

Issues in Improving Quality in
Private Housing

The first report of the Housing Improvement Task Force

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Foreword

Owner occupation and the private rented sector account for over 70% of all the homes in Scotland. Owner occupation in particular has grown to include over 63% of all homes and may continue to expand further in future if households are able to achieve their aspirations to home ownership. In this context the condition of the private sector and the arrangements for its long term maintenance will have a critical impact not only on the Scottish economy but on the health of our people, the life chances of our children and the comfort and security of the great majority of our older citizens.



The Housing Improvement Task Force was established in March 2001 to undertake a comprehensive examination of the issues affecting the condition and quality of private sector housing and the process of buying and selling houses in Scotland. As part of this work it will also look at the statutory and strategic planning framework for improving private sector housing in Scotland. The work of the Task Force will continue the Scottish Executive's comprehensive review of Scottish housing that was begun in 2000 with the publication of "Better Housing For Scotland's Communities".

This report sets out the views of the Task Force on the key issues and challenges in improving the condition of Scotland's private sector houses and modernising the buying and selling process. It brings to a close the first stage of the Task Force's work and will provide the basis for the development of recommendations for action by the Scottish Executive and others.

Iwould welcome your views on this document. I hope that after reading it you will find the time to help the Task Force in its work by providing your comments.

A handwritten signature in black ink that reads "Iain Gray". The signature is written in a cursive style and is positioned above a long, thin horizontal line that extends to the right.

IAIN GRAY, MSP
Chair, Housing Improvement Task Force
Minister for Social Justice

Consultation responses

This report has been published as a consultation document. Comments should be sent no later than **Friday 14 June 2002** to: -

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Copies of all replies received will be published on the Task Force web site unless respondents state that all or part of their response is confidential.

All comments received will be carefully considered. A consultation report will be published at the end of the Task Force work detailing how the responses have been reflected in the final report.

A summary of this publication is available free of charge in Braille, audio tape, large print format, Urdu, Punjabi, Bengali, Arabic, Chinese and Gaelic on request.

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This document is also available on the Scottish Executive website www.scotland.gov.uk/hitf

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Supporting documents

The Task Force has also published the following supporting documents on its web site at <http://www.scotland.gov.uk/hitf>.

- Powers available to local authorities, other bodies and tenants to require owners to undertake improvements and repairs
- Private sector housing improvement policy review 1967-2001
- Embedding equalities issues into the work of the Housing Improvement Task Force
- Literature review of arrangements for common repairs
- Research into the Scottish house buying and selling process – Final report
- First stage consultation report

1. Summary of key issues

Is there a problem about the condition of the private sector?

1. Most of the privately owned housing in Scotland is in good condition. However around 348,000 (26%) suffer from critical disrepair, that is repair defects in the fabric of the building that may impact on how wind and water tight it is. This definition covers a range of different repairs which may require varying levels of expenditure to put right. Within the stock as a whole, the condition of the private rented sector is significantly worse with 61,000 (38%) homes in this sector suffering some critical disrepair. About 66,000 (5%) private homes may remain in poor condition in the long term. Irrespective of the numbers involved, poor condition housing is a problem for all those who live in it. It is associated with health problems particularly in young and older people and creates social and economic problems for individual households and communities.

2. The job of modernising the stock has still to be completed. Although only a relatively small number of homes (between 1% and 2% or 10,000-20,000) fail the Tolerable Standard at least 94,000 (8%) still have lead in their water supply and 160,000 (13%) of homes in the private sector have very poor energy efficiency. As with repair condition problems with modernisation are worse in the private rented sector. In this sector 24,000 homes (15%) have lead in their water supplies and 48,000 (30%) have very poor energy efficiency. Whilst most houses now meet the basic modern standard too many are not well maintained. Problems of disrepair resulting from lack of maintenance are found particularly in older properties, flats and the private rented sector and there is evidence that houses in more remote rural areas are in worse condition than those in urban areas. Whilst it is not clear if the overall condition of the stock is getting worse, it is getting older and that increases the risk of disrepair problems developing.

Why are some parts of the stock worse than others?

3. The processes that lead to houses falling into disrepair are complex involving a wide range of factors that impact on the extent and effectiveness of maintenance and repairs by owners. The single most common feature linking houses in disrepair is age. Older houses, and in particular those built before 1919 are significantly more likely to be in poor condition than those built more recently. The second most significant factor is the presence of common or shared repairing obligations. Flats and in particular tenement flats are more likely to suffer disrepair or fail the tolerable standard. The private rented sector continues to show the highest concentrations of properties in disrepair though this is in part because the sector contains a very high proportion of pre 1919 tenement properties.

4. It is not clear that households on low incomes or other disadvantaged groups are more likely to live in poor condition properties but there is evidence that funding repair work is a significant problem for some households. It is also clear that many households do not have good information either on the condition of their home or the extent of their obligations to maintain it.

Does the existing legal framework do enough to promote and encourage owners to maintain their homes in good condition?

5. There are two principal elements to the legal framework. The “civil” law arrangements which provide the legal framework for the ownership and maintenance of properties and can be applied by individual owners and the “public” law provisions for local authorities to intervene to address housing condition and quality problems.

6. In the area of civil law the most important element relates to shared and common repair and maintenance obligations, as set out in the title deeds and underpinned by the common law. Whilst practice in respect of drafting title deeds appears to have improved over the years significant numbers of properties have titles that are poorly drafted and allow owners to avoid or block necessary repairs. Even where the title deeds contain a comprehensive statement of responsibilities and procedures for getting agreement to common works, some owners may still be unwilling or unable to participate in common repair and maintenance schemes. In this situation there is a lack of effective remedies for other owners and for property managers acting on behalf of owners. Where the title deeds are deficient, the common law provides little additional assistance and this has been recognised by the Scottish Law Commission in its proposals for reform of this area of law. In general, there is very limited experience in Scotland of owners contributing regular payments to sinking funds to pay for future common repairs and where these do exist they tend to be of limited scope.

7. The other key area of civil law is that pertaining to the private rented sector and, in particular, the law relating to landlords repairing obligations. The law in this area provides few effective remedies for tenants when repairs are not carried out. What remedies there are can be difficult to access by tenants who may fear losing their homes. In addition many tenants may not wish to bother given the relatively short nature of most tenancies.

8. The legal framework and tools available to local authorities to tackle disrepair were designed primarily to deal with concentrations of below tolerable standard properties. As a result they are not flexible enough to address existing patterns of disrepair. Given the limited resources available the current requirement to provide grant assistance when using statutory enforcement powers, provides a powerful disincentive to action on the part of local authorities. The existing powers are not well suited to supporting owners to undertake repairs at their own hand and those that do exist tend not to be used for this purpose.

9. In the private rented sector, the main additional powers available to local authorities relate to houses in multiple occupation. Most of the Housing (Scotland) Act 1987 powers in this area are little used and may, in practice, be largely obsolete. The recently introduced HMO licensing scheme provides an alternative approach but it is too early to assess its effectiveness.

Do owners have the resources to maintain their homes in good condition?

10. Most owners can afford to maintain the homes they live in and deal with emergency repairs effectively. However, many households will require to make choices about where their priorities for household expenditure lie and may make trade-offs against other living expenses. These trade-offs will be at different levels for different households depending on specific lifestyle choices. Many are not well informed on the maintenance needs of their home or may choose to spend more on works such as replacing kitchen and bathroom fittings

rather than medium and long-term maintenance. Few owners make regular provision for the cost of repairs and maintenance of their home.

11. Some owners on low incomes face problems in funding repairs to their homes and in general owners are reluctant to use “free equity” to fund necessary works.

Does the housing market reward owners who keep their home in good condition?

12. There are few market-related incentives to keep a house in good condition. Depending on the local market, property values may continue to increase whether or not the property is fully maintained. In some low demand areas there is a risk that static or declining values may create a strong disincentive to invest in repair and maintenance. Some owners of houses bought under the right to buy may be particularly at risk. Most buyers do not have detailed information on the condition of the properties they make offers on and there is no obligation on the part of sellers to disclose even the most serious of defects. Lenders now seldom impose retentions on mortgages as a result of poor conditions and in general are unlikely to be concerned about repair problems costing less than £2,000. This combined with the fact that most owners stay on average only just over six years in any one house means that failing to carry out routine maintenance is unlikely to result in any financial loss.

13. In the private rented sector the internal condition and provision of fixtures and fittings are more likely to have an impact on letability or rent levels than the condition of the fabric of the building. Landlords may have varying motivations for letting houses, for example, some may be primarily interested in equity growth rather than maximising rental income. The net result is while market forces may ensure good conditions at the top in the market, this is not the case throughout private renting as a whole.

2. Background to the work of the Task Force

Working methods

14. The work of the Task Force is being undertaken in two stages. The first stage, the results of which are presented in this report, has focused on the legal, administrative and financial elements currently in place which prevent or encourage housing improvement. The work of stage one has been carried out through four sub groups examining issues relating to: -

- A. Owner occupiers resident in housing that requires improvement or repairs
- B. Individuals buying and selling property.
- C. Landlords renting property in the private sector (and the interests of tenants who occupy these properties)
- D. Common or shared obligations in respect of property

15. The final first stage reports of each of the sub groups including recommendations have been brought together to provide the basis for this document. The individual reports and all the papers relating to the work of the Task Force are available on a web site at <http://www.scotland.gov.uk/hitf>.

16. The second stage of the work will focus on developing recommendations for action by the Scottish Executive and other organisations and will focus on the key issues identified in this report. Details of how the stage two work will be undertaken can also be found on the Task Force's web site.

The evidence base

17. Throughout the process of preparing this report the Task Force has sought to draw on the widest possible range of data sources both published and unpublished. Where appropriate these are acknowledged in the text. Where there are issues relating to the scope or reliability of the data this is also recognised.

18. The key source in respect of the condition of the stock has been the 1996 Scottish House Condition Survey (SHCS). Although it has a number of recognised weaknesses, until the publication of the results of the 2002 survey, it will remain the best and most comprehensive source of information on the condition of Scotland's houses.

19. With the creation of Communities Scotland as an executive agency and the new emphasis on strategic planning for housing by local authorities required by the Housing (Scotland) Act 2001, there is a need to re-examine significant elements of the approach to data gathering at both national and local level. The objective of such a review should be to ensure that the appropriate range of information is available to support the development of the national policy framework and local service planning and delivery.

20. In respect of buying and selling, the Task Force has drawn on all the existing published material and has also commissioned its own research. The interim results of this study have been used as the primary source of information and comparisons made with other sources where appropriate. In a number of other areas gaps in the evidence base have been such that it has been necessary to commission new work specifically to meet the needs of the Task Force. These include:-

- The Private Rented Sector In Scotland
- Arrangements For Common Repairs In Scotland: A Literature Review
- Private Sector Housing Improvement Policy Review 1967-2001

21. The results of these projects will be available to inform the work of the second stage of the work of the Task Force

Consultation

22. Each of the sub groups invited comments from a range of organisations and individuals. In addition all the papers relating to the work of the Task Force have been published on its web site. This has ensured that all those who wish to can follow the work as it progresses. Some 28 specific responses have been received from individual members of the public, housing organisations, pressure groups and professional bodies. In addition to the publication of all the responses on the web site a consultation report has been prepared identifying how the Task Force has responded to the points raised. This report is also available on the web site.

23. With regard to equalities issues the Task Force has worked to ensure that these are considered as an integral part of the overall examination of the issues. To assist this a specific programme of consultations has been carried out through Communities Scotland. Consideration of specific issues that arose from this work has been included in the body of this report as appropriate. The full results of this study have also been published on the Task Force's web site.

Cross cutting issues

24. The work of the Task Force has identified a range of cross cutting and reserved issues that whilst not being wholly within the remit of the Task Force, never the less have an impact on the issues being considered. These include the land tenure reform process and in particular the contents of the Title Conditions Bill, proposals to review the planning guidance on land for housing (NPPG3), the review of the Building Standards System, the regulation and monitoring of financial services, VAT rates on repair and improvement works and some aspects of consumer protection in respect of services to those buying and selling houses and in the construction industry. Where appropriate these have been noted in the text and will be returned to for further consideration in stage two.

The report structure

25. The remainder of this document provides a discussion of the issues that the Task Force has examined and the conclusions it has drawn. It has been structured as follows:-

Part Three sets out an analysis of the evidence on the extent of disrepair and housing quality failures.

Part Four examines the patterns of spending and the incentives and disincentives to invest in owner occupation and private renting.

Part Five considers the issues arising from common and shared maintenance obligations.

Part Six looks at the existing powers of local authorities in respect of strategic planning, notice serving and regulation of the private rented sector.

Part Seven provides an analysis of the process of buying and selling

26. The key conclusions are presented throughout the text together with the analysis on which they are based. For ease of reference all the conclusions have been drawn together in **Part Eight** of the report.

3. *The extent of disrepair and obsolescence in private sector*

Introduction

27. The primary source of data on the condition of housing in Scotland is the 1996 Scottish House Condition Survey (SHCS) which suggests that up to 26% of private sector homes may have some significant quality or disrepair problems. Describing these problems and presenting measures of the extent and impact of disrepair is far from simple. For the purposes of this report three measures of condition and quality have been examined. These are:

27.1 The Tolerable Standard: That is those houses that fail to meet the statutory condemnatory standard set out in the Housing (Scotland) Act 1987 as the Tolerable Standard.

27.2 Disrepair: The number of properties showing “critical” disrepair that is disrepair in either the structural fabric of the building or in those elements that impact on the wind and water tightness of the house or the health and safety of the occupants¹.

27.3 Modern standards: Improvements needed to bring a property up to what would be regarded as a modern standard. This is measured across four quality indicators: -

- The absence (presence) of visible lead pipes in the water supply
- The presence of working smoke detectors
- The level of energy efficiency of the dwelling
- The extent of dampness in the house

28. It should be stressed that it is not suggested that these features constitute a complete and fully satisfactory modern standard, simply that they are measurable problems for which data is available that can be usefully used as a proxy of the extent to which the stock meets modern standards. Table 1 below sets out the basic facts in respect of these measures of condition and quality.

¹ A property in critical disrepair is one with urgent disrepair to any critical element. A **critical** element (for example a roof covering) affects the wind and weather tightness of a building, or the structural stability. **Urgent** disrepair requires immediate action to sustain integrity of building fabric and/or health and safety of occupants.

Table 1: Conditions problems in private sector housing, '000 (%) of stock by sector with specific defects

Condition Problem	Owner occupied		Private rented		Flatted properties		All Private sector	
	'000 (%) with problem	'000 (%) with problem	'000 (%) with problem	'000 (%) with problem	'000 (%) with problem	'000 (%) with problem	'000 (%) with problem	
Below Tolerable Standard	11	(1)	7	(4)	9	(2)	17	(1)
Critical disrepair	287	(24)	61	(38)	134	(35)	348	(26)
Moderate or severe dampness	10	(1)	4	(3)	4	(1)	14	(1)
Lead in water supply	94	(8)	24	(15)	52	(14)	118	(9)
Poor energy efficiency*	160	(13)	48	(30)	65	(17)	208	(15)
Absence of smoke detectors	290	(24)	62	(38)	134	(35)	352	(26)

* Defined as having an NHER rating of 0-2
Source: Scottish House Condition Survey 1996

29. The remainder of this section examines the condition of owner occupied and private rented housing against these measures. It goes on to consider the question of whether flatted properties are in a worse condition than other property types and the evidence in respect of trends in housing conditions.

Owner occupation

30. Table 1 above suggests that in general owner occupied housing is in good condition. However around a quarter show some level of critical disrepair and based on studies in England it has been estimated that around 5% of the sector may remain in poor condition over the long term².

31. All the available evidence points to the fact that although the condition of the owner occupied stock has improved over the past 40 years the pattern and nature of housing quality failures and disrepair problems have changed significantly. This in part has been driven by significant investment programmes aimed at eradicating below tolerable standard properties but also reflects the growth in the sector and the increased diversity of property and household types entering owner occupation. The growth in the owner occupied sector during this period has come about both through new building in the sector but also by the impact of the right to buy. All these issues are discussed in more detail below.

32. The process of improving older owner occupied housing to meet modern standards has made significant progress although some key measures demonstrate that this has not been universal. Significant numbers of homes still show very poor energy efficiency and nearly a quarter still lack working smoke detectors. Lead water supplies are still present in 8% of all owner occupied properties although dampness in owner occupation is now at such low reported levels that it is difficult to analyse the data provided by the SHCS to provide a more detailed picture of the problem within the sector.

² Crumbling Castles, Philip Leather, Joseph Rowntree Foundation, 2000.

Key conclusions

- A significant minority of owner occupied houses in Scotland suffer from some level of critical disrepair resulting from the neglect (for whatever reason) of basic maintenance and repair activity.
- A significant number of owners still live in homes that fail the tolerable standard or do not meet what would be regarded as a modern standard.
- A significant number of homes (perhaps 5% of the stock) may well be in disrepair over the long term.

Condition of properties sold under the right to buy

33. The 1996 SHCS identified approximately 308,000 properties that were sold under the right to buy. Of these 48,000 were no longer owned by the original purchaser. Recent research published by Scottish Homes³ examining the condition of houses sold through the right to buy, using the data obtained from the Scottish House Condition Survey, drew the following conclusions:-

- on average, right to buy dwellings had lower repair costs than non right to buy owner-occupied dwellings and other social rented dwellings (even when differences in dwellings age, type and size between tenure are taken into account);
- flatted dwellings, especially tenements, had on average higher repair costs and a significant proportion of the work required would have to be organised collectively;
- Right to buy owners are more likely to be relatively old and to have lower incomes and less savings than owner-occupiers in general;
- Right to buy owners were as likely as other owners to have carried out major building work but they did relatively few minor jobs and, therefore, overall spent less.

34. There was also evidence that the gap in average repair costs between right to buy stock and the stock as a whole had narrowed between 1991 and 1996 although the interpretation of this was unclear.

35. Although concerns have been expressed that right to buy owners may be less well informed of their repair obligations or the need to invest in their homes there is no evidence from the SHCS that this is the case. The fact that most right to buy owners live in areas containing large numbers of public sector rented properties will mean that their attitude to and capacity to undertake repairs or improvements could have significant implications for landlords investing in those areas. Previous experience of owner occupation and attitude to repairs will be as important as ability to pay in determining the degree to which right to buy owners are willing to participate in common repair schemes with social landlords. These issues are discussed further below.

Key conclusions

- Within the owner occupied sector, dwellings bought through the right to buy are, on average, in better condition than owner occupied dwellings in general.

³ The condition of former right to buy properties and innovative approaches to the management and financing of repair work, Philip Leather and Keith Anderson, Scottish Homes, October 1999.

- The higher repair costs in flatted properties sold under the right to buy combined with the lower average income and savings of right to buy owners may indicate greater problems in affording repairs than for owners in general.
- The capacity and willingness of right to buy owners to carry out repair works has implications for investment programmes for some social landlords.

The private rented sector

36. The private rented sector accounts for some 162,000 houses in Scotland or 8% of the total stock. It is relatively old with 62% built before 1919 and only 34% built since 1945 (compared with 60% of the owner-occupied stock). Almost 41% of the private rented sector comprises tenement flats compared with 23% of the overall housing stock. The private rented sector is more significant in rural Scotland (where it accounts for 13% of the total stock) than urban Scotland (6%)⁴.

37. Across all the indicators the private rented sector is in a significantly worse condition than the owner occupied sector; the rate of below tolerable standard failure is four times greater and, at 38%, the incidence of critical disrepair is 14% higher. The incidence of lead water supplies and all the other indicators of the extent of modernisation show a significantly lower level of investment in the stock.

38. Whilst these figures show sharp differences between the two tenures in respect of condition and quality it is incorrect to conclude that they are simply the result of differing approaches to investment. Across the stock the two key determinants of condition are property age and the existence of common or shared repairing obligations.

39. This latter point is discussed below but it is important to bear in mind that the higher proportion of older properties in private renting accounts for much, though by no means all, of the poorer conditions found in the tenure. In addition the condition of the privately rented stock is likely to vary by market sub-sector. In developing an understanding of this diversity the Task Force has developed a “Typography” identifying two landlord and five tenant “types”. This is set out in full as an appendix to this report and provides an indication of the way conditions and problems may vary across the sector.

40. In broad terms the typography suggests that in the deregulated sector, the stock rented by high-income tenants is generally of good quality whereas for lower income and vulnerable tenants, significant quality and condition problems exist. Similarly, both regulated and tied housing is thought to contain a significant percentage of dwellings in poor condition. It is not, however, possible to make precise estimates of the relative condition of the different sub-sectors. These issues are discussed in more detail in section 4 below.

Key conclusions

- Compared to other housing tenures, a high percentage of the private rented sector is in poor repair condition and has other quality defects although, at least for repair defects, this seems to be largely a result of the age structure of the private rented stock.

⁴ Scottish House Condition Survey, 1996.

- Problems of low energy efficiency are worse in private renting than in any other sector. As a result, the risk of fuel poverty for tenants' households is greater.
- The worst conditions in the sector are found in older pre-1919 properties and are also thought to be evident in some houses in multiple occupation.

Conditions in properties with common or shared obligations

41. Table 1 above suggests that on the whole flatted properties are more likely to be classified as below tolerable standard, to have critical disrepair defects and to fall below modern standards than the private sector as a whole. This does not in itself provide conclusive evidence that problems resulting from the need to arrange for communal repairs and maintenance have led to higher repair costs since flatted properties tend to be considerably older than houses. Since these factors are strongly related to repair condition a more appropriate comparison should be carried out which allows for the age and size differences.

42. To control for the effects of age and other factors such as tenure and urban and rural location table 2 below has been extracted from the SHCS. This shows the percentage of owner-occupiers and privately rented dwellings with critical disrepair by age and type of dwelling in urban Scotland.

Table 2: Percentage of urban dwellings with critical disrepair by age and type of dwelling comparing the private rented sector, owner occupied sector and all private stock

	Owner occupied			Private Rented			All Private		
	Pre 1919	Post 1919	Total	Pre 1919	Post 1919	Total	Pre 1919	Post 1919	Total
Houses	36	16	19	46	24	29	37	16	19
Tenements	46	20	35	45	21	39	46	21	36
Other flats	37	28	31	46	26	36	39	28	32
All dwellings	41	18	23	45	24	36	42	18	24

Source: 1996 Scottish House Condition Survey

43. These figures indicate that there is a higher percentage of tenement flats as opposed to houses with critical disrepair in both the owner-occupied and privately rented sectors. The table also shows that, at least for the owner-occupied sector, this relationship exists irrespective of age. This evidence therefore suggests that problems in arranging common repairs and maintenance do have a significant impact on repair condition.

Key conclusions

- Levels of disrepair and the presence of housing quality failures are higher in flatted properties where there are shared and common obligations. However in older properties the impact of age masks this effect relative to other house types.
- The extent of modernisation, like the removal of lead water supplies, is significantly lower where work involves shared or common elements.

Rural housing

44. The pattern of geographical variation is much more complicated. An analysis of the SHCS 1996 has been undertaken based on six broad area definitions set out the annex to this report. The results of this study suggest the following conclusions:-

- Rural Scotland contains a higher proportion of pre 1919 housing and fewer flats than urban areas.
- Accessible rural and remote rural areas have higher rates of dwellings with disrepair to primary elements (that is the structure) of the dwelling.
- When disrepair to all critical elements is considered, there are high rates of disrepair in the rural areas.
- There are slightly higher rates of dwellings with moderate or severe dampness and dwellings which are below tolerable standard in rural areas and remote towns compared to other areas.
- There is a much higher rate of poor energy efficiency in the rural areas and also in remote small towns, which is around twice the rate in the smaller cities and other small towns.

45. The greater age of much of the rural housing stock, the constraints on new supply and the relative fragility of many local rural economies and communities are likely to make rural housing markets and rural communities more susceptible to adverse impacts arising from poor housing conditions. The private rented sector, for example, which accounts for only 8% of the stock overall amounts to 13% in rural areas. Concentrations of persistent condition problems in this sector will disproportionately affect rural areas. Within this framework vulnerable households and communities reliant on traditional rural employment are likely to be doubly disadvantaged by poor housing.

Key Conclusions

- The concentration of older properties and the nature of rural housing markets and rural communities makes them more likely to have poorer condition housing.
- There is evidence that levels of energy efficiency are lower in rural areas creating an increased risk of fuel poverty.

Equalities issues

46. The variation of disrepair problems according to household or income is more difficult to assess. There is evidence that a significant number of low income or disadvantaged households live in the private sector. Recent research has suggested that 35% of all poor households in poor condition housing in Scotland are owner-occupiers⁵. It is reasonable to assume that such households face or are likely to face disproportionately, particular problems in maintaining their home, but it is not clear from the evidence available that they are, at present, significantly more likely to live in properties in poor condition. This may reflect the fact that many low-income households in owner occupation have become relatively poor, for example as a result of retirement, after becoming owners and are continuing to benefit from previous expenditure.

⁵The Future of Owner Occupation in Scotland, Bramley, Ford, J, Ford, T, Morgan and Wilcox, Communities Scotland, 2001.

47. The same is broadly true of a range of other potentially disadvantaged households. It is known for example that some 116,000 households including a disabled member live in private sector houses that require some level of adaptation to meet their needs. It is not known to what extent they also face problems arising from disrepair.

48. There is very little evidence at a national level of the condition or quality of houses occupied by minority ethnic communities. However some local studies, notably in Glasgow, have indicated that some minority ethnic communities may face particular problems with over-crowding, below tolerable standard and disrepair and may face some problems in the market for new owner occupied housing⁶. Similarly, reliable national level data on the condition of the properties occupied by other disadvantaged and minority groups is not available.

Key conclusions

- Many houses occupied by those with some level of physical disability do not meet the needs of their occupants.
- A significant number of low income or disadvantaged households live in owner occupation and are likely to face particular problems in ensuring that their homes are maintained to a satisfactory standard.

Trends in housing condition

49. Making definitive statements in respect of trends in housing conditions is far from straightforward. As a result of changes in survey methods and analysis only limited direct comparisons can be made between the 1991 and 1996 Scottish House Condition Survey results.

50. Over the longer term, however, the improvement of below tolerable standard housing has been one of the key successes of action in respect of housing condition in Scotland. In 1967 the Cullingworth report “Scotland’s Older Houses” estimated that there were 200,000 “unfit” houses in Scotland. Whilst it is recognised that there has been a debate as to the accuracy of the SHCS estimates for below tolerable standard housing even the most pessimistic estimates available from other sources put the rate of failure at 2-3%. That is between 20,000 and 40,000 private sector houses⁷.

51. This reduction in the number of below tolerable standard homes has taken place in a social and cultural environment in which standards and expectations have changed significantly. What seems certain is that unfitness as measured by the tolerable standard is no longer the best basis for assessing the condition and quality of Scotland’s houses.

52. Unfit housing remains a significant problem for those households living in them and the eradication of all below tolerable standard houses is still an important policy objective.

⁶ Below Tolerable Standard Housing and Ethnicity in Glasgow, Précis No. 70 (April 1988) and Assessing the Market for New Owner-occupied Housing among Glasgow’s Black and Minority Ethnic Communities, Précis No. 137 (July 2001); Scottish Homes

⁷ Research into the Basis for Local and National Estimates of the Number of “BTS” Houses in Scotland, DTZ Pidea consulting, 2000.

However, much larger numbers of households are facing significant problems even though their homes meet the minimum provisions of the tolerable standard and it is no longer appropriate that the tolerable standard should be used as the sole measure of housing condition and quality. A more sophisticated understanding of housing quality and housing quality failures is required.

53. Disrepair and housing quality failures are dynamic; they arise as a result of a combination of processes, social and physical. The critical determinant is decision making by owners themselves. Not only do the patterns of disrepair change over time but the particular properties that suffer from it change as well.

54. In addition, as a result of the very low rate of demolitions of private housing of around 0.2% per year and the rate of new additions of around 1%⁸ per year, the average age of the stock is rising. Given that age is one of the key determinants of condition, the effectiveness of the framework for promoting investment in repair and maintenance in the long term will be important if the overall condition of the stock is to be maintained and the number of houses in disrepair is not to rise.

55. The extent to which changes in building construction practices over the last 40 years will have an impact on the pattern of disrepair or poor condition in the future is also unclear. Changes in building regulations and improvements in standards will result in a reduction in the overall proportion of dwellings lacking standard amenities or with very poor energy efficiency, though the numbers of households in older properties with these problems may remain significant for some time unless specific measures are put in place to address them.

56. The impact of the widespread use of relatively modern construction techniques like timber framing and structural concrete elements on the patterns of building failures in the future is also largely unknown. This is an area that could have a significant impact on future repair and housing quality failures and on particular sectors of the housing market. Properties sold under the right to buy for example are more likely than other private sector houses to be built with “non traditional” construction techniques. Should repair and maintenance problems arise in such dwellings in the future mechanisms for addressing the difficulties that owner-occupiers may face will need to be in place.

57. The impact of these trends in broader social and economic terms is also worth noting. Older houses form a higher percentage of the stock in remote rural and inner urban areas. In the latter flatted and tenement types predominate. In these areas the concentrations of housing quality failures could, in the longer term, affect supply, and the economic and social durability of the area as well as townscape and future development patterns.

58. Finally, a complex relationship exists between social perceptions of an area, house prices and the market and local housing condition. There is evidence of the development in Scotland of localised areas of low demand for owner occupied housing. This is particularly associated with former right to buy properties and former public sector stock transferred to the private sector for low cost home ownership projects. Whilst at present the areas affected appear limited in extent, a number of local authorities have reported problems including abandoned properties.

⁸ Average demolition and new build for the period 1995-99 from Housing series: HSG/2001/2, Scottish Executive, Statistical Bulletin.

59. Evidence from England suggests that these problems are associated with a rise in the proportion of private rented dwellings locally and deterioration in overall physical condition. There is a pressing need to ensure that the framework within which houses are owned and maintained is capable of responding to such trends and that strategic planning and statutory powers available to local authorities are robust enough to deal with problems when they arise.

Key conclusions

- The pattern of disrepair and housing quality failure has changed significantly over the past 40 years.
- The concentrations of slums that were the focus of much public policy activity in the past are no longer evident. However, eradicating below tolerable standard housing remains an important public policy goal.
- A significant number of homes still do not meet what may be regarded as a basic modern standard. Particular problems exist in respect of energy efficiency, lead in water supplies, smoke detectors and dampness.
- The impact of modern construction techniques and materials on the pattern of disrepair or housing quality failures in the future is unclear and should be the subject of further study.
- The sale, under the right to buy, of houses built using “non-traditional” construction techniques has created a pool of properties in owner occupation the long term durability of which is largely unknown
- The average age of the stock is increasing which may lead to a rise in the number of properties at risk of falling into disrepair.
- There is evidence that some low value markets, particularly associated with former right to buy properties are at risk of becoming low demand areas. Such areas are at risk of a rapid decline in condition and quality.

4. *Investment patterns in private sector housing*

Introduction

60. The propensity of households to invest in their home varies according to the age of the household, how long they have owned their current home, income, future expectations across a range of issues and the extent of their knowledge and understanding of the condition of their home. Types of investment can be broadly categorised as repairs, that is mending or replacing elements on a like for like basis; maintenance, routine tasks to sustain the durability and effectiveness of the building and improvements. Improvements may be either of a “discretionary” nature, that is non critical works including extensions, replacing kitchens or bathrooms (where a functional one already exists) and decoration; or “essential” for the effective functioning of the building, such as the installation of a damp proof course or WC for the first time.

The SHCS provides the following summary figures in respect of investment needs and expenditure:

Investment needs	£billions
The investment needs to rectify the repairs backlog. (comprehensive repair costs as at 1996)	3.93
The investment needs of the stock to sustain it in good condition (based on an estimated investment need of 1-2% of total asset value).	1-2 pa
Current spending	
The actual levels of expenditure including grant spend	2.2pa
Less amount of expenditure on “discretionary improvement” work	-1pa
<i>Shortfall/(surplus) of needs over investment in repairs</i>	<i>1.2 - (.2)pa</i>

61. These figures suggest that current rates of expenditure on necessary repair and maintenance by owners may be significantly below that which is required to maintain the stock in its present condition although a good deal more than this is spent in total when taking discretionary improvement works into account. It is unlikely, on the basis of current expenditure, that any significant progress will be made in reducing the repair backlog identified by the 1996 SHCS.

62. These figures raise issues about not only the total level of investment in the owner occupied sector but also the way the spending is targeted and the priorities that owners have in spending on their houses. The following section considers these issues.

Household attitudes to disrepair and incentives and disincentives to investment

63. The available evidence demonstrates that the investment patterns of owners is linked to a number of key “life cycle” events.

63.1 Newly formed households may be willing to devote considerable time, energy and resource to repair, maintenance and improvement.

63.2 Slightly older households with children may be generally less willing to invest in major repairs because of the disruption involved. They may be more focussed on improvements to enhance personal comfort. Mobility reduces as school and social networks mature.

63.3 Households where children have left may be prepared to tackle work to reduce future maintenance and may move at this stage to a house more appropriate to their future needs.

63.4 Old age is a period where interest in repair work declines and attitudes of antipathy to such work can take root.

64. Understanding how attitudes are developed and informed is important in making any assessment of the impact and effectiveness of incentives and disincentives within the system. The way a household responds to a repair problem will be affected by a number of considerations including:-

64.1 Understanding of the importance of the problem: The legal and regulatory systems surrounding residential property transaction and ownership do not provide incentives to owners to inform themselves about the condition of their homes. As a result the approach of the great majority of owners to repairs and maintenance is essentially reactive, dealing with problems as they become apparent and impact on the value or comfort of their home.

64.2 The extent to which they accept responsibility for the problem: Owners may either be unaware of the extent of their maintenance responsibilities or simply seek to avoid them particularly where common or shared obligations are concerned.

64.3 Attitudes to cost and affordability: Owners may believe that the work is too expensive and that they will not see a return on the investment in the value of the property. Some households will not feel able to afford the works. Crucially, other than in respect of the most obvious or significant defects, there is no clear financial or market advantage to be had from ensuring that a house is in good condition and well maintained. In addition whilst owners are most likely to invest at or just after the point of purchase, the house buying process provides them with little reliable or systematic information on the real state of repair of their house.

64.4 Awareness of options like selling or waiting: Owners may choose to sell rather than address the problem. Alternatively owners may believe a problem is not yet serious and that they can tackle it in the future if they ever have to.

64.5 Attitudes and confidence in the building industry: There is some evidence that a fear of exploitation could be a contributory factor to the strategies owners adopt. Many owners, particularly the elderly and vulnerable households, find the industry difficult to deal with, are unsure how to go about finding a reliable contractor and do not trust

builders either to provide value for money or to carry out works to any given specification or to a reasonable standard.

65. In addition to these problems there are no incentives in the tax and benefit system to save for major repairs (savings held by low income owners may count against any benefit entitlement for example). Most expenditure on repair and maintenance by owner occupiers is taxed in the same way as other consumption expenditure.

66. Household income and perceptions of the affordability of the work will also be a critical element in decision making. Table 3 below provides an analysis of income and housing assets of owner occupiers and the number of properties with critical disrepair occupied by owners with limited financial resources. It provides an indication of the numbers of households where some assistance may be required in order to enable them to address the problems of disrepair in their dwellings.

67. Specific evidence on the make up of the households with low incomes isn't available. However it is likely that those on low incomes with assets, that is free equity in their home, in excess of £20,000 will be older households who have been resident in their home for some time. Households with low incomes and limited assets may be more recent purchasers whose income has fallen since entering owner occupation. These figures do not, however, take account of any other savings the household may have and in this respect can only be regarded as indicative of the numbers facing problems financing repairs to their home.

Table 3: 000s (%) of owner occupiers in dwellings in critical disrepair (% of critical disrepair in each household group)

	Households with net income <£10,000 & assets of <£20,000 £000s (%)	Households with net income <£10,000 & assets of >£20,000 £000s (%)	Households with net income >£10,000 £000s (%)	Total £000s (%)
All Owner-occupiers	88 (7)	262 (22)	842 (71)	1,192 (100)
Owner-occupied properties showing critical disrepair	24 (8)	70 (25)	191 (67)	285 (100)

Source: 1996 Scottish House Condition Survey

68. These figures suggest that 94,000 households, or 33% of all owners, may be facing problems financing necessary repairs to their homes. However the great majority of these have free equity that, should they choose to access it, could be used to address the problem.

Key conclusions

- The current levels and pattern of expenditure by owners on repair and maintenance may be inadequate to either address the current backlog of repairs or ensure that the overall condition of the stock does not deteriorate.

- The willingness of owners to spend money on repair, maintenance and improvements varies according to the position of the household in the life cycle. They are most likely to be willing to invest at or immediately after purchase.
- Many owners have relatively little information on the condition of their properties and essentially take a reactive approach to repairs and maintenance. They may postpone action on longer term repair needs or decide to sell rather than address the problem.
- Some owners may be unaware of the extent of their responsibility for repairs or maintenance work.
- Owners undertaking regular maintenance or minor repair work are unlikely to find that the value of their property increases in line with the expenditure. This is likely to be particularly true in low value or low demand areas.
- There are few if any tax or benefit related incentives to save or invest in regular repair, maintenance or improvements.
- Some owners, particularly the elderly and vulnerable households, may be deterred from undertaking work because of the perceived difficulty of selecting a reliable contractor.
- Approximately 94,000 owner-occupiers of properties showing critical disrepair in 1996 (33% of the total) had relatively low incomes, of these 70,000 (25% of the total) had significant levels of “free equity” on their houses.

Sources and objectives of investment

69. How work is financed will depend in part on the nature and perceived impact of the job on the immediate comfort of the household or the long-term value of the property. Owners seeking to invest in their homes have four possible sources of resources:-

69.1 Equity Release: This term is used to include specialist equity release products intended to allow low income home owners to gain access to the asset value they own without incurring debt servicing charges and secondary borrowing secured against their home. Recent research⁹ in respect of equity release schemes has demonstrated that many owners are reluctant to borrow against free equity preferring to retain “ownership” over as high a proportion of their home as they can whilst lenders have not been particularly interested in developing products for the lower value end of the market.

69.2 In addition the range of specialist products not requiring debt servicing is generally narrow and carries a number of perceived risks. The tax and benefit system is also not generally supportive of the use of such products particularly by those on low incomes or benefits. However, younger or recently purchasing households may be more inclined to take out additional borrowing secured against their home for improvement works. The range of these types of financial products is good and for those who can afford them access is generally unproblematic.

69.3 Borrowing (unsecured): Although there is a wide range of financial products available there appears to be a general reluctance to borrow to finance low level repairs and maintenance work. Borrowing in respect of improvements, and in particular work of a broadly consumption nature is more common, for example the replacement of kitchens and bathrooms that have an immediate impact on comfort and utility.

⁹Attitudes to equity release schemes: current and potential markets, Rachel Terry and Philip Leather, CML, 2001.

69.4 Savings: Evidence from the SHCS suggests that most improvement work is funded from savings though few owners operate savings funds specifically for the maintenance or improvement of their homes.

69.5 Grants: The details of the housing repair grant regime is set out in the annex to this report. Whilst over all the evidence is that the grant scheme is well targeted at poor condition houses and lower income owners only around 4% of owners carrying out work do so with grant aid and that grant aid represented only 5.5% of the total investment in owner occupied housing¹⁰. In addition grants are intended for major repair or improvement works and are not available for routine maintenance or minor repair works.

69.5.1 In recent years Care and Repair schemes have been developed on a variety of models across Scotland. These and some local small repair schemes have extended the availability of grants and provided additional help to particular disadvantaged groups, notably older people. Such services are however far from universally available.

69.5.2 Expenditure on improvement and repair grants has fallen by over 40% in cash terms in the past five years following the introduction of the single capital allocation and the withdrawal of the former “ring fence” for Non-Housing Revenue Account spending in 1996. This only reinforced a downward trend in expenditure which dates from the 1980s. The experience of the impact of relatively generous grant availability from 1980 to 1984 demonstrates that high grant levels as part of a system of carrots and sticks had a significant impact on the improvement of BTS properties at that time¹¹.

69.5.3 The grant system as it currently operates, based on lower grant rates and substantially reduced resources overall, is not likely to have a significant impact either on overall investment in owner occupation or on the critical investment decisions by most owners facing repair problems.

69.5.4 Other important developments in this area include the Warm Deal and Central Heating Initiative both aimed at meeting the Scottish Executive’s target of eradicating fuel poverty by 2010 and a significant number of low-income households should benefit from both these schemes.

Key conclusions

- The availability of private finance is generally well developed and provides a wide range of products in a competitive market for those with sufficient free equity or income to access them.
- There are few equity release products designed or aimed at those on limited incomes or in lower value properties, owners in such situations may find it difficult to release what free equity they have should they wish to do so.
- Many owners are reluctant to borrow to finance repair and maintenance costs.

¹⁰ Scottish House Condition Survey 1996.

¹¹ Private sector housing improvement policy review 1967-2001, Rick Groves and Philip Leather, Birmingham University, published on the HITF web site at <http://www.scotland.gov.uk/hitf>, January 2002.

- The availability and access to specialist equity release and small scale secured loans is difficult for many owners.
- Given the resources currently available the grant regime is unlikely to have a significant impact on overall investment or on critical investment decisions by many owners facing repair problems.
- Care and Repair and small grant schemes provide an important example of assistance targeted at vulnerable groups but their availability is not universal and the range of services and clients covered varies from area to area.

Equalities issues

70. Consultation in respect of equalities issues demonstrated a strong preference across all groups for owner occupation. But for some groups, for example, ethnic minorities, this reflects the greater security from harassment found in certain neighbourhoods. This may be a higher priority for some groups than concerns about housing conditions.

71. A general issue which came up in relation to a number of groups was a perceived lack of information about repairs and maintenance and, in particular, where to go for help. On all housing related matters minority and disadvantaged groups tend to rely on personal and social community networks for information. This was particularly evident among the minority ethnic communities and amongst the lesbian, gay, bi and trans-sexual (LGBT) groups linked, in some instances, to feelings of insecurity and previous experience of harassment. It may also be a response to failures in conventional information sources to give these groups the information they need.

72. For older people issues of housing condition can have a significant impact on health and a significant minority of the group was reported as suffering such problems. Such problems may be more severe in rural areas where choice of fuel supplies is restricted, heating is consequently more expensive, weather conditions are often more severe and tradesmen in short supply.

73. Older people often have deep attachments to their local communities and are therefore less likely to move house to avoid dealing with a problem of poor condition than younger people. At the same time, they are also less tolerant of upheaval in their homes such as the incursions of tradesmen. And as noted above, there is also a significant distrust of tradesmen among older people, whose fear of exploitation is heightened by media coverage of extreme cases of poor behaviour by contractors.

74. Awareness of repairs amongst disabled people may be relatively high, due to contacts with support workers who may focus on any safety issues related to the condition of their client's house. There are, however some significant problems associated with arranging repairs, particularly for clients with learning disabilities who may find it hard to organise them. There is also a problem associated with small repairs, such as changing a tap washer, which tradesmen are reluctant to carry out, but which can be impossible for some disabled people to do themselves. Disabled people also often feel vulnerable when letting tradesmen into their homes. Significant problems are also reported accessing grants for repairs and improvements, including essential works to meet clients' needs, and with long waiting lists for need assessment and for work to be carried out.

75. For younger people their lower than average incomes often means they buy properties that are at the lower end of the market. Such properties often have pre-existing poor conditions. Their low incomes mean that they are unable to adequately fund repairs, or ongoing maintenance.

Key conclusions

- Fear of harassment and a desire to be close to community networks may result in some members of disadvantaged groups accepting poorer housing conditions in favour of a safe and familiar neighbourhood.
- Disadvantaged groups may find it more difficult than others to access good quality and reliable information on their rights and options.
- Poor housing conditions can have a disproportionate effect on some vulnerable groups such as older people, the disabled and those with HIV/Aids.
- Vulnerable households in rural areas, particularly older people may be at greater risk of fuel poverty arising from dampness and poor energy efficiency.
- Vulnerable households may find it more difficult to deal with the building industry and may feel themselves to be vulnerable to exploitation by “cowboy” builders.
- Vulnerable households including those with learning disabilities may face particular problems with small repairs.
- Households with disabled members may face problems in securing the resources needed to carry out essential adaptations to their homes.

Attitudes, incentives and disincentives to investment by private landlords

76. The SHCS provides only very limited information on actual investment by private landlords. 11% of landlords were reported as having carried out major works in the year prior to the survey. A further 15% of landlords carried out minor works. These figures suggest a lower level of repair and maintenance activity than owner-occupiers where the figures were 30% and 29% respectively. Although in theory investment by private landlords should reflect market signals, the diversity in their characteristics and motivations means that many private landlords do not respond in a straightforward way to market signals. Some landlords may not be profit orientated, for example, some landlords in rural areas. More generally, there may be a difference between those landlords who seek to maximise rental income as opposed to those who are primarily interested in capital growth.

77. In practice the attitudes and concerns of private landlords in respect of investment in repair and maintenance are likely to be similar to those of home owners discussed at paragraph 64 above though the level of response to any particular problem may differ. This may in part be due to the fact as non-residents of the affected houses their perception of the immediate importance or impact of a problem will differ from those of owner-occupiers (and indeed their tenants).

78. The growth of the deregulated sector, particularly that part of the sector providing good quality accommodation at relatively high rents, has been stimulated by the availability of finance (particularly through the Buy to Let Scheme) and a buoyant demand in some parts of Scotland. The evidence suggests that where landlords have invested in good quality rented

housing as a means of generating rental income, then market pressures ensure that the property is maintained in reasonable condition.

79. Landlords have an advantage over owner-occupiers in that they can offset expenditure on repairs and improvements against tax liabilities, but in part because tenants are relatively mobile and do not place great emphasis on repair condition (as opposed to quality of furnishings and fittings) there appears to be little relationship between the condition of the dwelling and the rent charged for it.

80. Remaining rent restrictions in the regulated sector are likely to act as a deterrent to investment by landlords unless it is necessary to protect the capital value of the property. In the service or “tied” sector, attitudes to investment in repair are likely to vary according to the need to attract labour, the profitability of the business and the extent to which the landlord is profit orientated.

Key conclusions

- Market pressures operate most effectively in the good quality stock found in the deregulated sector where competition ensures that landlords keep properties in good repair.
- Elsewhere in the deregulated and other parts of the privately rented sector, the market does not in itself provide a strong enough incentive to ensure that property is kept in good condition.
- Overall there appears to be little relationship between the repair condition of a dwelling and the rent that is charged for it.
- Apart from the ability to offset expenditure on repairs against tax and a number of schemes which have operated on a limited basis in the past to encourage investment in expanding the sector, there are no “non-market” incentives which are specific to the private rented sector.
- The remaining rent controls in the regulated sector may be acting as a significant disincentive to investment by landlords to improve conditions in the sector.

Tenancy regime impacts

81. For deregulated tenancies, the tenancy legislation is set out in the Housing (Scotland) Act 1988. In practice, the vast majority of landlords use the short-assured tenancies, which allows them to recover possession, if they follow the specified procedures, after a minimum of 6 months. This provides flexibility for landlords and it is likely that short-term contracts are preferable to both parties when the tenants are themselves only looking for a short-term solution, as is normally the case for higher income groups or young professionals/students. The short assured tenancy regime, together with the possibility of unlawful eviction may, however, be less satisfactory for vulnerable, low income tenants since it puts them in a relatively weak bargaining position.

82. By contrast, tenants of regulated tenancies let under the provisions of the Rent (Scotland) Act 1984 have much stronger security of tenure but the existence of regulated rents, in practice, operates to offset this advantage since it does not encourage investment by either landlord or tenant. In the tied housing sector, there is little statutory protection except

that which applies to houses in general so that tenants are in a very weak bargaining position if they wish to persuade the employer/landlord to undertake repairs or improvements.

83. Although neither the Rent (Scotland) Act 1984 nor the Housing (Scotland) Act 1988 set out any repairing obligations on landlords, Schedule 10 of the Housing (Scotland) Act 1987, does require landlords with short leases (which would include most leases in the private rented sector) to maintain the structure and exterior of the house (including drains and gutters) and to keep the sanitary facilities and hot water supplies in proper working order. It is also possible, at least in theory, for tenants to take action through the courts to require landlords to take action to tackle “statutory nuisances” as defined under the Environment Protection Act 1990. In addition under the terms of The Occupier’s Liability (Scotland) Act 1960, the landlord may be liable for injuries suffered by tenants and indeed others coming on to the premises arising from defects in condition.

84. The statutory framework does not, however, set standards in respect of tenantability or letability. During the tenancy, the landlord has a duty under Common Law to maintain the house to:-

- provide a property which is “tenantable and habitable’ and
- Provide subjects which are wind and watertight.

85. This is not a warranty, and a landlord will not be in breach of his obligations until notice of the problem has been served, and the landlord has been given a reasonable opportunity to carry out the repairs. The interpretation of what constitutes a reasonable time depends upon the urgency of the repair, i.e. the extent to which the integrity of the building is threatened, or the tenant’s health endangered if the repair were not carried out. In addition at common law the standards applicable to any particular property are not universal but will be determined in relation to the type of property and “class of person” that would be expected to occupy it. That is to say that the common law allows for poorer conditions for property at lower value end of the market.

86. Where a landlord does not carry out a repair within a “reasonable” period the tenant has a number of options under common law:

- to give notice and terminate the lease on the grounds that the landlord is in breach of the conditions of the tenancy;
- to withhold all or part of the rent until such time as the work is done though where a lease prohibits the abatement or retention of rent this option will not be available;
- to have the works carried out at their own expense and bill the landlord. Where the landlord refuses to compensate the tenant they will have to raise an action in the sheriff court to recover the money;
- to raise an action in the sheriff court requiring the landlord to carry out the works.

87. In real terms, a tenant’s ability to assert his rights in terms of a landlord’s repairing obligations will depend largely upon the extent of security of tenure enjoyed by the tenant. For tenants with short assured tenancies, in particular low income and vulnerable tenants, the risk of the landlord terminating the tenancy or in some cases unlawfully evicting the tenant acts as a powerful disincentive to raise any action against the landlord. Providing these tenants with more effective remedies against a landlord who fails to maintain their property

will need to take into account the imbalance in the power relationship that exists between landlord and tenant. Tied tenants are in a particularly vulnerable position.

88. It is also unlikely that a private tenant would receive legal aid for any of the court actions required to enforce these rights and the time and cost will certainly be a disincentive. A further disincentive is the absence of any summary procedure which the tenant could use in cases of this nature so that the action would have to proceed by way of ordinary cause procedure which is relatively expensive and cumbersome.

Key conclusions

- The predominance of short assured tenancies together with the possibility of unlawful eviction may make it difficult for many tenants in the deregulated sector to press landlords to undertake repairs and improvements.
- The tenancy regime as set out in the housing legislation provides relatively little specification of acceptable quality standards in the private rented sector.
- The current common law provision allows for poorer standards in houses rented to lower income households or in lower value areas.
- The existing legal remedies that are available to tenants to require landlords to undertake repairs and improvements have a number of significant limitations in practice. These include the cost and time needed to raise a legal action.
- Tenants in tied accommodation may face additional problems in raising concerns about conditions in their homes because of the position of their landlord as their employer.

Equalities Issues

89. As in the owner occupied sector, a recurrent theme was lack of awareness of options in housing and reliance on personal and social community networks for information, particularly evident in ethnic minority communities; in the LGBT groups; and in rural areas. There are clear disadvantages to this reliance on the experience of others that results in people not understanding or not exercising their rights as tenants.

90. Poor conditions, in particular fuel poverty and dampness is an issue for all those living in poorer quality private sector housing and was raised by all groups interviewed, although it was generally agreed that there wasn't enough reliable information to give accurate estimates of its extent. Carrying out essential repairs and maintenance is difficult for people with limited incomes; particularly those who are benefit dependent. These problems are compounded for groups such as the elderly, people with mobility problems and those suffering from HIV/AIDS who are particularly vulnerable to cold or damp conditions. Such support schemes as there are like Care and Repair schemes will not always support private landlords in carrying out work in the same way that they would for owner-occupiers.

91. A common theme across almost all groups was a concern about dealing with private sector landlords that in many cases amounted to outright suspicion. This manifests itself in concerns about potential discrimination against client groups who are perceived to be different. Women in particular reported "bad experiences" with landlords as common and the lack of regulation and support from the police as concerns. Groups such as ethnic minorities and LGBT are often concerned about whether they will receive confidential and fair treatment from private landlords.

92. All groups agreed that there were significant problems getting private sector landlords to carry out repairs. Among some groups such as ethnic minorities and young people and women fleeing domestic violence, this was linked to a fear that if they pressed the issue they might be forced out of their homes. In any case, there is a perception that poor conditions are acceptable, as long as they are only temporary and will be left behind in a few months by moving away from the problem property. Disabled people believed that landlords were reluctant to contemplate adaptations, which might be expensive and devalue their property.

Key conclusions

- Vulnerable households and members of minority communities may face particular problems accessing reliable information on their rights.
- Members of vulnerable households are particularly susceptible to the health impacts of poor housing conditions.
- Tenants from vulnerable groups, particularly women have reported bad experiences with landlords and feel there is little support for them in responding to such problems. Some vulnerable households may feel that they are at risk of not being treated fairly or confidentially by their landlords.
- Households with disabled members in the private rented sector may face problems in persuading landlords to allow or carry out necessary adaptations to meet their needs.

5. Arrangements for the management of communal repairs and maintenance work

Introduction

93. Almost 400,000 houses in the private sector (28% of the total) are flats where there is some degree of shared responsibility by owners for the maintenance and repair of community owned parts of the building such as roofs and common stairs. Owners of flats and, in some cases, owners of houses may also have a shared responsibility for the maintenance of communal open spaces such as drying greens and areas set aside for refuse bins. The typical flat in the private sector is often found in a “walk up”, tenement flat built before 1919, but a wide range of types of flats can be found in different parts of Scotland and, particularly in the cities, there has been a large number of new flatted developments. Sales of former social rented houses as a result of tenants exercising their right to buy and through the sale of public sector properties to the private sector as part of low cost home ownership schemes, has also increased the total number of flats in the private sector (more than 25% of all flats in the sector fall into this category).

94. Given that the available evidence suggests that flats are more likely to suffer housing quality failures than other properties the arrangements for the management of communal repairs and maintenance are therefore, important for the condition of a significant percentage of the private sector housing stock. The legal framework for these arrangements is normally set out in the title deeds for the property but in the absence of specific provisions, common law (usually known as the “law of the tenement”) applies. In recent years, there have been a number of proposals, originating in recommendations from the Scottish Law Commission for legislation on title conditions and the law of the tenement, to improve this position. The Title Conditions Bill published for consultation in May 2001 will provide for majority decision making where the titles are silent and the proposed Tenement (Scotland) bill is intended to ensure that all tenements have a management scheme in place. The Task Force has considered the position as it exists at present and the relevant sub-group has been briefed on the Scottish Law Commission and Scottish Executive legislative proposals and these will be taken into account in its stage two work. In addition, stage two of the Task Force’s work will offer the opportunity to make suggestions on possible amendments to the proposed Tenement (Scotland) Bill.

How communal repairs and maintenance is organised in practice

95. The arrangements for managing communal repairs and maintenance vary extensively throughout the private sector. Four basic approaches can be identified:-

95.1 No continuous management arrangements with owners getting together as and when necessary, often when one or more faces a specific problem, for example, leaks through the roof or the prospect of a local authority repair order;

95.2 Some form of continuing management arrangement by the owners themselves (possibly undertaken by a particular highly motivated resident) of varying scope extending from close cleaning and back green maintenance to more regular maintenance and inspection tasks;

95.3 The employment of a professional manager or factor who may deal with reported repair problems and possibly undertake a regular but limited inspection of the property;

95.4 The employment of a professional manager or factor with a more comprehensive remit for both reactive and planned maintenance and who might report to an owners' group or association.

96. Where a professional manager or factor is employed, this normally results from a requirement in the title deeds. Traditionally, this was more likely to be found in the West of Scotland than elsewhere, but it has become common practice for title deeds for modern flatted developments throughout to have relatively detailed provisions for management of common repairs and maintenance along the lines of (94.4) above. Title deeds for modern flatted developments may also make provisions for payments by owners into a sinking fund to be drawn down for future maintenance work such as external painting but sinking funds of this nature are virtually non-existent in older flats even where a professional manager is employed. Common or block based building insurance is also relatively uncommon. In the event of storm or other insurable damage significant problems can arise where one or more owners are not fully covered.

97. These existing arrangements also vary in the extent to which they are successful. As a generality, owners seem to be more willing to co-operate to undertake emergency repairs rather than other repairs, improvements or planned maintenance. There are a number of factors which can influence the success of the arrangements:

whether the title deeds provide a clear framework for decision making and whether owners are aware of the extent of their shared liabilities;

how well owners co-operate with each other - high levels of turnover and absentee owners and landlords who are not known to the other owners or properties repossessed by lenders can militate against this;

it is also relatively rare for there to be arrangements to provide support to owners who are in dispute about matters relating to common repairs;

the cost of the works and the owners perception of their impact on the condition and value of the property.

98. There is concern that many people become flat owners, including although not exclusively, former tenants purchasing through the right to buy, without understanding their particular rights and obligations.

99. The existence of title deeds, which provide for professional management and a framework for decision making, although usually helpful, cannot guarantee a successful outcome. Management agents will normally require payment in advance for anything more than very minor works and the unwillingness of one or more owners to co-operate may threaten the viability of the common repair projects since legal action may be necessary to recover costs. Moreover the effectiveness of legal action, if this is required, can be problematic since, at present, the law requires the owner to be pursued personally and the debt cannot be attached to the property itself. In many cases, managers also face difficulties recouping their own fees and other outlays from reluctant owners.

100. In some cases, owners may consider that the professional manager concerned has been imposed on them by the developer or, in the case of right to buy sales, by the former landlord who often provides the factoring service. In these cases, there may be questions about whether the management agent is sufficiently independent or accountable to the owners (a situation which is complicated, in the case of right to buy sales, by the fact that the former landlord may still own a majority of the houses in the block). Owners may also be concerned about the quality and cost of the management services provided.

101. The Housing (Scotland) Act 2001 provides that Communities Scotland will regulate property management services to owners by social landlords in future. There are no other formal industry-wide mechanisms for redress for private sector management agents, although the Royal Institution of Chartered Surveyors (RICS) has published a code of practice for the management of owner occupied and rented property for its members and firms that are members of the Property Managers Association (Scotland) Ltd. are subject to its Code of Practice.

Key Conclusions

- Although the use of property management agents is common in parts of Scotland, with the exception of some blocks of flats built over the last ten to twenty years, it is relatively rare for owners to establish formal and continuing owners associations with responsibility for decisions on communal repairs and maintenance, or to establish sinking funds to meet future expenditure on this work.
- Many people become flat owners without understanding their particular rights and obligations; this may contribute to the fact that many owners do not fulfil their title obligations in respect of common maintenance, management and repair.
- There are no specific arrangements in place for the mediation of disputes between owners.
- The effectiveness of management and maintenance arrangements in flatted blocks is limited by the inability of factors, managers or owners to recover costs from owners and, as a result, a small number of obstructive owners can and do block necessary repair and maintenance work.
- Where owners do seek to recover costs from non participating co-owners the chances of success are reduced because it is not possible to attach the debt to the property but requires them to pursue the owner as an individual.
- Whilst the property management services provided by social landlords will in future be regulated by Communities Scotland there is no system for quality assurance or regulation of private sector property managers in Scotland other than the self regulation systems operated by the professional associations.

Communal repairs and maintenance in flatted properties sold under the right to buy

102. There has been considerable interest in the particular problems associated with undertaking communal repairs and other works in blocks of flats where right to buy sales have taken place. Section 64 of the Housing (Scotland) Act 1987 allows landlords when selling houses under the right to buy to include “such conditions as are reasonable” in the offer of sale including the imposition of duties relating to common rights in the building. It

is, therefore, possible for social landlords to require right to buy purchasers to contribute to common repairs and maintenance (but not improvements) and to property management charges. Nevertheless, many social landlords are concerned that right to buy owners or those who buy from them can block essential repairs and improvements required by tenants by refusing to co-operate with modernisation programmes. Landlords may also complain that former tenants expect them to continue to pay for repairs and maintenance work. Conversely, some right to buy owners complain that their former landlords fail to consult them properly and generally behave in a “high-handed” way.

103. One study¹² found that although some social landlords had been careful to ensure that the title deeds drawn up in connection with right to buy sales contained effective arrangements for the management of common repairs, problems could arise if the deeds did not specify the type of work involved or if a number of deed styles were in use which caused difficulties in charging owners. A more recently published study sets out, in more detail, the problems that social landlords have experienced as a result of the title deeds they or their predecessors had drawn up¹³. These include:

- a requirement to provide owners with detailed individual accounts;
- very low fixed fees that bore no relation to the administrative costs;
- no provision requiring owners to join a factoring scheme;
- the use of obscure legal language;
- omissions in the identification of common parts;
- different apportionments for different parts of estate management.

104. Changing title deeds can be expensive and difficult because of the need to get agreement from the owners in question which in turn reflects the fact such changes can have a major bearing on property rights and values. The Scottish Executive’s consultation paper on legislation on title conditions¹⁴ included new proposed mechanisms for amending what are described as “community burdens” which would allow a social landlord who owns a sufficient number of properties or, alternatively, can gather sufficient support from other owners on the development, to seek to have the burdens amended either by application to the Lands Tribunal by owners of 25% of the properties or variation by means of a deed signed by the owners of a majority of the properties. In both cases, there is an opportunity for other owners to object. The difficulty of making changes retrospectively does, however, underline the case for ensuring that the initial title deeds in any future sales in blocks where no sales have so far taken place, or by organisations now covered by the extended right to buy introduced by the Housing (Scotland) Act 2001, take account of past experience.

105. More generally, the studies mentioned above confirmed many of the conclusions which apply to communal repairs generally. In particular the DTZ PIEDA study pointed out that:-

- most right to buy owners are willing to co-operate with emergency repairs;
- minor repairs of a non-emergency nature can be troublesome because of the need to obtain consent in advance, and if this is not required, ensure that bills are paid;

¹² Repair and maintenance of Properties in Mixed Ownership, DTZ PIEDA, February 1999.

¹³ Good Practice in Housing Management: A review of Progress, Heriot Watt/Glasgow University, 2001.

¹⁴ Title Conditions (Scotland) Bill, Consultation, The Scottish Executive, May 2001.

- owners may be more reluctant to voluntarily co-operate in pre-planned works and the most difficult problem for all authorities was in undertaking ‘improvements’ rather than ‘repairs’

And the Good Practice study made the following points:

- ownership changes may be a problem for landlords since they are frequently not notified (despite a requirement to do so);
- ex-Scottish Homes stock was particularly problematic because of the low factoring charges imposed or because of a failure to implement factoring agreements;
- the diversity of fees and charging methods adopted by landlords created problems for themselves (and presumably for the owners);
- recouping costs was a major problem for most landlords.

106. However, it is also important to bear in mind the owner’s perspective on communal repairs in mixed tenure blocks following right to buy sales. Work undertaken by the Scottish Consumer Council¹⁵ has made the following points:

- local authorities (RSLs were not included in the study) provided poor pre-purchase information for prospective purchasers;
- local authorities failed to communicate with owners prior to decisions on repairs and were not interested in their views;
- home owners can find it difficult to recoup costs from councils when they have instructed work;
- there was considerable dissatisfaction with the work undertaken by councils and concern that there was no adequate source of redress;
- there is, in principle, a conflict of interest where the local authority acts as property manager for owners and itself.

107. One of the central issues that underpins the problems that right to buy owners and public sector landlords have in managing common and shared repair and maintenance issues is a clash of culture and attitudes. Right to buy owners, like all owner occupiers tend to fix what needs fixed when it needs fixed. Planned and preventative maintenance is not seen as essential and the idea of replacing elements because they have reached the end of their theoretical life is alien to them. On the other hand this type of systematised approach to maintenance of rented housing is simply good practice. Resolving this conflict may require a change in attitudes and better information and understanding on both sides.

Key Conclusions

- When selling houses through the right to buy many social landlords have not achieved clear and comprehensive title deeds and, partly as a consequence, many of the problems experienced in ensuring effective property management in flatted blocks containing former right to buy properties are broadly similar to those experienced in flatted blocks entirely in private ownership.

¹⁵ In A Fix: the views and experiences of owner-occupiers in Scotland sharing common repairs responsibilities with the Council, Scottish Consumer Council, July 1999.

- The main distinctive features of the right to buy situation are that owners can in some cases frustrate repair and improvement programmes intended for the benefit of tenants of social landlords.
- That the continuing provision of property management services by former landlords of right to buy properties (which is frequently specified in title deeds) may give rise to a perception of a conflict of interest amongst owners.
- There is a clear difference in the attitudes to repairs and maintenance between institutional landlords and owners of former public sector properties.

Equalities issues

108. Several groups, particularly those who are new to owner occupation such as young people, and disabled people reported a lack of awareness of repairs in general as an issue. The ability to afford common repairs was highlighted as a major problem in both the owner occupied and private rented sectors. In the owner occupied sector this was a particular issue for those on low incomes, which includes significant parts of all of disadvantaged and minority groups.

Key Conclusions

- Members of disadvantaged groups are more likely than others to be on low incomes and may in some cases face additional problems in accessing reliable information and support in respect of common and shared maintenance obligations.

6. *Local authority powers for tackling condition problems in private sector housing*

Introduction

109. Local authorities have traditionally been identified as having the primary responsibility for tackling condition problems in private sector housing in their area. Many of the powers originate from a concern to tackle the problems of insanitary or ‘unfit housing’ housing – terms which were replaced following the Housing (Scotland) Act 1969 by the concept of the “tolerable standard”. Initially the focus was on closure and demolition but, increasingly from the early 1970s onwards, there was a shift to encouragement to owners to improve their homes or for other bodies such as housing associations to acquire poor quality housing and undertake extensive improvements. More recently, there has been an increasing emphasis on encouraging owners to carry out essential repairs. These are changes of policy emphasis notwithstanding the fact that local authorities have a statutory duty to identify and remove housing in their area that fails the tolerable standard.

110. Local authority powers consist of both the carrot and the stick. The carrot is essentially the provision of grants for improvements (including conversions) and repairs although powers to provide advice and assistance to owners also fall into this category; the stick consists of regulatory powers which can be used to require owners, in certain circumstances, to undertake works.

111. Although most of the relevant powers are found in housing legislation, planning, trading standards and civic government legislation is also relevant. The relevant powers are described in a supporting document published with this report¹⁶. The fact that powers are derived from a range of statutes and professional traditions can in practice act as a constraint on the effective co-ordination of action and foster “departmentalism” within local authorities.

A strategic approach to the use of local authority powers

112. For some years, local authorities have been asked to prepare housing plans based on a comprehensive assessment of housing needs in their areas. But, in practice, it is widely recognised that although these frequently contain an assessment of the number of houses falling below the tolerable standard and details of proposals to tackle these, it is less common for local authorities to undertake a detailed examination of repair condition and other problems in both the owner-occupied and privately rented sectors. This reflects the fact that in many authorities, there is a lack of skills and resources to monitor or influence the private sector to any extent and few effective tools or mechanisms to achieve any objectives they may set.

113. The Housing (Scotland) Act 2001 imposes a statutory duty on local authorities to undertake an assessment of housing provision in their areas and prepare local housing strategies based on this assessment in line with the legislation and any specific requirements specified by Scottish Ministers. The 2001 Act therefore provides the statutory framework which can be used to ensure that local authorities adopt a more strategic approach to the private sector. At present, a number of local authorities are preparing pilot local housing

¹⁶ Powers available to local authorities, other bodies and tenants to require owners to undertake improvements and repairs, published on the HITF web site at <http://www.scotland.gov.uk/hitf>.

strategies and the intention is that all local authorities will be required to submit strategies by end March 2003. Local plans are to be drafted in the context of national housing objectives and local housing market statements provided by Communities Scotland.

114. A particular difficulty for strategic planning, at the present time, is that apart from the tolerable standard, there are no benchmarks against which housing quality more generally can be measured or targets for improvement set. This is true at both the national and local level. The value and interest in such a standard has been demonstrated by the responses to the proposed “Index of Housing Quality” issued by the Scottish Executive in December 2000. Local authorities and other interest groups demonstrated strong support for developing an aspirational standard linked to the strategic planning framework and including clearly defined benchmarks and targets for improving housing quality.

Key conclusions

- The strategic planning framework for addressing disrepair and housing quality failures in the private sector needs to be reviewed as part of the implementation of local housing strategies under the 2001 Act to ensure that local authorities are properly informed of problems in their area and that activity is properly planned and targeted.
- An aspirational standard should be developed to provide benchmarks against which action to promote and improve housing quality can be measured.
- This standard should be supported in the strategic planning process in both the national strategic objectives and the local housing market context statements.

Local authority powers for tackling poor quality housing

115. The main powers available to local authorities can be summarised as follows:

115.1 Those designed to remove or improve houses which fall below the “tolerable standard” either on an area basis through the establishment of Housing Action Areas for demolition, improvement or a mixture of both or on an individual property basis through improvement, closure or demolition orders;

115.2 Those intended to tackle problems of disrepair either through serious disrepair notices under housing legislation or repair notices under the Civic Government (Scotland) Act 1982.

116. The powers for tackling below tolerable standard housing are now relatively little used although they are still important. During 1999/2000, local authorities only made 250 improvement orders throughout Scotland, some 2700 houses were in designated Housing Action Areas awaiting action and just over 400 private sector houses in Housing Action Areas had been improved during that year. Similarly, demolitions of private sector housing are now much less common than in the past with almost 600 non-local authority dwellings demolished in 1999 and over 1,000 in 2000 (in this case with 2 authorities contributing substantially to the overall total). At this rate of activity it could take between 10 and 20 years to eradicate all remaining BTS houses.

117. The tolerable standard itself was originally specified in 1969 and the only significant change since its introduction has been the incorporation of certain standard amenities (fixed wash hand basin and bath or shower) through the Housing (Scotland) Act 2001. The tolerable standard is intended to be a condemnatory standard below which houses should not be allowed to continue in use. The concept and the content of the tolerable standard have been the subject of frequent debate in recent years. Whilst the concept of a base-line standard as a trigger for the use of statutory powers remains useful there is a need to re-assess the tolerable standard, in order to address existing patterns of housing quality failure and, therefore, reflect 21st Century thinking on what should be a base line, condemnatory standard which can be used in a consistent way throughout Scotland.

The existing powers were developed when below tolerable standard houses were far more numerous than at present and much more likely to be found in area concentrations. There is, therefore, a need for a review of these powers to ensure that they are flexible enough to allow local authorities to intervene effectively to tackle the remaining problem of below tolerable standard housing.

118. Unlike action to tackle below tolerable standard housing, where local authorities have a duty to identify relevant properties and ensure that they are removed or improved, the power to serve repair notices is essentially discretionary. There are also no powers that can be used on an area basis and questions have been raised about the need for more effective powers in relation to open space and amenity. Notices may be served either under the Housing or Civic Government Acts (the housing legislation is intended for use in cases of serious disrepair) and if the notice is not complied with, the local authority may carry out the works and re-charge the owner. If necessary to secure the debt, it can place a charging order on the property. A charging order is only available, however, where a notice has been served and the work carried out under enforcement powers. In 1999/2000, some 540 repair notices were issued under housing legislation (there is no comparable information on the use of Civic Government (Scotland) Act 1982 powers).

119. The process involved in serving notices can be relatively long; other than in cases where an immediate health and safety risk exists a notice must give at least 21 days notice before it comes into effect. Where an owner appeals against the notice the requirement for that appeal to be heard in the sheriff court can lengthen the process considerably. In addition whilst essential repair works required by a notice can be carried out under default powers, there is no power to enforce improvement work either to BTS properties within Housing Action Areas or those subject to an Improvement order. If the owner is unwilling or unable to carry out improvements the local authority must first acquire the property before it can be improved. One of the constraints on the use of serious disrepair notices (and improvement orders and Housing Action Area powers) is that they automatically trigger an entitlement to grant. This creates a problem at two levels. In the first instance the limited resources now made available for grant funding by most local authorities acts as a disincentive to serve notices. The existence of mandatory grants may also encourage some owners to leave essential repairs in the expectation that the Local Authority will act and both part fund the work and deal with the problem of non participating owners through enforcement action.

120. Although it is a condition of grant at present that the house must be kept in a good state of repair for 5 years, it is difficult in practice to enforce this. As a result there is evidence that some properties that have been previously improved with grant aid are now falling into a condition of disrepair.

Key conclusions

- On the basis of current levels of activity it could take up to 20 years to eradicate all remaining BTS houses in Scotland. This rate of improvement should be regarded as unacceptable.
- There is a need to review both the procedures currently set out in legislation for tackling below tolerable standard housing and the contents of the tolerable standard.
- There is a need to review the enforcement options available to local authorities particularly in respect of works of improvement.
- The current requirement to provide mandatory grants when serving serious disrepair notices or using improvement orders or Housing Action Areas is a significant constraint for local authorities.
- There may be a case for considering the need for repair powers which can be used on an area basis and for reviewing the effectiveness of existing powers in relation to open space and amenity.
- The grant conditions relating to future maintenance are inadequate to ensure that properties that benefit from grant are properly maintained for a reasonable period after the grant has been paid.

Powers in respect of the private rented sector

121. The powers available to local authorities to regulate the privately rented sector come broadly in two forms. General powers that can be used in respect of the private sector as a whole (as described above) and those powers that are specifically designed to regulate privately rented housing.

122. The main powers available directed specifically at private renting are those for the regulation of Houses in Multiple Occupation (HMOs). The recently introduced mandatory licensing scheme for HMOs is based on the powers in the Civic Government (Scotland) Act 1982. In addition there are long-standing powers available in housing legislation which were incorporated into the 1987 Act.

123. The HMO licensing scheme was introduced in October 2000 (although it replaced an earlier discretionary licensing scheme which dates from the early 1990s. From 1 October 2000 to 31 March 2001 some 700 applications were received by local authorities and most are currently being processed. HMO licensing will require local authorities to regulate a significant part of the deregulated sector, i.e. that used for non-family accommodation over the specified size threshold.

124. This scheme requires the local authority to consider issues relating to the suitability of the landlord as a “fit and proper person” to hold a licence, the standards of management provided and the quality of the accommodation offered. Guidance on each of these aspects is provided by the Scottish Executive. Experience with the earlier discretionary schemes suggests that licensing schemes of this nature are, however, relatively complex to administer and enforce.

125. The 1987 Act powers are still available to local authorities as a back up to licensing. In practice, although some of these powers have been used by a number of local authorities (such as registration schemes and section 162 “means of escape from fire” notices), others have almost never been used (such as control orders under sections 178-185).

Key conclusions

- The current powers available to local authorities in relation to the private rented sector are largely general powers designed to tackle disrepair and quality problems in the private sector as a whole.
- The only exception to this is found in the powers relating to HMOs. The 1987 Act HMO powers (which date from much earlier legislation) are to a large degree obsolete. Mandatory licensing is very recent and is only partially implemented. Experience from the earlier discretionary licensing schemes suggest that it will be complex to administer and enforce. It is too early to assess whether licensing of this nature will have a significant impact on supply.

Local authority powers and support for owners

126. The statutory powers described above have been designed by policy makers and used by local authorities primarily to tackle the worst housing conditions found in the private sector rather than to support and complement the civil law framework (described in section 5) which underpins communal repairs and maintenance work in flatted blocks or support tenants in exercising tenancy rights to secure repairs (described in section 6). Given the sharp reduction in the number of below tolerable standard houses in recent decades there is a strong argument that local authorities should increasingly be working with private owners to promote good maintenance practice and, where necessary, to assist individuals to carry out necessary works.

127. Traditionally, local authorities have supported owners by providing improvement and repair grants though, as noted above, this form of support has increasingly come under strain as budgets for grants have been cut. In this situation local authorities have had to review their priorities for the remaining resources since, increasingly, a “first come, first served” approach to applications is unlikely to provide value for money. One possible approach that has been used for example, through the Care and Repair scheme, is to target grant on relatively narrow groups of owners who have limited resources or particular needs and to combine grant with appropriate advice and support. In addition whilst Care and Repair schemes are encouraged at a national level they are not available in every local authority area and the range of services offered and clients eligible varies from scheme to scheme.

128. Some examples of good practice in this area do exist and these may provide a model for what is required more generally in the future. Edinburgh City Council makes use of local legislation to serve repair notices and, where appropriate, undertake works and charge the owners. The scope of this activity is extensive (over 20,000 repair notices issued each year relating to around 2000 buildings); the costs (including the administrative costs) are covered by charges paid by the owners and the system is not dependent on grant aid. Another benefit is that the local authority has its own list of approved contractors which may be of reassurance to owners wishing to undertake repairs. In addition the Council is also in the process of developing the “Stair Partnership” providing an agreed property management service to private owners. The “Stair Partnership” is a new initiative and it is too early to judge the extent to which it will be successful, but it is an example of a rather different type of approach.

Key conclusions

- The absence of a general power to promote good maintenance practice and to assist owners in maintaining their homes may be a weakness in the statutory provisions.
- The statutory powers available to local authorities have largely been used to tackle the worst housing conditions rather than to support and complement the civil law statutory framework which underpins communal repairs and maintenance, although there are some interesting examples of good practice.
- Local authorities will increasingly need to have explicit priorities for improvement and repair grants to ensure that they are directed to where they are likely to be most effective.

7. *House buying and selling*

Introduction

129. The rate of growth of owner occupation over the past 20 years has been dramatic. By 1999 it accounted for 62% of all dwellings. With such a proportion in owner occupation the house buying and selling process is an extremely important market, with around 100,000 property transactions in Scotland each year.

130. Buying a home is a complex process and requires a number of sources of information, advice and assistance to help the buyer, first time or otherwise, to navigate through the process. For some elements in the house buying process the buyer will decide where to source their advice but for other elements the buyer will require some professional advice and assistance. For example:

- the solicitor will complete the conveyancing process on the buyer's instructions;
- a lender or an independent mortgage or financial adviser will assist in arranging a suitable mortgage package; and
- where a mortgage is being arranged the lender will require a valuation inspection to be undertaken by a qualified surveyor.

131. Over and above these essentials, the buyer may also choose to seek further professional advice such as:-

- a detailed survey report on their potential purchase to assess whether there are any defects or potential problems;
- advice from the solicitor to help the buyer steer through the house buying process, for example in engaging other professionals or on the type of property they are looking for or area in which it should be located; and
- where selling a property, advice and assistance may be sought from solicitors and estate agents on selling strategies and the selling price.

132. This interaction defines the key players in the house buying process in Scotland, where in general the process appears to be efficient, predictable and provides good value for money to the majority of buyers and sellers. However, a significant minority of buyers have expressed some concerns with the system and feel that they have experienced problems of one kind or another. This section examines each stage of the house buying process and assesses the potential problems faced by some house buyers.

133. For a number of reasons there has been very little uncontested evidence available on the effectiveness of the house buying and selling process or the problems within it. To address this problem the Task Force agreed to commission, through the Scottish Executive, a major research exercise on the experience of buyers and sellers and in particular their views on arrangements for surveying properties and the information they had at the time of purchase on the condition of their home. Where possible the interim results of this research have been referred to in support of the Task Force's conclusions. The publication of the final results of this study will allow a full opportunity to review the evidence in this area and the conclusions drawn here.

Initial Information and Advice Sources

134. The key players in providing information, advice and assistance in the house buying and selling process are solicitors, estate agents, surveyors and lenders. Many buyers choose their initial point of contact in the house buying process on the basis of past experience or word of mouth recommendation from family or friends. In many cases the buyer will then take advice from their initial source, be it the solicitor, estate agent or lender, on their choice of other professionals. In addition to the advice from professionals there is also a vast range of sources of written guidance on the house buying process, through leaflets produced by professionals, advice agencies or the Government and through other sources such as the Internet. These are freely available to those considering house purchase but the extent to which they are consulted is not always evident.

135. When selecting professionals to advise on a house purchase or sale, as with any other service or product purchase, the price, quality and level of service are important factors in governing the choice of professional. Whilst there clearly is competition in the sense that purchasers and sellers can choose between a wide range of potential service providers, it may be more difficult for buyers and sellers to make assessments, in advance, of the likely value for money offered by competing providers. General information on overall costs of the professional's services is available from a variety of sources including lenders and solicitors but to make a full comparison of likely costs or the basis of fees, buyers will require to gather detailed information at their own hand. However, there do not appear to be any barriers to the collection of this information.

136. For financial products that may be considered during the house buying process, there is now a wide range available and it is possible to compare these in terms of APR and other benefits. Although the variety of mortgages available may be rather confusing for some purchasers, the basic information to assess value for money should be available through independent financial advisors, mortgage advisors and on the Internet. It may be, however that there are more difficulties for the layperson in making comparisons between the variety of conditions, and their implications, that may be attached to different products.

137. For surveys and valuations, in general solicitors are likely to be the principle source of advice on what type of survey to commission and who to commission it from. The majority of surveys are not commissioned directly by buyers but by solicitors, selecting either from their own established working contacts or a "panel" provided by individual lenders, acting on behalf of clients. This has the advantage of ensuring quality control but can appear to be complicitous to the house buyer. It also has the more general effect of removing the provider-client relationship from the surveyor and house buyer though there is no reason why a more direct relationship should not exist and indeed the Royal Institution of Chartered Surveyors (RICS) encourages this.

138. There is the suggestion that the constraints of professional indemnity insurance and a perceived risk of litigation are encouraging professionals to avoid expressing 'opinions' or 'advice'. Instead many are limiting comments to their own professional specialisms and providing 'information' in other areas, leaving the client to interpret the information and make decisions.

Key Conclusions

- There is competition in the process for both buyers and sellers but it is not clear how well they use or benefit from this framework. The costs of the process are reasonably predictable but rely on the house purchasers and sellers obtaining the information from a variety of sources and making the comparison themselves to assess value for money in so far as this is possible.
- The principle source of professional advice, is often in the Scottish context a solicitor or in some areas the Estate Agent, who normally acts on behalf of buyers in the selection of surveyors. In the majority of cases, there is therefore no direct client relationship between the buyer and surveyor.

Locating a Suitable Property

139. Most house buyers use a number of fairly established sources to identify a suitable property such as newspapers, solicitors' property centres, estate agents, the Internet and magazine supplements. But there is more to finding a suitable property than simply identifying a property that is in the right location and meets the needs in terms of size and layout of the house buyer. The purchase of a house is an investment in an asset, which in the majority of cases will appreciate. As when buying a car or any other tangible asset, buyers need to consider the condition of the property, the cost of medium to long term upkeep and running costs carefully before taking a decision on whether to purchase. However, it is clear that different buyers take different views as to the relative investment in terms of time and money required in considering these issues, before making an offer and completing the sale.

Caveat Emptor

140. One potential source of information on the condition and running costs of a property could be the seller. However, contracts for the sale of property in Scotland are carried out on the basis of the principle of "caveat emptor" - literally "let the buyer beware" - and there is no obligation on a house seller to disclose any known defects in respect of the property they are selling. However, where the seller has offered comment on the condition of the property they could be bound by the general law of contract, although this can be difficult to prove through the courts. The only warranty that a seller is bound to give is that they have a good title that can be passed to the buyer. That said the effect of caveat emptor has been moderated to some degree by modern conveyancing practice. For example, it is not uncommon for missives to include warranties at some level in respect of plumbing/heating or gas appliances. Though the extent to which these provide an effective "guarantee" as to the condition and serviceability of such appliances is uncertain.

141. The impact of caveat emptor is broadly two fold:

141.1 Although there is no direct evidence, some sellers may deliberately attempt to hide defects that they know to exist in order to ensure that the property is sold and that the problems do not detract from the sale price.

141.2 The second impact is in preventing the disclosure of more routine information about condition and running costs that may not reflect any attempt to conceal defects but rather that is based on a natural tendency to caution on the part of sellers and their advisors.

Key Conclusions

- The absence of any obligation to disclose defects may lead some sellers to attempt to conceal repair problems from potential buyers and generally reduces the willingness of sellers to provide some practical information on the running costs and repair history and maintenance of their property.

Valuation reports and surveys

142. Given the principle of caveat emptor, it is normal practice for buyers to satisfy themselves on the condition and relative value of the property prior to making an offer, through the advice of a surveyor. Three types of report are available from the surveyor and a summary of these are set out in the annex to this report. The research commissioned for the Task Force demonstrates that 51% of buyers commission the basic mortgage valuation report and only 14% the more detailed homebuyer's survey. Most interestingly, 21% of buyers did not know which type of survey they had purchased.

143. A range of factors will play a part in the decision on what type of survey to commission, including advice from solicitors or estate agents. The interim results of the Task Force research indicate that around 52% of buyers received advice from their solicitor on the type of survey to commission. It also noted that 34% of those opting for the scheme one valuation report did so either because it was the minimum required for mortgage purposes (18%) or because it was the cheapest option available (16%).

144. These figures suggest that a large number of house buyers do not obtain sufficient information on the actual condition of the property before making an offer. Whilst 64% of respondents to the research felt they had received all the information they needed about the property before purchase and 74% noted that the condition of the property was as good as or better than they expected when they moved in, 27% had discovered unexpected repairs and improvements in the first year after purchase. Of this group, those who had carried out the repairs or improvements had spent, on average £3,700 and those who had yet to undertake repairs, expected to spend, on average £2,500.

145. In addition to seeking information on condition before purchase there may also be an issue where buyers are faced with short closing dates. Although there is little empirical evidence there is growing anecdotal evidence that an increasing number of buyers may not see the report of the survey before an offer is made but will rely on a verbal report from the surveyor passed through their solicitor as a basis for taking a decision to make an offer.

Key Conclusions

- The majority of buyers opt for a mortgage valuation report from the surveyor even though this provides little information on the condition of the property. As a result prospective buyers are making purchases with very little information on the condition of the property.
- The practice of setting "closing dates" at short notice can sometimes lead prospective buyers to make decisions and offers before they have had an opportunity to fully consider the results of an inspection or survey report and results in little opportunity for the buyer to go back with supplementary questions.
- A significant number of buyers face large unexpected repair or improvement bills in the first year after purchase.

Running and Maintenance Costs

146. Sellers do not offer prospective buyers detailed information on running costs, with the exception of the council tax banding, when advertising a property. However, some buyers may ask specific questions when viewing the property. In terms of professional advice:

146.1 The solicitor may advise on the affordability of a particular transaction as a whole but it is unlikely that they will advise directly on the future running costs.

146.2 Lender's leaflets may include guidance on the general long term running costs of home ownership to consider as part of the house purchase, however they do not offer one to one advice with regard to a specific purchase. Where a buyer requires a mortgage, most lenders will make it a condition of their loan offer that the property must be kept in good repair throughout the life of the mortgage but they do not actively enforce this condition. In addition, although once a common practice, it is now fairly rare for lenders to use the option of retaining part of the borrowing until specified works of repair or improvement are carried out

146.3 Surveyors will advise on the present condition and valuation of the property and, where a homebuyer's survey has been commissioned, they will offer an indication of the cost of repair but they do not provide an assessment of the running costs. That said, the Task Force research has indicated that around 50% of buyers found the survey helpful in allowing them to calculate the maintenance costs of the property.

Key Conclusions

- The current system does not encourage the provision of good quality information to buyers on the running and maintenance costs of the property.
- As a result of administrative costs and a lack of commercial benefits lenders very seldom use their influence to encourage owners to undertake regular maintenance of their property.

Other Information

147. Some organisations have argued that there is also a need for better information for potential buyers on other issues including:

147.1 Energy efficiency: This information is rarely available to buyers at present. Although research indicates that such information could offer benefits including better energy use, national improvements in meeting emissions targets and progress in eradicating fuel poverty, there is no evidence of any general demand for such information on the part of buyers.

147.2 Disability access: House purchasers wishing to acquire a house already suitable for their needs or one that could be adapted have to instruct the necessary survey work property by property prior to considering making an offer. This issue is discussed further at (172) below.

Key Conclusions

- Information on energy efficiency is rarely available to house buyers at present.

Securing the Property

148. Once the buyer has identified a suitable property they will then seek to make the seller an offer for the property. There are three key selling processes in Scotland – at a fixed price, through an open auction or offers over a certain guide that is known as the upset price. Offers in the latter process are generally made as blind bids before a closing date and as such the valuation plays an important role in advising the buyer what bid to make for the property. From the Task Force research, around 39% of buyers bought a fixed price property and 61% an ‘offers over’ property.

149. Two particular aspects of the offer over process have a role in determining costs and creating uncertainty for buyers and sellers.

149.1 The upset price can be misleading where sellers are trying to encourage interest in the property: It has been suggested that as part of the blind bidding process, some sellers (on the advice of professionals or at their own behest) set the upset price at an artificially low level in order to stimulate interest in the property. Where a low upset price has been set, some buyers can be led to believe that they can afford the property and this results in the prospective buyer spending money on an ‘unnecessary’ survey or valuation report for a property out with their price range.

149.2 The blind bidding process may (in competitive markets) add to inflationary pressures: Competitive bidding can encourage prospective buyers, in seeking to second guess other purchasers, to pay a much larger premium than would normally be expected to secure the property. This in turn can drive property prices up further as recent sales prices in an area are used as a basis for expectations in relation to upset prices, valuations and bids by prospective buyers and sellers.

150. The impact of these problems is, however, likely to be concentrated in sectors of the housing market where competition is hottest.

Key Conclusions

- Blind bidding, whilst providing a clear outcome for both buyers and sellers may have impacts on other aspects of the process including multiple surveys and house price inflation at a localised level.
- Low upset prices and high levels of competition are likely to be factors in stimulating multiple surveys.

Completing the Sale

151. Once successful in an offer the time-scales involved to completion will vary according to an equally wide range of factors. Earlier research¹⁷ suggests that it takes around 8 to 9 weeks from offer to entry date. Part of this time will be taken up by the conclusion of missives but also where the buyer is concluding a sale as well as buying, a reported reduction in the use of “bridging” loans suggest that combined buyers and sellers are more careful to tie entry dates together.

152. On the whole, the relative speed of the house buying process has significant advantages for both house buyers and sellers in Scotland particularly since it has been linked (through the convention of the offer and acceptance process) to certainty in the outcome. As a result, Scotland has not experienced the same problems with ‘gazumping’ and ‘gazundering’ as in England and Wales or extensive delays resulting from the breakdown of “chains” of sales.

153. Nevertheless, the speed of the process can itself have disadvantages. In particular, when the closing date for offers has been set in a buoyant market with a high degree of competition between buyers, prospective buyers often have relatively little time to organise, and properly assess the results of, valuations and surveys. In addition, there is a suggestion that the process of concluding missives is becoming longer and being completed closer to the date of sale. This may be an indication that missives are becoming more complex and reaching agreement more protracted possibly as a result of the introduction of warranty requirements on issues like central heating systems. It may also be due to the late production of planning/building certificates or to delays by lenders in processing the loan offer.

154. In relation to planning and building certificates a range of practical problems have been identified in relation to the provision of “letters of comfort” by local authorities in respect of work that has been carried out but for which either no building warrant was applied for or no completion certificate issued. Proposals to address these by introducing a “building standards assessment” set out in the recently published consultation document reviewing the current building standards system¹⁸ could provide much needed clarity and consistency in this area though it will be important to ensure that such a proposal doesn’t slow down the process of buying and selling unnecessarily.

Key conclusions

- The relative speed of the Scottish system has significant advantages and avoids lengthy periods of uncertainty for both buyers and sellers.
- The increasing insistence on the part of buyer’s solicitors on a wider range of warranties, the trend to more complicated missives and delays in the production of planning/building certificates or the loan offer is tending to delay the process, and in some instances give rise to unforeseen costs.

¹⁷ Key Research on Easier Home Buying and Selling, DETR, December 1998 and Home Truths, A report on research into the experience of recent house buyers in Scotland, Scottish Consumer Council, August 2000.

¹⁸ Improving Building Standards, Scottish Executive, July 2001

The Cost of House Buying

155. In practice, the actual cost faced by any one house buyer will vary widely depending on factors such as where and how they purchased the property, the value of the property, since some costs, such as stamp duty and registration fees, are determined by the value and the number of properties for which a survey or valuation was commissioned. It is not clear how easy it is for purchasers and sellers to estimate the total costs associated with house purchase. However, there is no evidence that the perception of costs or the risk of abortive costs is a significant deterrent to potential house purchasers. The sector continues to grow and households across a very wide range of incomes continue to seek to buy for the first time.

156. In the Scottish system, the seller's agent (solicitor or estate agent) and the adviser to the purchaser (normally a solicitor) advises on the costs. In addition many high street lenders also provide a guide to the standard cost as part of their mortgage literature. The cost of any surveys/valuations should be relatively easy to estimate, as should any charges resulting from advertising. There is, however some evidence of inconsistent practices on the part of solicitors in the provision of fee estimates. 26% of respondents in the SCC survey of buyers said they had not been given an estimate and in a further 26% of cases this was only provided after it had been asked for. The interim results of the Task Force's research notes a recent Guardian article that indicated that the average costs which may apply when buying a £100,000 home would be £2,150. However, £1,000 of this was stamp duty, which does not apply to property sales under £60,000. Evidence provided by the Council of Mortgage Lenders suggests that these compare very favourable with other countries. However such comparisons are not straight forward because in some countries expenses which in this country would be born by the buyer are paid by the seller and vice versa.

Incidence of Multiple Surveys and Valuations

157. The key area of contention for house buyers is the cost of surveys and valuations and the perceived risk and cost of multiple surveys and valuations. This can perhaps be demonstrated through the minority of buyers commissioning a homebuyer's report to inform them of the property condition and the fact that 16% of buyers commissioned a mortgage valuation because it presented the cheapest option. Whether this was as a result of a perceived risk of multiple survey costs or some other reason is not clear. In terms of the actual risk of multiple surveys and valuations, this can be demonstrated through the 2 types of multiple surveys/valuations:

157.1 "Successive" surveys/valuations: That is more than one survey commissioned by a buyer on a number of houses. These may arise for a number of reasons:-

- On the basis of the survey/valuation report, the prospective buyer chooses not to pursue the property due to its condition, the repairs required, the valuation or a variety of other reasons related to the property;
- The prospective buyer chooses not to pursue the property for another reason. For example, where a preferable property comes on the market;
- The prospective buyer was not successful in their offer(s) for the property surveyed/valued.

157.2 “Recurrent” surveys/valuations: where more than one survey is carried out on a specific property. This is where the seller’s property is surveyed/valued by a number of buyers who may then experience “successive surveys”.

158. In the light of the debate as to the reliability of previously published data on multiple surveys and valuations, the Task Force commissioned its own research. Based on a large, structured sample, the statistical reliability of this study will be significantly better than other published material currently available. That said, the interim results of the Task Force study are presented together with the results of other published reports concerning the extent and impact of multiple surveys and valuations, for comparative purposes. These are summarised in Tables 4 and 5 below:-

Table 4: Successive surveys

Study	1 survey only	2 surveys	3+ surveys	Total where more than 1 survey commissioned
HITF Interim Research report (2002)	67%	19%	13%	32%
Scottish Consumer Council (2000)	54%	28%	18%	46%
Law Society of Scotland (2001)	85.3%	14.7% (two or more)		14.7%
Morton Fraser (2001)	58%	23%	18%	41%

Table 5: Recurrent surveys

Study	Properties surveyed once	Properties surveyed twice	Properties surveyed more than twice	Total properties surveyed more than once
Scottish Consumer Council (2000)¹⁹	60%	24%	16%	40%
Law Society of Scotland (2001)	80%	20%		20%
Morton Fraser (2001)	60%	20%	20%	40%

159. It is likely that the incidence of multiple surveys and valuations of both types will vary according to the condition of the local housing markets and the time of the year. Although the evidence above shows some significant variations in the reported level of multiple surveys and valuations it is clear that they are a feature of the Scottish housing market – the Task Force research suggests that almost a third of house purchasers commission more than one survey or valuation report.

¹⁹ This figure excludes Right to Buy properties but may include some properties that have been sold out with Scotland.

160. The Scottish Consumer Council study also suggests that the incidence of successive surveys may have risen from a figure of over 40% of buyers paying for more than one survey in 1988 to 46% in their 2001 report. It is also worth noting, however that, in the Scottish Consumer Council 2000 study, although 46% of buyers commissioned more than one survey, only 25% offered for more than one property confirming that, in some cases, buyers used the information in the survey to decide not to bid. In these cases it could not be said that the cost of the survey was “wasted”.

161. It is clear from the research on multiple surveys that their incidence varies between areas and can be very localised. This may support the view that multiple surveys are only a problem that occurs mainly, if not exclusively in so-called “hot” markets like Edinburgh, some parts of Glasgow and Aberdeen.

162. In these areas competition for individual properties may be the greatest leading to a higher risk of more than one perspective buyer commissioning a survey. However, the SCC study looked at the variation in 5 “registration counties” and found relatively little difference in the incidences of multiple surveys with the highest figures being found in Dumfries and Galloway not normally considered to be a “hot spot”. However, these variations are not always easy to interpret due to their localised nature.

Costs of Multiple Surveys and Valuations

163. When looking at the incidence of multiple surveys and valuations it is always important to consider the cost implications of commissioning more than one report. As noted above, some surveys will help buyers to make the decision not to bid and it could be suggested that an increased reliance on the homebuyers report by buyers might result in less buyers, than the 27% quoted earlier, facing unexpected repairs or improvements after purchase.

164. The sums of money involved are difficult to estimate as survey costs do vary in relation to the value of the property purchased. However, working on the basis of the interim results of the Task Force’s research in respect of the type of survey commissioned it has been estimated that a total of £27.4m²⁰ is spent each year on surveys and valuations commissioned by or on behalf of buyers. This represents only 0.4% of the total house purchase market, which is estimated to be of the order of £6.9bn per annum. Again taking the Task Force’s research of the total £27.4m spent on surveys each year around £8.5m may have been spent on surveys that did not lead to a house purchase. However as noted above, this may be for very good reasons, – this represents around 0.1% of the total value of the property market.

Key Conclusions

- There is no evidence that the transaction cost of buying a house is a significant obstacle to entering owner occupation. By international standards transaction costs in Scotland appear to be relatively low.
- There is some evidence of inconsistent practice in respect of advising on costs on the part of some professionals acting for buyers and sellers.
- A concern over the costs of surveys and valuations may be a factor for some buyers; this may play a part in discouraging them from commissioning scheme two homebuyer’s surveys which provide a greater level of information on the condition of the house.

²⁰ Based on 100,000 transactions per year at an average property valuation of £69,000

- Overall, it appears that multiple surveys and valuations are a feature of the Scottish house buying process. However, the additional costs incurred by house buyers on surveys, over and above that of a survey for the house they purchase, are a small proportion of the total value of the property market.
- Just under 31% of the current estimated expenditure on surveys and valuations may be on multiple surveys that do not lead to a house purchase for a variety of reasons.
- There are conflicting views on the extent to which multiple surveys are restricted to a few, relatively buoyant housing markets but the most comprehensive survey of buyers currently available does not suggest that this is the case.
- It appears that for some buyers the risk of additional costs arising from multiple surveys may be a factor in their use of mortgage valuation reports rather than the homebuyer's survey.

After Sales

165. Satisfaction with the overall process of buying and selling is the product of a series of transactions where the performance of the individual service providers will have an impact.

165.1 Solicitors: From the SCC research, only 9% of clients felt that they were not kept informed by their solicitor although less than half said they were provided with a fee estimate without having to ask. Amongst flat buyers 43% said their solicitor did not explain their rights and responsibilities as a flat owner and 37% claimed that common repairing obligations were not explained to them. Overall 80% were satisfied with the quality of service they received but there is a suggestion in the SCC report that this has declined from a rate of 91% (of all solicitors clients) reported in a 1995 study²¹.

165.2 Lenders: Many lenders have a large amount of mortgage business referred to them through intermediaries. However, there is no evidence to suggest that buyers and sellers do not get value for money from this arrangement but may be unaware of these links. That said, in terms of the Mortgage Code, to which 98% of the UK lending market subscribe, these lenders are only allowed to accept mortgage business from an intermediary who subscribes to the Code. Where the intermediary receives a procuration fee for introducing the business, then the lender is obliged to disclose that to the applicant so that any relationship is clear.

165.3 Surveyor: The Task Force's research indicates that 50% of buyers said that they found the survey/valuation report helpful or very helpful with only 22% noting that it was unhelpful. For those who rated the survey/valuation report unhelpful a large number of the reasons appear to suggest this was due to the mortgage valuation report providing little new or detailed information.

166. For those who are sufficiently aggrieved about the service they have received to take action for redress there are essentially two routes available - civil legal action through the courts or the use of internal complaints procedures run by the relevant professional bodies.

²¹ Client Care: A report of a survey on the client care provided by solicitors in Scotland; Scottish Consumer Council, 1995.

166.1 Solicitors: The Law Society's Client Relations Committees consider complaints against solicitors and if the complainer is still not satisfied he or she can ask for the matter to be referred to the Scottish Legal Services Ombudsman. However, the Law Society complaints process is not independent and the Ombudsman will only examine how the Law Society examined the complaint and will not look at the complaint again nor overturn the decision. The Justice 1 Committee of the Scottish Parliament is currently reviewing this process. The results of this review will be of interest to the Task Force in carrying out the second stage of its work.

166.2 Estate Agents: The National Association of Estate Agents also has a complaint procedure and an industry appointed ombudsman.

166.3 Financial Sector: For the financial sector as a whole, a Financial Ombudsman Service now provides existing ombudsman and arbitration arrangements.

166.4 Surveyors: The RICS introduced a Compulsory Arbitration Scheme in 1998. This is an independent scheme administered by the Chartered Institute of Arbitrators and deals with complaints made by consumers relating to the negligence of surveyors. The Scheme offers an alternative to potentially more expensive court proceedings but has not been widely used to date.

167. From the perspective of house buyers and sellers who wish to pursue complaints, the existing arrangements have been criticised as being either too expensive or lacking independence. There is, however, no research based evidence available to substantiate this and it may be that consumers are simply not aware of these avenues of redress.

Key Conclusions

- There is not a significant use of the avenues of redress open to consumers, where they face difficulties due to poor advice from professionals. This is likely to be due to a variety of reasons, but these are not clear from the existing research.

Equalities issues

168. The house buying process was perceived among almost all groups, with the exception of older people, as being a source of problems and difficulties. People from ethnic minority communities reported evidence of a lack of cultural sensitivity and differential treatment by some service providers involved. There is also a suggestion that some professionals; particularly Estate Agents may actively discriminate against minority ethnic clients. Language barriers can compound this. The process itself is often poorly understood with young people, ethnic minorities and people with learning difficulties being highlighted as disadvantaged by the complexity of current arrangements.

169. Obtaining loan finance is identified as a major constraint to most of the groups canvassed, other than older people, for whom it is less of an issue. The response to this by some ethnic minority groups has been to develop some innovative approaches to obtaining housing finance. There is also reportedly a lack of awareness and understanding in the financial sector of the state benefit system as it applies to and works for disabled people, resulting in institutional prejudice against the main source of income for 66% of disabled

people. There is also a belief that disabled people may be perceived as being “unsuitable” to be homeowners. For LGBT groups, joint mortgages remain difficult to obtain for same sex couples, though this is reportedly easier than in the past. Men living together are likely to be asked additional questions by lenders about their sexual health.

170. In general new build houses will not meet the space requirements of wheel chair users; as a result they must rely on the second hand market when looking to buy a home. Problems arise in identifying and viewing suitable properties; traditional sources of information pay little attention to accessibility and design issues. Personal contact is usually required with the seller to determine exactly how accessible a property is. Specialist services such as the Register of Adapted Homes Project (RAMP) being developed by the Disabled Person’s Housing Service and activities of other organisations like Ownership Options will assist disabled people to access and interpret information about properties or about financial and legal processes but these services are not universally available.

Key Conclusions

- Some members of minority groups, particularly those from ethnic minorities feel that they are at risk of discrimination in dealing with professionals in the house buying and selling process.
- The range of finance products available and the attitudes and awareness of those administering them may make it more difficult for members of some equalities groups to get access to finance
- Households with disabled members find it particularly difficult to find properties that are adapted for are suitable for adaptation to meet their needs.

8. *Summary of Key Conclusions*

The extent of disrepair and obsolescence in private sector

Owner occupation

Key conclusions

1. A significant minority of owner occupied houses in Scotland suffer from some level of critical disrepair resulting from the neglect (for whatever reason) of basic maintenance and repair activity.
2. A significant number of owners still live in homes that fail the tolerable standard or do not meet what would be regarded as a modern standard.
3. A significant number of homes (perhaps 5% of the stock) may well be in disrepair over the long term.

Condition of properties sold under the right to buy

Key conclusions

4. Within the owner occupied sector, dwellings bought through the right to buy are, on average, in better condition than owner occupied dwellings in general.
5. The higher repair costs in flatted properties sold under the right to buy combined with the lower average income and savings of right to buy owners may indicate greater problems in affording repairs than for owners in general.
6. The capacity and willingness of right to buy owners to carry out repair works has implications for investment programmes for some social landlords.

The private rented sector

Key conclusions

7. Compared to other housing tenures, a high percentage of the private rented sector is in poor repair condition and has other quality defects although, at least for repair defects, this seems to be largely a result of the age structure of the private rented stock.
8. Problems of low energy efficiency are worse in private renting than in any other sector. As a result, the risk of fuel poverty for tenants' households is greater.
9. The worst conditions in the sector are found in older pre-1919 properties and are also thought to be evident in some houses in multiple occupation.

Conditions in properties with common or shared obligations

Key conclusions

10. Levels of disrepair and the presence of housing quality failures are higher in flatted properties where there are shared and common obligations. However in older properties the impact of age masks this effect relative to other house types.
11. The extent of modernisation, like the removal of lead water supplies, is significantly lower where work involves shared or common elements.

Rural housing

Key Conclusions

12. The concentration of older properties and the nature of rural housing markets and rural communities makes them more likely to have poorer condition housing.
13. There is evidence that levels of energy efficiency are lower in rural areas creating an increased risk of fuel poverty.

Equalities issues

Key conclusions

14. Many houses occupied by those with some level of physical disability do not meet the needs of their occupants.
15. A significant number of low income or disadvantaged households live in owner occupation and are likely to face particular problems in ensuring that their homes are maintained to a satisfactory standard.

Trends in housing condition

Key conclusions

16. The pattern of disrepair and housing quality failure has changed significantly over the past 40 years.
17. The concentrations of slums that were the focus of much public policy activity in the past are no longer evident. However, eradicating below tolerable standard housing remains an important public policy goal.
18. A significant number of homes still do not meet what may be regarded as a basic modern standard. Particular problems exist in respect of energy efficiency, lead in water supplies, smoke detectors and dampness.
19. The impact of modern construction techniques and materials on the pattern of disrepair or housing quality failures in the future is unclear and should be the subject of further study.
20. The sale, under the right to buy, of houses built using “non-traditional” construction techniques has created a pool of properties in owner occupation the long term durability of which is largely unknown
21. The average age of the stock is increasing which may lead to a rise in the number of properties at risk of falling into disrepair.
22. There is evidence that some low value markets, particularly associated with former right to buy properties are at risk of becoming low demand areas. Such areas are at risk of a rapid decline in condition and quality.

Investment patterns in private sector housing

Household attitudes to disrepair and incentives and disincentives to investment

Key conclusions

23. The current levels and pattern of expenditure by owners on repair and maintenance may be inadequate to either address the current backlog of repairs or ensure that the overall condition of the stock does not deteriorate.

24. The willingness of owners to spend money on repair, maintenance and improvements varies according to the position of the household in the life cycle. They are most likely to be willing to invest at or immediately after purchase.
25. Many owners have relatively little information on the condition of their properties and essentially take a reactive approach to repairs and maintenance. They may postpone action on longer term repair needs or decide to sell rather than address the problem.
26. Some owners may be unaware of the extent of their responsibility for repairs or maintenance work.
27. Owners undertaking regular maintenance or minor repair work are unlikely to find that the value of their property increases in line with the expenditure. This is likely to be particularly true in low value or low demand areas.
28. There are few if any tax or benefit related incentives to save or invest in regular repair, maintenance or improvements.
29. Some owners, particularly the elderly and vulnerable households, may be deterred from undertaking work because of the perceived difficulty of selecting a reliable contractor.
30. Approximately 94,000 owner-occupiers of properties showing critical disrepair in 1996 (33% of the total) had relatively low incomes, of these 70,000 (25% of the total) had significant levels of “free equity” on their houses.

Sources and objectives of investment

Key conclusions

31. The availability of private finance is generally well developed and provides a wide range of products in a competitive market for those with sufficient free equity or income to access them.
32. There are few equity release products designed or aimed at those on limited incomes or in lower value properties, owners in such situations may find it difficult to release what free equity they have should they wish to do so.
33. Many owners are reluctant to borrow to finance repair and maintenance costs.
34. The availability and access to specialist equity release and small scale secured loans is difficult for many owners.
35. Given the resources currently available the grant regime is unlikely to have a significant impact on overall investment or on critical investment decisions by many owners facing repair problems.
36. Care and Repair and small grant schemes provide an important example of assistance targeted at vulnerable groups but their availability is not universal and the range of services and clients covered varies from area to area.

Equalities issues

Key conclusions

37. Fear of harassment and a desire to be close to community networks may result in some members of disadvantaged groups accepting poorer housing conditions in favour of a safe and familiar neighbourhood.
38. Disadvantaged groups may find it more difficult than others to access good quality and reliable information on their rights and options.
39. Poor housing conditions can have a disproportionate effect on some vulnerable groups such as older people, the disabled and those with HIV/Aids.
40. Vulnerable households in rural areas, particularly older people may be at greater risk of fuel poverty arising from dampness and poor energy efficiency.

41. Vulnerable households may find it more difficult to deal with the building industry and may feel themselves to be vulnerable to exploitation by “cowboy” builders.
42. Vulnerable households including those with learning disabilities may face particular problems with small repairs.
43. Households with disabled members may face problems in securing the resources needed to carry out essential adaptations to their homes.

Attitudes, incentives and disincentives to investment by private landlords

Key conclusions

44. Market pressures operate most effectively in the good quality stock found in the deregulated sector where competition ensures that landlords keep properties in good repair.
45. Elsewhere in the deregulated and other parts of the privately rented sector, the market does not in itself provide a strong enough incentive to ensure that property is kept in good condition.
46. Overall there appears to be little relationship between the repair condition of a dwelling and the rent that is charged for it.
47. Apart from the ability to offset expenditure on repairs against tax and a number of schemes which have operated on a limited basis in the past to encourage investment in expanding the sector, there are no “non-market” incentives which are specific to the private rented sector.
48. The remaining rent controls in the regulated sector may be acting as a significant disincentive to investment by landlords to improve conditions in the sector.

Tenancy regime impacts

Key conclusions

49. The predominance of short assured tenancies together with the possibility of unlawful eviction may make it difficult for many tenants in the deregulated sector to press landlords to undertake repairs and improvements.
50. The tenancy regime as set out in the housing legislation provides relatively little specification of acceptable quality standards in the private rented sector.
51. The current common law provision allows for poorer standards in houses rented to lower income households or in lower value areas.
52. The existing legal remedies that are available to tenants to require landlords to undertake repairs and improvements have a number of significant limitations in practice. These include the cost and time needed to raise a legal action.
53. Tenants in tied accommodation may face additional problems in raising concerns about conditions in their homes because of the position of their landlord as their employer.

Equalities Issues

Key conclusions

54. Vulnerable households and members of minority communities may face particular problems accessing reliable information on their rights.
55. Members of vulnerable households are particularly susceptible to the health impacts of poor housing conditions.

56. Tenants from vulnerable groups, particularly women have reported bad experiences with landlords and feel there is little support for them in responding to such problems. Some vulnerable households may feel that they are at risk of not being treated fairly or confidentially by their landlords.
57. Households with disabled members in the private rented sector may face problems in persuading landlords to allow or carry out necessary adaptations to meet their needs.

Arrangements for the management of communal repairs and maintenance work

How communal repairs and maintenance is organised in practice

Key Conclusions

58. Although the use of property management agents is common in parts of Scotland, with the exception of some blocks of flats built over the last ten to twenty years, it is relatively rare for owners to establish formal and continuing owners associations with responsibility for decisions on communal repairs and maintenance, or to establish sinking funds to meet future expenditure on this work.
59. Many people become flat owners without understanding their particular rights and obligations; this may contribute to the fact that many owners do not fulfil their title obligations in respect of common maintenance, management and repair.
60. There are no specific arrangements in place for the mediation of disputes between owners.
61. The effectiveness of management and maintenance arrangements in flatted blocks is limited by the inability of factors, managers or owners to recover costs from owners and, as a result, a small number of obstructive owners can and do block necessary repair and maintenance work.
62. Where owners do seek to recover costs from non participating co-owners the chances of success are reduced because it is not possible to attach the debt to the property but requires them to pursue the owner as an individual.
63. Whilst the property management services provided by social landlords will in future be regulated by Communities Scotland there is no system for quality assurance or regulation of private sector property managers in Scotland other than the self regulation systems operated by the professional associations.

Communal repairs and maintenance in flatted properties sold under the right to buy

Key Conclusions

64. When selling houses through the right to buy many social landlords have not achieved clear and comprehensive title deeds and, partly as a consequence, many of the problems experienced in ensuring effective property management in flatted blocks containing former right to buy properties are broadly similar to those experienced in flatted blocks entirely in private ownership.
65. The main distinctive features of the right to buy situation are that owners can in some cases frustrate repair and improvement programmes intended for the benefit of tenants of social landlords.
66. That the continuing provision of property management services by former landlords of right to buy properties (which is frequently specified in title deeds) may give rise to a perception of a conflict of interest amongst owners.

67. There is a clear difference in the attitudes to repairs and maintenance between institutional landlords and owners of former public sector properties.

Equalities issues

Key Conclusions

68. Members of disadvantaged groups are more likely than others to be on low incomes and may in some cases face additional problems in accessing reliable information and support in respect of common and shared maintenance obligations.

Local authority powers for tackling condition problems in private sector housing

A strategic approach to the use of local authority powers

Key conclusions

69. The strategic planning framework for addressing disrepair and housing quality failures in the private sector needs to be reviewed as part of the implementation of local housing strategies under the 2001 Act to ensure that local authorities are properly informed of problems in their area and that activity is properly planned and targeted.

70. An aspirational standard should be developed to provide benchmarks against which action to promote and improve housing quality can be measured.

71. This standard should be supported in the strategic planning process in both the national strategic objectives and the local housing market context statements.

Local authority powers for tackling poor quality housing

Key conclusions

72. On the basis of current levels of activity it could take up to 20 years to eradicate all remaining BTS houses in Scotland. This rate of improvement should be regarded as unacceptable.

73. There is a need to review both the procedures currently set out in legislation for tackling below tolerable standard housing and the contents of the tolerable standard.

74. There is a need to review the enforcement options available to local authorities particularly in respect of works of improvement.

75. The current requirement to provide mandatory grants when serving serious disrepair notices or using improvement orders or Housing Action Areas is a significant constraint for local authorities.

76. There may be a case for considering the need for repair powers which can be used on an area basis and for reviewing the effectiveness of existing powers in relation to open space and amenity.

77. The grant conditions relating to future maintenance are inadequate to ensure that properties that benefit from grant are properly maintained for a reasonable period after the grant has been paid.

Powers in respect of the private rented sector

Key conclusions

78. The current powers available to local authorities in relation to the private rented sector are largely general powers designed to tackle disrepair and quality problems in the private sector as a whole.
79. The only exception to this is found in the powers relating to HMOs. The 1987 Act HMO powers (which date from much earlier legislation) are to a large degree obsolete. Mandatory licensing is very recent and is only partially implemented. Experience from the earlier discretionary licensing schemes suggest that it will be complex to administer and enforce. It is too early to assess whether licensing of this nature will have a significant impact on supply.

Local authority powers and support for owners

Key conclusions

80. The absence of a general power to promote good maintenance practice and to assist owners in maintaining their homes may be a weakness in the statutory provisions.
81. The statutory powers available to local authorities have largely been used to tackle the worst housing conditions rather than to support and complement the civil law statutory framework which underpins communal repairs and maintenance, although there are some interesting examples of good practice.
82. Local authorities will increasingly need to have explicit priorities for improvement and repair grants to ensure that they are directed to where they are likely to be most effective.

House buying and selling

Initial Information and Advice Sources

Key Conclusions

83. There is competition in the process for both buyers and sellers but it is not clear how well they use or benefit from this framework. The costs of the process are reasonably predictable but rely on the house purchasers and sellers obtaining the information from a variety of sources and making the comparison themselves to assess value for money in so far as this is possible.
84. The principle source of professional advice, is often in the Scottish context a solicitor or in some areas the Estate Agent, who normally acts on behalf of buyers in the selection of surveyors. In the majority of cases, there is therefore no direct client relationship between the buyer and surveyor.

Locating a Suitable Property

Caveat Emptor

Key Conclusions

85. The absence of any obligation to disclose defects may lead some sellers to attempt to conceal repair problems from potential buyers and generally reduces the willingness of sellers to provide some practical information on the running costs and repair history and maintenance of their property.

Valuation reports and surveys

Key Conclusions

86. The majority of buyers opt for a mortgage valuation report from the surveyor even though this provides little information on the condition of the property. As a result prospective buyers are making purchases with very little information on the condition of the property.
87. The practice of setting “closing dates” at short notice can sometimes lead prospective buyers to make decisions and offers before they have had an opportunity to fully consider the results of an inspection or survey report and results in little opportunity for the buyer to go back with supplementary questions.
88. A significant number of buyers face large unexpected repair or improvement bills in the first year after purchase.

Running and Maintenance Costs

Key Conclusions

89. The current system does not encourage the provision of good quality information to buyers on the running and maintenance costs of the property.
90. As a result of administrative costs and a lack of commercial benefits lenders very seldom use their influence to encourage owners to undertake regular maintenance of their property.

Other Information

Key Conclusions

91. Information on energy efficiency is rarely available to house buyers at present.

Securing the Property

Key Conclusions

92. Blind bidding, whilst providing a clear outcome for both buyers and sellers may have impacts on other aspects of the process including multiple surveys and house price inflation at a localised level.
93. Low upset prices and high levels of competition are likely to be factors in stimulating multiple surveys.

Completing the Sale

Key conclusions

94. The relative speed of the Scottish system has significant advantages and avoids lengthy periods of uncertainty for both buyers and sellers.
95. The increasing insistence on the part of buyer’s solicitors on a wider range of warranties, the trend to more complicated missives and delays in the production of planning/building certificates or the loan offer is tending to delay the process, and in some instances give rise to unforeseen costs.

The Cost of House Buying

Key Conclusions

96. There is no evidence that the transaction cost of buying a house is a significant obstacle to entering owner occupation. By international standards transaction costs in Scotland appear to be relatively low.
97. There is some evidence of inconsistent practice in respect of advising on costs on the part of some professionals acting for buyers and sellers.
98. A concern over the costs of surveys and valuations may be a factor for some buyers; this may play a part in discouraging them from commissioning scheme two homebuyer's surveys which provide a greater level of information on the condition of the house.
99. Overall, it appears that multiple surveys and valuations are a feature of the Scottish house buying process. However, the additional costs incurred by house buyers on surveys, over and above that of a survey for the house they purchase, are a small proportion of the total value of the property market.
100. Just under 31% of the current estimated expenditure on surveys and valuations may be on multiple surveys that do not lead to a house purchase for a variety of reasons.
101. There are conflicting views on the extent to which multiple surveys are restricted to a few, relatively buoyant housing markets but the most comprehensive survey of buyers currently available does not suggest that this is the case.
102. It appears that for some buyers the risk of additional costs arising from multiple surveys may be a factor in their use of mortgage valuation reports rather than the homebuyer's survey.

After Sales

Key Conclusions

103. There is not a significant use of the avenues of redress open to consumers, where they face difficulties due to poor advice from professionals. This is likely to be due to a variety of reasons, but these are not clear from the existing research.

Equalities issues

Key Conclusions

104. Some members of minority groups, particularly those from ethnic minorities feel that they are at risk of discrimination in dealing with professionals in the house buying and selling process.
105. The range of finance products available and the attitudes and awareness of those administering them may make it more difficult for members of some equalities groups to get access to finance
106. Households with disabled members find it particularly difficult to find properties that are adapted for are suitable for adaptation to meet their needs.

Annexes

A. *The Task Force and Sub Group Remits*

Housing Improvement Task Force remit

- The forms of financial assistance available for owner occupiers;
- The powers available to local authorities to compel private owners to invest in their property;
- The likely effect of 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 proposal for stronger regulation of the privately rented sector, for example, by extending the existing licensing arrangements which have been recently introduced for Houses in Multiple Occupation (HMOs); and
- The effect of tenancy legislation in the private rented sector.

HITF Sub group remits

A. Owner occupiers resident in housing that requires improvement or repairs

The extent of disrepair and obsolescence in the owner-occupied sector;
Local authority responsibilities and powers;
Incentives/disincentives for owner-occupiers to make repairs;
Arrangements for financing improvements and repairs;
Awareness and attitudes towards improvement and repairs.

B. Individuals buying and selling property.

Costs and delays for house purchasers as a result of the house buying process in Scotland;
The information available to intending purchasers about the condition of the property and its likely future maintenance;
The scope for reducing multiple surveys and valuations;
The role of lenders in encouraging owners to maintain and improve the condition of their properties.

C. Landlords renting property in the private sector (and the interests of tenants who occupy these properties)

The extent of disrepair and obsolescence in the privately rented sector;
Local authority responsibilities and powers including HMO licensing;
Incentives and disincentives to investment in stock by private landlords;
The impact of other forms of regulation (health and safety, delict) on private landlords;
The impact of tenancy legislation on investment in the privately rented sector.

D. Common or shared obligations in respect of property

The extent to which disrepair and poor maintenance is greater in properties with common or shared obligations;

Current arrangements in place for the management of communal repairs and shared areas;

Current arrangements for funding communal repairs and maintenance work, including sinking funds;

The role of local authorities and other bodies in encouraging communal repair and maintenance.

B. The private rented sector: A Typography

Landlords

- Landlords operating with professional advice and assistance and managing private rented accommodation as a significant part of their main business.
- Landlords operating on a largely informal basis. Typically persons letting one or two properties usually separate from their main area of economic activity and with only limited professional advice.

Our estimate is that approximately half of all landlords in Scotland fall into each of these two types.

Tenants

- Higher income households occupying the sector by choice usually on a short term basis. This group has been estimated to make up around 5% of the PRS.
- Young professional, managerial and administrative workers and students with limited choices that occupy the sector as a preferred but constrained option. Such households are also not likely to stay long term in the sector and tend to be highly mobile and may make up around 30% of the sector.
- Lower income and vulnerable (often benefit dependant) households who may have difficulty securing access to social rented housing. These households may remain in the sector for some time but it is an option of last resort and make up at least 20% of the sector.
- The regulated sector, that is tenants who became tenants of self-contained accommodation prior to 1 January 1989. This group is likely to be older and have lived for some considerable time in the private rented sector. This group is declining over time but in 1996 was estimated to account for 19% of the PRS.
- The “tied” or service where their accommodation is provided as a consequence of employment. This sector comprised 23% of the privately rented sector in 1996 although there are sharp differences between rural and urban Scotland – in rural areas, the percentage could be as high as 40%.

The estimates of the size of each sector are indicative and considerable cross over is likely particularly between the first two tenancy types.

C. Urban/rural definitions applied to the 1996 Scottish House Condition Survey

Urban Rural Definitions applied to the 1996 Scottish House Condition Survey Data.

- **Cities** – with populations over 125,000
- **Urban areas** – with populations between 10,000 and 125,000
- **Accessible small towns** – with populations between 3,000 and 10,000 and within 30 minutes drive time of a settlement with a population above 10,000
- **Remote small towns** – with populations between 3,000 and 10,000 and more than 30 minutes drive time from a settlement with a population above 10,000
- **Accessible rural areas** – with populations less than 3,000 and within 30 minutes drive time from a settlement with a population of above 10,000
- **Remote rural areas** – settlements with populations less than 3,000 and more than 30 minute drive time from a settlement with a population of above 10,000

D. House buying and selling, survey and report types

The Mortgage Valuation Report: A simple inspection providing little more than a valuation, such a report is likely to cost in the region of £100 (including VAT) and is generally required by a lender where a mortgage is being arranged.

The Homebuyer Survey and Valuation: This provides a standard format report, which highlights significant deficiencies, and defects, which are either urgent, important or affect the value of the property. A valuation is included. The cost varies according to the size and condition of the house a reasonable guide price might be £300 (including VAT) for a written report. Surveying firms may offer a range of discounts to clients, particularly where they have been unsuccessful in buying.

The Building Survey: This is the most thorough survey available and looks rigorously at the physical condition of the property and may include some disruptive examination of the structure of the property if necessary. A valuation is provided if requested. Costs are not standard because this is directly related to the amount of time the surveyor spends on the site which can vary due to the size and condition of the building and a degree of thoroughness that the client requires. Typical costs might be between £500-£1000.

E. The housing repair and improvement grants regime

1. The main source of public finance for repair and improvement work in private sector housing is provided by the local authority grants system. This is based on four broad grant types: -

1.1 Standard amenity grants: for the installation of a fixed bath or shower, washhand basin or WC for the first time

1.2 Improvement grants: For the improvement of properties that are below the tolerable standard

1.3 Repair grants: For the repair of houses in a condition of disrepair but not BTS

1.4 Grants for disabled adaptations: To provide adaptations to the home of a disabled person

2. Grants may be either “discretionary”, that is the local authority may make them available according to its own locally determined policy or “mandatory” that is the authority must approve a grant (provided that it has the resources to do so) provided it receives a proper application. Grants in respect of properties designated as BTS and those subject to serious disrepair notices will be mandatory, as will certain grants for disabled adaptations and those for standard amenities.

3. The range of work eligible for grant includes the installation of a damp proof course, re-roofing, the replacement or repair of windows and doors, the provision of an adequate supply of fresh water, sanitary ware and water heating systems and the eradication of rot and other timber infestations as well as works to make a property structurally stable. This has been extended by the Housing (Scotland) Act 2001 to include the: -

provision of adequate heating systems
replacement of unsafe electrical wiring
installation of mains powered smoke detectors
provision of thermal insulation

4. The amount of grant is for the moment subject to a range of minimum % rates calculated from a range of “eligible expenditure limits” dependant on the type of grant, the type of building and the nature of the work. These relatively complex arrangements will also be replaced by the commencement of the provisions of the 2001 act to provide a single maximum grant level of £20,000 with the amount paid to any particular applicant dependant on a means test that has yet to be agreed.

5. The processing of grant applications (they must be made on a form specified by statute) is subject to a number of statutory performance indicators that have in recent years ensured that in general applications are processed reasonably quickly. Individual authorities will operate locally agreed procedures in respect of many aspects of the process including the treatment of additional costs or the selection of contractors. Once approved and paid all grants are subject to three standard conditions set out in the Housing (Scotland) Act 1987 as follows: -

- The house shall not be used for a purpose other than that of a private dwelling-house.
- The house shall not be occupied by the owner or a member of his family except as his only or main residence.
- All such steps as are practical shall be taken to secure the maintenance of the house in a good state of repair.

6. The standard to be met by a house that has been repaired or improved with grant aid can vary according to the condition of the property and its anticipated life but in general it would be expected to be in a “reasonable state of repair having regard to its age character and location” and to be capable of providing satisfactory accommodation for 30 years subject to normal repair and maintenance.

7. Until 1996 resources for grants were provided by a dedicated “ring fenced” capital consent (the Non HRA) that was provided to each local authority for the specific purposes of investment in private sector housing. This ring fence was removed at local government re-organisation since when the actual availability of grant is had been dependant on individual local authorities making provision within their budget to provide them. As a consequence of local decision making total expenditure on grant aid had fallen significantly in recent years. There is no reason to believe that they are likely to allocate significantly more resources to grant provision in the immediate future.

A summary of this publication is available free of charge in Braille, audio tape, large print format, Urdu, Punjabi, Bengali, Arabic, Chinese and Gaelic on request.

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