

South Lanarkshire Council – Comments on Stewardship and Responsibility: A policy framework for private housing in Scotland.

In general terms the Council welcomes the Task Force's report. The issue of improving the quality of private sector housing in Scotland affects every local authority and the need for a clear framework within which repair and improvement issues can be addressed is paramount. The growing predominance of owner occupation and issues of management and future maintenance of private sector housing in both private and mixed tenure estates will place considerable challenges on authorities trying to ensure that the standard and quality of housing in their area is improved and maintained.

It is acknowledged that a necessary key theme of report is that ownership comes with responsibility. The role of owners, private landlords and other stakeholders in helping to achieve the objectives of better housing and communities is therefore vital. From the

Council's experience, it will also be necessary on some occasions for action to be enforced if progress is to be made.

The Task Force's recommendations go a considerable way to achieving this. The need for further initiatives and or legislative change on a number of points (for example, regulation of contractors) however, will require to be monitored and reviewed in light of experience, assuming the measures are implemented.

The Report is comprehensive in nature and following previous draft reports on the issues many of the recommendations have already been subject to earlier consultation. I have appended to this letter some more detailed comments on specific areas of the report.

I hope that these comments are helpful.

Head of Strategy and Development

**South Lanarkshire Council
Housing and Technical Resources**

Detailed comments on Stewardship and Responsibility

Chapter Two: Quality Standards for the 21st century

General

The Council welcomes the introduction of the proposed quality standard and notes the intention to use this for strategic planning purposes rather than for operational action as with the Tolerable Standard. The Council would agree with the proposal that in assessing progress towards meeting the standard via the stock condition survey, both the Tolerable Standard and the new Housing Quality Standard should be considered.

Specific comments on the key standards have been set out below.

Tolerable standard – Paras 49- 77

The proposals for updating the tolerable standard recognise that conditions have improved since it was introduced, largely through intervention by local authorities and housing associations as well as owners. However, the standard also measures failures that could arise in any property; even those built to modern standards and therefore provide a useful measure. **The Council supports the proposals to retain a pass/fail standard as a trigger for statutory action.**

The Council welcomes the proposals to improve the specification of some of the elements of the standard to include an interpretation of what it means in practice and to refocus the emphasis in others. For example, considering the comfort and health of occupants in the case of penetrating dampness and considering health risks from lead in water rather than quality of private water supply are welcomed.

There are a number of proposals for extending the standard including condition of wiring and energy efficiency. The Task Force considered three options for thermal efficiency including SAP / NHER ratings and consideration of U-Values. For pragmatic reasons, the recommendations are to add a qualified statement about the extent to which a property has a basic level of thermal insulation. Detailed guidance to be produced will give an indication of the precise measures to be adopted. **Is there any conflict with the intention for the national condition survey to continue using NHER as a proxy for poor thermal insulation?**

The new guidance needs to ensure that there is a clarity of definition for each of these new/revised measures to avoid the problems arising from interpretation of the standard. The guidance also needs to be consistent with the proposed new Scottish Housing Standard to ensure that two different assessments are being carried out. **Whilst the Council broadly welcomes the changes to the tolerable standard, the full implications of these proposals can only be assessed when the guidance is prepared for consultation.**

The Scottish Housing Quality Standard – Paras 78-98

The Council broadly welcomes the introduction of the new Standard and the links it will provide strategically to a Scottish Housing Quality Standard and benchmarking overall improvement/deterioration.

There are some aspects of the proposed standard which might be of limited value to strategic planners or owners. For example how feasible would 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. 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.

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.

The repairing standard for private landlords

This section of the report notes that the repairing obligations of social landlords has been modernised in the Housing (Scotland) Act 2001. The Task Force considered whether to apply these requirements to private landlords in terms of the new statutory repairing obligation (Schedule 4) or retain and modify the current obligations for private landlords contained in Schedule 10 of the 1987 Act. The recommendations are to retain Schedule 10 but to add responsibilities from Schedule 4 in terms of notice of access for entry; linking building standards and fitness for human habitation. **The recommendations in this section of report are welcomed as they should help to strengthen and safeguard tenants' rights in line with those of RSLs.**

In addition the intention is to make the provisions of Schedule 10 explicit and incorporated into written leases. **The Council welcomes the obligation to do this in an informative, comprehensible manner and language on a similar basis to the SST. The need for ongoing publicity for both tenants and landlords about these rights,**

responsibilities and obligations cannot be understated and should feature as part of local authority information and advice strategies.

Chapter 3 – Improving the operation of the housing market

General

The Council recognises the limitations in the housing market in respect of encouraging owners to keep their houses in good condition. Whilst the proposals to change the buying and selling process are welcomed, the extent to which they will be able to influence buyers and sellers in taking greater interest in condition may be limited. It is least likely to succeed in areas where the market is particularly buoyant and condition is not a deterrent to offers to buy.

Improving the information available to purchasers (Paras 128-170)

The Council welcomes the concept of the single survey, but would wish to see the scheme monitored closely the implementation of a non statutory scheme. The system would have to sustain confidence of buyers and sellers and this would take account of shelf life of survey, guarantees and warranties, exclusions etc.

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 scheme should be kept under review.

Proposals for a purchasers information pack (Paras 171-184)

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 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).

Other possible changes to the house buying and selling process (Paras 185-233)

The Council broadly supports the other changes to the buying and selling process.

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.

With regard to proposed changes to a standard missive and the missive for new properties these are welcomed. The recommendation that a further review of the latter should be pursued to provide greater protection to house buying consumers is also welcomed.

Improving confidence in the building industry (Paras 234-242)

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.**

Tax and Benefits (Paras 243-254)

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.**

Chapter 4 – Facilitating Common Repairs and Maintenance (Paras 255 – 313)

In common with most other local authorities, the Council recognises that this issue is one which continually arises in dealing not only with repair and improvement to Council stock where there is common works associated with the repair, but also in trying to improve standards in the private sector.

The proposed changes in the Tenement Bill to title deeds which will allow a majority of owners to effectively sanction works, rather than everyone as at present, will provide an effective basis for moving on with improvements. There needs to be some caution however, because the extent to which financial hardship precludes someone from taking part could result in problems of funding works.

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.

Funding Communal Repairs (Paras 277-291)

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.

Managing Communal Repairs and Maintenance (Paras 292- 304)

The proposals for changes in the civil law framework are welcomed and should help to provide some capacity for local authorities to help facilitate the upkeep of mixed tenure blocks. 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.

Chapter 5 – Public Sector Intervention and support (Paras 314- 428)

Strategic Planning (Paras 335-341)

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.

Providing Assistance to owners (Paras 342-378)

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. 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. The intention to attach any assistance to a house for a period of 10 years rather than the current 5 is reasonable.

Modernising Local authority powers (Paras 379- 433)

With regard to housing renewal areas, the Task Force report recommends these replace Housing Action 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.

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.

Chapter 6 - Improving standards in the private rented sector (Paras 434 – 532)

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. The Executive should examine these factors when considering councils LHS policy responses.

Repair Problems: strengthening private tenants rights (Paras 452- 475)

This chapter builds on the findings of the first report. The key issues of how to ensure that repair problems in the sector are addressed, leads to the Strengthening of tenants rights through expanding the role of the trading standards officer and developing rent assessment committees into tribunals. The Latter is designed to intervene in the last resort if a landlord fails to deliver and the tenant is unable to obtain redress.

The success of any tribunal based approach however 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.

Regulation and Accreditation (Paras 476 – 515)

With regard to regulation and accreditation, the Council would support the notion that local voluntary schemes 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.

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.

The Council welcomes the recommendation that the Executive provides financial support to develop voluntary accreditation schemes and forums.

Concluding Comments

The Task Force are to be commended for producing such a comprehensive review into the diverse issues that affect the quality and standard of housing in the private sector in Scotland. The Council supports the broad principles of the report which aims to ensure that owners take full responsibility for their property whilst authorities provide a mixture of support and sanction to ensure that they do so.

A key challenge will be in developing and interpreting the implications of the proposals at a local level. In addition, some general caution is urged about the pace of change and the need to ensure that it is appropriately resourced if it is to succeed.

It is recognised that a number of measures will be subject to further guidance, secondary or primary legislative changes and others will be reserved matters for Westminster. On this basis it is likely that there will be a reasonable lead in time to develop proposals and implement them.