

REPORT TO: HOUSING COMMITTEE – 17 FEBRUARY 2003

REPORT ON: PROPOSED AMENDMENTS TO THE CURRENT TENANT PARTICIPATION POLICY

REPORT BY: DIRECTOR OF HOUSING

REPORT NO: 163-2003

1. PURPOSE OF REPORT

- 1.1. To recommend proposed changes to the current Tenant Participation Policy (TPP) in light of the Tenant Participation Provisions of the Housing (Scotland) Act 2001.

2. RECOMMENDATIONS

- 2.1. It is recommended that:

Housing Committee approve the recommended changes to the current TPP as set out in 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8 and 7.9.

3. FINANCIAL IMPLICATIONS

- 3.1. There are no financial implications.

4. LOCAL AGENDA 21 IMPLICATIONS

- 4.1. The proposed changes to the TPP will strengthen tenant participation in decision taking.

5. EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1. The proposed changes to the TPP will strengthen the Council's commitment to take action to improve awareness of diversity and equality issues amongst tenants.

6. BACKGROUND

- 6.1. Housing Committee approved the current TPP in February 2001. Since then the Housing (Scotland) Act 2001 (the Act) has come into force. The Act contains many provisions relating to tenant participation. These include obligations on local authorities and registered social landlords to:

- Develop and implement a tenant participation strategy.
- Inform and consult with tenant organisations and individual tenants on a range of housing and related issues.

The Scottish Executive have indicated that these duties should not be seen as an end in themselves, but rather as a base for developing an ongoing strategy.

In light of the above, a Review Group (RG) of tenant representatives and officers was remitted by the Housing Department's Management Team to review current tenant participation arrangements as set out in the Tenant Participation Policy. This approach was agreed to by Dundee Federation of Tenant Associations. The recommendations put forward by the RG have been used as the basis for this report.

7. PROPOSED CHANGES TO THE TENANT PARTICIPATION POLICY – JUSTIFICATION AND DETAILED RECOMMENDATIONS

Registered Tenant Organisations (RTO)

- 7.1. The RG noted that the Scottish Executive has made it clear that the concept of RTOs is central to the tenant participation process as defined by the Act and that an RTO is an independent organisation set up primarily to represent tenant's housing and related interests. The RG considered that this definition could readily be applied to tenant groups in Dundee and to their role within the current TPP.

RECOMMENDATION:

The phrase 'tenant group' should be substituted by 'Registered Tenant Organisation' (RTO)

- 7.2. The RG was aware that under the terms of the act there are obligations placed upon the Council to ensure that RTOs do have a central role in the participation process and on tenants to ensure RTOs operate effectively and democratically. The RG considered that in order to heighten and sustain awareness amongst tenants, Elected Members and officers on these obligations, the policy should contain a brief statement which sets out their key features and indicates how they are accommodated within the policy.

RECOMMENDATION:

The following text is included within the TPP as part of a new section on 'Registered Tenant Organisations'

In line with our duties under the Housing (Scotland) Act 2001 (the Act) we maintain a register of tenant organisations. The register contains information about their area of operation and contact address. We will also include other information at the request of the organisation. This may include, for example, dates of regular meetings and a description of the organisation's aims and objectives.

Organisations included on the register are entitled, under the Act, to have a say in how the housing service is run and developed. They are also entitled to receive information about all key aspects of the service. This policy and accompanying codes or practice sets out what these entitlements mean in practical terms.

To be included on the register, tenant organisations must comply with criteria set out in the Act. In essence, they must be able to show that the organisation is run democratically, effectively and represents the views of Council tenants on housing and housing related issues. We actively encourage and provide support to all tenant organisations to apply to be included on the register. The registration period is 3 years, after which RTOs must re-apply.

- 7.3. The RG acknowledged that some tenant's groups may not wish to register. They may, for example, be organised around a single issue or they may not wish to take on the burden of adopting a Constitution or taking on a wider representative role. Nonetheless the RG did consider that it would be good practice to consult with such groups where the need

arose, but that participation arrangements entered into between the Council and the organisation should not be bound by the commitments set out in the TPP and Codes of Practice. The RG also considered it would help to clarify this matter if the policy indicated the consultation with organisations that did not register, would be outwith the statutory provisions of the Act.

RECOMMENDATION:

The following text is included as part of a new section on ‘Registered Tenant Organisations’

We recognise that some tenant organisations may not wish to register. Where appropriate, we will consult with non-registered groups, but that consultation arrangements will not be bound by the commitments set out in this policy and the statutory provisions of the Act. Member of such groups will, of course, maintain their right to be consulted as individuals.

- 7.4. The RG noted that the Scottish Executive advise that the circumstances whereby a tenant organisation can seek to be removed from the register or the landlord would seek to remove a tenant organisation from the register, should be *‘discussed with the organisation at the time of registration’*. The RG considered that if a RTO was operating outwith its Constitution over a period of time, this would be sufficient reason to remove it from the register and that this should be made clear in the policy as well as through discussion at the time of registration with the applicant organisation. The RG recognised that this requirement placed an obligation on the Council to determine whether or not RTOs were acting in a constitutional manner.

The RG, in line with Scottish Executive guidance, considered that procedures for removal should also be set out in the policy. However, the RG was anxious that the policy should also make it clear that members of tenant groups would be provided with support and advice to ensure their organisation does operate constitutionally and that they would be provided with sufficient time to get *‘their house in order’* if they were to be seen to be failing to keep within their Constitution, over a period of time. In this context the RG considered that there should be an obligation on tenant groups to provide Council Officers with minutes of its meetings, in addition to local Councillors (*which is a condition set out in the current TPP*). The RG also considered that RTOs should know what to do if they no longer wished to remain on the register. In particular that a decision to come off the register should be the result of a properly constituted meeting of the RTO.

RECOMMENDATION:

The following text is included as part of a new section on ‘Registered Tenant Organisations’

We offer support and advice to RTOs to help them operate in accordance with their Constitution. If it became clear that an RTO was operating outwith its constitution over a period of time, we would issue it with a 3 month notice, in writing, of our intention to remove it from the register. This notice would specify the reason for the decision, the course of action the group would have to take to avoid removal and the appeals procedure if the group wish to contest the decision.

We would also remove an RTO from the register following a request for removal from a person authorised to represent the RTO, provided that members of the RTO had been notified of the RTOs intentions, in accordance with the terms of its Constitution.

RECOMMENDATION:

The following text is inserted as a new introduction to the existing section ‘Information to Tenants’

RTO's will supply minutes of their meetings to the Policy and Plans Unit/ Tenant Participation Team.

- 7.5. The RG was mindful that that Act places obligations on the Council to provide tenants and tenant groups with information covering key aspects of the housing service. The RG considered that tenants should be aware of these obligations and that one way of achieving this would be to summarise them in the introductory paragraph to the Information Section of the current policy.

RECOMMENDATION:

The following text is inserted as a new introduction to the existing section 'Information to Tenants'

In line with our duties under the Housing (Scotland) Act 2001 we will provide information to every tenant directly affected by a planned service change which sets out:

- *The arrangements for obtaining and taking into account their views.*
- *The areas/topics where we expect to be coming forward with proposed service changes.*

The following indicates standards to be applied when requests for information are received and when information is made available to tenants and registered tenant organisations.

- 7.6. The RG was mindful that tenant organisations must demonstrate a commitment to represent the interests of its members as part of their application to be included on the register. The Scottish Executive has given examples of how this might be done. These include quarterly public meetings and newsletters. The RG noted that current TPP does not indicate that tenant groups may apply to cover the costs for such activities.

The RG considered that a statement should be inserted in the TPP which makes it clear that these costs will be eligible for funding. The RG expressed concerns about the cost of producing newsletters on a regular basis and agreed that funding support should be restricted to paper and possibly distribution costs but not '*professional printing*'. The RG noted that the current TPP maximum level of grant and other forms of support will be agreed annually between the Director of Housing and Dundee Federation of Tenant Associations and that issues relating to cost implications of this recommendation would be dealt with through this mechanism.

RECOMMENDATION:

The following text is inserted in the existing section 'Resources for Participation'

Costs of seeking the views of their members and informing members of their activities.

- 7.7. The RG considered that tenants should be made aware that the Act subjects the Council to regulation and inspection by Communities Scotland on behalf of Scottish Ministers and that the standards which the Council will be measured against are available to the public.

RECOMMENDATION:

The following text is inserted in the existing Making a Complaint section

Tenants should also bear in mind that Communities Scotland regulates and inspects all

social landlords on behalf of Scottish Ministers and that this function is carried out in line with national Performance Standards published by Communities Scotland, the Convention of Scottish Local Authorities and the Scottish Federation of Housing Associations. For further information contact:

*Communities Scotland,
5F Nethergate Business Centre,
35 Yeaman Shore,
Dundee,
DD1 4BU.*

*Tel. 01382 427500
Fax. 01382 427527*

Or view their website:

<http://www.communitiesscotland.gov.uk/communities/upload/perform-stands.pdf>

7.8. The RG also took into account the Scottish Executive's recommendations that landlords should set out minimum standards, agreed in consultation with tenants/RTOs, for consultations with tenants required under the Act. These to cover:

- How and when the final decision will be taken.
- How the proposal will affect tenants.
- How and within what timescales tenants can make their views known to the landlord.
- Details of how tenants will receive feedback.
- The contact officer dealing with the consultation.
- Information on how and where to complain.

The RG considered that the current policy together with the Codes of Practice which have been drawn up since the last review of the tenant participation policy did set out standards which covered the above points.

However, the RG recommended that a paragraph be inserted into the Calendar of Participation section, which links the policy statement to the Codes and briefly described their purpose.

RECOMMENDATION:

The following text is inserted as a new introductory paragraph to the existing section 'Calendar of Participation'

The Calendar of Participation outlines the key participation events which occur year on year. In addition to these, detailed arrangements for participation in expenditure projects and/or policy development are set out in Codes of Practice which accompany this policy. These arrangements take into account tenant wishes on how they wish to participate, the availability of staffing resources and financial/ technical constraints.

7.9. The RG noted that following the last review of the policy, a statement on equal opportunities had been inserted. However, in light of Scottish Executive guidance the RG considered that the statement could be further strengthened by making it clear, that if tenants did encounter discrimination, they could rely upon the Council for support and advice.

RECOMMENDATION

The following text is inserted into the existing section 'Equal Opportunities'

Support and advise any tenant who encounters barriers arising from ethnicity, special

needs, language difficulties, learning difficulties, age sexual orientation, or disability.

8. **BACKGROUND PAPERS**

8.1. Housing (Scotland) Act 2001

Guidance on Tenant Participation
SEDD Circular 7/2002

9. **CONSULTATION**

9.1. The Chief Executive, Director of Neighbourhood Resources and Dundee Federation of Tenant Associations have been consulted on the preparation of this report.

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DIRECTOR OF HOUSING

JANUARY 2003