

REPORT TO: HOUSING, DUNDEE CONTRACT SERVICES AND ENVIRONMENTAL SERVICES COMMITTEE – 23 JUNE 2008

**REPORT ON: HOUSING (SCOTLAND) ACT 2006
RESPONSE TO CONSULTATION ON DRAFT GUIDANCE AND REGULATIONS**

REPORT BY: DIRECTOR OF HOUSING

REPORT NO: 325-2008

1. PURPOSE OF REPORT

- 1.1. To inform Committee of consultation on draft guidance and regulations which will support new local authority powers and duties in the Housing (Scotland) Act 2006 and to seek Committee approval to the attached response.

2. RECOMMENDATIONS

- 2.1. It is recommended that the Housing Committee approves the draft response (Appendix 1) and agrees to its submission as Dundee City Council's response to the Scottish Government's Consultation Paper.

3. FINANCIAL IMPLICATIONS

- 3.1. There are no immediate financial implications at this time; however the scale and pace of implementation of this legislation together with the removal of ring-fencing of the Private Sector Housing Grant in 2010/11 will create a need for significant resource planning in terms of staffing, training and IT support. The impact of the introduction of lending, to replace the current scheme of grants, which is designed to create future flows of income from repayments is difficult to assess at this time and assumptions will need to be made once final guidance and implementation timescales are issued by the Scottish Government.

4. MAIN TEXT

4.1. THE HOUSING (SCOTLAND) ACT 2006

- 4.1.1. The Housing (Scotland) Act 2006 introduces fundamental changes to the repair and maintenance of private sector property. It recognises that the primary responsibility for repair and maintenance of private sector property lies with the individual owners. It translates the recommendations of the Housing Improvement Task Force into local authority powers and duties which are designed to encourage and assist owners to carry out repairs and maintenance to their property. It moves away from the current approach of direct financial assistance, in the form of grants and looks to encourage owners to use their own resources. These powers include new enforcement powers.

4.1.2. **Local Housing Strategy**

The Council's Local Housing Strategy is to include a strategy for private sector housing and in particular how the local authority intends to address Below Tolerable Standard (BTS) housing, identify areas for designation of Housing Renewal Areas and how it will utilise the scheme of assistance to improve the condition of private sector housing. This strategy is to be evidenced based and in this respect we will seek to carry out a Local House Condition Survey of the private sector to inform our approach.

4.1.3. **Section 72 Statement**

Local authorities are required to produce a public statement describing the circumstances in which they will provide assistance and what form that assistance will take - i.e. advice, information, practical assistance or financial assistance in the form of standard loans, subsidised loans or grants. It is proposed that publication of the section 72 statement is the point at which the local authority should implement the new powers.

4.1.4. **Scheme of Assistance**

The existing scheme of improvement and repair grants is to be replaced by a new Scheme of Assistance which places the emphasis on the provision of information, advice and practical assistance. Financial assistance, where necessary, will be in the form of loans, obtained commercially or where not available commercially, through a new National Lending Unit delivering specific loan products. Grants are seen as the option of last resort.

4.1.5. **Housing Renewal Areas**

The legislation also introduces Housing Renewal Areas (HRAs) to replace Housing Action Areas. HRAs are broader in their scope of activity and can be designated where;

- a significant number of houses are sub-standard; and/or
- any houses are adversely affecting the amenity of the area.

4.1.6. **Work Notices and Demolition Notices**

Work notices and demolition notices can be used to implement an HRA. In addition work notices can be served on any house which is sub-standard whether in an HRA or not. Work notices will replace Repair Notices.

4.1.7. **Maintenance Orders and Maintenance Plans**

Maintenance orders can be served where owners have not or are unlikely to maintain their property to a reasonable standard. The order requires owner(s) to submit a maintenance plan which will secure the future maintenance of the property for up to 5 years. Local authorities have the power to enforce a maintenance plan and to recover costs where action is taken to enforce a maintenance plan.

4.1.8. **Revised Tolerable Standard**

The tolerable standard has been revised to include the two new elements of thermal insulation and electrical installation and confirm a previous extension of the definition of a water closet to include waterless closets. The introduction of these new elements will likely increase the number of houses failing the tolerable standard.

4.2. **PRIVATE SECTOR HOUSING GRANT**

- 4.2.1. Committee is asked to note that from the financial year 2010/11 ring-fencing will be removed from the Private Sector Housing Grant budget which will become part of the General Services budget.

4.3. **IMPLEMENTATION**

- 4.3.1. An Implementation group comprising officers from various departments has been formed and have been discussing the draft guidance and its implications. Officers have attended consultation events organised by the Scottish Government and a series of ongoing meetings is planned. The development of the Local Housing Strategy and the section 72 statement, which are fundamental elements of implementation will be influenced by the final guidance and regulations as well as by the implementation plan and transitional arrangements yet to be confirmed by the Scottish Government. This is a significant change in approach and will require time and resources to implement.

5. **POLICY IMPLICATIONS**

- 5.1. This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty Impact Assessment and Risk Management.
- 5.2. There are no major issues at this time.

6. **CONSULTATION**

The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance), Head of Environmental Health and Trading Standards, Director of Planning and Transportation, Director of Social Work and the Director of Economic Development have been consulted in the preparation of this report.

7. **BACKGROUND PAPERS**

- 7.1. The Housing (Scotland) Act 2006 - Draft guidance for local authorities, volumes 1 to 6.

ELAINE ZWIRLEIN
DIRECTOR OF HOUSING

June 2008

FORM 3 CONSULTATION QUESTIONNAIRE

Please use this form to respond to the consultation questions. This will help us to understand clearly which part of the consultation your comments relate to.

We have listed below each question asked in the consultation in order starting at Volume 1 and provided space for your comments. Some of the questions are general and refer to the whole volume. Where questions are specific to a particular part of the volume, we indicate the page number for your ease of reference. We have provided additional space at the end for you to make general comments about the guidance as a whole if you wish.

You may respond in writing using this form, or if you require more space for your answers, you can access an electronic version of the form at www.scotland.gov.uk/consultations/current. For organisations: it would assist us greatly in analysing the responses if you could send a single, consolidated response which takes account of all relevant interests in your organisation.

VOLUME 1			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
11	Do you agree that the publication of the section 72 statement is the best point of transition?	We agree that the publication of the section 72 statement is the best point of transition from the grant regime into the Scheme of Assistance, but with no set date for the implementation of the New LHS how will this effect the implementation of section 72 as the Act states that the LHS would be the starting point for section 72? Lack of evidence on the condition of private sector stock is also a relevant issue; as this evidence becomes available the section 72 statement may need amendment. This authority also has a large number of current grant applications and at this time continues to accept new grant applications. There are also a number of outstanding Repair Notices. Transition to a Scheme of Assistance must take into account the processing of existing grant applications if we are not to suddenly cancel applications for grant previously made and accepted but not formally approved.	A1

VOLUME 1			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
11	Is a transition period of 6 months appropriate?	As indicated above we consider that the two schemes need to run in parallel, with the Scheme of Assistance commencing for new applications once the section 72 statement is in place. The Council will have to make a decision as to when it ceases to accept grant applications under the current scheme, bearing in mind the need to spend budget allocation. We consider 6 months to be an unrealistic period and would suggest a period of 18 months from publication of the section 72 statement would enable outstanding grants to be processed. What will happen to outstanding Repair Notices etc? The delivery of lending products through the proposed NLU and Lending Advisory Service will be critical to implementation. An implementation timetable will be critical.	A2
15	After considering the statutory and advisory parts of this suite of guidance, do you agree with the way the guidance balances national consistency and local flexibility?	Yes, the guidance has been welcome and its form has been useful in clarifying and focusing on specific areas.	A3
26	What exceptions are there to the general rule that assistance is preferable to enforcement and how would you propose to handle them?	Absent owners, as discussed in the guidance. Emergency circumstances affecting public safety and health when the use of other powers would be more effective and appropriate. For example use of the Environmental Protection Act (S79-80), the Civic Government (Scotland) Act (S87.3) and the Building (Scotland) Act 2003 (dangerous buildings). There will be a need to develop protocols between departments (not everything will be a one stop shop) to ensure that the most appropriate powers are used to achieve the desired outcomes and to ensure that there are strong lines of communication between departments (e.g. Environmental Health, Building Standards etc.). Following emergency work the Scheme of Assistance could, where appropriate, be used to target repairs and improvements affecting the long term condition of the property (owner-occupiers/mixed tenure). Alternatively in the case of landlords, the Repairing Standard should be enforced.	A4

VOLUME 1			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
28	Do you agree with the position taken on the SHQS?	<p>Dundee City Council accepts the voluntary nature of SHQS and the owner's right to determine whether they wish to become involved. Our own experience, specifically with door entry systems, involving right to buy property, is that there is a poor take-up by owners and the council have very limited success in encouraging owners to participate, even with grant. This suggests that a significant number of properties will be the subject of applications for exemption. Whilst the installation of a door entry system will likely be of little interest to an owner unless a problem exists, where a problem does exist the lack of a secure entry can be a huge issue, particularly for existing tenants who see others benefiting. As the council install secure entry into it's wholly owned blocks the problems migrate to those mixed tenure blocks where there is little chance of delivering security without the co-operation of the private owners within these properties. For many the costs are the determining factor and many are reluctant to invest. There are significant numbers of owners who will become involved in these programmes and if there is to be any level of success an attractive and simple incentive will have to be available. We have reservations that a commercial loan or standard loan would not, for the majority, be an adequate incentive. It is accepted that the provision of an incentive to participate will encourage some but not all. The requirement under SHQS to achieve an NHER level 5 will no doubt create a similar situation. Why create an aspirational standard, 'appropriate to housing in the 21st century' in the knowledge that significant numbers of properties are unlikely to be able to meet the standard? it is also noted that despite the proposed approach to SHQS indicated in the guidance, SHQS failure rate is to be used as the primary factor in allocating PSHG.</p>	A5

VOLUME 1			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
31	Have we suggested the most appropriate areas for the collection of statistics in the future?	Further detail would be welcome. However we would suggest that there is a need to determine the outcome of each case considered under the Scheme of Assistance whether this results in advice only or some form of financial assistance. Again the delivery of statistical information will most likely create a need to develop supporting IT solutions - details of the statistics required by the Scottish Government will be critical to developing IT. The point is also made that until we have guidance for the LHS, we do not know what is to be included in the LHS objectives and targets.	A6
34	Do you think it would be helpful to use maintenance order powers before other aspects of the new powers are ready to be introduced locally?	If these powers were brought in earlier it would enable proactive use of maintenance orders where grant works have been undertaken in recent years. The resource implications of this approach would have to be evaluated prior to implementation. The ability to recover costs would be a relevant factor.	A7
34	Do you foresee any problems if we repeal conflicting duties in the 1987 Act at the start of the transition period?	As indicated in Ref' A1 and A2 above if insufficient time is allowed for the transition, a significant number of existing grant applications made and accepted in good faith may have to be cancelled. Applicants with an expectation of grant assistance may get completely different assistance which may determine whether work is carried out or not. The minimum impact may be a further delay in carrying out work. The actual impact will be influenced by determining at what stage an existing grant will proceed under the existing scheme - application received or Formal Notice of Approval issued. This in turn will impact on the forward commitment to PSHG. What will happen to existing Repair Notices once transition is completed?	A8
36	Should non-local authority interests be involved in training and if so, how?	Experiences with the private rented sector through Registration and Licensing revealed a skills gap within the authority which was addressed by tapping in to external training providers.	A9

VOLUME 1			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
36	Would you be in favour of the development of a recognised qualification focusing on private sector housing issues?	Yes. Such a qualification may also be beneficial to private landlords, helping them develop their credibility as a good landlord.	A10
36	Are there examples of processes for identifying, validating and disseminating good practice that you think would be useful?	The local authority driven networking groups for Licensing, PSHG and Registration have also been very useful in disseminating good practice and as a discussion forum. The delivery of such training could be coordinated through such a networking group rather than each local authority devising/arranging its own training. In some cases relevant expertise may exist within individual local authorities. The publication of 'Good Practice Guides' on a regular basis may also prove useful. On-line advice could also be made available to owners.	A11

VOLUME 2			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
ii	Will this guidance help you to implement the new powers? Ultimately you will be responsible for interpreting the legislation, but are there any areas which you would appreciate more information on?	Yes, however the resources and time required developing a fully functioning scheme must not be underestimated. Experience of rushing in new schemes before they are fully ready has been painful and counter productive. At this stage we consider a cautious approach to HRAs prudent, perhaps looking at a pilot scheme to help develop procedures and take into account available resources and evidence. As implementation of the new powers develop and issues become apparent it will also be important that the guidance is flexible enough to accommodate change. Definition of the term "building" would be beneficial.	B1
ii	Will the information in Annexes A-D help you to produce the appropriate documents?	Yes, however it is suggested that standardisation of approach would be a benefit, particularly for owners with properties in more than one local authority area. Some consideration should be given to the potential of having 32 different documents to effectively achieve the same outcome.	B2

VOLUME 2			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
ii	We are proposing to include a Q&A annex of frequently asked questions. This will be developed for the final document, and we propose to update this, as necessary, on the website version of the document. Do you think this would be useful? Are there any questions in particular you would like this to include?	<p>Yes.</p> <p>How will we deal with existing Repair Notices which remain outstanding at the point of transition?</p> <p>How will existing grant applications be dealt with at the point of transition?</p> <p>Section 173(4)(a) is not clear - it states that we cannot enforce an RC against a person "who acquires right to the charged living accommodation (whether title has been completed or not) in good faith and for value before the RC is registered". Under common law the debt crystallises at the point when the invoice is raised and served on the registered owner - see House of Lords case of David Watson Property Management v Woolwich Equitable Building Society, 1992 SLT, 430. Also, does this mean that if someone buys at auction or is gifted the property, and is unaware of a Repairs Grant/Maintenance Grant over the property, or a notice, which would show up on a PIC, that they are buying in good faith? Whereas if you buy through your solicitor and know about it, then you will be liable?</p> <p>Does recovery of annual instalments come under the 20 year negative prescriptive period?</p>	B3
ii	We are also looking at the possibility of an annex which will set out the various pieces of legislation which a local authority can use to deal with issues of poor quality in private sector housing. Would you support this?	Yes	B4
ii	Any other comments on Volume 2?	A significant amount of time and resources, across a number of departments, will be required to develop appropriate procedures, protocols and documents to enable the efficient implementation of these powers. This will not happen overnight.	B5

VOLUME 3			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
ii	Will this guidance help you to implement the new powers? Ultimately you will be responsible for interpreting the legislation, but are there any areas which you would appreciate more information on?	Yes. Greater guidance on the definition of "Reasonable Standard" would be helpful. Again 32 potentially different definitions may cause confusion with landlords who have properties registered with more than one local authority. Information sharing between departments to enable identification of owners will be a critical aspect of these powers and guidance on an approach to information sharing might be helpful.	C1
ii	Will the information in Annexes A and B help you to produce the appropriate documents?	Yes. The Council would support the approach of producing maintenance plan templates to be used both by owners drawing up their own plan and for local authorities to use where they devise a plan. We wish to consider providing the option to owners of proceeding without the need to engage a professional by providing sufficient advice, information and guidance to enable them to confidently proceed.	C2

VOLUME 3			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
ii	Any other comments on Volume 3?	<p>If local authorities do not have a means of charging for the production of maintenance plans (prepared in default or as part of scheme of assistance) there is no incentive under the Act or statutory guidance for owners to prepare maintenance plans independently.</p> <p>The guidance indicates that neither the local authority nor owners can, in devising a maintenance plan, go against any real burdens in the title deeds. In approving a plan a local authority will have to be satisfied that any plan does not go against the title deeds. This is likely to be time consuming and costly in obtaining and checking deeds both from the perspective of the owners and the local authority whether approving or creating a plan. Para 3.8 of the guidance appears to be contradictory in that owners or the local authority may apportion responsibility as they think fit, but not if it goes against the title deeds, DMS or TMS? It seems to us that there will be very little that is not covered by title, DMS or TMS. Many deeds refer to rateable values as the method of allocation; however domestic premises have not been entered on the Valuation role since 31 March 1989 although this is not the case with commercial premises. Arguably in these circumstances deeds referring to rateable value are no longer a 'fair' method of allocation. The Council understands however that assessors have the ability to 'certify' rateable values as they would have been in 1989 at a cost of £100 per property.</p> <p>The development of a specific 'Maintenance Account' similar to a 'Treasurers Account' with the banks may prove a useful tool to encouraging owners to create and maintain a maintenance fund. The problems of identifying who has made a deposit where the deposit has not been made on-line, by standing order or into the holding branch might also be addressed.</p>	C3

VOLUME 4			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
ii	We have developed the draft guidance in a way that encourages consistency but retains the scope for flexibility and professional judgement. Do you agree that the balance is right?	Dundee City Council welcomes the guidance however it is felt that some of the criteria it is too prescriptive and there is potential for tenants/owners and their representatives to argue that a house is "uninhabitable" when this is not necessarily the case.	D1
ii	The chapters on <u>electrical installations</u> and <u>thermal insulation</u> reflect new provisions and as such there is no body of experience in working with them. Do you think that the approach we have set out is useful? If not, what parts should we change and what would you suggest?	The addition of the electrical installations and thermal insulation is useful. However in relation to electrical installations, certain defects (that could be rectified) may bring the house below the Tolerable Standard and while this may be welcome it would appear to be in conflict with the principle that a defect in a drainage system would not constitute BTS. In respect of code 1 - 4 defects identified by an electrician in a Periodic Inspection Report, will it be enough to rectify the defects or is there an implication that the electrical system should/must be rewired? What impact will this have on the status of surrounding property built at the same time, bearing in mind the local authority's duty to deal with BTS housing? Guidance is required on how we ensure continuity of interpretation of standards by the electrical profession; will guidance be available to them?	D2
ii	Assessing the severity of rising and penetrating damp can be difficult. Do you agree with our proposed approach for assessing houses against the rising and penetrating damp element? If not, what would be a more useful framework?	We do not agree with the proposed approach. It is too prescriptive and in our opinion would be better left to the professional judgement of the assessor as to what is substantially free from rising and penetrating damp.	D3

VOLUME 4			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
ii	Do you think the level of detail we give in the draft guidance is appropriate? Are there areas that you would find more detail helpful?	<p>As stated previously it is our opinion that the guidance is too prescriptive, particularly in relation to dampness (refer to comments at D1 above).</p> <p>In respect of thermal insulation suitable guidance on the technical issues, particularly condensation, associated with the introduction of insulation into roof spaces and the identification of appropriate preventative measures should be included.</p> <p>Some concern has been raised that adequate consideration has not been given to the influential Sullivan Report (A Low Carbon Building Standards Strategy For Scotland) which makes specific reference to housing as follows:- "Recognising the very large contribution of existing domestic buildings to carbon emissions and the need to increase effective action in this sector, the Scottish Government should continue to develop measures and targets for reducing carbon emissions from the existing domestic stock."</p>	D4
ii	Is the pitch and tone of the draft guidance appropriate for the audience we are aiming at? If not, how could we improve this?	It is recognised that the standard of housing needs to be brought up to a level appropriate for modern living. The guidance should emphasise that not all properties that fall below the new BTS will be "uninhabitable" and may still be lived in until the necessary works are carried out. It should be made clear that local authorities will be tasked to assist owners in reducing the number of BTS properties in a prioritised manner. Any publicity should target raising awareness of the responsibilities of property ownership and reinforcing the principles behind the new Scheme of Assistance so as not to raise public expectations.	D5

VOLUME 5			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
20	How useful would a public information website be?	Greater numbers of people are using web based services and a maintained public information website would prove useful. Clear links to local sites providing local information on the relevant section 72 statement etc. would be essential.	E1
22	Do you support this overall approach to information provision? Are there additional areas on which you would welcome guidance?	Yes, however it will be critical that any National Awareness Campaign takes into account local commencement of the scheme, otherwise it will simply create confusion and frustration. The transitional arrangements for dealing with existing grant applications under the current grant scheme will also be a fundamental part of this approach. Again the proposals will require significant resources.	E2

VOLUME 5			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
29	Do you support this overall approach to advice provision? Are there additional areas on which you would welcome guidance?	<p>Yes.</p> <p>As has been previously discussed however, reference to a One Stop Shop implies that all enquiries will be dealt with at one point of contact. This is an over-simplification and needs to be carefully considered as a term. Dundee City Council's approach has been to deliver a large number of related services to the private sector through a Private Sector Services Unit, located within the Housing Department and responsible for Grants, Care & Repair, Advice and Liaison, Landlord Registration, Accreditation and HMO Licensing. The grouping of these services centrally has proved beneficial by enabling a joined-up approach to the various tenures of private sector housing. Other departments however play a part in using specific powers to support action in the private sector including Environmental Health & Trading Standards, Building Standards, Planning & Transportation etc. There is a need to ensure that protocols and strong lines of communication are developed to ensure that the most appropriate approach to achieving the desired outcome is used. Private Sector Services could be seen as the hub service.</p> <p>Amended Customer Satisfaction Surveys currently utilised for Grants and Care & Repair may prove a useful source of statistical information. It would be very useful if the statistical information required by the Scottish Government could be incorporated into such a document.</p> <p>Additional guidance on financial advice and guidance linked to the development of a National Lending Unit will be essential to the delivery of the Scheme of Assistance.</p>	E3
32	Are there any specific aspects of practical assistance on which you would welcome guidance?	The Council would welcome further guidance on options for introducing property management schemes using RSLs and property managers as well as on dedicated maintenance support services referred to in paras 2.85 and 2.86. The Scottish Government's vision for an expanded Care & Repair scheme, presumably based on the review of the scheme referred to, will also be essential in informing the Council's section 72 statement.	E4

VOLUME 5			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
47	Are there any other categories of borrowers who require consideration in developing lending options?	Yes. Owners of houses listed under the Housing Defects Act 1984. In particular PRC houses (usually ex-council stock). Many such houses are beginning to suffer from defects which could result in the house being listed as BTS. With no ability to access grants and without a suitable loan product, how will these properties be dealt with?	E5
51	Should any changes be made to the key features of these lending products?	Insufficient knowledge to enable comment.	E6
51	Are the proposed products suitable for these types of borrower?	Refer to E5 above.	E7
51	Are there any other products that should be considered?	Unable to comment	E8
52	Should a minimum amount of an owner's wealth be disregarded when assessing affordability of works? If so, on what basis?	Yes. The Council would support such an approach on the basis that owners will have other demands, some unforeseen, on their wealth. The approach should perhaps mirror that of other agencies who apply a similar policy. (i.e. Welfare Rights).	E9

VOLUME 5			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
52	What is the realistic possibility of the commercial market developing a Home Appreciation Loan as outlined above?	This is an issue for the commercial market although in the current climate it is thought unlikely.	E10
33	Which method of allocation of funds for the National Lending Unit should be used?	Take-up of loans may well influence the methodology. We would prefer to see a method which reflected local demand rather than top-slicing a guestimated amount of funding. It is assumed that running costs would be shared amongst all authorities or funded centrally. We perceive some difficulty in assessing the level of demand for loans as we have no previous experience of this approach, this has influenced our comments.	E11
34	Is there a better way to allow local authorities to access capital within the fund?	Unable to comment.	E12
70	Do you support the creation of a National Lending Unit to supply products to people generally not served by the financial markets? If not, what alternatives would you suggest?	Dundee City Council supports the creation of a National lending Unit. It is understood that loans are to be the first financial option considered where financial assistance is required and there is some concern that that the NLU will not be fully functioning by the time the LHS is complete and section 72 statements are in place.	E13

VOLUME 5			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
70	How do you think a National Lending Unit should be delivered?	Dundee City Council would support the creation of a National Lending Unit in line with Option 5 of the guidance however reference is made to our concerns regarding implementation outlined in E13 above. Arguably the development of the NLU will influence the overall implementation timetable.	E14
79	Do you support this overall approach to the assessment of financial assistance?	Yes, it appears to offer a degree of flexibility.	E15
79	Is the proposed model framework helpful?	Yes. Additional guidance on opportunities to work with Credit Unions would be useful.	E16
79	How do you view the framework in the context of the new relationship between national and local government that has been signalled?	The framework appears to offer a degree of flexibility to allow the Scheme of Assistance to be tailored to meet local circumstances.	E17

VOLUME 5			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
81	Do you support the creation of a publicly funded financial advice service? If not, what alternatives would you suggest?	On the basis of the information provided in the guidance, Dundee City Council would support a publicly funded financial advice service. We would however seek clarification of the proposal to refer owners' to a commercial broker (3.157 & 3.206). How will these referrals be made? How will these brokers be identified? What form of report will be expected from the Broker where the owner is eligible for NLU products? Where does the Lending Advisory Service sit in the model?	E18
81	Do you have any views on whether the service should be delivered by an appointed panel of brokers from the financial services industry, or whether it should be run as part of the National Lending Unit?	Again on the basis of the information provided the preferred option would appear to be delivery through the National Lending Unit. Turn around time for referrals will be an important aspect of the delivery of the service.	E19
94	Do you support the intention to regulate for adaptations to attract mandatory grant? Is our proposed definition of adaptation appropriate?	Yes. We would support the definition of adaptation.	E20
94	Do you agree with our proposed approach of restricting mandatory grant in cases where additional living accommodation is being provided but avoiding a blanket exclusion?	Yes. Where a house cannot be adapted to meet the needs of a disabled person - i.e. the bathroom and bedrooms are upstairs and cannot be accessed or adapted - the option of providing assistance including financial assistance towards an extension to meet needs should be considered before the option of finding alternative accommodation which meets the needs of the individual or can be adapted. Comment has been made by the Social Work Department that this approach may have possible implications for other housing providers (i.e. Housing Associations).	E21

VOLUME 5			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
94	Do you support the intention to regulate for 80% minimum grant for grant-aided works related to a disability, increasing to 100% for people in receipt of specified income replacement benefits?	Yes.	E22
92	Do you see value in a national tendering exercise for permanent adaptations? If so, should it extend to adaptations funded in the social rented sector or be limited to adaptations in owner occupied housing?	No. We consider there are a number of issues with this approach. Owners may not be happy with the contractor identified to carry out the work. Any problems with the contract will inevitably come back to the local authority to deal with as they 'appointed the contractor'. Disputes would be more complicated to resolve. Work carried out on a private dwelling should be the subject of a contract between the owner and a contractor of the owner's choice. Would there be sufficient ability to meet increasing demand?	E23
94	Do you have any other comments on this approach to financial assistance for works related to disability?	Recent discussions with the Royal National Institute for the Deaf highlighted issues with the provision of suitable smoke detection for the deaf which may merit further discussion. In this Local Authority, Tayside Fire & Rescue are providing smoke alarms for people with no hearing disability and the question of the Disability Discrimination Act has been raised.	E24
98	Do you support this general approach to financial assistance for house condition works?	Yes. We do have some reservations however about whether work will be carried out when there is no grant and/or loans are the option, whether commercial or via the NLU.	E25

VOLUME 5			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
98	In what, if any, circumstances do you envisage that up-front grant might be a necessary tool in facilitating repair and improvement work to be carried out?	Owner occupiers involved in common works and SHQS work, serious disrepair, hardship (where pre-determined by other agencies) linked to priority work. Emergency situations. Up-front grant could be linked to voluntary action and be removed where enforcement action was necessary.	E26
100	Is this a reasonable approach to financial assistance for landlords and tenants?	Yes.	E27
100	Are there other types of works or categories of owner on which you think guidance on financial assistance would be helpful?	Owners of houses listed under the Housing Defects Act 1984	E28
102	Do you support the view that a nationally prescribed test of resources for assessing grant eligibility for repair and improvement work will no longer be appropriate under the Scheme of Assistance?	Yes, on the basis that the Lending Advisory Service and the National Lending Unit will effectively become the filter, replacing the need for a Test of Resources. Where after assessment for a commercial loan or a loan sourced through the NLU, there is still a shortfall in funding, top-up grant funding should match the shortfall. There is an argument however that where local authorities plan to use a test of resources, it should be based on a standard national test.	E29

VOLUME 5			
PAGE	QUESTION	YOUR COMMENTS	Our ref.
102	If your authority plans to use a local test of resources, are there any aspects of this on which you would find guidance helpful?	There is a lack of expertise in this area and detailed guidance on income and expenditure to be taken into account including savings, investments and house equity together with guidance on assessment of the applicant's contribution would be essential.	E30
104	Do you support this approach to approved expense limits?	Dundee City Council support in principal this approach however under the current grant scheme approaches seeking authority to exceed the current maximum approved expense limit of £20,000 have only been made where the budget allows as no additional funding is made available.	E31
104	Are there circumstances where you see a continued role for local approved expense limits?	Possibly where demand exceeds the budget and the application of an approved expense limit could be used to control expenditure. The use of maximum allowances will also be useful in controlling over-pricing and over-specification.	E32
115	Is this a fair summary of the issues likely to influence the identification of priorities within a statement of assistance?	Yes, it appears to allow flexibility of approach which is crucial as each local authority faces different issues - i.e. in this local authority area there has historically been little enthusiasm for property managers/factoring services perhaps reflecting the age and condition of tenemental stock in the city.	E33
118	Is this model framework helpful? Are there further headings that could be included within this model framework?	Yes. Other headings might include 'Other Services and Agencies', 'Useful Contacts (including suppliers)'. Reference to a 'Trusted Traders' scheme and any other information leaflets etc. produced by the local authority or other outside agency	E34

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PAGE	QUESTION	YOUR COMMENTS	Our ref.
3	What are your ideas on the potential role of CLE within a trusted trader framework in Scotland?	<p>The Construction Licensing Executive was set up in 2002 to help restore confidence in Scotland's construction industries. It is controlled by five of Scotland's construction related trade associations, and provides a form of national framework for self regulation of member trades.</p> <p>However we do not think that CLE is particularly representative of the Scottish construction industry with the majority of firms in Dundee remaining outwit the CLE umbrella, and there are also a number of other relevant construction industry scheme operators that are not members of CLE at all. CLE is also not particularly independent as its funding comes from scheme operator's members, and Dundee City Council would be concerned that the whole CLE operation would be unsustainable, should some or any of the constituent trade association members withdraw their support.</p> <p>CLE do have non industry representatives on its board, but if CLE were to play a central role in a national trusted trader framework, we would like to see more robust and independent administration of CLE approved schemes and a more comprehensive and representative membership. We also agree with the Scottish Government that any scheme membership should be on a voluntary basis rather than mandatory, and should not place any undue administrative nor financial burden on business.</p> <p>Dundee City Council also feels that any proposals for CLE to have a central role in the administration of a national trusted trader framework should be examined in light of the impending EU Services Directive, to make sure any proposals for administrative practices or licensing schemes are compliant with the Directive, in short that they are non-discriminatory, proportionate, and necessary.</p>	F1

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PAGE	QUESTION	YOUR COMMENTS	Our ref.
13	What are your ideas on the potential role of local authority schemes within a trusted trader framework in Scotland?	<p>Dundee City Council believes that local authorities have a key role to play in introducing and supporting local good trader schemes, ideally within the wider framework of a national trusted trader network showing that authorities can work together jointly for their communities. It is our view that local authorities are inherently well placed to operate such schemes, having a key appreciation of local issues, and able to work directly with scheme members to advise and support them in improving business standards and increasing consumer confidence in local services. A key benefit to local authorities operating local schemes is that the scope can be extended beyond construction, to other areas of potential consumer detriment. Homeowners are not merely interested in finding a reliable plumber or builder - they may also want to have their car serviced at a reliable garage or their computer repaired at a recommended repairer. Local authority schemes are also more independent than industry or privately run schemes and in our view are clearly the best option for focusing on local needs and local community wellbeing.</p> <p>Dundee City Council operates the best known trusted trader scheme in Scotland - the Dundee Trusted Trader Scheme, which has in three years shown great benefits for member firms and especially for local consumers and communities. We have been pleased to work with colleagues within the Scottish Government in demonstrating the potential of our scheme and are happy to promote it as a model of good practice throughout the UK.</p>	F2

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PAGE	QUESTION	YOUR COMMENTS	Our ref.
13	What are your ideas on the potential role of local authority schemes within a trusted trader framework in Scotland?	<p>There are one or two other Scottish local authority schemes in operation, as outlined in the consultation, but none provides the scope and detail of Dundee Trusted Trader, nor the support and information for consumers and local business. Dundee Trusted Trader is accredited to the Local Authorities Assured Trader Scheme Network [LAATSN] supported by the Office of Fair Trading, and we have made our scheme available through a licensing arrangement to other local authorities. Norfolk County Council have already agreed to use the scheme and we are expecting at least three Scottish authorities to follow suit this year.</p> <p>In light of these comments Dundee City Council takes the view that local authority trading standards services are best placed to manage local schemes, and we would suggest that a good practice model is based upon the Dundee Trusted Trader Scheme. It is important that all local authorities take a consistent approach so that trusted trader data is not limited by geographic boundaries.</p>	F2

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PAGE	QUESTION	YOUR COMMENTS	Our ref.
13	What are your views on CLE and local authorities operating under the one framework in Scotland?	<p>Firstly in terms of the construction industry itself, CLE is not representative of nor truly independent of all the various industry sectors, so it may not be suitably placed to administer any trusted trader network, without the risk that the majority of Scotland's construction related businesses would be placed at a distinct competitive disadvantage.</p> <p>Making CLE membership mandatory would be an unwelcome step which would place undue burdens on small business, and others who are currently members of non CLE approved schemes, and we agree with the Scottish Government's aspiration that as far as is practicable there should be universal coverage of all sectors of the construction industry.</p> <p>Dundee City Council also feels that CLE has a narrow scope compared to the breadth of sectors that are included in existing local authority schemes. We recognise that consumer protection is a reserved matter however it would be to the detriment of local communities to restrict the potential of any national scheme solely to the construction industry.</p> <p>We do believe however that there is an opportunity to join up national and local trusted trader schemes, and we are prepared to assist CLE and the Scottish Government in any way that brings benefits to local communities.</p>	F3

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PAGE	QUESTION	YOUR COMMENTS	Our ref.
13	What are your views on more than one level of accreditation existing within the one framework?	<p>Dundee City Council agrees that some form of overall accreditation to a set of standards or code of practice is needed to give consumers an underlying level of protection. However our experience with the Dundee Trusted Trader scheme has shown that code compliance in itself is not as big a factor in consumer choice as others such as value for money and perceived quality of work. Indeed for many jobs even within the building and construction sector, a high level of accreditation or warranty protection may not be necessary, or appropriate.</p> <p>We believe that member firms within a national trusted trader network must abide by simple, universal, and clearly laid out codes of practice which have consumer protection principles at their heart. This should be seen as a minimum standard.</p> <p>There are benefits in having a greater level of accreditation where appropriate, where work may be particularly expensive and insurance backed warranties or mandatory accreditation is required, for example for gas fitters. However we would not support extending a high level of accreditation across wide sectors or over a range of sizes of business, as this may be prohibitively expensive and unnecessary, and may be a barrier to membership to many firms.</p> <p>Our experience is that consumers appreciate credible and trustworthy feedback from others in decision making, and we feel that combining feedback along with any necessary competence or financial protection standards will work best, so long as it does not serve to confuse consumers nor create barriers to scheme entry. Our work with Referenceline in providing the best consumer feedback system in the UK has shown that this 'pseudo' word-of-mouth referral system is a real driver of consumer choice, and also results in better outcomes for business.</p>	F4

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PAGE	QUESTION	YOUR COMMENTS	Our ref.
13	What are your views on more than one level of accreditation existing within the one framework?	We also believe that it is not the number of levels of accreditation that are available within a network that is important, but rather that information on accreditation and standards is clearly and unambiguously presented, and understood by consumers.	F4

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PAGE	QUESTION	YOUR COMMENTS	Our ref.
14	What are your views on how the framework should be monitored and evaluated?	<p>Dundee City Council is of the view that in order to maintain a high level of consumer confidence any scheme or network will require to be monitored regularly and robustly. Our experience with the Dundee Trusted Trader Scheme has shown that customers play a key role in monitoring and evaluating the work of member firms, through providing feedback and ratings on work that has been carried out. The feedback that our scheme members gain gives a fair and clear picture of the standard of work that can be expected, and provides valuable information to businesses as well as prospective customers.</p> <p>We agree that feedback must be a key element in any network monitoring since it is more cost effective, robust and comprehensive than direct audits or assessment, and reduces the liability of the local authority in terms of making recommendations about particular member firms. We also believe there is merit in a higher level audit process in connection with any scheme accreditation, to ensure that local authorities are managing schemes properly and robustly within the network, that required competences and qualifications are in place where appropriate, and to maintain a high level of public confidence in the independence and transparency of any national trusted trader network. Dundee City Council already has these specifications in place in order to license and monitor other councils who might wish to operate the Trusted Trader scheme in their area. It would be possible for an organisation such as CLE to take on the role of national framework monitoring, but it may also be possible to do this on a lead authority basis given sufficient resources.</p>	F5

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PAGE	QUESTION	YOUR COMMENTS	Our ref.
14	What are your views on how the framework should be monitored and evaluated?	Evaluation will depend ultimately on what measures of success are agreed for any trusted trader network, but Dundee City Council would like to see the scheme evaluated against realistic outcome measures, linked for example to a reduction in the number of complaints against firms in relevant sectors, and if possible monitored nationally and independently. Clearly a measure of success will also be the volume of take up of the scheme by Scottish business, and this should also be a part of any framework evaluation.	F5

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PAGE	QUESTION	YOUR COMMENTS	Our ref.
14	What are your views on how the framework should be delivered e.g. by local or central government, the construction industry, the private or voluntary sectors or some combination?	<p>As previously stated Dundee City Council believes that local authorities are best placed to deliver a generic and universal trusted trader network in Scotland, although where there are already construction industry schemes such as SNIPEF, where there are technical or safety related aspects to the work being undertaken, then these must also form an integral part of the framework.</p> <p>In our experience the only issue in this regard is the risk that some local authorities will be reluctant to commit resources to set up and maintain such a scheme. While local authorities must decide locally what is best for their communities, we would be concerned that this would not be helpful in delivering a consistent trusted trader framework across the country. Dundee City Council would therefore like to see the Scottish Government commit sufficient resources to local authorities, or centrally, to provide the wherewithal to set up this trader scheme network and support it to the point of sustainability. We would suggest that the Dundee Trusted Trader scheme provides a readily accessible and successful model, and we would be willing to provide whatever assistance or support we can to make this a success throughout Scotland.</p> <p>We believe that a network of local authority managed trusted trader schemes modelled on the Dundee scheme, could combine with industry sector schemes under a clear set of national standards, with information drawn together through a central facility providing clear and trustworthy information on member firms, including an assessment of the quality of their work and their competence and qualifications.</p> <p>Back-office resources to process and deliver information could be sourced from the private sector, for example www.referenceline.com, who operate the Dundee scheme as well as a number of other national sectoral schemes.</p>	F6

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PAGE	QUESTION	YOUR COMMENTS	Our ref.
14	What are your views on how the framework should be delivered e.g. by local or central government, the construction industry, the private or voluntary sectors or some combination?	Dundee City Council is aware of a number of privately run good trader schemes, but we do not believe they have the capacity to deliver a national trusted trader network. In general they are small, highly localised, less credible, and more costly to member firms. We feel this is a proposal with a high public interest element and it is most properly delivered by the public sector. Another key benefit to having local authorities operate trusted trader schemes is their ability to intervene on behalf of consumers or resort to regulatory powers where for example redress is required due to a failure on the part of a member firm, or where scheme branding is misused.	F6

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PAGE	QUESTION	YOUR COMMENTS	Our ref.
14	What functions would you wish to see a framework perform to encourage use by homeowners?	<p>Our experience in operating the Dundee Trusted Trader scheme, is that the greatest difficulty is not getting homeowners to use the scheme, but getting businesses to join it. In a sense both are linked, without sufficient critical mass consumers will see little value in using a good trader system, and without sufficient evidence of consumer interest the benefits of joining a scheme will be less apparent to business.</p> <p>Marketing and promotion is a key factor in attracting consumer use, and the use of common and consumer friendly branding across Scotland will be important in maintaining and increasing consumer usage of the network. Key elements of any scheme for consumers will include:</p> <ul style="list-style-type: none"> • Easily accessible information and advice • Wide choice of business within each sector • Wide range of sectors • Clear information on warranties, competence, and qualification • Sufficient feedback from previous customers to give a robust picture of: <ul style="list-style-type: none"> ○ Likely costs ○ Likely quality of work ○ Compliance with code of practice • Confidence in the credibility of the scheme itself • Availability of redress mechanisms 	F7

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PAGE	QUESTION	YOUR COMMENTS	Our ref.
14	What functions would you wish to see a framework perform to encourage use by homeowners?	We believe it is also important that any scheme offers benefits to business, over and above directing potential customers their way. A trusted trader framework must inherently work to maintain or improve business standards in each sector, by providing information to firms on their own performance, and improving competition through making price and quality information publicly available. It should also help drive out rogue traders and support local economic development especially in the small business sector.	F7
14	Please provide any further comments, stating your views on how a trusted trader framework should be established and operate in Scotland.	<p>We would wish to highlight that Dundee City Council has a registered UK Trade Mark, No 2473707, in respect of the words 'Trusted Trader', and device.</p> <p>While we have no objection to the use of this terminology by the Scottish Government during this consultation exercise, we would not wish other local authorities to be misled into thinking they can use that phrase to describe any scheme they subsequently set up - unless of course it is with our agreement as part of the Dundee City Council 'Trusted Trader' branded scheme.</p>	F8

ALL VOLUMES**GENERAL COMMENTS**

Dundee City council supports the policy vision encapsulated in the housing (Scotland) Act 2006 and in particular the statement that the primary responsibility for maintaining property lies with the individual owner. It is to be hoped that the new powers introduced by the act will help increase awareness of the importance of property maintenance, trust issues with tradesmen and the affordability of home ownership beyond purchase, mortgage etc.

Dundee City Council does however have some reservations over the level of voluntary action and the subsequent potential demand on limited resources following enforcement action, particularly following the removal of ring-fencing. We are also concerned as to the response to the scheme of assistance and the likelihood of achieving positive outcomes in respect of owners' carrying out maintenance and repairs themselves.

The approach to a transition period will be critical to allow an effective and credible scheme to be delivered. Sufficient time must be available to gather robust evidence to inform both the LHS and section 72 statement as well as to enable appropriate wider consultation with the local community. Many new approaches are proposed and the option of piloting some of these - i.e. Housing Renewal Areas would prove beneficial. Perhaps the section 72 statement should be developed over a period of time? There is a risk that if rushed the outcomes will be counter-productive.