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CIRCULATION OF REDACTED REPORT AFTER THE MEETING



To: Councillor Wheeler, Convener; Councillors Bell and Grant, Vice Convener; and Councillors Cooke, Cormie, Delaney, Lesley Dunbar, Jackie Dunbar, Lumsden, Macdonald, McRae, Jennifer Stewart and Townson.

Town House,
ABERDEEN, 27 April 2018

OPERATIONAL DELIVERY COMMITTEE

The undernoted item is circulated in connection with the meeting of the **OPERATIONAL DELIVERY COMMITTEE** held here in the Town House on **THURSDAY, 19 APRIL 2018 at 11.30am.**

FRASER BELL
CHIEF OFFICER - GOVERNANCE

BUSINESS

GENERAL BUSINESS

7.4 Marchburn Park (Pages 3 - 10)

Redacted version of the report circulated after the meeting

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ABERDEEN CITY COUNCIL

COMMITTEE	Operational Delivery
DATE	19 April 2018
REPORT TITLE	Marchburn Park
REPORT NUMBER	CUS/18/003
DIRECTOR	Andy Macdonald
REPORT AUTHOR	Neil Carnegie
TERMS OF REFERENCE	1

1. PURPOSE OF REPORT

1.1 This report was requested at the Audit, Risk and Scrutiny committee on 23 November 2017 and provides information relating to 3, 8 and 15 Marchburn Park; the Council has received complaints about vibration relating to these buildings. The report is intended to clarify the circumstances and provide assurance on the Council's actions to resolve the situation.

2. RECOMMENDATION

2.1 That the Committee:-

- (i) Note the circumstances and actions taken by the Council.

3. BACKGROUND

3.1 The 35 new Council houses, on the site of the former Marchburn Primary School, were recorded as being complete on 15th March 2012. Robertson Construction Eastern Limited (“Robertson”) was contracted by the Council to design and build these houses following a competitive tender process.

3.2 These houses comprise 17 x 3 bedroom houses and 18 x 2 bedroom flats. These flats are distributed within three blocks of six flats – blocks 3, 8 and 15. The flats were certified as being complete by Building Control at the time of their construction. The property at block 3 Marchburn Park is currently vacant, and is the original building in which tenants complained of experiencing excessive vibration.

Complaints about vibration in 3 Marchburn Park

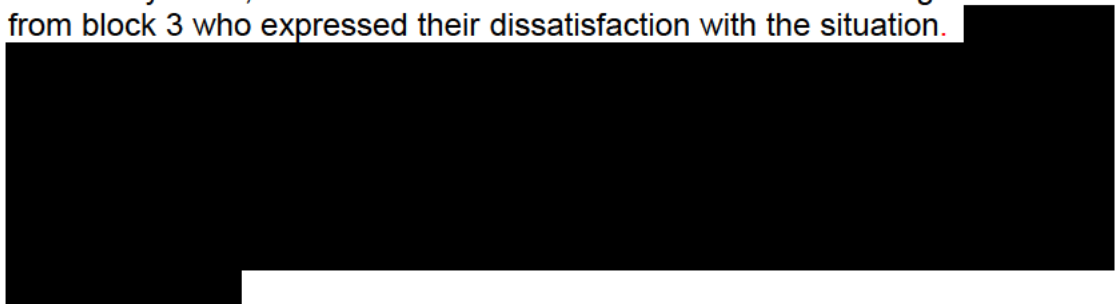
3.3 The first complaint about vibration in the building was in February 2015. This was investigated by senior officers, who subsequently commissioned a structural survey and also requested that Robertson investigated the matter. These investigations did not confirm a problem until 10 September 2015.

3.4 Subsequently intrusive investigations by Robertson were conducted to establish the cause of the problem with tenants remaining in their tenancies; however this did not confirm the cause of the problem.

3.5



3.6 In January 2016, the former Head of Communities and Housing met tenants from block 3 who expressed their dissatisfaction with the situation.



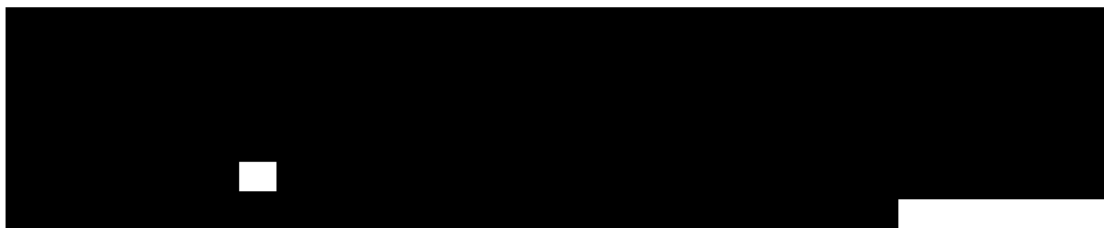
3.7 Rehousing of all tenants from block 3 was undertaken between September 2016 and February 2017, with all tenants rehoused to alternative tenancies of their choice on a permanent basis. Individual circumstances determined the terms of each individual’s transfer in addition to that agreed in January 2016.

3.8 The vacation of block 3 Marchburn Park took longer than foreseen. The Council could have raised action through the Sheriff Court to seek repossession of tenancies however sought to work in a sympathetic way with tenants and negotiate a mutually agreeable solution.

3.9 All compensatory provisions have been reviewed by the Council’s Monitoring Officer to confirm that officers had delegated powers to approve these.

3.10 Once the properties at 3 Marchburn Park were vacated in February 2017, Robertson investigated and determined the fault which they advise was down to sub-standard workmanship by their sub-contracted joinery crew when laying the floating flooring in the properties: a gap should have been left round the edges of the floating floor, but wasn't. Robertson has now completed remedial work to correct the defect to the satisfaction of Building Control. In addition, the Council has tested for excessive vibrations by operating a washing machine within the properties, as this was a key aspect of the complaints about vibration. The Council have, in addition, employed a specialist company to undertake scientific vibration tests so as to further review the effects of the remedial works that has been undertaken.

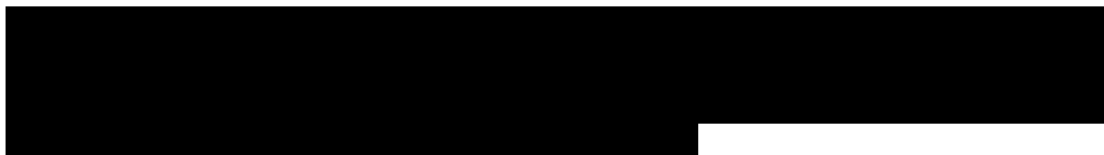
3.11



3.12



3.13



Complaints about vibration in 8 and 15 Marchburn Park

3.14 In June 2017, officers received reports from two tenants in block 15 that they were experiencing vibrations. These were the first reports of any problem within this building. At that time the Council had a void property in block 8 and we arranged for Robertson to investigate if the fault found in block 3 was present in block 8. The Council was working on the theory that if the same fault was present in block 8 then it was most likely this would be cause of the reported problems in block 15. Checks confirmed that the same fault was present in block 8, in that the flooring had been incorrectly fitted. Repairs were undertaken, with a report submitted to the Council on 8 September 2017 confirming issues had been resolved.

3.15 Local members and the Convener of Communities Housing and Infrastructure Committee were kept informed of progress on these checks.

Remedial works process

- 3.16 During October 2017, officers visited tenants in blocks 8 and 15 to explain that it was likely there was a defect in their homes and that the Council wanted this to be checked and remedial works undertaken. The Council explained that the work could be completed in around 7 days if they vacated their homes or 10 days if not. We also explained that flats 3a and 3b were being decorated and furnished for their temporary decant.
- 3.17 Concerns were subsequently raised by some tenants in blocks 8 and 15 Marchburn Park about the condition of their properties, and seeking assurance over the work planned, and that block 3 Marchburn Park was safe to live in. Four tenants advised in writing that they were withholding rent due for their properties. The Head of Communities and Housing held a meeting on 28 November 2017 for all tenants in blocks 8 and 15 Marchburn Park to discuss the planned remedial works. Local elected members were also in attendance at the meeting, along with Shelter Scotland as an independent party, and Robertson as the construction company. Advice was also given to tenants of the correct procedure to be followed if withholding rent. This being that the Council must be notified in writing and the rent withheld must be held in a separate bank account. This advice is also confirmed in the note of the meeting provided to all tenants.
- 3.18 At this meeting, agreement was reached to develop a programme of work to be presented at a further meeting in January 2018. It was agreed that an independent vibration expert would be appointed to undertake before and after tests on each property; and that the Royal Institute of Chartered Surveyors would be approached to appoint an independent Chartered Surveyor to oversee the Council's approach to remedying the situation. Home visits were carried out to tenants who could not attend the meeting.
- 3.19 The main issues arising from this engagement were that tenants required assurance on the effectiveness of remedial works in all buildings; tenants reported that they had been complaining about vibrations from early in their tenancies in 2012; and, [REDACTED]
- [REDACTED] Local Housing Officers have been working with the local tenants on all tenancy issues endeavouring to meet their requests for permanent transfers as relevant.
- 3.20 In January 2018, The Chairman of the Royal Institute of Chartered Surveyors appointed an independent expert to review the technical evidence, relating to the vibration complaints, on behalf of Robertson and the Council. An independent vibration specialist has also been appointed. Both Robertson and the Council wish to ensure that the issues raised have been tackled effectively. In addition, the Council wishes to be able to give its tenants independent re-assurance that the remedial works have been effective.
- 3.21 A further meeting was convened in 17 January 2018 with the same invitees as the meeting on 28 November 2017, and a proposed programme of works was discussed with tenants, and confirmation of the appointment of the Chartered Surveyor and independent vibration specialist was discussed. This

programme will be finalised after the independent expert has completed checks. We estimate that the work programme will take around 12 weeks to complete (including time allowances for moving tenants out and back in to their homes); however this would be changeable dependant on the findings from the independent expert.

3.22 Since this meeting, the Council's property repair and tenancy records were reviewed to determine if complaints about vibration had been recorded or if any information recorded indicated a vibration problem. This check had a negative result. We also requested that Robertson undertook a similar check of its records and this also produced a negative result. This means that there is no record of complaints about vibration being received at either blocks 8 or 15 Marchburn Park prior to 2017. This includes assessment of complaint histories to understand if any of the complaints received could have been attributable to vibration. No tenants have provided evidence to substantiate their claims that they complained as early as 2012 about vibration. Anecdotally, it was observed by Robertson that the vibration problem is likely to have developed over time as the building settled.

3.23 At the date of this report, the Council is awaiting receipt of the report on the work being undertaken by the independent chartered surveyor and residents in blocks 8 and 15 have been advised that this is expected towards the end of April 2018. Once received, a further meeting will be set up with those residents, as well as local Councillors and Shelter Scotland, in order to discuss the results and agree the programme timescales for completing any work required.

3.24 [REDACTED]

3.25 [REDACTED]

4. FINANCIAL IMPLICATIONS

4.1 Robertson has met all costs in completing remedial works and has given a commitment to meet costs for future remedial works.

4.2 [REDACTED]

[REDACTED]

[Redacted]

4.3

[Redacted]

5. LEGAL IMPLICATIONS

5.1

[Redacted]

5.2

[Redacted]

6. MANAGEMENT OF RISK

	Risk	Low (L), Medium (M), High (H)	Mitigation
Financial	The on-going situation is resulting in void rent loss to the Council.	L	We are progressing with checks to confirm remedial works have been effective. The flat shall be let once this further assurance is received. [Redacted]
	There is also risk that works additional to those already undertaken at 3 Marchburn Park is required in all three buildings.	L	Robertson has accepted liability for making good these latent defects. We are also confident that the work done thus far is effective.
	[Redacted]	L	[Redacted]

Legal		L	
Employee	<p>Significant resource is being committed to supporting tenants and responding to issues raised by them.</p>	L	<p>Work involved is prioritised in consideration with other work demands.</p>
Customer	<p>This situation has affected all tenants at blocks 3, 8 and 15 Marchburn Park to varying degrees.</p>	L	
Environment	None	H	<p>We will continue to engage with residents in a suitably open and transparent way in efforts assure them and respond to their individual needs as we work to resolve matters. We will deal with specific complaints in accordance with the Council's complaints handling procedure.</p>
Technology	None		
Reputational		M	

7. OUTCOMES

7.1 This report does not impact significantly on outcomes.

8. IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	Not required.
Privacy Impact Assessment	Not required.
Children's Rights Impact Assessment/Duty of Due Regard	Not applicable.

9. BACKGROUND PAPERS

9.1 None

10. REPORT AUTHOR CONTACT DETAILS

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