



TO: HOUSING AND COMMUNITY SAFETY POLICY BOARD

ON: 17 MAY 2016

REPORT BY: DIRECTOR OF COMMUNITY RESOURCES

HEADING: PROPOSED DEVELOPMENT OF A POLICY TO SUPPORT THIRD PARTY APPLICATIONS TO THE PRIVATE RENTED HOUSING PANEL

1. Summary

- 1.1 The Housing (Scotland) Act 2006 as amended specifies minimum living standards for private rented properties and landlords have a legal obligation to ensure property they let meets this. Where they fail to do so, tenants can make an application to the Private Rented Housing Panel (PRHP) who has powers to compel the landlord to effect repairs, imposing penalties where action is not taken to do so.
- 1.2 In recognition that many tenants are unwilling to make an application on their own behalf, often through fear of reprisal or eviction, amendments in legislation contained in the Housing (Scotland) Act 2014 and introduced in December 2015 provide Local Authorities (LAs) with new powers to make third party applications to the Private Rented Housing Panel on behalf of tenants. It is worth noting that from December the powers of the Private Rented Housing Panel will transfer into the new Scottish Tribunals Service.
- 1.3 Concerns about the potential numbers of applications from LAs have resulted in the referral process being introduced on a phased basis. The powers have been available for Renfrewshire Council since April 2016.

- 1.4 In order to ensure that the process is effectively managed, it is recommended that criteria are established that will require to be met before the Council will refer matters to the Private Rented Housing Panel on behalf of a tenant. Work is currently ongoing to establish criteria and a policy which will be brought back for the approval of this Policy Board. In general terms it is likely that criteria will include:
- The tenant is unable to make the application on grounds of capability, vulnerability or risk of adverse reaction from a landlord,
 - The living conditions are unlikely to improve without a referral to the Private Rented Housing Panel,
 - An application would be considered to be in the interest of the tenant, future tenants, neighbours or the wider public interest,
 - The application is warranted and appropriate.
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2. Recommendations

It is recommended that the Housing & Community Safety Policy Board:

- 2.1 Notes the new legislative provision to permit Local Authorities to make third party applications to the Private Rented Housing Panel (PRHP) where private rented property is identified as failing the Repairing Standard;
- 2.2 Notes the progress on developing appropriate criteria and a policy for making third party applications to the Private Rented Housing Panel set out in section 3 of this report; and
- 2.3 Requests that a finalised policy and criteria be brought back for the approval of the Housing and Community Safety Policy Board at its meeting in August 2016.
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3. Background

- 3.1 The Housing (Scotland) Act 2006 defines the minimum acceptable standards which apply to property within the private rented sector, known as the Repairing Standard, which ensures that property within the rental market is safe and suitable for letting to private tenants.
- 3.2 All landlords have a legal obligation to ensure that property which they let meets, and is maintained to this Standard throughout the rental period.

- 3.3 Where tenants experience disrepair issues with their let property, a process exists where they can make an application to the Private Rented Housing Panel to intervene in circumstances where the landlord fails to undertake repairs. The Private Rented Housing Panel can impose penalties on landlords where there is a continued failure to carry out these repairs.
- 3.4 It is recognised that the private rented sector includes properties in poor condition and houses some of the most financially vulnerable households in Renfrewshire. It has also been recognised that tenants are often reluctant to complain about the condition of their let property for a variety of reasons, including vulnerability, fear of reprisal and fear of eviction, therefore remaining in property which fails to meet the Repairing Standard.
- 3.5 To address this, changes introduced by the Housing (Scotland) Act 2014 provide powers for Local Authorities to make third party applications to the Private Rented Housing Panel which will remove many of the barriers that currently prevent applications from being made. Due to concerns with potential numbers of applications, the powers have been introduced on a phased basis from December 2015, with this power being available to Renfrewshire Council from 1 April 2016.
- 3.6 It is not known at this time how many requests we are likely to receive from tenants within the private rented sector, however, in anticipation of a significant number being received, it is recommended that a policy be developed to manage the process by which Officers will make applications to the Private Rented Housing Panel.
- 3.7 Under this policy, advice and guidance would be offered to tenants to assist them to make their own referral to the Private Rented Housing Panel, however under specific circumstances, the Council would undertake to refer Repairing Standard failures. At present it is proposed that these circumstances would be:
1. Where physical fire, gas or electrical safety failure exists, or
 2. Where there is severe disrepair in the property.
- 3.8 In respect of any other disrepair in a property, it is proposed that referrals would only be made where the following points were deemed to apply:
1. The tenant is unable to make an application through-
 - Not having capacity to do so;
 - Being considered as vulnerable;
 - The tenant is leaving/has left the property;

- The tenant is considered likely to be subject to serious abuse by the landlord/others acting on his behalf; or
2. The living conditions are unlikely to improve without a referral to the Private Rented Housing Panel.
 3. Making an application is in the interest of the tenant, future tenant or neighbours.
 4. It is considered necessary in the wider public interest.
 5. An application is warranted and appropriate.
- 3.9 Where an application is made, all areas of Repairing Standard failures will be included in our report.
- 3.10 Where a tenant requests that a referral is not made by the Council, or wishes an application withdrawn, a decision will be made on a case specific basis and the following matters will be considered:
- The seriousness of Repairing Standard failure;
 - The likelihood of actual or threatened harm to the tenant/their possessions;
 - The availability of suitable alternative accommodation, should remaining in the property become untenable;
 - Previous issues with the landlord not undertaking repairs;
 - Whether issues within the property are adversely impacting on adjoining/neighbouring properties.
- 3.11 The development of this policy and process and its initial implementation can be managed within existing resources, forming part of the workload of the temporary enforcement officer post which has been funded through the Council's Tackling Poverty Action Plan to improve conditions in the private rented housing sector. In the long term having effective criteria and an agreed policy and process in place will ensure that support can continue to be provided to private sector tenants in greatest need.
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Implications of the Report

1. **Financial** – No in financial implications for Renfrewshire Council. The cost of works to comply with a repair notice served by the Private Rented Housing Panel would be borne by the Private Sector Landlord
2. **HR & Organisational Development** – none
3. **Community Planning**

Community Care, Health & Well-being – Having powers to make third party applications to the Private Rented Housing Panel will improve the physical condition of properties within the private rental market in Renfrewshire; improving the health and well-being of tenants. This will also contribute to the Council's Tackling Poverty action plan.
4. **Legal** – The Third Party Application Policy has been reviewed and approved by Legal Services
5. **Property/Assets**-none
6. **Information Technology** - none
7. **Equality & Human Rights** - The recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report.
8. **Health & Safety** – none
9. **Procurement** – none
10. **Risk** – none
11. **Privacy Impact** - none

List of Background Papers - None

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