

DUNDEE CITY COUNCIL

REPORT TO: Personnel and Management Services Committee - 11 March 2002

REPORT ON: Education Department - Tied Housing

REPORT BY: Director of Education, Director of Personnel and Management Services, Director of Support Services

REPORT NO: 66-2002

1 PURPOSE OF REPORT

1.1 This report makes proposals regarding Education Department tied housing.

2 RECOMMENDATIONS

It is recommended that the Committee:-

- 2.1 notes that Education Department facilities management employees no longer require to occupy schoolhouses as a condition of their employment;
- 2.2 agrees to sell schoolhouses let to employees under the Housing (Scotland) Act 1987 where those houses lie outwith the curtilage of a school;
- 2.3 where works can be carried out with the result that a schoolhouse will lie outwith the curtilage of a school, and provided that the Director of Education has no objection, the Committee agrees that the Council may carry out those works provided that the employee who wishes to purchase his/her house pays the cost of those works;
- 2.4 agrees that the subsidy on rent which is presently paid to employees occupying a schoolhouse which lies outwith the curtilage of a school should reduce by one third on 1 April 2002, a further third on 1 April 2003 and the remainder on 1 April 2004. In addition, those employees who, for historic reasons, also receive a Council Tax or rates subsidy, should have these withdrawn in the same timescale as the rent subsidy;
- 2.5 agrees that the subsidies on rent and Council Tax which are presently paid to employees occupying a schoolhouse which lies within the curtilage of a school should be frozen at their current cash value (as set out in Appendix 2) until the employee concerned leaves the facilities management service;
- 2.6 agrees that no new employee in the facilities management service should receive a subsidy on their rent or Council Tax where they occupy a schoolhouse;
- 2.7 agrees that any employee who lives in a tied house can now vacate the house whenever he/she wants.

3 FINANCIAL IMPLICATIONS

- 3.1 A saving of £16,000 has been incorporated within the Final Revenue Budget for 2002/03. An additional saving of £14,000 has been included within the adjusted Provisional Revenue Budget for 2003/04.
- 3.2 In capital terms, the sale of any schoolhouses will raise additional capital receipts and these will be utilised to fund further capital expenditure within the Council.

4 LOCAL AGENDA 21 IMPLICATIONS

- 4.1 None.

5 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 None.

6 BACKGROUND

- 6.1 A Facilities Co-ordinator employed by the Education Department recently applied to buy the schoolhouse he rented from the Council under the Housing (Scotland) Act 1987. The Council refused to sell the house to him and he appealed the matter to the Lands Tribunal for Scotland. The Lands Tribunal granted his appeal and the Council had to sell the house to him at a discounted price.
- 6.2 The Council refused to sell the house because, firstly, it was occupied by the employee for the better performance of his duties (that is, it was a tied house) and, secondly, it lay within the curtilage of the school.
- 6.3 The Lands Tribunal held, however, that, while for the traditional type of janitor (who is dedicated to an individual school) residence on site is normally to be regarded as required for the better performance of his/her duties, the employee would have no right to buy. However, under the new system in the Education Department (where a team consisting of a Facilities Co-ordinator and Facilities Assistants look after a cluster of schools), occupation of a house does not allow better performance of any duty which would be of any value to the Council. Accordingly, there was no genuine intention on the part of the Council to impose an obligation of occupation. The Lands Tribunal, therefore, took the view that the house was not occupied for the better performance of duties.
- 6.4 The Tribunal also found, having regard to what they saw on a site visit, that the house was not within the curtilage of the school following the moving of the school gates in 1999 at the employee's request.

7 CURRENT POSITION

- 7.1 One consequence of this decision is that existing employees can choose to stay in the schoolhouses they lease from the Council, or make their own accommodation arrangements. New employees in the facilities management service can choose to move into a schoolhouse which is available, or make their own accommodation arrangements. Given that the Council cannot require employees of the facilities management service to occupy schoolhouses, there is no reason for the Council to retain the houses unless operational considerations dictate otherwise. It would, therefore, be appropriate for the Council to sell as many schoolhouses as possible, consistent with school security. On that basis, it is necessary to distinguish between those schoolhouses which are for sale and those which are not.
- 7.2 The Council could refuse to sell some schoolhouses on the basis that they lie within the curtilage of a school, and it is thought that this would be upheld on appeal. A refusal to sell all other schoolhouses could only be based on an argument that they were occupied for the better performance of duties, and it is thought that this might not be upheld on appeal.
- 7.3 Therefore, it is recommended that the Committee agrees to sell schoolhouses let to employees under the Housing (Scotland) Act 1987 where those houses lie outwith the curtilage of a school. (A list of all houses divided into those which lie within and those which lie outwith the curtilage of schools is given at Appendix I). Proceeding in this way is also consistent with school security.
- 7.4 There will be circumstances where works can be carried out with the result that a schoolhouse will then lie outwith the curtilage of a school. In these circumstances, it is recommended, provided that the Director of Education has no objection, that the Council agrees to carry out those works provided that they are done at no cost to the Council.
- 7.5 In the event that the sitting tenant does not wish to buy a house which is for sale, the tenancy will simply continue as before. When the tenancy comes to an end, the house will be sold on the open market. When the tenancy of a schoolhouse which is not for sale comes to an end, it will be offered for lease to another employee or, if no employee wishes to lease the house, it would be used for other education purposes, or demolished as appropriate.
- 7.6 The Lands Tribunal noted that members of the facilities management service occupying a schoolhouse receive the benefit of a discounted rental and rebate of Council Tax. The Tribunal called this "a throwback to the days of janitors where subsidised accommodation on site was a recognised part of the package of benefits" and that it did not reflect any disadvantage to the employee in staying in the house. The Education Department, therefore, receives no benefit in return for these discounts and rebates. A list of the discounts and rebates is given at Appendix 2.
- 7.7 Therefore, it is recommended that the subsidies on rent, Council Tax and rates which are presently paid to employees occupying a schoolhouse which lies outwith the curtilage of a school should be withdrawn in stages as follows: reduced by one third on 1 April 2002; a further third on 1 April 2003; and the remainder on 1 April 2004.

7.8 It is also recommended that the subsidies on rent, Council Tax or rates which are presently paid to employees occupying a schoolhouse which lies within the curtilage of a school should continue to be paid at their current level until the employee leaves the facilities management service. It is also recommended that new employees should not receive any subsidy where they occupy a schoolhouse: it is their choice as they do not need to occupy the house.

8 CONSULTATION

8.1 At a meeting with the relevant trade unions, it was agreed that it would be advantageous to obtain the views of Education Department employees who occupy tied housing. A draft letter to employees and questionnaire were issued to the trade unions and no comments were received. The letter explained the background to the issue and the questionnaire contained 5 options.

8.2 The Director of Education issued the letter and questionnaire to all relevant employees (43). The 5 options attracted the following responses:-

Purchase the house	12
Obtain a secure tenancy	2
Move to a new Council tenancy	3
Purchase a house in a different location	1
Pay for works to take house outwith curtilage then purchase house	2

In addition, 13 employees indicated on the questionnaire that they would prefer the status quo. However, given the decision of the Lands Tribunal and the fact that the occupation of a schoolhouse does not result in any benefit to the Education Department, the Directors take the view that the status quo is not an option.

9 BACKGROUND PAPERS

9.1 Opinion of the Lands Tribunal for Scotland in the case of Smith -v- Dundee City Council dated 4 April, 2001.

9 SIGNATURE

A. Wilson
 Director of Education

Date

J.C. Petrie
 Director of Personnel and Management Services

Date

P. McIlquham
 Director of Support Services

Date

EDUCATION DEPARTMENT - TIED HOUSING

School	Outwith Curtilage	Within Curtilage
Ancrum Road PS	x	
Ardler PS	x	
Baldragon Acad	x	
Barnhill PS	x	
Brackens PS	x	
Braeview Acad	x	
Charleston PS	x	
Craigiebarns PS		x
Dens Road PS	x	
Craigie HS		x
Douglas PS	x	
Fintry PS	x	
Frances Wright PSC		x
Glebelands PS	x	
Gowriehill PS	x	
Grove Academy (2 No)		x
Harris Academy No 1		x
Harris Academy No 2		x
Hillside PS	x	
Kingspark School	x	
Lochee PS	x	
Lawsid Acad		x
Longhaugh PS	x	
Menzieshill HS		x
Mid Craigie PS	x	
Mill of Mains PS		x
Morgan Acad		x
Mossgiel PS	x	
Powrie PS	x	
Rosebank PS	x	
Ss Peter & Paul PS	x	
St Clement's PS		x
St Fergus PS	x	
St John's HS		x
St Joseph's PS		x
St Luke's & St Matthew's PS		x
St Mary's PS		x
St Ninian's PS	x	
St Saviour's HS No 1		x
St Saviour's HS No 2		x
St Vincent's PS	x	
Whitfield PS		x

<u>Place of Work</u>	<u>Full Rent (from 1 July 2001)</u>	<u>Rent Paid</u>	<u>Rent Subsidy</u>	<u>Council Tax Subsidy</u>	<u>Rate Free Accom</u>	<u>Total Subsidy</u>
1	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
2	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
3	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
4	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
5	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
6	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
7	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
8	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
9	£2,654.40	£663.60	£1,990.80	£0.00	£0.00	£1,990.80
10	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
11	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
12	£2,598.72	£649.68	£1,949.04	£116.28	£0.00	£2,065.32
13	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
14	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
15	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
16	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
17	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
18	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
19	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
20	£2,598.72	£649.68	£1,949.04	£348.72	£0.00	£2,297.76
21	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
22	£2,598.72	£649.68	£1,949.04	£116.28	£0.00	£2,065.32
23	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
24	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
25	£2,598.72	£649.68	£1,949.04	£116.28	£0.00	£2,065.32
26	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
27	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
28	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04

Appendix 2

<u>Place of Work</u>	<u>Full Rent (from 1 July 2001)</u>	<u>Rent Paid</u>	<u>Rent Subsidy</u>	<u>Council Tax Subsidy</u>	<u>Rate Free Accom</u>	<u>Total Subsidy</u>
29	£2,598.72	£649.68	£1,949.04	£116.28	£0.00	£2,065.32
30	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
31	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
32	£2,598.72	£649.68	£1,949.04	£0.00	£521.04	£2,470.08
33	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
34	£2,598.72	£649.68	£1,949.04	£0.00	£521.04	£2,470.08
35	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
36	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
37	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
38	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
39	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
40	£2,598.72	£649.68	£1,949.04	£0.00	£0.00	£1,949.04
<u>Totals</u>	<u>£104,004.48</u>	<u>£26,001.12</u>	<u>£78,003.36</u>	<u>£813.84</u>	<u>£1,042.08</u>	<u>£79,859.28</u>