

**NORTH LANARKSHIRE COUNCIL**

**REPORT**

<b>To:</b> PLANNING AND ENVIRONMENT (PROTECTIVE SERVICES) SUB COMMITTEE		<b>Subject:</b> PRIVATE SECTOR HOUSING ENFORCEMENT – ACTION IN RESPECT OF NON COMPLIANCE
<b>From:</b> DIRECTOR OF PLANNING AND ENVIRONMENT		
<b>Date:</b> 5 October 2004	<b>Ref:</b> RS/PS/HSG	

**1. Purpose of Report/ Introduction**

1.1 The Environmental Health Service has responsibility for enforcement of legislation concerning housing standards in the private sector. Enforcement of the provisions of this legislation can result in the Council having the option to undertake repairs and improvements if statutory notices are not complied with, and this report shall seek to establish procedures for Environmental Health action when such circumstances occur.

**2 Background**

2.1 The Housing (Scotland) Act 1987 imposes a duty on the Local Authority to ensure that all houses which do not meet tolerable standard are closed, demolished or brought up to the tolerable standard within such period as is reasonable in all of the circumstances. The main legislation used to deal with private sector housing which is below the tolerable standard or is in a state of disrepair is the Housing (Scotland) Act 1987, the Civic Government (Scotland) Act 1982 and the nuisance provisions of the Environmental Protection Act 1990.

2.2 The Housing (Scotland) Act 1987 is the principal act for houses that do not meet the tolerable standard or are in a serious state of disrepair. Environmental Health Officers have various options within the Act to enforce the statutory provisions where owners do not comply with their legal responsibilities. These range from demolition and closing orders and designating housing action areas to serving Improvement Orders or Repair Notices. Where Improvement Orders or Repair Notices are served, the owners are entitled to grant assistance to carry out the necessary works.

2.3 The Civic Government (Scotland) Act 1982 has provisions dealing with miscellaneous works in buildings and in particular provides powers in relation to buildings which are in need of repair. The Local Authority may serve a Repairs Notice on the owner of a building requiring that it be brought up to a reasonable state of repair, and service of this notice would entitle the owner to grant assistance to carry out the works specified in the notice if the nature of the works was such that a S108 notice under the Housing (Scotland) Act 1987 could also have been served.

2.4 The Environmental Protection Act 1990 requires the Local Authority to serve notice on the owner of premises in respect of structural defects causing the premises to be prejudicial to health or a nuisance. Service of this notice would not entitle the owner to grant assistance to carry out the necessary works, and this option is chosen generally in circumstances where the defects are of a minor nature not justifying action as described in paragraphs 2.2 and 2.3 above.

2.5 When Repair Notices are served in terms of Section 108 of the Housing (Scotland) Act 1987, Repairs Notices are served in terms Section 87 of the Civic Government (Scotland) Act 1982, or Statutory Nuisance Notices are served in terms of Section 80 of the Environmental Protection Act 1990 and the notices are not complied with, the council may enter the premises

and carry out the works specified in the notices, and can reclaim the expenses associated with this action.

2.6 North Lanarkshire Council has a responsibility to ensure that the long term sustainability of the housing stock is protected, by ensuring that owners fulfil their obligations with regard to maintenance of the properties, and in certain circumstances privately owned properties may be upgraded as part of an improvement programme initiated through the Housing and Property Services Department. It is not unusual for statutory notices to be served in such circumstances to enable the council to carry out the works where owners of properties within the project area are not co-operating, or to ensure that owners have access to grant funds. In such circumstances, funds have been identified to carry out the works as part of a capital project, and decisions are taken within a strategic framework of Housing objectives, priorities and resources.

### **3 Proposals/Considerations**

3.1 As stated in paragraph 2.5, the council can undertake works when certain notices are not complied with.

3.2 This response to non compliance is sometimes necessary where works of an emergency nature are required to protect public safety or prevent damage to other buildings, and the costs associated with such emergency work is kept to a minimum by ensuring that only those works necessary to protect the public or damage to other properties is carried out. However, some cases are coming to the attention of Environmental Health where notices served in respect of structural defects in privately owned tenemental properties have not been complied with, and the owners have an expectation that North Lanarkshire Council should carry out the repair works and recover the costs, either through payment from the owners who are willing to pay or through the process of a charging order on the properties concerned.

3.3 This is a solution which may be attractive to owners where agreement on allocation of costs or the necessity of works cannot be achieved amongst the owners themselves. However, unless the properties concerned were included in an upgrading project as part of the councils housing improvement strategies, this would lead to difficulties in respect of project management, obtaining tenders, establishing responsibilities in terms of title deeds and allocating funds to carry out repairs on wholly privately owned properties. There is currently no provision within the Protective Services budgets for such works, and the costs can be substantial. Two recent examples where notices have not been complied with would require works costing approximately £16000 in one case and in excess of £100000 for the other.

3.4 It is proposed that unless properties are included in a project as described in paragraph 2.6, Environmental Health shall only carry out works of an emergency nature which are required to protect public safety or prevent damage to other buildings. Non compliance with notices shall be addressed in terms of the provisions of each Act, but the Environmental Health Service shall not carry out works in any circumstances other than such emergencies. In other cases, the Environmental Health Service shall work in partnership with the Housing and Property Services Department to ensure that intervention by the council is considered within the context of the council's Housing investment strategy and priorities, and that owners are provided with grant assistance wherever this is possible.

### **4 Sustainability Implications**

4.1 The recommendations to the committee are consistent with policy and there are no sustainability implications.

## **5 Corporate Considerations**

5.1 The Department of Housing and Property Services and the Council's Legal Services have been consulted during preparation of this report.

## **6 Recommendations**

6.1 That the committee notes the enforcement work associated with private sector housing which is in disrepair.

6.2 The committee approves the establishment of arrangements for carrying out works of an emergency nature which are required to protect public safety or prevent damage to other buildings, as described in paragraph 3.4 of this report.

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