

ABERDEEN CITY COUNCIL

COMMITTEE	Housing and Environment
DATE	26 th August 2014
DIRECTOR	Pete Leonard
TITLE OF REPORT	Proposed Extended Use of Enforcement Funding
REPORT NUMBER	H&E/14/052
CHECKLIST RECEIVED	Yes/No

1. PURPOSE OF REPORT

The purpose of this report is to update committee on progress made in property repair and maintenance within the private sector since the introduction of the Enforcement Fund in January 2013 and outline proposals to increase the effectiveness of the scheme.

2. RECOMMENDATION(S)

It is recommended that committee agree to: -

Authorise the Director of Housing and Environment to extend the use of the current Enforcement Fund to encompass Mixed Tenure Housing as detailed at 5.2 below.

3. FINANCIAL IMPLICATIONS

There are no new financial implications for the Council arising out of this report as it seeks to use monies already identified for the use requested in this report.

4. OTHER IMPLICATIONS

The Council has a duty under the Housing (Scotland) Act 2006, (the 2006 Act), to manage Below Tolerable Standard (BTS) housing in its area. The proposals within this report, while not directly targeted at BTS housing, will help to reduce the risk of BTS housing arising.

5. BACKGROUND/MAIN ISSUES

5.1 A report to Committee on 15th January 2013 outlined a proposal to use the Enforcement powers offered to Local Authorities through the Housing (Scotland) Act 2006 and how this could be funded from Private sector Housing Grant funding and topped up as and when required from surplus Landlord Registration fee income. The Committee resolved to: -

“(i) to authorise the Director of Housing and Environment to utilise the enforcement and funding options as detailed in section 5.3 of the report, by (a) continuing to earmark the £1.081m Private Sector Housing Grant ring fenced monies to carry out enforcement of property repairs for private sector housing; and (b) agreeing to add to the earmarked reserve such amounts as deemed appropriate, from any surplus of Landlord Registration fee income on an annual basis;”

Introduction of this funding was originally targeted at the traditional granite tenement properties but has on occasion included other property types. This has had a very positive effect on the repair and improvement of this part of the stock, with £403,905 of Local Authority funding enabling a total of £2,278,582 worth of repair works to be carried out. An additional £299,253 has been enabled simply by the use of letters advising owners that the Council would enforce works if they failed to take action. This is done by utilising Work Notices or Missing Shares legislation from the Housing (Scotland) Act 2006.

The enforcement fund had a balance of £645,807 as at 31st July 2014.

Monies spent by the Council through this legislation are recoverable via the use of a Repayment Charge which secures the debt against the Title Deeds of the property and is currently repayable in 30 annual instalments. The authority is allowed to recover administration costs and interest charges as part of the process.

Section 76ZA of the Housing (Scotland) Act 2014, (the 2014 Act), when introduced, will allow the 30 year period to be reduced, dependant on level of costs to be recovered and owners ability to pay, to a mutually agreeable period ranging from between 5 and 30 years.

In the majority of cases an agent is required, especially where there are a number of owners involved. Monies are paid up front into a Maintenance account for the property and the Council makes payment to that account, or direct to the Agent if appropriate. Whichever method is adopted, the Council requires to know before the contract commences who has and has not deposited their share of the monies. This ensures that the Council is aware of its commitments prior to the Missing Shares or Work Notices being served.

Work Notices can only be used for Repair and or Maintenance of a property; it cannot be used to enforce Improvement works.

5.2 Proposal for moving ahead: -

5.2.1 In order for the proactive repair programme to be more effective it is envisaged that more use of enforcement powers, either through Work Notices or Maintenance Orders, will be used on non-tenement properties. This will reduce the threat of disrepair to adjoining properties and assist in enhancing neighbourhoods. This means that both semi-detach and detached properties can be assisted, although the latter is unlikely to receive much attention through Work Notices but more likely through Maintenance Orders.

5.2.2 Mixed Tenure Housing; Enforcement powers have seldom been used in mixed tenure housing, that is, where Aberdeen City Council have ownership of at least one flat in the tenement. It has been the practice that the Housing Revenue Account, where approval has been gained from co-owners, front fund any works and seek reimbursement from the owners on completion.

The proposal is that works to these properties should be treated in the same manner as any other works involving homeowners where the Council has to enforce works. It is intended that the enforcement fund be used to pick up missing shares and secure this debt along with administration costs and interest as per the rest of the private sector housing stock.

5.2.3 Section 74 of the 2014 Act amends the Maintenance Order legislation within the Housing (Scotland) Act 2006, by simplifying the process for Local Authorities. This section has not yet been introduced. Maintenance Orders brings enforcement capabilities and therefore a need for funding resources if utilised. The benefit of Maintenance Orders over Works Notices is that it requires owners to prepare a maintenance plan for a 5 year period and to implement it. Failure to do so allows the local authority to implement on their behalf. It is anticipated that this should encourage owners to be more involved in the planning and repair of their property than would be the case by simply enforcing via a Work Notice. The use of these amended powers will be tested when available, to ensure its practical implementation is successful.

6. IMPACT

This report links to the 5 year Corporate Business Plan, and individual Service Plans in that it: -

- Protects the public from poor quality private sector housing and safe guards the built environment and granite heritage;
- Helps with retention of a large stock of quality, well-maintained affordable housing that match the highest of standards;

This report will be of interest to homeowners, particularly those in mixed tenure housing, where the council will move towards implementing a uniform method of assisting those in the private housing sector to repair and maintain their homes; by reflecting the model of charging interest where the owner does not have the financial resources to meet their liabilities and secures the debt against their property.

7. MANAGEMENT OF RISK

The proposals presented in this paper are an opportunity risk in that, if implemented, the proposals help to: -

- Reduce the incidence of BTS housing from occurring,
- Promotes well maintained homes for our citizens to live,
- Reduce exposure to the Council of potential bad debt from private sector owners, by securing that debt against their property's Title Deeds.
- Reduces potential losses to the Council who currently borrow to cover the owners cost of works. The proposal therefore reduces loss of interest on our loans.

A system is already in place to monitor these secured sums and is currently being reviewed and enhanced in light on the Private Sector Housing, Internal Audit Report 2013/2014.

8. BACKGROUND PAPERS

Housing (Scotland) Act 2006
 Housing (Scotland) Act 2014 (as passed)
 Housing and Environment Committee Report, 15th January 2013

9. REPORT AUTHOR DETAILS

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