

REPORT TO: Housing Committee – 24 June 2002

**REPORT ON: Housing Improvement Task Force
Response to First Report**

REPORT BY: Director of Housing

REPORT NO.: 533-2002

1. PURPOSE OF REPORT

- 1.1. To advise Committee on the above paper and to submit a draft response from Dundee City Council to the consultation exercise on the report.

2. RECOMMENDATIONS

- 2.1. It is recommended that the Housing Committee accepts the attached papers (Appendices 1 and 2) and agrees to its submission as Dundee City Council's response to the report.

3. FINANCIAL IMPLICATIONS

There are no direct Financial Implications from this report.

4. LOCAL AGENDA 21 IMPLICATIONS

There are no direct Local Agenda 21 Implications from this report.

5. EQUAL OPPORTUNITIES IMPLICATIONS

There are no direct Equal Opportunity Implications from this report.

6. BACKGROUND

- 6.1. The Housing Improvement Taskforce 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.
- 6.2. The First 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 development of recommendations by the Scottish Executive and others.
- 6.3. The response is based on existing City Council policies and on comments received as a result of consultation with appropriate departments within the Council.
- 6.4. Dundee City Council has already started to address many of the issues identified within the report and the response highlights issues which it considers have not been fully addressed and makes positive suggestions as to the way forward.

- 6.5. Committee's attention is drawn to the summary of conclusions in the response which highlights Dundee's particular and unique circumstances which is not recognised in the text of the report and suggests that this may have its root in the make up of the panel. The response suggests that to tackle the problems of declining population and housing surplus in the private sector in Dundee, along with the problems of mutual maintenance and repair, declining property values in certain tenemental areas, extensive investment will be required and changes to the existing legal framework.
- 6.6. The comments represented by this Report and Appendices are put forward in order to assist the working of the Task Force. Dundee City Council is, however, committed to resolving long term difficulties with regards to pre 1919 tenemental stock. In this regard, a decision has been taken to create a Working Group to address the problem of this stock which is mainly in the Private Sector, and this Group will, in future, make representations to both the Council and the Executive regarding possible solutions to some of the problems identified by the Task Force.

7. **CONSULTATION**

In considering this response all relevant departments of the Council were asked for their views on the report and these have been taken into account in the text.

Background Papers

Dundee City Council Housing Plan 2001-2003

Albert Street Study

Baxter Park Consultancy Study

Population Trends – Advancement of a Strategy for Securing New Housing Within Dundee City Council Boundary.

Copy of Housing Improvements Task Force Report in Member's Lounge

ELAINE ZWIRLEIN
DIRECTOR OF HOUSING

Signed: _____

Date: _____

DUNDEE CITY COUNCIL RESPONSE TO THE FIRST REPORT HOUSING IMPROVEMENT TASK FORCE

Issues in Improving Quality in PRIVATE HOUSING

1. GENERAL COMMENTS

Dundee City Council welcomes the publication of the first report of the Housing Improvements Task Force and the opportunity to comment on the issues raised.

The report is reasonably comprehensive and highlights most of the problems we are currently concerned with in Dundee. Outlined below are what we consider to be omissions or situations/problems given insufficient weight.

The report does not specifically recognise within its text the particular and unique circumstances which exist in Dundee and this may have its roots in the make up of the panel itself.

In particular, Dundee faces the following specific problems:- the problems of mutual maintenance and repair within Dundee's pre-1919 tenement stock; the problems associated with reducing population and the housing surplus in the city; the increase in private renting and the affects of the present Housing Benefit system on this; the general and serious level of disrepair, poor environmental areas and anti-social behaviour in some areas and the substantially inadequate remedies available to Local Authorities and responsible owners alike to tackle the problems. Clearly it is hoped that means and resources to tackle currently intractable problems are comprehensively dealt with in Stage 2. Below we make some suggestions for this.

2. DUNDEE'S PRIVATE HOUSING

Population change is a major socio-economic factor that challenges sustainability within the City and this is continuing to result in a decrease in economically active groups, coupled with a relative increase in socially excluded groups and those likely to need high levels of support irrespective of where they live.

Enhancing Dundee's role as a strong regional centre demands the provision of quality living environments that attract and retain people in the City.

In many respects the future for Dundee is positive.

As the image and environment of the City improves, employment opportunities increase the City embraces with enhanced confidence the role of regional centre for the surrounding area. However, it is recognised that the City continues to face serious threats of depopulation whilst parts of Dundee remain characterised by high levels of deprivation.

Decline in the population of the City over the past 30 years has created stress and substantive problems in the housing stock. Initially this stress has been focussed on the least attractive parts of the city and predominately in the Council's own stock.

Surplus housing has brought significant levels of demolition to parts of the City which have been beneficial in terms of improving quality and profile as well as engendering comprehensive regeneration opportunities for communities. So far this approach to sustainability has been focused on the Council sector, however there are strong opportunities to provide sustainable communities within the private sector neighbourhoods by adopting similar response mechanisms.

Areas dominated by pre-1919 tenements require long-term strategies including the consideration of demolition and integration of units as well as the promotion of management initiatives such as factoring. In short, there is a need to consider how the traditional tenement can be better interpreted to modern living requirements.

The City Council, in association with Dundee Partnership are currently exploring options that might be needed to respond to less attractive and unappealing poor quality private sector tenement stock. We are anxious to explore:

- Potential for positive intervention to create quality neighbourhoods.
- Potential for demolition to reduce the stock if resources are made available.

All, any, or an amalgamation of these elements will require dedicated resources if they are to be effective. There needs to be a comprehensive strategic approach encompassing all tenures and flexibility of funding to address problems within these.

3. **HOUSING IMPROVEMENTS TASK FORCE** (*First Report*)

The structure of the report is such that it is laid out in sections and it is therefore appropriate to respond in a like fashion. Outlined below under each heading are what we consider to be omissions or situations/problems which are not given enough weight within the report.

3.1 **SUMMARY OF KEY ISSUES**

(1) The problem of the pre-1919 tenement stock in some areas of Dundee is becoming increasingly pressing, accelerated by the housing surplus and driven by population decline.

The phenomenon is now also impacting on certain Council estates in the City where re-sale at low prices of good quality former Council houses and flats is resulting in the main in private renting by predatory landlords who do not maintain the property and frequently resulting in anti-social behaviour from occupants.

Dundee's situation is that property in certain areas is often very cheap and becomes profitable as a revenue earner for private landlords via the Housing Benefit system.

We believe that the Housing Benefit system can contribute to this decline in vulnerable areas because it attaches no stipulation of repair or condition to benefits and therefore gives no incentive to unscrupulous landlords to invest in maintenance or management of their property.

The reintroduction of a form of regulation in setting rent levels linked to external repair and internal quality of accommodation would go some way in ensuring that landlords undertook their responsibilities in this regard. Any such measures would need to take account of the rights of individual tenants and ensure these are safeguarded.

For this to be effective, adequate monitoring and policing systems will be necessary with adequate funding in place.

What is not covered anywhere in the report is the impact that one badly maintained tenement can have on a whole block or street.

The Law Commission report particularly avoids this issue. There needs to be a way of being able to draw early attention to a situation where a block, street or neighbourhood is being put at risk by declining standards of maintenance or by anti-social behaviour and the absence of Housing Management standards of service.

Nor is there reference in the report to the associated problem of difficult owners or tenants who make a mess of the common areas and do not help to keep these clean. This, and the combination of disrepair, poor housekeeping and anti-social behaviour can be devastating, undermining substantial public investment in a very short time.

(2) Poor awareness of lead in water supplies is reflected in the limited number of grant applications submitted (only two in the year 2001/02). However, any promotion to increase public awareness would have an impact on already stretched budgets.

(3) The majority of the demolition of poor quality housing was undertaken 30-50 years ago with relatively little done since. With a declining population and continuing new build and conversion provision, there needs to be a more cost-effective and speedier way of securing removal of poorer quality stock which would require extensive investment to meet modern aspirations and standards, particularly in the private sector.

(4) It is true to say that many households, particularly where there are common repairs and maintenance obligations, are not aware of their responsibilities in this regard, or if they are, are unable to fulfil these because of lack of funds. Whilst the Improvement and Repair Grants system has helped some households, the availability of funding for these decreases year on year.

Assistance and information to owners on how to achieve mutual repairs with a minimum of grant input is now a priority issue in Dundee.

(5) The Task Force should examine the existing legal framework for maintenance and repair issues. There is a pressing need for a mandatory tenement management system. The Law Commission report on the Law of the Tenement recognises the problem and sets out guidelines for new build but does not offer better or more effective remedies when owners refuse to comply.

The Tenements (Scotland) Bill whilst going some way in creating a framework for responsible owners ignores the main problem, which is effective enforcement. The present remedies through the civil courts are unwieldy and uncertain and the reality is that most owners will not use them.

(6), (7), (8), (9) General Comments - There needs to be a minimum scheme which can only be altered upwards by owners via a vote, probably Tenement Management Scheme from the Law Commission report, but with some requirement for a periodic inspection of property condition by a qualified surveyor. The Scheme should also include reference to cleaning and repainting (*Appendix 2*).

Allied to this is the need for cheaper and easier access to the Courts and practical and enforceable remedies and an easy and cheap way for the majority in a tenement to obtain payment from reluctant owners.

Factoring systems and/or management agreements should be mandatory with adequate policing. The Task Force need to consider how this should be funded whether from public or private sources or a combination of both.

Where Local Authorities have to step in and pursue necessary work, a cheaper and easier way has to be found to enable them to recover outgoings, preferably not impacting on Council Tax, otherwise, as the Law Commission points out, there will be a reluctance by Authorities to engage in this.

To respond to the problem of surplus in tenements, there needs to be an easier method of compulsory purchase, and compensation which reflects actual price paid, rather than the market value. Where repossession is a factor, compensation should be set at the outstanding mortgage debt.

(10), (11) No additional comments.

(12), (13), (14) No additional comments.

Background to the Work of the Task Force

(15), (16), (17), (18), (19), (20), (21) No additional comment.

(22) Our only comment on the working methods and composition of the Task Force itself is that it does not recognise, in the text of the report, the unique and particular circumstances that Dundee finds itself faced with.

(23), (24), (25), (26) The report's clarity and easy to understand format is welcomed.

Extent of Disrepair and Obsolescence in the Private Sector

(27), (27.1), (27.2), (27.3) A more sophisticated measure than the tolerable standard is now long overdue. Contemporary lifestyle has seen a dramatic change in aspirations over the last 25 years and we have to devise a way of modifying what is essentially a robust building form to meet present and future expectations.

(28), (29), (30), (31), (32), (33), (34), (35) No additional comments.

Key Conclusions *(Page 12)*

The relatively better condition of dwellings bought under Right to Buy may be a legacy of the high quality of Local Authority repairs and maintenance, and may not be sustainable in the medium term because of low household income.

(36), (37) No additional comments.

(38) There may be too much emphasis placed on age here. Disrepair is more to do with tenure and its relationship with investment. Much private rented stock is in poor condition because of poor investment rather than age per se.

(39) to (56) No additional comments.

(57) Reflects the exact problem we have in Dundee.

(58) Areas of low demand in Dundee are not related to Right to Buy, it is a particular problem in pre-1919 tenements in owner-occupation and private renting. This is an important distinction when considering action.

(59) This is a key point which is not included in the conclusions.

Investment Patterns in the Private Sector

(60) to (92) No additional specific comments, but in general -

Private landlords attitudes to investment are not comprehensively covered. In Dundee there is evidence that some property (*pre-1919 tenements and ex Council houses*) is selling at extremely low prices, often below £20k and occasionally below £10k. With the rent gained via Housing Benefits being relatively generous, there is no virtue in even protecting the capital value. There is probably also an underlying expectation that if the property/area deteriorates enough the Council will step in with a CPO or a Repairs Notice backed by grant, and they will recover the money (*or more*) via compensation.

Early indications are that HMO legislation is having a positive impact on those landlords who have applied, although the legislation lacks a means of adequate enforcement.

Arrangements for the Management of Common Repairs and Maintenance Work

(93) to (100) No additional specific comments, but in general -

The report should point out, as the Law Commission Report on the Law of the Tenement does, that *'cleaning and repainting are part of maintenance. So is gardening. Maintenance may also involve the day-to-day running of the tenement'*.

There is anecdotal evidence that the incidence of poor maintenance and cleaning of common areas is increasing.

We suggest that to be more effective, the proposed Tenement Management Scheme (*Appendix 2*), should be set as a minimum requirement and should be a duty. Owners could still alter this by majority vote, but only upwards. The basic scheme should also refer to cleaning and repainting. There needs to be a registration and policing system to ensure compliance.

There needs to be easier and cheaper access to the Courts and practical and enforceable remedies.

The Improvement Grant system could be adjusted to allow grant eligibility to be tied in some way to a requirement to set up an approved property management scheme.

Lenders may also have a part to play in this by recognising and highlighting the benefits of working and workable management arrangements within tenements and use the option of retention of part of the borrowing until specified works of repair are carried out.

Factoring systems and/or management agreements should be mandatory with adequate policing (*Local Authorities or Communities Scotland*) and most importantly, funding. Funding for all private sector initiatives, including Improvement and Repairs Grants must be ring fenced. The Local Housing Strategy (LHS) will identify the priorities for all tenures across the City. Funding requires to be flexible to match these locally set priorities.

As a safeguard, the Civic Government Act should still be there but it would be helpful to streamline the process and make debt recovery easier and less costly.

To make any private management arrangement effective, the majority should be able to have a cheap and simple remedy to enforce the arrangements. Pursuit through the normal court procedure is both cumbersome and costly.

(101) There appears to be an anomaly between what is being said here and the last of your Key Conclusions on the same page (32).

It states, 'Communities Scotland will regulate property management services to owners by social landlords in future'. Does this refer to social landlords in relation to former Right to Buy?

We have assumed that this is the case, if not then there is a need to clarify the roles of Local Authorities and Communities Scotland in relation to the regulation of private sector, property managers and factoring schemes. There is no current regulation of private landlords. Could this be a role for Communities Scotland or local authorities?

(102) to (108) No additional comments.

Local Authority Powers for Tackling Condition Problems in the Private Sector

(110) / (111) The Civic Government (Scotland) Act 1982 is referred to strongly in the Law Commission report on the Law of the Tenement but is not referred to in this report. This is important relative to basic housekeeping. There needs to be a universal policing system, and no doubt Local Authorities are likely to be the main focus for this.

The Improvement Grant regime is likely to be an important tool in dealing with repair problems, though it should be adjusted to respond to contemporary requirements rather than basic amenities. Funding needs to be sufficient to support this.

Dundee's LHS will focus on the need to provide quality housing across all sectors. Within the private sector greater emphasis needs to be made to ensure that eligibility for grant assistance matches locally determined strategies rather than attempting to sustain the entire existing private sector stock.

Supplementary to this is the issue of more demolition, which needs consideration along with easier Compulsory Purchase Order Procedures. In particular, appropriate compensation and financial resources should be made available to Councils to allow them to undertake demolition of poor quality surplus housing.

Compulsory Purchase Order Procedures are both onerous and lengthy and require to be reviewed to make them more responsive to local strategic needs.

Linked to this is the "market value", which at the time of the CPO does not necessarily reflect the amount paid by the existing owners. Many properties in certain areas of low demand in Dundee change ownership at prices well below current "market values" as set by the District Valuer, whilst the Local Authority is bound by this measure. The valuation process should be capable of recognising that the price paid by the owner can be lower than the valuation.

It is worth noting here that Dundee's problem of surplus is only likely to get worse as more new stock is added. Demolition will have to be part of future strategies. The increasing availability of cheap property is resulting in an increasing private renting sector with attendant maintenance and management problems.

(112) to (114) No additional comments.

(115) Dundee's Housing Action Area programmes are almost completed with only some 80 dwellings now awaiting treatment. The main difficulty in completing the programme lies in the problems of surplus housing as outlined in Section 2 of the introduction.

Dundee has an identified surplus of pre-1919 tenement housing in certain areas of the City, and with the limited resources available since the removal of ring fencing of the non-Housing revenue budgets, there is a reluctance to invest money in areas where the solutions to the problems of surplus housing may render such investment wasted.

(116) Same comments as 115.

(117) No additional comments.

(118) The use of Repair Notices under the Housing and Civic Government Acts can be extremely effective but for the Local Authority the cost, difficulties in the recovery of money expended and the impact of this on Council Tax, make them reluctant to use these powers in any but the most severe circumstances. The mechanisms available to Local Authorities to recover costs and expenses need to be strengthened and ring fencing of the non-Housing revenue budgets reinstated.

(119) No additional comments.

(120) to (125) No additional comments.

(126) Dundee is already providing owners with information and assistance towards promoting good practice in the preventative maintenance of their property without relying on grant assistance. In conjunction with Social Inclusion Partnership and Communities Scotland, a project to promote factoring and maintenance schemes, including the creation of sinking funds, will shortly be piloted in one area of the City. There are, however, resources issues (*human, financial and legislative*) which need to be addressed and adequately funded to see any lasting benefits.

(127) No additional comments.

(128) This approach by Edinburgh City Council is interesting. Dundee carries out most Repairs Notices in this way but is restricted in how many it can undertake because of difficulties in recovery of costs.

House Buying and Selling

(129) to (170) No additional comments.

DRAFT TENEMENT (SCOTLAND) BILL (Revised Version)

This Bill (extract attached) proposes a basic “Tenement Management Scheme” under which maintenance is a right not a duty. It also indicates that by a majority vote this Scheme can be amended for the tenement. This implies that if a landlord had a majority ownership, he could arrange to reduce or eliminate what this requires.

We suggest that to be more effective the proposed Scheme should be set as a minimum requirement and should be a duty. Owners could still alter this by majority but only upwards. The basic scheme would also refer to cleaning and painting.

Note also that in this respect, it has been standard practice for Communities Scotland to require a developer in receipt of grant for new or converted flats to set up a management scheme.

There are examples in developments where the management contract has been abandoned on a majority vote by the owners when it comes to its first review, usually 3 to 5 years after completion. There are developments which are deteriorating 5 or 6 years after completion because proper maintenance is not being undertaken.

Please see attached extract from the Draft Bill.

SCHEDULE
(introduced by section 4(1))

TENEMENT MANAGEMENT SCHEME

RULE 1 – SCOPE AND INTERPRETATION

1.1 Scope of Scheme

This scheme provides for the management and maintenance of the scheme property of a tenement.

1.2 Meaning of “Scheme Property”

For the purposes of this scheme, “scheme property” means -

- a. Any part of a tenement that is the common property of two or more of the owners,
- b. Any part of a tenement (not being common property of the type mentioned in paragraph (a) above) that, by virtue of the title to the tenement, must be maintained by two or more of the owners, or
- c. With the exceptions mentioned in rule 1.3, the following other parts of a tenement building -
 - i. The ground on which it is built
 - ii. Its foundations
 - iii. Its external walls
 - iv. Its roof (including any rafter or other structure supporting the roof)
 - v. If it is separated from another building by a gable wall, the part of the gable wall that is part of the tenement building, and
 - vi. Any other wall that is load-bearing.

1.3. Parts Not Included in Rule 1.2(c)

The following parts of a tenement building are the exceptions referred to in Rule 1.2(c)

- a. Any extension which forms part of only one flat
- b. Any door, window, skylight, vent or other opening
- c. Any chimney stack or chimney flue

1.4. Other Definitions

In this scheme -

”Maintenance” includes repairs and replacement, cleaning, painting and other routine works, gardening, the day-to-day running of a tenement and the reinstatement of a part (but not most) of the tenement building, but does not include demolition, alteration or improvement unless reasonably incidental to the maintenance,

"scheme costs" has the meaning given by Rule 5.1, and

"scheme decision" has the meaning given by Rule 2.1.