perpetuity and to high quality and management standards are likely to benefit the public purse and tenants.</p> <p>It should also be recognised that there will be a balance to be struck between strengthening tenants' rights, increased regulation and some landlords opting out of the sector. The history of private renting has been characterised by growth / decline linked to regulatory change, fiscal change and policy change. The Council clearly welcomes attempts to ensure that private landlords operate effectively to provide high quality accommodation and services. The sector itself may take a different view if it impacts on profitability or additional work.</p>
West Dunbartonshire Council	We broadly agree with the recommendations contained in this chapter concerning the improvement of standards in the private rented sector. However, we can see difficulties in enforcing additional rights for private tenants in an increasingly fragile sector and we would not wish to lose the contribution made by private landlords as an alternative to owner-occupation and social rented housing.

Friends of the Earth was keen to promote energy efficiency, which it sees as poor at the moment, in this sector:

Friends of the Earth Scotland	The report states that there “needs to be powers available for local authorities to ensure effective improvements in the conditions and management of the sector where voluntary measures or partnerships fail or are not taken up”. Friends of the Earth would strongly emphasise this point and call for such powers to be introduced. The private rented sector is widely regarded as having some of the most energy inefficient properties in Scotland while conversely being one of the sectors hardest to reach. In Friends of the Earth’s recent report into the operation of the Home Energy Conservation Act we found that most local authorities did not have either enough information about or control over the private rented sector to be able to make any gains in energy efficiency as they are tasked with doing. A reliance on providing energy efficiency advice has failed to make any significant improvements.
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Strengthening tenants’ rights

Reactions to the proposals for a Private Rented Housing Tribunal were mixed, with support for it generally qualified in some way:

Council of Mortgage Lenders	The proposals to extend the remit of the Rent Assessment Committee to
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	<p>take in disrepair are sensible as they stand. It will be important, however, that proper training and resources are also allocated to avoid initial bottlenecks, particularly if publicity about the new service increases the caseload in the initial period. In addition, Rent Restriction Orders should apply to the landlord, rather than to the property. This will avoid a situation where a landlord could find their ability to sell a property restricted if they were unable to meet repair costs. Similarly, a mortgage in possession might also find their rights unfairly fettered were the landlord to default on their mortgage.</p>
East Lothian Council	<p>The appeals process open to a tenant via Tribunal seems difficult and time consuming. It would be better to eliminate these properties at the start, thereby saving time before issuing Closing or Demolition Orders.</p>
Edinburgh City Council	<p>While broadly welcoming the proposal we believe that the Scottish Executive needs to examine further the range and scope of the functions of the tribunal and identify how they would link with existing forms of redress which tenants currently have recourse to.</p> <p>We are concerned about the scope the proposed notice powers local authorities would be given to serve an order and carry out works identified in the Repairing Determination Notice issued by the tribunal. This may require a local authority to undertake a wide range of works – the modernised repairing standard is drawn widely - and recharge the private landlord for undertaking these works. In theory the tribunal process should have resolved the majority of tenant/landlord disputes before the use or threatened use of local authority notice powers. However we are concerned that if the tribunal system is not successful in resolving these disputes it will fall to the local authority to intervene in a wide range of matters. We suggest that the extent of the works required to be undertaken are restricted to those which would cause a risk to the health, welfare or safety of the tenant involved.</p> <p>We believe that further clarity is required from the Scottish Executive on how the tribunal would work and in particular its link with local authorities existing powers and proposed new powers.</p>
North Lanarkshire Council	<p>The power for LAs to serve notices requiring landlords to bring their properties up to the Repairing Standard and to carry out and recharge the works if necessary, would need to be monitored to ensure that the process for recovery is no less onerous than in the owner-occupier situation.</p>
Individual: Derek O'Carroll	<p>The proposal to expand the jurisdiction of the RAC to deal with complaints regarding repairs is a substantial step in the right direction.</p> <p>The tribunal should be called the Housing Tribunal. Short and simple and easy to remember.</p> <p>The further review proposed at paragraph 457 should also include a review of the manner of appointment and tenure of the members of the RAC. There is a substantial variance with other tribunals such as the Appeals Tribunal as regards guarantees of independence, manner of appointment, length of tenure, removal from office and minimum and maximum sitting requirements. These issues were dealt with by The Lord Chancellor's Department around the time of the coming into force of the Human Rights Act 1998. I am not aware of the same exercise having been carried out in respect of the RAC or if it has, the reason for the substantial variance.</p> <p>Paragraph 459 does not mention jurisdiction. There are two aspects of jurisdiction that should be considered. The first is over which dispute</p>

does the tribunal have jurisdiction? What is meant by disrepair? What about compensation? What about abatement of rent? What about withholding of rent? What about compensation? What about prevention of harassment following complaint? What about tenancy agreements that do not include the narration of repair rights and responsibilities? What is the composition of the tribunal?

The second aspect of jurisdiction is the identity of landlord. While I appreciate that the HITF report is concerned with tenants in the private sector, in my experience tenants in the public sector (particularly where the landlord is a local authority) are just as likely to have disrepair problems. The factors I note above apply just as much to tenants of public sector landlords. However, I accept that if such an approach is to be taken further, it might be best for the jurisdiction to be initially restricted while the tribunal composition and procedures are tested on a smaller scale.

I disagree with the proposals at paragraphs 460 and 461 for restriction of access to the tribunal. That would cause practical difficulties and delay. It is unnecessary. Most tenants are sensible and will have tried to obtain the repair in the usual way. In many cases, the effect of the tenant's application being served on the landlord will have the necessary effect. The case need not therefore go further. The purpose will have been achieved. The model for procedure that is most appropriate is the Employment Tribunal whose procedures should, in my view be used as a guide. Where either side abuses the procedure, the HT would have powers to deal with that: see below.

Paragraphs 463 to 471 deal with remedies and the powers of the tribunal. I would suggest as follows.

- I agree that appeal should lie to the sheriff (paragraph 467). That appeal should be on a point of law only. In due course, a Housing Appeal Tribunal should be set up to which appeals may be made instead of to the sheriff on a point of law. Appeal would lie to the Inner House of the Court of Session with the leave of the HAT or the Inner House.

The HT should have the power to do the following.

- Make repair orders (termed repair determination notices at 466).
- Make interim repair orders in cases of urgency.
- Make an award of compensation where a repair order is not complied with (which compensation award would be enforceable in the same way as any other award from a court of tribunal). This I believe is likely to be more efficacious than the method of enforcement suggested at paragraph 470. The compensation order would be based on the HT's assessment of the continuing loss to the tenant (if any) of the continued disrepair.
- Make an award of compensation where the tenant has suffered disrepair over a period before the application to the HT where the tenant can prove that the landlord was in breach of its obligations, that that breach had been brought to its attention but the landlord has failed, within a reasonable period to repair and as a result the tenant has suffered loss.
- Make an order against a tenant requiring him to allow repairs or inspection.
- Make interim inspection orders in cases of urgency or emergency.
- Make an order of expenses against either landlord or tenant where either has acting unreasonably or vexatiously in the HT proceedings or where an order of the HT has not been complied with.
- Inspect the house itself and come to a view and/or order an

	<p>inspection by one or more experts.</p> <ul style="list-style-type: none"> • Abate rent in whole or in part for a specified period • In the alternative, allow a tenant to withhold rent pending repairs (and assessment of compensation). • Determine whether a tenant has been in breach of his obligations in respect of care of the house and order payment of a sum to the landlord and/or forfeit or return of any deposit paid. <p>If the tribunal had these powers, the letting restriction order would be unnecessary. That type of order is, I think, unlikely to be effective.</p> <p>I disagree with the suggestion at 469 that a rent restriction order not be subject to appeal. The landlord should have the right to appeal on a point of law as described above. It is not, in my view, appropriate to build into a new structure, the inevitability of many judicial review applications when an appeal could easily be provide and which would provide a much more appropriate form of challenge than judicial review.</p> <p>The HITF are quite right in paragraphs 453 to 456 with regard to the impact of the Unfair Terms Regulations. They undoubtedly apply to tenancy agreements. Their impact is little understood in this country. The OFT Guidance is not geared to the Scottish context (although it is not at all difficult to translate that guidance to the Scottish context). They should be better understood and applied and I agree with the recommendations in paragraph 456.</p>
<p>Individual: Alan English</p>	<p>I do not believe that it is correct to start from the premise that private landlords are somehow evil. Logic decrees that there are more bad tenants than there can be bad landlords. These proposals make no provision for the protection of the landlord's interest where a tenant refuses access for repairs to be carried out to the property.</p> <p>Having made that point, I confirm that I agree that if there is to be a repairs enforcement scheme it will be better dealt with by the RAC than by the Trading Standards offices. The RAC has an existing established infrastructure and expertise in respect of the norms of property repair standards in the private sector.</p> <p>Great discretion will be needed if non-contentious matters are to be raised by the Committee. There will need to be very clear guidance as to exactly what can be raised such as only matters that impinge on health and safety. There must be protection against an overenthusiastic Committee misinterpreting its role. The 'system' must not interfere unduly in what is a contractual relationship between landlord and tenant.</p> <p>I do not see how the RAC can become engaged in mediation other than through part of the hearing process. Mediation is time consuming and presupposes that the parties wish to find a solution. The RAC should not become involved other than as a last resort. If agreement can be reached between the parties in the course of the hearing, which may be the first time they have sat down and discussed the matter in a controlled environment, then by all means it should be embraced. Such agreement can then be adopted by the Committee as their decision and will be enforceable accordingly. There will need to be a statutory basis for calculation of rent reductions other than arbitrary figures. This will need to reflect both the cost and the effect of the repair in question. At present a tenant has no legal right to withhold rent against repairs.</p> <p>There is no point in setting up the proposed scheme if either party can appeal to any Court on the grounds that 'it's not fair'. Most tenants will qualify for legal aid and I anticipate that almost every case that goes</p>

	against the tenant will end up as an appeal to the court. I advocate strongly that appeal should be restricted to a point of law.
Renfrewshire Council	How does the local authority intervention powers under this proposal interrelate to their other statutory powers under the existing acts and proposed within this document?
Royal Institution of Chartered Surveyors in Scotland	The tribunal process seems to be very much weighted in favour of the tenant. In order to ensure that an equitable system is operated, we strongly advise that there should be some mechanism in place to ensure that landlords are able to refer issues regarding failures of tenants to meet their obligations.
Scottish Landowners Federation	The SLF considers that the establishment of an enhanced Tolerable Standard to include changes such as energy efficiency would result in significant additional requirements for some landlords to upgrade properties to meet the statutory repairing obligation. Practical achievement of such obligations must be afforded both time and financial resources. Repair Determination Notices require a reasonable period of time permitted to allow the works to be carried out. A major problem could arise if notices were issued for inadequate insulation on numerous properties in one locality under one ownership. Availability of adequate funds or sufficient locally-based skilled workers may prevent an immediate response.
South Lanarkshire Council	The success of any tribunal-based approach will depend upon the extent to which tenants are aware of their rights and are confident that the system can protect them against poor landlords.

Others were more expressly against it for various reasons:

Angus Council	The development of a two-stage system for enforcing repairs using an enhanced RAC and the local authority is too complicated and it is suggested the local authorities' powers and services can be adapted to suit.
National Federation of Residential Landlords	Private landlords have little confidence in the objectiveness and impartiality of rent assessment committees. Hard experience shows that independent housing tribunals have the same built-in tendency to favour the tenant and to respond to propaganda issued on behalf of tenants. Even-handed impartiality and fairness must be the sustained hallmark of any tribunal mechanism if it is to command respect and serve a useful purpose. A strong chairman of integrity is essential.

Several respondents considered that the right to carry out adaptations should carry an obligation to reinstate the property at the end of the tenancy:

North Lanarkshire Council	Proposal that tenants have the right to carry our adaptations is welcomed but care need to be taken that this does not lead to reluctance by landlords to let to disabled persons in the first place.
Individual: Alan English	The paper is silent on the need for the Landlord to be protected from future costs reinstating special adaptations to accommodate disabled persons. Whilst permission to allow adaptation must not be refused unreasonable, the tenant must be obliged to reinstate at the end of the tenancy if so requested.
Royal Institution of Chartered Surveyors in Scotland	There should be an option for a landlord to give consent to adapt a house on condition that the house is reinstated by the tenant at the end of the tenancy.

Scottish Federation	Landowners	The right to carry out adaptations should, like other adaptations, be subject to the responsibility to return the property to its former condition on termination of the tenancy. As an example, a bath with shower may be removed in order to install a shower cabinet to suit a wheelchair. Such an alteration may diminish the future rental value of the property.
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Regulation and accreditation

Accreditation

The idea of landlord accreditation was generally welcomed, although some respondents supported a national scheme rather than relying on a series of local schemes. Others clearly felt that accreditation would not capture poorer landlords and would therefore need to be supported by some alternative form of regulation. Several made the point that success would be dependent on proper resourcing and also on offering some incentives to landlords to seek accreditation:

Council of Mortgage Lenders	<p>CML Scotland has consistently supported the principle that a voluntary accreditation scheme could make a useful contribution towards raising standards in the PRS, and that it is preferable to compulsory regulation whether at the discretion of local authorities, or via a national scheme.</p> <p>An accreditation scheme should focus particularly on features pertaining to health and safety. It should not be so onerous as to deter landlords from signing up, and it will need to be sufficiently well publicised amongst advice agencies and prospective tenants that the marketing incentive to participate is there. In terms of designing the scheme, CML Scotland agrees that a partnership approach with local landlords would be the best approach, with background research being commissioned as necessary.</p> <p>While supporting the principle of accreditation, CML Scotland has some concern at the proposal to allow each local authority to create their own scheme, albeit with guidance from the Scottish Executive. Landlords do not always operate within the boundaries of a single local authority, and neither do tenants. A landlord could well be deterred by the thought of having to come to grips with the requirements of two or more schemes.</p> <p>A preferable approach to accreditation would be to design a national scheme with individual local authorities having the right to apply it or not.</p> <p>A further concern focuses on the capacity of local authorities to promote schemes. In the light of their problems with HMO licensing, it will be very important that resources are made available to local authorities for this purpose. A poorly promoted scheme that provides little incentive for landlords to sign up will be of little value.</p>
East Ayrshire Council	To be effective, local accreditation schemes must be of benefit to landlords, agents, tenants and LAs, and must be properly resourced. Funding and support required from the Scottish Executive.
East Lothian Council	The development of local voluntary accreditation schemes for private landlords is welcome, as is Communities Scotland role in developing guidance and core standards. However this requires adequate resourcing to allow local authorities to develop and implement this type of scheme. There is also the question of providing sufficient incentives for private landlords to be involved in such schemes.
Edinburgh City Council	Voluntary accreditation schemes are only likely to attract those landlords who have some commitment to improving practice and standards.

We believe regulation is likely to be required to deal with those landlords who fail to join accreditation schemes willingly. However it is important that intervention in the sector is justifiable and does not cause any unnecessary reduction in the accommodation provided by the sector.

We support the proposals for the introduction of voluntary accreditation scheme within a national framework and Communities Scotland's role in developing such a framework. However we believe that the development of the national framework should be informed by the creation of an advisory group drawing on industry, consumer and local authority interest groups.

The HITF states that local authorities should not go ahead with the development of an accreditation scheme without industry backing. However it should also be recognised that the private rented sector is a fairly wide and disparate group with few landlords and letting agents belonging to industry bodies like SAL and ARLA. It will not always be easy for all local authorities to show that they have managed to secure industry backing on a broader level.

We are of the view that a partnership approach involving the local authority, landlord and letting agent interests and consumer groups is the best framework for developing any accreditation scheme.

The report seems to imply that local authorities would take the leading role in administering an accreditation scheme. However we believe that other options, such as a local independent arms length accrediting body, need to be considered. Such a body would be independent of the local authority, consumer groups and importantly the industry itself.

No voluntary accreditation scheme can work without the co-operation of landlords themselves. It will need to be clear to them what benefits and incentives are available to them for joining the scheme. Much will be down to creating effective market incentives for such landlords to join. Equally schemes will have to be constructed in such a way as to keep any potential membership fees low.

We agree with the HITF view that incentives to join accreditation schemes are important. In the long term the development of the local Common Housing Register and Choice Based Lettings in Edinburgh could prove to have an important role to play in these.

However some of the other incentives identified including the provision of small grants may be unrealistic. It is not clear what these grants may be used for. If properties were already part of the accreditation scheme they would meet physical property standards, many of which will be required by law in any case. There are over 20,000 privately rented properties in Edinburgh, several thousand individual landlords and a significant number of letting agents. The ambition of any accreditation scheme would be to, over time, secure as many landlords and properties as possible in the scheme. This could amount to a substantial commitment of grant resources.

We do however think it would be important for local authorities to have powers to resource and fund arms length accreditation schemes. Clearly this would not be appropriate for all local authorities but where large private rented sectors exist this may be an alternative to local authorities

	<p>administering schemes directly.</p> <p>Accreditation schemes, administered by local authorities or arms length independent bodies, are likely to require funding particularly in the early stages of development. The Scottish Executive should provide additional funding for a range of pilot accreditation schemes in different authority areas. We welcome the Executive's commitment to provide funding specifically for local accreditation schemes and we look forward to working with the national lead agency in developing the national framework for these schemes.</p> <p>The HITF proposes that local landlords and agents would be able to establish an accreditation scheme if the local authority failed to set up a scheme and there was local demand from the industry to establish one. While we support this approach it is important that landlords themselves are encouraged to work in partnership with both local authorities and consumer groups in developing such schemes if they proceed down this route.</p> <p>Accreditation schemes should not be supported with funding if they do not comply with national standards and fail to secure support from local authorities, the industry and consumer groups.</p> <p>We currently facilitate a local landlord forum. However we believe that forums are only part of the solution. With some thousands of landlords and letting agents operating in the city it is simply not possible for forums to include every landlord. Other means of communications and support need to be developed to ensure private rented sector landlords are aware of developments and have access to good practice.</p> <p>Landlord forums should be broadly representative and local authorities should seek to develop their role in the strategic planning process. Such bodies may be quite different from forums directly involved in running accreditation schemes.</p> <p>There has been some discussion about passporting landlords who are members of professional bodies or subject to other forms of regulation. While some flexibility could be developed any passporting or use of another "scheme" as a gateway to a local accreditation scheme should ensure that the basic elements of national standards set by the national accreditation framework are met within that scheme or the rules of the professional body.</p>
Energy Saving Trust	EST supports the task force's recommendation to develop local voluntary accreditation schemes through partnerships between local authorities and landlords and agents, and agree that this will help promote and encourage better standards. We welcome the task force's intention to develop core standards for local accreditation schemes and believe that standards must include energy efficiency standards. We would be happy to provide input into the development of such standards.
Falkirk Council	Development of local voluntary accreditation schemes would have training and resource implications that would need to be adequately funded.
Glasgow City Council	In an area like Clydeside, with some landlords operating across LA boundaries, there could be benefit in organising accreditation schemes on an inter-authority basis.
Perth and Kinross Council	We do have some concerns that the better private landlords are those most likely to take part in any voluntary accreditation scheme and that

	this will not address the worst housing.
Renfrewshire Council	The principle of voluntary accreditation is acceptable. However we would need to make some assessment of the potential take up from landlords to determine how the scheme could be managed and staffed. We have concerns as to how the system would work in practice - would it have any real impact on the 'poorer' landlords we would be trying to encourage to bring their properties up to standard. They would most likely continue to let as normal if no real penalties apply within a voluntary accreditation system.
Royal Institution of Chartered Surveyors in Scotland	The recommendations in this section are likely to prove difficult for landlords and housing managers operating in more than one local authority area.
Scottish Landowners Federation	The SLF considers that consistency, as well as benefits to housing quality, would be achieved if voluntary accreditation schemes were developed across different housing sectors as well as within Local Authority boundaries.

HMO Licensing

Proposals to improve the operation of HMO Licensing were generally welcomed, although some respondents had doubts about linking it to accreditation and how this would work in practice:

Council of Mortgage Lenders	The HITF proposals to bring in legislation to reform the system of HMO licensing and to bring in more flexibility as to which landlords are included are welcome in the light of problems observed with the scheme so far. In England, ODPM have targeted only those properties perceived to be most at risk (less than 20% of all HMOs) in their proposals contained in the draft Housing Bill 2003. Certainly provision to allow compliant landlords to move from the licensing scheme to the accreditation scheme would have merit. It would not be appropriate to link accreditation and licensing in the other direction, however. Landlords would be most unwilling to sign up to an accreditation scheme if they perceived it as a possible route into compulsory licensing.
Dundee City Council	We agree that a new legislative framework should be developed for HMO Licensing which must incorporate effective sanctions against non-compliant landlords, including the ability to close a non-compliant property. The introduction of a Compulsory Registration Scheme may prove to be helpful in the identification of HMOs. Furthermore the Council would support the introduction of discretionary powers, subject to approval by the Scottish Executive, to introduce a regulatory scheme for the compulsory registration, certification or licensing of private rented properties other than HMOs, as appropriate.
Edinburgh City Council	<p>The link between HMO licensing and the proposals to introduce voluntary accreditation schemes (and possibly registration, certification and discretionary licensing for the rest of the sector – which we broadly support), needs to be clarified. For example, compliance with HMO licensing could form a gateway into accreditation schemes for landlords with HMO properties.</p> <p>We would welcome revised legislation to meet some of the weaknesses in the current HMO licensing legislation based on the Civic Government Act 1982. The HITF recognise that the current sanctions available to local authorities do not work particularly well.</p> <p>We would particularly welcome more effective sanctions against landlords refusing to licence. These sanctions could include ones which</p>

	<p>were based on the civil rather than the criminal law. These could include restricting a landlord's rent or transferring the management of properties to another (accredited) landlord or RSL and we have made representations to the Scottish Executive previously about this.</p> <p>Clearly any new legislative framework for HMO licensing would need to draw on the framework of the Civic Government (Scotland) Act 1982 which we believe is beginning to work well for HMO licensing.</p> <p>However we are concerned with the HITF recommendations for a national fee structure. The extent of HMOs varies widely across local authorities. Some local authorities have substantial numbers of HMOs to license while others have fewer. Local authorities vary widely in their approach to HMO licensing and the local authorities with more robust implementation regimes tend to charge higher fees while those local authorities who adopt a more laissez faire attitude to the HMO sector charge lower fees.</p> <p>Any national fee structure would have to reflect the differences in the way local authorities operate the HMO licensing regime. It would have to allow local authorities to retain the ability to meet all the costs from the scheme from the license fee unless the Scottish Executive was willing to subsidise some aspects of the licensing regime.</p> <p>We believe that HMO licensing should be retained for those elements of the sector which are currently licensed but that voluntary accreditation and registration, certification and discretionary licensing should be developed for other elements of the private rented sector to complement the existing scheme. Equally we think it is important that the sector is not subject to over regulation and the development of different regulatory regimes for different types of property should be developed with this in mind.</p>
Energy Saving Trust	<p>EST also welcomes the HITF's recommendation to continue HMO licensing, and to develop a new legislative framework that incorporates national minimum standards. We believe that it is essential for the energy performance of a property to be taken into account in any licensing scheme. EST would welcome the opportunity to input into the development of these standards.</p> <p>We would also like to draw the HITF's attention to the recommendations of the British Medical Association in their recent report 'Housing and Health: Building for the Future'. In it the BMA recommend licensing for private landlords, and propose that licences should only be allocated to properties if they met minimum standards for health. EST recommends that these recommendations are taken into consideration when core standards for local accreditation schemes and national minimum standards for HMO licensing are being developed.</p>
Glasgow City Council	<p>Issues around HMOs requires mature consideration by a working group of all parties involve before jumping to conclusions as to the best way forward.</p>

Regulation

While there was some support for discretionary regulation schemes, although there were again issues around resourcing and take-up:

Aberdeen City Council	<p>Discretionary powers for compulsory registration also welcomed but resources for setting up and enforcing such a far-reaching scheme are essential.</p> <p>All private landlords should aim towards being registered. One way to force improvements and registration would be to give the Rent Assessor the power to reduce the maximum rental level for properties that do not meet registration standards.</p>
Edinburgh City Council	<p>We propose that registration, certification and discretionary licensing should be considered where accreditation schemes have failed to work properly or have identified significant failures in the market e.g. landlords who refused to join the accreditation scheme.</p> <p>Local authorities would have to be given powers to charge fees which would cover any registration, certification or licensing scheme they develop. An alternative would be for the Scottish Executive to meet all or part of the costs of a discretionary licensing scheme.</p> <p>We believe that in the development of any discretionary certification, registration or licensing scheme should include effective sanctions against private sector landlords who failed to meet the requirements of a scheme.</p> <p>These sanctions would need to be punitive. In our response to the first report of the HITF we proposed that all private rented sector landlords should be required to have a licence to operate. We believe that such a scheme could apply to landlords at the lower end of the market where it could be shown that voluntary accreditation was working effectively.</p> <p>The Housing Improvement Task Force has dealt largely with the traditional private rented sector regulated by the assured and short assured tenancy regime. It has not addressed the management and quality problems which exist in accommodation like backpackers hostels and other forms of temporary accommodation which tends not to be regulated by tenancy agreements</p> <p>This sector exists at the fringes of the traditional private rented sector but has grown in importance in recent years as a result of the need for accommodation for growing numbers of relatively transient, mobile young workers. We have grown increasingly concerned at the growth in the numbers of such establishments in recent years and the lack of regulation or control over the quality of accommodation, safety and standards of service provided by them.</p> <p>The Scottish Executive should undertake further work on the role and nature of this type of accommodation and work with local authorities to develop some form of appropriate licensing or regulation for this type of accommodation.</p>
Renfrewshire Council	<p>In principle all the options provided are a step forward but we have serious reservations as to how they could be delivered on the ground given the nature of the private rented sector. Taking all this into account a discretionary approach may be the way forward. However national guidance and resourcing would need to be considered as would some recognition of the difficulties in performance assessment, reporting, and bench marking given the discretionary and potentially voluntary nature of a scheme.</p>
South Lanarkshire Council	<p>The Council would support the notion that local voluntary schemes</p>

	accord with a national framework. Like other areas of the report however, the extent to which a mandatory scheme is necessary will have to be kept under review.
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However, the CML could see no merit in it:

Council of Mortgage Lenders	<p>Discretionary regulation could produce the worst of all possible worlds. Landlords have no incentive to sign up, beyond compulsion. There is a risk that the good will comply and that the worst will evade whatever scheme is in operation. Local authorities have not yet shown that they can effectively administer HMO licensing; it would be premature to offer them discretion to establish new schemes. In addition, this approach will almost certainly lead to an assortment of different schemes causing confusion amongst landlords, tenants and advice agencies alike.</p> <p>Were the Scottish Executive to decide, in spite of the above, to pursue this approach to the problems of standards in the PRS, it should at least require local authorities to adopt a Nationally conceived scheme should they wish to go down this route. In addition local authorities should, before being authorised to introduce a scheme, be required to demonstrate that they have consulted local landlords in relation to the problems in their area, and that they have attempted voluntary solutions that have failed to achieve their objectives.</p>
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Shelter considered that discretionary regulation would not be effective and preferred a mandatory certification scheme:

Shelter Scotland	<p>We believe that the preferred option to combine voluntary accreditation schemes and discretionary licensing schemes is too complex and will have little take-up.</p> <p>Our preferred option is for a mandatory “light-touch” certification scheme, coupled with voluntary accreditation. We will continue to press the case for this.</p>
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The SLF, on the other hand, doubted whether a national scheme would be appropriate, particularly with reference to the rural sector, where issues were different from those in urban areas:

Scottish Landowners Federation	<p>The SLF considers that the Scottish Executive should identify whether the discretionary regulation approach has been effective in truly rural areas, as opposed to urban and sub-urban areas, and be prepared to modify the assistance accordingly. There are very significant differences in the pattern of rented housing provision in urban and rural areas. A ‘national’ approach, as has been tried for years, invariably fails to address the needs of truly rural Scotland’s rented housing.</p>
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Wider issues

Shelter highlighted a particular issue regarding advice and information:

Shelter Scotland	<p>There are also no specific actions identified to address the particular problems faced by vulnerable households and members of minority communities in accessing reliable information on rights.</p>
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RICS had a suggestion for inclusion in any model tenancy:

Royal Institution of Chartered Surveyors in Scotland	A standardised schedule should be issued by all landlords/agents when renting a property. This schedule would provide in-depth information re the operation and maintenance of any equipment located in the building.
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A few respondents specifically supported the idea of a review of tenancy provisions:

Council of Mortgage Lenders	The proposed review of the operation of the tenancy provisions for the PRS contained in the Housing (Scotland) Act 1988 should take account of the positive effects of deregulation in stimulating growth in the PRS since 1988.
Edinburgh City Council	While we recognise the limited scope of the HITF we recommend that the Scottish Executive undertake a review of the short assured tenancy regime to see if any improvements can be made to protect tenants who wish to enforce the repairing obligations of their landlord.

The SLF urged greater monetary support for developing new rented accommodation:

Scottish Federation Landowners	The SLF considers that the Scottish Executive should accept that, in the absence of fiscal changes in the UK, overall benefits to Scotland's rented housing provision could still be enhanced by grant-aiding the development of new rented accommodation by the PRS. This would provide both value for money and a better return than current expenditure, thereby fulfilling the broad aims of the Housing (Scotland) Act 2001.
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One authority saw scope for more positive action on energy efficiency and fuel poverty in the PRS:

West Lothian Council	We would also wish to see some proposals to allow tenants, or ultimately Local Authorities, to ensure energy efficiency works such as upgrades could be applied to that house type, to minimise the risk of the occupant being put into, or maintained, in fuel poverty. Landlords could be further required to provide details, perhaps within a "tenancy pack" of details of fuel poverty definitions and how to self-assess, and information on benefit checking services and various local advice centres, including money and energy advice.
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